



Crook County

Community Development Department - Planning Division

300 NE 3rd Street, Room 12

Prineville, OR 97754

(541)447-3211

plan@co.crook.or.us

**Crook County Court
Staff Report
(217-21-000436-PLNG)**

January 3, 2022

The report provides a brief background of the application, a summary of the attachments included with this report, lists the applicable approval criteria, and highlights a procedural issue for the County Court to consider prior to deliberations. The bulk of the analysis is contained in the attached Proposed Findings of Fact and Conclusions of Law.

BACKGROUND INFORMATION

APPLICATION No.: 217-21-000436-PLNG

OWNERS: Robert J. and Lani Vanier
P.O. Box 326
Dayville, Oregon 97825

APPLICANT: Knife River Corporation – Northwest
32260 Old Highway 34
Tangent, Oregon 97389

AGENT: Matt Ropp, Manager of Land Planning
Knife River Corporation – Northwest
32260 Old Highway 34
Tangent, Oregon 97389

REQUEST: The Applicant is requesting approval to add the subject 77.98-acre property to the Crook County Comprehensive Plan's Inventory of Significant Mineral and Aggregate Resources. If the site is added to the Inventory, the Applicant is also requesting a conditional use approval for aggregate mining on the property. (217-21-000573-PLNG).

SUBJECT PROPERTY: The Subject Property is located at the corner of Stahancyk Lane and NW Lamonta Road on the north side of Stahancyk and the west side of Lamonta, approximately 3 miles

northwest of the City of Prineville. The situs address is 6487 NW Lamonta Road, Prineville, Oregon. The property is identified on the County Assessor's maps as Township 14S, Range 15E WM, Section 14, tax lot 103.

SUMMARY OF ATTACHMENTS:

PROPOSED ORD.: A proposed ordinance to add the Subject Property to the Crook County Comprehensive Plan's Inventory of Significant Mineral and Aggregate Resources is included with this report.

ATTACHMENT A: Attachment A, to be attached to the ordinance, is titled "Proposed Findings of Fact and Conclusions of Law". Subject to changes made by the County Court, the document will be attached to the final ordinance and retitled "Findings of Fact and Conclusions of Law". This document outlines the findings and conclusions of law made by the Court in support of its final decision. It analyzes the facts as they apply to the approval criteria, includes staff recommended findings, and points for deliberation. Specifically, regarding deliberation, staff has identified alternative findings you might consider as you deliberate whether to classify the site as a 3B or 3C site.

Included with Attachment A is a proposed ESEE analysis. The ESEE analysis looks at the Economic, Social, Environmental and Energy consequences associated with the aggregate site and is based on the evidence in the record. This analysis informs the County Court's creation of a program to achieve the Goal, which culminates with a classification determination for the Subject Property on the County's Inventory of Significant Mineral and Aggregate Resources and its relation with nearby conflicting uses.

APPLICABLE CRITERIA:

Oregon Administrative Rules (OAR) Chapter 660, Division 16
Crook County Comprehensive Plan. Ordinance No. 55, Comprehensive Plan Mineral and Aggregate Policies
Ordinance No. 43, Crook County Goal 5 Resources (Mineral and Aggregate Elements)

PROCEDURAL ISSUE:

On December 8, 2021, staff received a letter from Ed Fitch, attorney for Mr. Zimmerlee, requesting that the record be re-opened to include Mr. Fitch's letter. To summarize, and without going into anything that is not already in the record, Mr. Fitch reiterates the concerns expressed by Mr. Zimmerlee and his geologist, Jim Newton. Mr. Fitch also argues he believes the Planning Commission's recommendation is correct.

Pursuant to the County Code (CCC 18.172.081(18)), the County Court can move to reopen the record and accept Mr. Fitch's letter. If it does so, it must allow people who previously participated in the hearing to request the record be left open for them to respond to the new evidence. Staff also believes the Applicant will be entitled to submit new final argument. Thus, this option is likely to lead to additional delay in deliberations.

Alternatively, the County Court can elect not to review the letter and leave it out of the record. This option would allow the Court to proceed with deliberations as scheduled. The letter does not provide any explanation for why

the record should be reopened at this point, so staff is of the opinion there will not any prejudice in electing to not reopen the record. Staff also notes that the public proceedings on this matter began in July 2021 and there have been numerous open record periods for participants to submit evidence.

IN THE COUNTY COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CROOK

AN ORDINANCE OF THE CROOK COUNTY COURT AMENDING THE CROOK COUNTY COMPREHENSIVE PLAN GOAL 5 INVENTORY BY INCLUDING A NEW 3 AGGREGATE SITE AND ADOPTING A SITE SPECIFIC ENVIRONMENTAL SOCIAL ECONOMIC (ESEE) ANALYSIS AND PROGRAM TO ACHIEVE GOAL 5 FOR THE AGGREGATE SITE AND DECLARING AN EMERGENCY.

ORDINANCE No. _____

*

WHEREAS, the Crook County Planning Commission has recommended that the Crook County Comprehensive Plan be amended to include the subject property as a new aggregate site and adopt a site specific ESEE analysis and Program to Achieve Goal 5 for the aggregate site, and

WHEREAS, the comprehensive plan amendment is authorized by Crook County Code Title 18, Chapter 18.168, and the Comprehensive Plan of Crook County; and

NOW, THEREFORE, this ____ day of _____, 2022, the Crook County Court ordains as follows::

SECTION 1: *Amendment.* Ordinance 17 (the Crook County Comprehensive Plan) is amended to add the approximately 77.98 acre site, described as T 14 S, R 15 EWM, Section 14, Tax Lot 103, to the Goal 5 Inventory as a significant aggregate resource site and to adopt the ESEE analysis and Program to Achieve Goal 5 as a text amendment to place the subject site on the inventory of significant sites as a 3 site, which shall be conserved and protected for mining.

SECTION 2: *Findings.* The Crook County Court adopts the recommendation of the Crook County Planning Commission and Findings of Fact and Conclusions of Law

(Attachment A), which includes an ESEE Analysis and Program to Achieve Goal 5, as its findings in support of its Decision.

SECTION 3: *Emergency.* The Ordinance being necessary for the health, welfare, and safety of the people of Crook County, an emergency is hereby declared to exist and this Ordinance shall be come effective upon signing.

DATED this * day of *.

Seth Crawford
County Judge

Jerry Brummer
County Commissioner

Brian Barney
County Commissioner

DRAFT

[PROPOSED] FINDINGS OF FACT AND CONCLUSIONS OF LAW
IN THE MATTER OF
FILE NO. 217-21-000436-PLNG

I. INTRODUCTION

Applicant: Knife River Corporation – Northwest
32260 Old Highway 34
Tangent, Oregon 97389

Owner: Robert J. and Lani Vanier
P.O. Box 326
Dayville, Oregon 97825

Subject Property: 6487 NW Lamonta Road
Prineville, Oregon 97754
Tax Lot: 14151400-00103

II. PROPOSAL

The Applicant proposes to amend the Crook County Comprehensive Plan (“Comprehensive Plan”) to add a 77.98-acre quarry site to Crook County’s inventory of Significant Mineral and Aggregate Sites (“Aggregate Inventory”).

III. PROCEDURAL STATUS

Knife River Corporation - Northwest (the “Applicant”), submitted an application to add the subject property to the Crook County Aggregate Inventory. Additionally, the Applicant filed an application for a conditional use permit (“CUP”) to allow Knife River to operate an aggregate mine on the subject property. That CUP application, record no. 217-21-000573-PLNG, is currently before the Crook County Planning Commission pending the County Court’s decision on this comprehensive plan amendment request.

Regarding the Applicant’s comprehensive plan amendment request, the Planning Commission conducted public hearings on July 28, 2021, and August 25, 2021, and then held a hearing to deliberate on September 22, 2021. At the conclusion of the deliberations on September 22, 2021, the Planning Commission recommended that the County Court add the subject site to the County’s Inventory of Significant Aggregate and Mineral Resources sites as a 3B site.

The County Court has held three public hearings on this matter, the first on October 20, 2021, the second on November 3, 2021, and third on December 3, 2021 (with testimony limited to rebuttal argument). A hearing for deliberations only was held on January 5, 2022.

The County Court closed the record to written evidence on Monday, November 15, 2021. The Applicant submitted its final written argument on December 10, 2021 (Exhibit 66).

The record consists of oral testimony received at both the Planning Commission and County Court hearings, as well as written testimony. The exhibits are available on the County Court’s website and for review at the Community Development Department. A list of the exhibits is attached to these Findings of Fact as Appendix 1.

In this proceeding, the County Court is considering the Planning Commission’s recommendation to add the subject site to the County’s Aggregate Inventory as a 3B site. The County Court may elect to adopt the Planning Commission’s recommendation, modify the recommendation, or deny the request.

IV. BASIC FINDINGS

A. Location

The subject property is located on the north side of Stahancyk Lane and the west side of Lamonta Road, approximately three (3) miles northwest of the City of Prineville. The address is 6487 NW Lamonta Road, Prineville, Oregon. The property is identified on the County Assessor’s maps as Township 14S, Range 15E WM, Section 14, tax lot 103 (the “Subject Property”). Figure 1 is a vicinity map depicting the Subject Property.

Figure 1



Property Lines as Approximate

B. Zoning

The Subject Property is zoned Exclusive Farm Use (EFU-2) and is designated as agricultural land in the County’s Comprehensive Plan. The Subject Property is not located within any wildlife overlay (e.g., deer winter range) and is not located within the City of Prineville’s city limits or urban growth boundary.

C. Site Characteristics

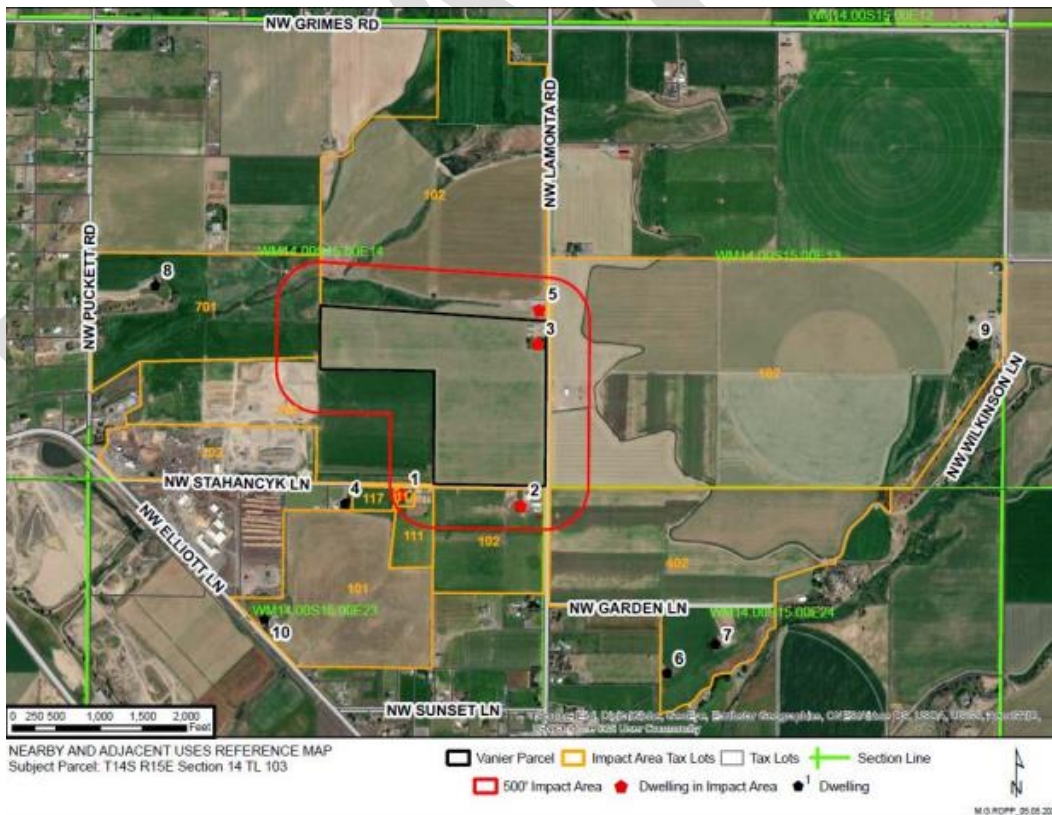
The Subject Property is located northwest of the City of Prineville. It is approximately 77.98 acres and is currently employed for farm use. The property includes a single-family dwelling that has been on the property since the 1920s, two general purpose buildings and a machine shed.

The site slopes gently towards the northwest. There is an unnamed drainage just north of the property flowing towards the west and southwest. This is part of the irrigation system maintained by the Ochoco Irrigation District. Water flows from the northeast toward the southwest and into the Rye Grass Canal system.

D. Surrounding Area

The area surrounding the Subject Property is depicted on Figure 2 and Figure 3¹. Both figures depict a 500-foot impact area. All properties within the impact area are zoned EFU-2. Further to the west is a portion of the Woodward site that is zoned Heavy Industrial. Beyond the Woodward site to the west is an area zoned rural residential (R5) (Green Acres subdivision). There are larger agricultural operations to the southeast, east and north. There are several smaller farms south of the Subject Property, across Stanhancyk Lane. Many of the properties have existing dwellings, as show in Figure 2 and Figure 3.

Figure 2



¹ The Applicant included Figure 2 and Figure 3 in its Burden of Proof statement.

Figure 3

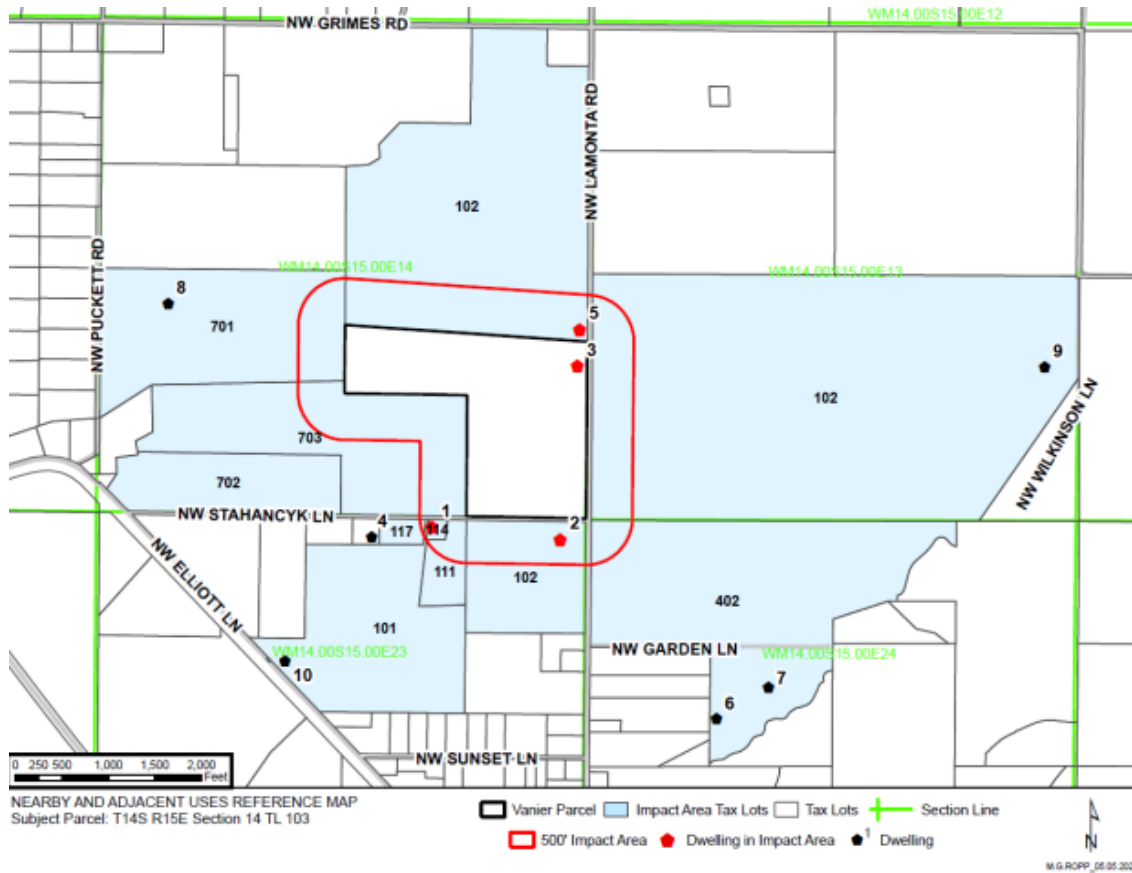


Table 1², below, lists all 11 properties that are at least partially located within the 500-impact area. It includes information indicating the distance from the proposed mining site, primary use, and ownership.

Table 1

T-R-S Tax Lot	Direction from Subject	Distance from Mining to Tax Lot	Site Address	Existing Dwelling	ID # on Map	Distance from Mining to Dwelling	Acres	Zoning	Primary Use	Land Owner
14-15-13 TL 102	East	160'	5777 NW Wilkinson Rd	Yes	9	5,010'	286.5	EFU-2	Farm Use - Hay	Mark & Casey McKinnon
14-15-14 TL 102	North	50'	6525 NW Lamonta Rd	Yes	5	245'	156.0	EFU-2	Farm Use - Hay	Dean & Teresa Davis
14-15-14 TL 701	West	0'	5950 NW Puckett Rd	Yes	8	1,845'	76.1	EFU-2	Farm Use - Hay	Scott & Crista Porfily
14-15-14 TL 702	West	1,350'	4755 NW Stahancyk Ln	No	-	-	35.4	HM	Industrial - Aggregate	Woodward Land & Timber LLC
14-15-14 TL 703	West	0'	Stahancyk Ln	No	-	-	76.1	EFU-2	Farm Use & Aggregate	Woodward Land & Timber LLC
14-15-23 TL 101	Southwest	425'	4243 NW Elliot Ln	Yes	10	2,560'	66.8	EFU-2	Farm Use - Hay	Samual Stafford
14-15-23 TL 102	South	140'	3320 NW Stahancyk Ln	Yes	2	320'	33.2	EFU-2	Farm Use - Pasture	Billie Johnson
14-15-23 TL 111	Southwest	140'	Stahancyk Ln	No	-	-	8.8	EFU-2	Farm Use - Pasture	Adam & Karen Mikulski
14-15-23 TL 114	Southwest	245'	3992 NW Stahancyk Ln	Yes	1	390'	0.9	EFU-2	Residential	Adam & Karen Mikulski
14-15-23 TL 117	Southwest	455'	Stahancyk Ln	*No	*4	-	3.0	EFU-2	Residential & Farm Use	Rick Kriege
14-15-24 TL 402	Southeast	205'	2720 NW Garden Ln	Yes (X2)	6 7	2,685' 2,780'	123.3	EFU-2	Farm Use - Hay & Pasture	Simmons Farm, LLC; Elsie & Henry Simmons

* Kriege owns 14-15-23 TL 116, west of TL 117. TL 116 is outside of the 500' Impact area and includes a dwelling that is 1,000 feet from the mining area.

² The Applicant included Table 1 in its Burden of Proof statement.

E. Access

The Subject Property has direct frontage on NW Stahancyk Lane and NW Lamonta Road. Both roads are County owned and maintained roads. However, the proposed mining operation on the Subject Property will only be accessed from the existing access for the mining operation on the Woodward property, directly to the west of the Subject Property. There will be no direct access to NW Stahancyk Lane or NW Lamonta Road for mining operations on the Subject Property.

F. Soils

According to United States Department of Agricultural – Natural Resource Conservation Service (“NRCS”) Web Soil Survey the Subject Property is comprised of three soil mapping units.

Soil Type	Acres	Soil Classification	
		If irrigated	Non-irrigated
#020 Boyce Silt Loam 0-2% slopes	0.2	3	-
#123 Ochoco Prineville Complex 0-3% slopes	75.9	3	-
Ochoco Prineville Complex 3-8% slopes	2.0	3	-

G. Other Information

There are no mapped natural hazards on the subject property. The property is not in a mapped special flood hazard area.

V. CRITERIA AND ANALYSIS

A. Character of the Request

The application request is characterized as a Post-Acknowledgment Plan Amendment (“PAPA”) to the Crook County Comprehensive Plan. The Applicant requests that the County Court add the Subject Property to the Crook County Significant Mineral and Aggregate Inventory. Before the County may issue a conditional use permit to authorize operating a mine on the Subject Property, the PAPA must be approved, and the site added to the Aggregate Inventory. As noted above, the Applicant also requests a conditional use permit to operate a mine on the Subject Property; however, that application is currently in front of the Crook County Planning Commission pending the County Court’s final decision on this PAPA request.

B. Applicable Approval Criteria

- **Oregon Administrative Rules (OAR) Chapter 660, Division 16³**

³ Many jurisdictions currently apply Division 23 (the “new” Goal 5 rule) to implement their Goal 5 program. However, Crook County continues to apply Division 16, as permitted by OAR 660-023-0180(9):

(9) Local governments shall amend the comprehensive plan and land use regulations to include procedures and requirements consistent with this rule for consideration of PAPAs (post-acknowledgement plan amendments) concerning aggregate resources. Until such local regulations are adopted, the procedures and requirements of this rule shall be directly applied to local government consideration of a PAPA concerning mining authorization, unless the local plan

- **Crook County Comprehensive Plan. Ordinance No. 55, Comprehensive Plan Mineral and Aggregate Policies**
- **Ordinance No. 43, Crook County Goal 5 Resources (Mineral and Aggregate Elements) (to the extent consistent with Ord. 51 and Ord. 55).**

Assistant County Counsel John Eisler summarized the County’s comprehensive plan policies for mineral and aggregate inventories (Exhibit 47). Ordinance 43 (December 14, 1990), adopted in response to a Department of Land Conservation and Development (DLCD) enforcement order (Order 89-EO-656) established plan policies for the County’s Goal 5 mineral and aggregate sites. DLCD staff requested changes to the County’s plan and the County passed Ordinance 51 on September 16, 1991. The County then adopted Ordinance 55 on February 26, 1992, which deleted and renumbered many of the policies from Ordinance 51. These plan policies provide a framework for County decisions regarding mineral and aggregate sites. County Counsel recommends the following order for reference while reviewing the current application: (1) OAR 660-016 (“the old rule”), (2) ordinance 51/55 and (3) ordinance 43 If there. OAR 660-023 (“the new rule”) should be considered only if the other policies provide no guidance and the guidance in OAR 660-023 is consistent with OAR 660-016 and County plan policies.

C. Summary of Decision Making Process

As stated in Exhibit 47 (Memorandum from John Eisler), the decision-making process is as follows:

- Step One: Is the Resource Site Significant?
- Step Two: Identify Conflicts
- Step Three: Analyze Economic, Social, Environmental and Energy (ESEE) Consequences
- Step Four: Develop a Program to Achieve Goal 5

D. [Proposed] Findings of Fact

The proposed findings our organized into the four steps identified above and outlined below.

contains specific criteria regarding the consideration of a PAPA proposing to add a site to the list of significant aggregate sites, provided:

- (a) Such regulations were acknowledged subsequent to 1989; and,
- (b) Such regulations shall be amended to conform to the requirements of this rule at the next scheduled periodic review after September 1, 1996, except as provided under OAR 660-23-0250(7).

Crook County Ordinance 51, a comprehensive plan amendment including provisions governing the County’s compliance with Goal 5, was adopted and acknowledged by the Oregon Land Conservation and Development Commission in 1991. It was amended by Ordinance 55 in 1992. Crook County has not since entered periodic review. Therefore, the County’s consideration of a PAPA to add the subject property to the County’s Inventory is not subject to the OAR 660, Division 23. The provisions of OAR 660, Division 16 continue to apply. No party disputes that Division 16 applies to this application.

STEP ONE
(DETERMINE IF SITE IS SIGNIFICANT)

OAR 660-016-0000(2):

A “valid” inventory of a Goal 5 resource under subsection (5)(c) of this rule must include a determination of the location, quality, and quantity of each of the resource sites. Some Goal 5 resources (e.g., natural areas, historic sites, mineral and aggregate sites, scenic waterways) are more site-specific than others (e.g., groundwater, energy sources). For site-specific resources, determination of location must include a description or map of the boundaries of the resource site and of the impact area to be affected, if different. For non-site-specific resources, determination must be as specific as possible.

Ordinance 43 also includes policies to establish the location, quality and quantity of mineral and aggregate resources. These policies are consistent with OAR 660-016-0000(2).

Location -

Ordinance 43 identifies information that provides supporting evidence of the location of a resource site. The location is determined by the best information available to Crook County at the time of the determination. Ordinance 43 requires the information to include at least:

- (a) A legal description of the site;
- (b) The highway/mile post designation (if available)
- (c) A description of the impact area (if different); and
- (d) A map of the boundaries of the resource site and the impact area to be affected (if different).

PROPOSED FINDING: The request before the County Court is for a site-specific resource, thus the determination of location must include description or map of the boundaries of the resource site and of the impact area to be affected. The Applicant included with its application, a legal description of the site, a map depicting the resource site and a 500’ impact area (See Figures 2 and 3 above). There are no highway or milepost designations available.

Ordinance 43 defines “impact area” as that area surrounding and near a Goal 5 mineral and aggregate resource site wherein the presence or application of a conflicting use that is allowed outright or conditionally in the surrounding broad zoning district would adversely impact the resource site by limiting the mining or processing of the resource. The Ordinance goes on to state “Unless otherwise indicated in the text of this Plan or on the respective resource site and impact area map, the impact area is that property extending outward from the resource site boundary to a distance of five hundred (500 feet).” There is no evidence in the record suggesting that an impact area of greater than or less than 500 feet is appropriate.

A determination as to location and impact area may be made based on evidence in the record.

Quality -

OAR Chapter 660 Division 16 does not include standards specifying the minimum quality and quantity of an aggregate resource that constitutes a significant resource. Rather, it describes quality in terms of the site's relative value compared to other examples of the same resources found in the jurisdiction.

OAR 660-016-0000(3):

The determination of quality requires some consideration of the resource site's relative value, as compared to other examples of the same resource in at least the jurisdiction itself. A determination of quantity requires consideration of the relative abundance of the resource (of any given quality). The level of detail that is provided will depend on how much information is available or "obtainable."

Ordinance 43 directs the County to consider the following when evaluating the quality of mineral and aggregate resources:

- (1) All available information concerning test results;
- (2) The resource site's relative value as compared to other examples of the same resource existing in at least Crook County.⁴

Ordinance 43 includes a process to assign a relative value to mineral and aggregate resources:

1 = resource material meeting at least the following ODOT specifications

- (a) Resistance to abrasion
- (b) Sodium sulphate soundness
- (c) Air degradation

2 = resource material not meeting the rank of 1, but is such quality that it is used for roads;

3 = resource material that is used for roads and fill; and

4 = resource material that is used only for fill.

Ordinance 43 states that the determination of quality on each resource site is based on the best information available to Crook County at the time of the determination.

PROPOSED FINDING: The Applicant provided information on the sand and gravel resource on the Subject Property. Materials were tested for quality relative to Oregon Department of Transportation (ODOT) specifications for Portland Cement Concrete (PCC) as part of the Aggregate Resource Investigation conducted by Tim Marshall, an Oregon Registered Professional Geologist. See Knife River Comp Plan Amendment Application. Mr. Marshall provided the Applicant with a report of the investigation entitled "Aggregate Resource Investigation, Vanier Site" (the "Geologist's Report"). The Geologist's Report describes sample collection and testing protocol and concludes that the aggregate resource on the subject property meets ODOT specifications for resistance to abrasion, sodium sulfate soundness and air

⁴ Ordinance 43 states that "All sand has potential value and has not been given a ranking value."

degradation. The report was based on seven (7) test holes identified on the Vanier property. Detailed results are included in the tables provided in the Geologist's Report.

Sodium Sulfate Soundness – Coarse and fine aggregates used for PCC Concrete are tested for “soundness” using sodium sulfate salt. According to the Geologist's Report, the samples from the proposed site for coarse aggregates (5% by weight) and fine aggregates (7%) are less than the specified thresholds of 12% (coarse aggregates) and 10% (fine aggregates).

Abrasion (durability) – Coarse aggregates to be used for PCC aggregates shall have a maximum result of 30%. According to the Geologist's Report, the sample tested for abrasion had a result of 17.5% and meets the ODOT specification for resistance to abrasion.

Oregon Air Aggregate Degradation – Coarse aggregates used for PCC aggregates are tested for Oregon Air Aggregate Degradation. The test sets a maximum allowable amount passing the No. 20 sieve of 30% and a maximum sediment height of 3.0 inches. According to the Geologist's Report, the representative sample had results of 19.9% passing the No. 20 sieve and a maximum sediment height of 1.1 inches. The material passed the “degradation” test.

In addition to the above, the Applicant also conducted “gradation” tests to determine the relative percentages of different sizes of aggregate. ODOT specifications require that there not be greater than 4% by weight of the fine aggregates passing through the “number 200 sieve”. According to the Geologist's Report, during the testing an average of 7.7% of material passed through the sieve. The Geologist's Report suggested that because materials are washed during processing, the finer materials would be sorted out and the final, processed material would meet the specification.

The gravel from the site was also tested. The average percent of gravel greater than $\frac{3}{4}$ ” from the tested samples was 14%. While that fraction is generally too coarse for use in PCC concrete, it could be crushed and incorporated into concrete aggregates as is done currently at the Woodward site.

OAR 660-016-0000(3) notes that determination of quality requires some consideration of the resource site's relative value, as compared to other examples of the same resource in at least the jurisdiction itself. This is consistent with the County's plan policy adopted as Ordinance 43. Because material from the Subject Property meets the specified ODOT standards, the quality of materials from the site has a relative value of “1” using the ranking system in Ordinance 43.

Several other sand and gravel sites were included in the County's original inventory of aggregate resources in Ordinance 43. Although testing information was not generally available, most sites were ranked as “2” with material being sufficient for fill and concrete. The “O'Neil Sand and Gravel site” was ranked as “1” as were several small ODOT-owned sites along the Paulina Highway.

Exhibit 37 in the record is the County's Ordinance adding the adjacent Woodward site to the County's Aggregate Inventory. On page 2 of Attachment A to Exhibit 37, the quality of the material on the Woodward site is discussed. The information was provided by a registered professional geologist and noted that Woodward site meets ODOT specifications for resistance to abrasion, sodium sulfate soundness and air degradation. Moreover, approximately 2/3 of the aggregate resource on the Woodward site appeared suitable for Portland Cement Concrete. Based on the information provided by the Applicant regarding the quality of the aggregate resource on the Subject Property (as discussed in detail above), it appears the relative value of the aggregate resource on the Subject Property is

comparable to one recent example of a nearby resource site and to the relative value of several sites on the County's original inventory. It is also ranked higher than many sand and gravel sites from the original inventory.

Based on information provided in the Geologist's Report (and summarized above), the resource meets ODOT specifications for Portland Cement Concrete and the aggregate resource on the Subject Property has similar value to other sites in the County. Thus, the quality of the aggregate resource meets the requirements of OAR 660-016-0000(2)-(3).

Quantity –

A determination of quantity requires consideration of the relative abundance of the resource. (OAR 660-016-0000(3)).

PROPOSED FINDING: The subject property is 77.98 acres in size. The Geologist's Report estimates the property contains a total of 1,509,381 cubic yards of aggregate resource. For comparison to the minimum quantity threshold at OAR 660-023-0180(3), cubic yards must be converted to tons: 1 cubic yard = 1.6 tons. The recoverable aggregate resource will be reduced by required 100' setbacks. The Applicant stated that the intent is to maintain a 100-foot setback from the north, south and east property line and a 50-foot setback from the northwest property line (the Porfily property). No setback (zero) is proposed along the west property line, the Woodward mining site. Even accounting for the setbacks, there will still be more than 1.5 million tons of recoverable aggregate resource. Based on the information provided by the Applicant, this is more than three (3) times the minimum quantity (500,000 tons east of the Willamette Valley) required to be considered significant under OAR 660-023-0180(3). The evidence in the record establishes that the Subject Property contains a quantity of aggregate resource that is "significant."

There has been no dispute about the County's ability to determine location, quality, or quantity of the aggregate resource at the Subject Property, and there is sufficient evidence in the record to make a determination of location, quality, and quantity cannot be made. Based on the information in the record, the County Court may determine the location, quality, and quantity of the resource, and place the Subject Property on the Aggregate Inventory as a significant 1C site.

OAR 660-016-0000(5):

Based on data collected, analyzed and refined by the local government, as outlined above, a jurisdiction has three basic options:

(a) Do Not Include on Inventory: Based on information that is available on location, quality and quantity, the local government might determine that a particular resource site is not important enough to warrant inclusion on the plan inventory, or is not required to be included in the inventory based on the specific Goal standards. No further action need be taken with regard to these sites. The local government is not required to justify in its comprehensive plan a decision not to include a particular site in the plan inventory unless challenged by the Department, objectors or the Commission based upon contradictory information;

(b) Delay Goal 5 Process: When some information is available, indicating the possible existence of a resource site, but that information is not adequate to identify with particularity the location, quality and quantity of the resource site, the local government should only include the

site on the comprehensive plan inventory as a special category. The local government must express its intent relative to the resource site through a plan policy to address that resource site and proceed through the Goal 5 process in the future. The plan should include a time-frame for this review. Special implementing measures are not appropriate or required for Goal 5 compliance purposes until adequate information is available to enable further review and adoption of such measures. The statement in the plan commits the local government to address the resource site through the Goal 5 process in the post-acknowledgment period. Such future actions could require a plan amendment;

(c) Include on Plan Inventory: When information is available on location, quality and quantity, and the local government has determined a site to be significant or important as a result of the data collection and analysis process, the local government must include the site on its plan inventory and indicate the location, quality and quantity of the resource site (see above). Items included on this inventory must proceed through the remainder of the Goal 5 process.

PROPOSED FINDING: As staff suggests, the County Court can find above, there is adequate information to identify with particularity the location, quality, and quantity of the resource site. Based on the information in the record regarding location, quality, and quantity, the Subject Property appears to be a significant resource site. Accordingly, under OAR 660-016-0000(5), the option described in subsection (c) is the only viable option. Staff recommends that the County Court find that the Subject Property should be included in Aggregate Inventory as a significant 1C site.

Crook County Ordinance No. 51 (as amended by Ordinance No. 55):

Policy 3:

The County shall insure that significant inventory sites are designated for mineral and aggregate.

PROPOSED FINDING: The County maintains an inventory of significant aggregate and mineral sites. The above findings indicate that the Subject Property meets the requirements for location, quality, and quantity and should be added to the Aggregate Inventory as a significant site.

Policy 4:

An abundance of a Goal 5 mineral or aggregate resource shall not be used as the basis to deny placement on the County plan inventory list.

PROPOSED FINDING: Evidence of other mineral or aggregate resources has not been used as justification or a basis to deny placement of the Subject Property on the County inventory list. The Subject Property should be placed on the inventory list.

Policy 6:

A mineral and aggregate resource site that is not on the Crook County Goal 5 inventory or that is listed as a 1B site shall be placed on the inventory of significant sites and shall be conserved and protected for surface mining after all the following conditions are met:

- (a) ***A report is provided by a certified geologist, engineer or other qualified person or firm verifying the location, type quantity and quality of the resource.***
- (b) ***The site is determined to be a significant 1C site after reviewing all the evidence regarding location, quality, and quantity of the mineral and aggregate resource and site is added by amendment to the comprehensive plan;***
- (c) ***There are no conflicting uses [or] the ESEE analysis results in a determination that the resource is important relative to conflicting resources, uses and [other] applicable statewide planning goals.⁵***

PROPOSED FINDING: The Subject Property is not currently listed as a Goal 5 resource on the County's Aggregate Inventory. To be conserved and protected as a 3A site, the conditions in subsections (a)-(c) must be met.

As discussed above, the Applicant has provided a report by a certified geologist engineer verifying the location, type, quantity, and quality of the resource. Based on the above findings, the County Court can find that the conditions in subsection (a) of Ordinance 55 are met.

Upon finding that the site is a significant 1C site based on the evidence described above, the County will adopt an ordinance amending the Comprehensive Plan to add the Subject Property to the Aggregate Inventory. Thus, the requirement of subsection (b) can be met.

The conditions of subsection (c) (conflicting uses and ESEE analysis results) are addressed below. As noted below, the ESEE analysis results in a determination that there are conflicting uses relative to the resource. Thus, the site cannot be added to the Aggregate Inventory as a 3A site (as discussed in more detail below in Step 2) as all three conditions for this policy are not met.

Policy 9:

Crook County's plan policy is to classify, each significant resource site according to current available dat[a] on location, quality and quantity, and regulate each site according to its classification. Crook County will not allow expansion of any site without additional data. Therefore, in order to expand mining operations on a mineral or aggregate site into an area not currently designated for mining, the operator must provide the best information available regarding quantity, quality, and location of the resource in the proposed expansion area to update plan data. An ESEE analysis shall be required if the expansion area is found to be a significant Goal 5 resource based on location, quality, and quantity information.

PROPOSED FINDING: The Subject Property will be added to the County's Aggregate Inventory as a separate site; not an expansion of the adjacent Woodward site. Nonetheless, as explained above, the Applicant has provided substantial evidence regarding location, quality, and quantity to identify the Subject Property as a significant aggregate site. An ESEE analysis is required and discussed below.

[Step Two Begins on the Next Page]

⁵ Policy 6(c) is addressed in Step 2.

STEP TWO
(IDENTIFY CONFLICTS)

OAR 660-016-0005(1):

It is the responsibility of local government to identify conflicts with inventoried Goal 5 resource sites. This is done primarily by examining the uses allowed in broad zoning districts established by the jurisdiction (e.g., forest and agricultural zones). A conflicting use is one which, if allowed, could negatively impact a Goal 5 resource site. Where conflicting uses have been identified, Goal 5 resource sites may impact those uses. These impacts must be considered in analyzing the economic, social, environmental and energy (ESEE) consequences.

PROPOSED FINDING: The County must identify negative impacts on the resource site; not negative impacts from the resource site on surrounding land uses, unless the County finds those negative impacts may eventually come back to negatively impact the resource site. The County may consider any present or potential future allowed land uses in the impact area and any incidental uses reasonably connected to those allowed land uses. For instance, the evidence in the record of neighbors of the resource site frequently or potentially contacting DOGAMI/DEQ/the County with complaints regarding the resource site's operation and/or permit violations, thus forcing a change in behavior of the resource site operator, should be an appropriate example of an identification of conflicts. Similarly, "if operation of an aggregate mine (a Goal 5 resource) were predicted to engender social protests or economic boycotts because of perceived negative impacts of the resource on local residents, such activity might be deemed a 'negative impact' on the Goal 5 resource itself." *Hegele v. Crook County*, 190 Or. App. 376, fn. 4 (2003).

The Applicant notes in Exhibit 63 that there are several neighbors in the impact area that are opposed to the mining site. The Applicant goes on to note three abutting properties contain single-family dwellings (four if you count the dwelling on the Subject Property) and one of the neighbors has a dairy. As noted by the Applicant in Exhibit 63, to minimize impacts on surrounding uses, mining of the aggregate resource will be less efficient and increase the cost of mining. The Applicant specifically notes that existing uses on Tax Lots 1415140000102, 1415230000102 and 1415230000114/111 conflict with the proposed resource site. There is substantial evidence in the record that the complaints by neighbors have led to the Applicant addressing concerns including noise, groundwater, and dust. See e.g., Exhibits 5, 6, 44, 55, and 57.

Additionally, the Applicant lists in Exhibit 63 the allowable uses in the EFU zone, which include:

1. New Farm Dwelling/Residential Use
2. Home Occupations/Business Use
3. Equine Facilities
4. Churches
5. Private Airports
6. Solar Energy Sites
7. Wind Generation Sites
8. Farm Stands
9. Other uses allowed in the EFU-2 zone.

A complete list of allowed uses in the EFU zone is attached as Appendix 2.

The Applicant states in Exhibit 63 that it is unlikely that new conflicting uses (e.g., those listed above) will be established within the impact area before the aggregate resource is depleted. Staff agrees that there is limited potential for new permitted or conditional uses in this area to conflict with the proposed mine site due to the area's EFU zoning and existing development patterns.

Aggregate mining is a conditional use in an exclusive farm use zone (Crook County Code 18.16.015(11) and ORS 215.283(2)(b)). Potential conditional uses in the EFU zone could include schools, churches, parks, campgrounds and home occupations, equine facilities, private airports, renewable energy sites, farm stands and other conditional and permitted uses allowed in the County's EFU zones. Any of these uses could conceivably result in negative impacts to mining operations.

In summary, there are eleven (11) tax lots at least partially within the impact area (Table 1). There are four residences within the impact area including one dwelling on the Subject Property. The presence of these existing residential uses present conflicts to a mining operation as a result of evidence in the record of the concerns raised by area property owners regarding the existing mining operation on the Woodward property and the need for the proposed mining operation to address concerns regarding noise, dust, groundwater, and operating hours. As a result of this evidence, limits on the operation may be necessary to minimize impacts to neighbors, resulting in less efficient mining operation and increased costs to the operator.⁶ There are also six farming operations within the impact area including a dairy and hay/pasture operations. Neighboring farmers raised concerns regarding impacts to crop productivity due to dust and concerns regarding mining impacts on groundwater. These complaints likewise may result in limits to mining operations resulting in less efficient mining operations and increased costs. Accordingly, the agricultural operations could be viewed as conflicting uses.

Based on the evidence, including Applicant's Exhibit 63, residential uses in the impact area will conflict with the proposed resource use of the Subject Property. It is also possible that agricultural uses may conflict. Accordingly, the impacts of the resource use on the adjacent and nearby uses must be examined through an ESEE analysis (Step 3).

Ordinance 43, Section 3(B)(1)(a),(c), (d)

Definition of Conflicting Uses. Conflicting uses are those existing or potential uses, allowed outright or conditionally within a zoning district, which, if allowed within the impact area surrounding a resource site, could negatively impact that Goal 5 resource site by impeding the extraction of the resource, or which could impose limitations on efficient and economic mining activities

Definition of Impact Area. The impact area is that area surrounding and near a Goal 5 mineral and aggregate resource site wherein the presence or application of a conflicting use that is allowed outright or conditionally in the surrounding broad zoning district would adversely impact the resource site by limiting the mining or processing of the resource.

Description of Impact Area. Unless otherwise indicated in the text of this Plan or on the respective resource site and impact area map, the impact area is that property extending outward from the resource site boundary to a distance of five hundred (500) feet.

⁶ Impacts to property owners from mining activities are outlined in the ESEE analysis.

PROPOSED FINDING: The definition of “conflicting uses” in Ordinance 43 is consistent with how the County applied OAR 660-016-0005(5)(1) above. Moreover, the Applicant has suggested a 500’ impact area consistent with Ordinance 43 (see Figure 2 and Figure 3). The above analysis is incorporated in response to these provisions of Ordinance 43. This request is consistent with Ordinance 43.

OAR 660-016-0005(2):

Preserve the Resource Site: If there are no conflicting uses for an identified resource site, the jurisdiction must adopt policies and ordinance provisions, as appropriate, which ensure preservation of the resource site.

PROPOSED FINDING: This section is not applicable because there are conflicting uses as found above.

Policy 6:

A mineral and aggregate resource site that is not on the Crook County Goal 5 inventory or that is listed as a 1B site shall be placed on the inventory of significant sites and shall be conserved and protected for surface mining after all the following conditions are met:

- (c) There are no conflicting uses [or] the ESEE analysis results in a determination that the resource is important relative to conflicting resources, uses and [other] applicable statewide planning goals.⁷***

PROPOSED FINDING: As noted above when previously discussing Policy 6, there is no dispute that there are conflicting uses. Thus, the Subject Property cannot be added to the County’s Aggregate Inventory as a 3A site. Instead, because of the conflicting uses, the County must complete an ESEE analysis (Step 3).

This concludes Step Two. Since there are identified conflicts, the next step is complete an ESEE analysis.

[Step Three Begins on the Next Page]

⁷ Policy 6(c) as written in Ordinance 55 is as follows:

There are no conflicting uses of the ESEE analysis results in a determination that the resource is important relative to conflicting resources, uses and thither applicable statewide planning goals.

The two identified apparent errors, as indicated by [] make the Policy unclear and are inconsistent with how the Policy was stated in Ordinance 55. Therefore, staff has inserted the original language from Ordinance 55.

**STEP 3
(ESEE ANALYSIS)**

OAR 660-016-0005(3):

Determine the Economic, Social, Environmental, and Energy Consequences: If conflicting uses are identified, the economic, social, environmental and energy consequences of the conflicting uses must be determined. Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites.

PROPOSED FINDING: The ESEE analysis needs to be even-handed and apply the significant, relevant evidence in the record from both sides to consider fully the economic, social, environmental, and energy consequences in a two-way conflict analysis. The [proposed] ESEE analysis is included as Attachment B.

The ESEE analysis is intended to weigh the economic, social, environmental and energy consequences (both positive and negative) of protecting the aggregate site as a significant Goal 5 resource. The ESEE analysis provides the basis for the County to weigh the values of competing uses and the consequences of permitting or prohibiting resource uses and conflicting uses. The ESEE analysis considers not only the consequences associated with protecting the resource but also considers the consequences of mining and processing the aggregate resource. The ESEE analysis applies to the 500-foot impact area surrounding the proposed mine site. As discussed, there are 11 properties within the impact area including the adjacent Woodward mining and processing site, three dwellings, an existing dairy and other agricultural properties to the north and east. These uses are identified on Table 1.

Specifically, conflicting uses include existing residential uses within the impact area and existing agricultural activities including the dairy and hay/pasture activities within the impact area. There is limited potential for new conditional uses within the impact area but those would likely conflict with mining operations if approved. Appendix 2 includes a list of permitted and conditional uses in the County's EFU-2 zone.

The Planning Commission considered the Applicant's burden of proof statement and testimony, as well as written and oral testimony provided by neighboring property owners and the public in the recommendation to the County Court. The following summarizes the Commission's findings on the economic, social, environmental and energy consequences of the aggregate site and incorporates additional testimony received by the County Court on October 20, 2021; November 3, 2021; received by November 15, 2021, when the record was closed; final statements made at the December 3, 2021, hearing; and final written argument submitted on December 10, 2021, by the Applicant.

Economic Consequences: The Applicant stated that the proposed aggregate site will have positive economic impacts by providing a local source of high-quality aggregate material for area construction projects. For example, the Applicant claims 90% of the ready-mix concrete produced from aggregate material from the Woodward site goes to Facebook construction (Exhibit 66). This will benefit the economy of Crook County and Central Oregon. However, concerns were raised that much of the material would be exported out of the County with little benefit to the local economy.

The Applicant identified negative economic impacts to the resource site from allowing conflicting uses (Exhibit 63). The Applicant cited neighbors' testimony in opposition to the site that raised concerns about dust, noise, noxious weeds, reclamation, hours of operation, impacts to groundwater and reduction in property values. The Applicant stated that these concerns can result in increased costs to mining operation due to requirements to mitigate impacts to neighboring property owners. The Applicant went on to state that these increased costs would be passed on to consumers, resulting in broad negative impacts to the regional economy.

It was noted that the current property owner will receive economic benefits from the mining of aggregate resources without significant negative consequences because the subject property is required to be reclaimed for agricultural use (hay production). However, testimony from the current tenant on the Vanier property suggested that, due to loss of organic material during the mining process, yields of agricultural products on the site would be reduced without expenditures for soil additives, resulting in increased costs for the farm operator. The tenant also suggested that high groundwater levels would make site reclamation difficult, negatively impacting farm productivity.

Neighboring property owners offered testimony that there would be negative economic consequences including reduced property values due to ongoing mining operations. It was noted that there may be negative economic impacts to surrounding farmers because of dust impacting crop productivity and potential impacts to groundwater availability and quality. Neighbors also suggested that many materials were shipped out of the County, thus reducing economic benefits to Crook County businesses and residents.

Social Consequences: According to the Applicant, there are likely to be negative social consequences for the mining operation associated with conflicting uses and the opposition of neighbors. The Applicant suggested that positive social impacts of the proposed mining operation will include continued opportunities for employment, tax revenue and local aggregate supply produced by the operation.

The Planning Commission noted that while the mining operation would provide employment and tax revenue for a period of time, no new, permanent jobs would be created.

Neighboring property owners provided testimony regarding negative social impacts associated with the mine site, based in part on ongoing mining operations on the adjacent Woodward property. Negative impacts identified include a reduction in the rural quality of life, continued heavy truck traffic, noise and dust. Neighbors were concerned about the impacts to scenic vistas. They expressed concerns that approval of this site would set a precedent, resulting in loss in the future of other farms in the area. Concerns were also raised about the mining operation's potential impacts to groundwater quality and quantity.

Testimony from neighbors suggested that the Applicant was not always responsive to complaints regarding dust and operating hours on the Woodward site. They expressed frustration regarding the lack of enforcement of conditions of approval for the existing mining operation on the Woodward property and they were not confident that enforcement of conditions on the proposed site would be effective.

Environmental Consequences: The Applicant did not include information regarding positive environmental impacts associated with mining.

The Applicant's "Mine Hydrogeologic Characterization" report prepared by Wenck (Stantec Consulting Services Inc.) as part of the conditional use application, finds that groundwater is likely to be encountered during mining activities. Table 3 of the Aggregate Mine Hydrogeologic Characterization report identifies properties with water rights that have potential to be influenced by mining activities on the Vanier property. The Applicant, at its expense, has proposed baseline water quality and quantity testing of three wells (shallow well on the Vanier property and wells on the Mikulski and Johnson properties) and two springs on the Davis property. (Page 2 of Exhibit 24). The Applicant has also proposed a "Groundwater Guarantee" to address impacts to neighboring groundwater wells (Exhibit 34).

Neighbors provided testimony regarding possible negative impacts including increased dust and disruption of wildlife by noise and mining activities. They testified regarding the impact of dust from the current mine site and suggested that berms did little to mitigate the effects of dust. Neighbors suggested that no dust mitigation for the site occurred when mining was not occurring (e.g., evenings and Sundays). They noted that stockpiles were not vegetated and no dust control for stockpile areas was provided.

Property owners also raised concerns about impacts to groundwater quality and quantity. They were concerned that they would have a loss of well water due to mining activities and that they might need to incur costs to repair their wells or dig replacement wells. They were concerned about impacts to groundwater quality and their drinking water supply and the supply of water for livestock.

Testimony was provided regarding Department of Environmental Quality enforcement actions for violation of State water quality permit requirements on other Knife River sites (Exhibit 58). Neighbors raised concerns that permit conditions were not always met by the Applicant on the Woodward site

Energy Consequences: The Applicant stated that positive energy impacts will result from continued operation of the established processing facilities at the Woodward property, located in an area that minimizes transportation costs related to moving aggregate materials. Reducing emissions associated from transferring aggregate from outside Crook County area is a positive impact. They suggested that negative energy impacts may occur only if aggregate is mined from the area for transport out of the area, which is unlikely because of the distances involved. Neighbors noted that material is often transported out of the County, thus negating positive energy consequences.

Conflicts with Statewide Planning Goals: OAR 660-16-0005(3) requires local governments, in analyzing the ESEE consequences of conflicting uses, to also consider the applicability and requirements of other Statewide Planning Goals.

Goal 1 – Citizen Involvement: Crook County requires notice to adjacent property owners and a public hearing before the Planning Commission and the County Court prior to adoption of any comprehensive plan amendment. In addition, public notice is provided through the local newspaper. Information relating to the hearing (e.g., the staff report and exhibits) are available on the County's website and hard copies are available to the public when requested. Notice of the proposed plan amendment was also provided to the Department of Land Conservation and Development. The Planning Commission conducted a site visit to the Subject Property prior to the first hearing. Adjacent property owners within 750-feet of the subject property were notified of the visit and invited to attend. Two public hearings were held by the Planning Commission to consider this application and the related conditional use application. Members of the public were provided an additional seven days to respond to new evidence and the Applicant was provided seven days to submit a final argument.

The proposed plan amendment was forwarded to the Crook County Court. The Court has provided two public hearings and kept the record open until November 15, 2021 to allow an opportunity for additional testimony. The County Court conducted a site visit on October 26, 2021, and adjacent property owners were invited to attend.

Goal 2 – Land Use Planning: This decision will be subject to the policies and processes of Crook County’s Comprehensive Land Use Plan and Ordinances and the County’s zoning code (Chapter 18) and applicable criteria in Oregon Revised Statutes and Oregon Administrative Rules and will meet the Goal 2 requirements regarding land use planning.

Goal 3 – Agricultural Lands: The Applicant stated that the aggregate operation will not force a significant change in accepted practices, nor will it result in a significant cost increase to accepted farm practices. The Applicant stated that it intends to minimize conflicts with neighboring agricultural activities by the operational design for mining the site.

The agricultural use on the site will be temporarily interrupted as actual mining is conducted in phases. There will be a disruption of current irrigation practices on the subject property until site reclamation is complete. The site will be reclaimed to allow agricultural use after mining is complete. DOGAMI’S reclamation permit requires the site to be reclaimed to the current agricultural use. Testimony was provided regarding the lack of organic matter and nutrients in the topsoil and overburden preventing the site from returning to productive agricultural use.

Adjacent property owners are concerned about the impacts of dust on their crops causing reduced yields and reduction in quality.⁸ While there may not be a change in farm practices, there may be reductions in yields and income. The Applicant states that the proposed berms and dust control measures are intended to mitigate the impacts of dust on adjacent properties. The Applicant stated that mining operations on the Woodward property have been occurring for several years and they are not aware of any of its current operational activities that have caused adverse impacts to surrounding lands devoted to farm use to the extent that the impacts have forced a significant change in, or significant increase in the costs of, accepted farm practices.

Neighboring property owners raised concerns regarding the potential dewatering or contamination of area wells due to mining operations. Concerns were raised by an adjacent dairy operator regarding impacts due to a potential loss of water supply or groundwater who stated that she needs access to a clean, reliable source of water for livestock.

Goal 4 – Forest Lands: There are no forest lands in the vicinity of the subject property. Forest lands will not be impacted. There is no conflict with Goal 4.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces: The Applicant proposes to add this site to the Goal 5 inventory of significant aggregate resource sites. Based on information from the Oregon Department of Fish and Wildlife (ODFW) and other resource management agencies, development of this site for aggregate productions does not conflict with any Goal 5 wildlife resources. The Applicant will be required to submit an “inadvertent discovery plan” regarding notification to the State Historic

⁸ As noted above, the County Court visited the Butler property on October 26, 2021, an aggregate site successfully reclaimed by Knife River. Knife River’s reclamation activities were acknowledged by Ben Mundie, Oregon Department of Geology and Mineral Industries (Exhibit 41).

Preservation Office in the event of discovery of any natural or cultural resources. This will be addressed in the review of the conditional use permit. The County has not identified any significant groundwater resources in the area surrounding the proposed mine site.

Goal 6 – Air, Water and Land Resources Quality: Goal 6 relates to protection of air and water quality. The operation of the aggregate mining site will be conducted in compliance with all other applicable state and local permits and regulations. The Oregon Department of Geology and Mineral Industries (DOGAMI) has oversight responsibility for mining operations and final reclamation. Dust control is a required component of the operating plan. The Oregon Department of Environmental Quality (DEQ) permits will be required for stormwater management and the dust control plan will be reviewed to address air quality concerns. The Applicant has agreed to provide limited baseline monitoring of groundwater quality and quantity and to grant a “groundwater guarantee” to offset potential impacts to neighboring wells.

Goal 7 – Areas Subject to Natural Disasters and Hazards: The proposed mine site is not recognized as being an area subject to natural disasters or hazards. There is no conflict with Goal 7.

Goal 8 – Recreational Need: The proposed mining operation will not impact recreational needs or areas used for recreation. There is no conflict with Goal 8.

Goal 9 – Economy of the State: Development of the aggregate site is consistent with Goal 9 because aggregate is a necessary commodity for road and building projects. A local source of aggregate provides an economic benefit to Crook County and the Central Oregon region.

Goal 10 – Housing: Development. The aggregate resource site will have no direct impact on the supply of housing in Crook County. Properties zoned for Exclusive Farm Use are typically unlikely to be approved for residential development. Having a local supply of aggregate materials should help meet demand for residential construction.

Goal 11 – Public Facilities and Services: No new public services will be required to support development of the aggregate resource site. Sewer service is not required, and water and power are currently available to serve the site. An existing truck route will be used for traffic associated with the site and no new connections to County roads are required. The Applicant will receive water from the Ochoco Irrigation District.

Goal 12 – Transportation: Development of the proposed aggregate resource site does not conflict with the Crook County Transportation Plan or Goal 12. The site is located on an existing designated truck route less than ½ mile from Highway 26. No new access points are needed or requested. No new access to County roads is required.

Goal 13 – Energy Conservation: Development of an aggregate resource site in Crook County reduces the consumption of energy needed to move aggregate from locations farther away to projects in Crook County. The proposed site is consistent with Goal 13.

Goal 14 – Urbanization: This proposal does not include expansion of any urban growth boundary. This area has not been considered for UGB expansion. If the area is considered for urbanization in the future, the reclaimed site could be available for development.

With the adoption of the ESEE analysis (Exhibit B), Step 3 is complete. The next step is to develop a program to achieve Goal 5.

[Step Four Begins on the Next Page]

DRAFT

**STEP 4
(PROGRAM TO ACHIEVE GOAL 5)**

OAR 660-016-0010(2)-(3):

Based on the determination of the economic, social, environmental and energy consequences, a jurisdiction must “develop a program to achieve the Goal.” Assuming there is adequate information on the location, quality, and quantity of the resource site as well as on the nature of the conflicting use and ESEE consequences, a jurisdiction is expected to “resolve” conflicts with specific sites in any of the following three ways listed below. Compliance with Goal 5 shall also be based on the plan’s overall ability to protect and conserve each Goal 5 resource. The issue of adequacy of the overall program adopted or of decisions made under sections (1), (2), and (3) of this rule may be raised by the Department or objectors, but final determination is made by the Commission, pursuant to usual procedures:

(2) Allow Conflicting Uses Fully: Based on the analysis of ESEE consequences and other Statewide Goals, a jurisdiction may determine that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. This approach may be used when the conflicting use for a particular site is of sufficient importance, relative to the resource site. Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision.

(3) Limit Conflicting Uses: Based on the analysis of ESEE consequences, a jurisdiction may determine that both the resource site and the conflicting use are important relative to each other, and that the ESEE consequences should be balanced so as to allow the conflicting use but in a limited way so as to protect the resource site to some desired extent. To implement this decision, the jurisdiction must designate with certainty what uses and activities are allowed fully, what uses and activities are not allowed at all and which uses are allowed conditionally, and what specific standards or limitations are placed on the permitted and conditional uses and activities for each resource site. Whatever mechanisms are used, they must be specific enough so that affected property owners are able to determine what uses and activities are allowed, not allowed, or allowed conditionally and under what clear and objective conditions or standards. Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision.

PROPOSED FINDING (Alternative #1): Based on the evidence in the record, the Planning Commission recommended that conflicting uses be allowed fully, and the site designated as a “3B” site, consistent with subsection (2) above. The Planning Commission determined that the conflicting uses for the site were of sufficient importance based on existing land uses and potential impacts, regardless of potential impacts of the conflicting uses on the resource site. Reasons for this determination relate to the potential impact to existing uses within the proposed mining operation’s impact area. Impacts associated with dust, noise, and potential impacts to groundwater resources are primary concerns. It is anticipated that these impacts can be mitigated to some extent.

In addition to the Planning Commission’s reasons, the County Court finds, based on an analysis of the ESEE consequences, that conflicting uses should be allowed fully because they are of such importance relative to the resource site. Specific reasons for this finding include:

- The ESEE analysis identified both positive and negative consequences associated with mining operations. For example, existing residential uses will be negatively impacted by the mining activity on the site due to dust and noise.
- The ESEE analysis found that there are economic benefits associated with allowing mining on the Subject Property including having aggregate materials available for local businesses. However, there is the potential for negative economic consequences to area property owners due to a reduction in property values resulting from mining activity, potential reductions in crop productivity due to dust and potential economic losses due to possible impacts to groundwater quality or quantity.
- The Applicant stated that there will be social benefits associated with mining activities including employment opportunities. Neighboring property owners raised issues related to the inability to enjoy their properties due to noise and dust and concerns about groundwater impacts.
- No positive environmental benefits associated with mining operations were identified. Concerns about groundwater quality and quantity were identified as potential negative consequences associated with mining. Dust and air quality concerns were identified as an additional negative environmental consequence of mining.
- The resource use is likely to have positive energy consequences due to having a local source of aggregate material and not having to transport materials from sites outside Crook County.
- No limits should be placed on existing conflicting uses in the impact area and a Program to Achieve Compliance with Goal 5 will be adopted.

Based on the above, while the ESEE analysis demonstrates there are positive consequences from the proposed resource use, the conflicting uses identified in the ESEE analysis within the impact area are of sufficient importance, relative to the resource site, to protect the adjacent conflicting uses. To do so, a program to achieve shall be adopted and the site shall be identified as a 3B site on the Aggregate Inventory.

PROPOSED FINDING (Alternative #2): Based on substantial evidence in the record, the County Court finds that both the resource site and the conflicting uses are important relative to each other and that the ESEE consequence should be balanced to allow the conflicting uses and protect the resource site. Accordingly, the Subject Property should be classified as a “3C” site for the following reasons:

- The Subject Property will provide an important resource to the community and region aiding the local economy;
- Existing farm uses and residential uses should be protected through a program to achieve compliance with Goal 5
- No limits should be placed on existing conflicting uses in the impact area.
- The ESEE analysis identified positive and negative consequences associated with the potential mining operation. Classification of the property as a “3C” site requires balancing to allow the conflicting uses and protect the resource site. Balancing the uses will require implementation of conditions to achieve the requirements of Goal 5. It is recognized that limits on mining operations may increase costs and reduce efficiencies, but these limits are designed to address concerns raised by neighboring property owners.
- Limits on operating hours are proposed to respond to neighbors’ concerns regarding noise and quality of life impacts. Access to the site will be limited to the existing access on the Woodward property. Berms and a dust management plan, including provisions to stabilize disturbed soil are included to address concerns about noise.

- The Applicant has proposed a “Groundwater Guarantee” to respond to concerns regarding potential impacts to groundwater quality and quantity, which will help protect wells for adjacent conflicting uses

Based on the above, the County Court finds the Subject Property should be added to the Aggregate Inventory as a 3_ site. The following conditions are adopted to achieve Goal 5:

[PROPOSED] PROGRAM TO ACHIEVE GOAL 5:

General Requirements:

Site plan: The Applicant shall submit an updated site development plan to the Crook County Community Development Department reflecting required setback and berms and consistent with applicable conditions of County land use approval.

Water rights: The Applicant shall submit evidence of water rights for mining and reclamation use to the Crook County Community Development Department prior to such use of water.

Quality of Life Concerns:

Setbacks: To minimize impacts to neighboring properties, no active mining shall occur closer than 100 feet from property lines on the north, east and south side of the subject property. Mining shall not extend closer than fifty (50) feet from adjacent parcel 141514 Tax lot 701 (the Porfily property) on the west side of the subject property. No setback is required on the boundary with the Woodward property to the west of the subject property (141514 tax lot 703). Berms and groundwater trenches may be placed with the setback area subject to the final site plan.

Ordinary operating hours shall be Monday through Friday, June 1 through October 31, from 6:00 a.m. to 9:00 p.m., or sunrise to sunset, whichever time period is less. Operating hours shall be Monday through Friday, November 1 through May 31, from 7:00 a.m. to 6:00 p.m., or sunrise to sunset, whichever is less. No operations shall be conducted on weekends or specific holidays.

Traffic: Access to the subject property shall be limited to the existing access at the Woodward site. Materials will be transferred from the subject property via an internal haul road to the processing plant on the Woodward property. No new access is permitted on Stahancyk Lane or Lamonta Road.

Truck traffic shall be limited to the number of daily trips currently authorized at the Woodward site (160 trips per day from the site (80 trucks incoming and 80 trucks outgoing)).

Berms: Berms are intended to buffer neighboring properties from noise, dust and visual impacts. The Applicant has proposed a height of 8 feet with a slope no steeper than 2:1. The 2:1 slope is intended to allow for mowing of the berms.

Berms shall be placed at the time mining begins in adjacent cells to minimize the amount of disturbed ground. Berms will be hydroseeded, irrigated to maintain vegetation, and managed to prevent the spread of noxious weeds. Berms may be placed within the 100’ property line setback area. Berms shall be removed upon completion of the mining operation.

Dust Mitigation: The Applicant shall control all fugitive dust emissions associated with all extraction operations on the site and on the Woodward processing site. The Applicant shall implement provisions in the Dust Management Plan (Exhibit 23). The Applicant shall stabilize all disturbed areas to minimize dust using hydro-seeding or other soil stabilization methods consistent with the Dust Management Plan. The Applicant shall stabilize all stockpile areas with mulch, vegetation, or chemical binders. During non-operation days, the stockpiles shall be watered with sprinklers to limit fugitive dust.

The Applicant shall construct the internal haul road between the subject property and the Woodward processing site with an all-weather surface and aggregate base sufficient to support heavy vehicles and equipment. The surface shall be treated regularly to minimize fugitive dust.

A contact person representing the aggregate operator shall be named and all appropriate contact information shall be provided to Crook County Community Development and to any neighbor that requests such information so the aggregate operator can be contacted if dust is being released. The contact information for the regional office of the Oregon Department of Environmental Quality – Air Quality Division, shall also be provided.

Noise: Noise is an impact that has been identified as an issue by surrounding property owners. The berms proposed by the applicant and limits on operating hours are intended to help minimize noise impacts. The County has no noise ordinance, but noise is regulated by the Oregon Department of Environmental Quality.

The Applicant agrees to replace existing back-up “beepers” on mining equipment and vehicles with directional “white noise” back-up alarms.

Reclamation: No more than 10 acres of ground shall be disturbed by mining at any time. The 'disturbed area' refers to the active mining area (5 acres) and reclamation cells and does not include the stockpile area or the berm areas. The site will be reclaimed concurrently with mining as cells are completed. Prior to reclamation, the mine operator shall stabilize disturbed areas using hydro-seeding or other soil stabilization product to help minimize dust from disturbed areas.

Upon completion of mining cells, the Applicant agrees to remove standing water. Overburden will be replaced and ripped and disked to reduce compaction. Topsoil will be replaced. Reseeding will occur in the next planting season, but soil will be stabilized until planting can occur. The site will be reclaimed concurrently with mining as cells are completed.

All reclamation activities shall be subject to a reclamation plan approved by the Department of Geology and Mineral Industries. The Applicant shall work with the property owner and the current lessee to ensure that reclamation is carried out in a manner that restores the property to its current use for grazing and hay production.

Groundwater: The Applicant acknowledges that groundwater may be encountered in the mining of the subject property. If water is encountered, it will be pumped out of the mining area and infiltrated on-site into recharge trenches as described in the Hydrogeologic Characterization report and in Exhibit 33. Groundwater concerns pose economic, social and environmental issues for neighboring properties within the impact area. It is understood that requirements for groundwater monitoring and remediation may have economic consequences for the mine operator. Table 3 of the Aggregate Mine Hydrogeologic

Characterization report identifies properties with water rights that have potential to be influenced by mining activities on the Vanier property.

In addition to the wells and springs that the Applicant has identified for baseline testing, it is recommended that baseline testing also be conducted for properties within the 1000' buffer area documented in Table 3 of the Hydrogeologic Characterization report. These properties have relatively shallow wells (drilled above 40 feet) that are in the same aquifer and similar depth to the area proposed for mining. There are six wells that have been identified as having "possible adverse impacts."

Baseline data shall be collected for the wells within the 1000' foot buffer area, including the three wells identified by the Applicant and the springs, prior to mining and information provided to the individual property owner and Crook County Community Development Department.⁹ These properties have relatively shallow wells (drilled above 40 feet) that are in the same aquifer and similar depth to the area proposed for mining. Baseline testing will consist of water level monitoring for the wells and discharge measurements of spring flow, as appropriate. Baseline water quality testing will consist of GRO (Gasoline Range Organics), DRO (Diesel Range Organics), turbidity, total dissolved solids, iron, manganese, pH, *conductivity and temperature*.¹⁰

The Applicant will monitor on-sites wells on a quarterly basis.

The Applicant has proposed a condition of approval (#18, Exhibit 34) as a groundwater protection guarantee. The Applicant will work with the Crook County Community Development Department and Crook County Counsel to finalize the groundwater protection guarantee. The groundwater protection guarantee shall presume that if there is a significant, non-seasonal diminution in groundwater quality or quantity prior to complete reclamation, that the cause is the result of the mining activity on the Subject Property. No conditional use permit shall be issued until the groundwater protection guarantee is agreed to by County Counsel.

The Applicant has agreed to take corrective action for groundwater if mining operations necessitate well deepening, well replacement or replacement water. The Applicant shall enter into an agreement with the County and provide a security to guarantee such corrective action(s) can be taken if necessary.

⁹ The Applicant proposed baseline water quality and quantity testing of three wells (shallow well on the Vanier property and wells on the Mikulski and Johnson properties) and two springs on the Davis property. (Page 2 of Exhibit 24).

¹⁰ The Hydrologic report (table 3) also identifies an additional 39 wells within ½ mile of the subject property that share the same aquifer and could have "possible adverse impacts." The Planning Commission could also require the Applicant to offer baseline testing for these wells.

The security shall be in a form set forth in Crook County Code 17.040.090. The amount of security and form of the agreement shall be subject to review and approval by the Crook County Counsel's office.

- A. In the event that corrective action for groundwater necessitates well deepening, well replacement or replacement water, the Operator shall take corrective action as required by DOGAMI or as otherwise agreed between the Operator and the affected well owner without undue delay.
- B. With respect to part "A" above, the Operator shall guarantee the quality and quantity of water available at neighboring wells specified above commensurate with the use—domestic, livestock and/or irrigation. Potable water is required for the replacement of domestic wells. Livestock quality water is required for replacement of any livestock wells. Irrigation quality water is required for the replacement of all irrigation wells. Any interruption in the water service or diminished quality occurring beyond the well head, in delivery or pumping systems is not the Operator's responsibility but remains the sole responsibility of the well owner or users. Maintaining any part of the electrical connections, servicing or replacing pumps within the wells shall also remain the sole responsibility of the well owners or users.
- C. The Operator does not make any representations as to the current or past quality or quantity of the water available to the wells or its suitability or legality for domestic or other use. The well owners or users retain responsibility for compliance with existing or future water standards or requirements except to the extent that the Operator's actions have caused those standards or requirements to be violated.

The Operator shall collect on-site monitoring well water quantity data continuously and on-site monitoring well water quality data quarterly and shall share all collected data quarterly with designated well/spring owners who have granted access and sampling permission. Prior to mining through a trench or a monitoring well, all previously collected groundwater data will be reviewed by licensed professional geologist or engineer. This data analysis shall consider the relocation and placement of the next infiltration trench and monitor wells as well as any potential adverse impacts to surrounding properties. The Operator shall adjust the Mine Plan to minimize or eliminate any mine related adverse impacts. All data shall be maintained on file by the Operator for 5 years.

VI. CONCLUSION

Based on the above findings of fact, the County Court amends the Crook County Comprehensive Plan to include the Subject Property as a 3 site and to include the ESEE analysis and program to achieve described above.

APPENDIX 1

- Planning Commission Recommendation to County Court
- Comp Plan Amendment Application
- Comp Plan Amendment Burden of Proof
- Exhibit 1 - Ayres
- Exhibit 2 - Daly
- Exhibit 3 - Wheeler-Johnson
- Exhibit 4 - Pepper
- Exhibit 5 - Davis, Monique
- Exhibit 6 - Davis, Teresa
- Exhibit 7 - Mikulski
- Exhibit 8 - Sieben
- Exhibit 9 - Pomraning
- Exhibit 10 - Stafford
- Exhibit 11 - Fenderson
- Exhibit 12 - Pomraning, Alex
- Exhibit 13 - DOGAMI
- Exhibit 13A - DOGAMI Code Reference table
- Exhibit 14 - Knife River
- Exhibit 15 - Gamble
- Exhibit 16 - Knife River presentation
- Exhibit 17A & B - Pomraning
- Exhibit 18 - Pomraning
- Exhibit 19 - Mikulski
- Exhibit 20 - Pomraning
- Exhibit 21 - Richard Zimmerlee
- Exhibit 22 - Applicant Site Plans
- Exhibit 23 - Applicant Dust Management
- Exhibit 24 - Applicant Groundwater Exhibits
- Exhibit 25 - Radabaugh
- Exhibit 26 - Applicant Outline for Responses to Groundwater Questions
- Exhibit 27 - Opposition Signatures
- Exhibit 28- Stec
- Exhibit 29 - Mikulski
- Exhibit 30 - Mikulski
- Exhibit 31a & b - Zimmerlee
- Exhibit 32 - Applicant Rebuttal
- Exhibit 33 - Stantec Rebuttal Letter
- Exhibit 34 - Applicant Final Rebuttal
- Amended Staff Report - 9.15.2021 - Comp Plan Amendment
- Exhibit 35 - Billie Johnson
- Exhibit 36 - Pence Kelly

- Exhibit 37 - Knife River Ord 281
- Exhibit 38 - Brinkman
- Exhibit 39 - Knife River
- Exhibit 40 - Butler
- Exhibit 41 - DOGAMI
- Exhibit 42 - Hydro Assessment
- Exhibit 43 - Existing DOGAMI sites
- Exhibit 44 - Richard Zimmerlee
- Exhibit 45 - Applicant - Butler and Woodward Reclamation
- Exhibit 46 - Radabaugh
- Exhibit 47 - John Eisler, Asst. County Counsel
- Exhibit 48 - Will Van Vactor CCCD Director, Memo to Court
- Exhibit 49 - Applicant Submittal of Draft Minutes of PC Deliberations
- Exhibit 50 - Applicant - Vanier-Woodward Aerial Photos
- Exhibit 51 - Teri White
- Exhibit 52 - Bran Zednik
- Exhibit 53 - Zimmerlee
- Exhibit 54 - Pomraning
- Exhibit 55 - Mikulski
- Exhibit 56 - Johnson
- Exhibit 57 - Mikulski
- Exhibit 58 - Pomraning
- Exhibit 59 - Applicant - Woodward-Vanier Final Contours
- Exhibit 60 - Stantec
- Exhibit 61 - Hudspeth
- Exhibit 62 - Newton, Cascade Geoengineering LLC
- Exhibit 63 - Applicant - ESEE Analysis and Program to Achieve Goal 5
- Exhibit 64 - Mikulski
- Exhibit 65 – Memo from County Counsel regarding new exhibits
- Exhibit 66 – Applicant’s Final Argument

APPENDIX 2

Farm use.
Propagation or harvesting of a forest product.
Composting limited to accepted farming practices in conjunction with and auxiliary to farm use on the subject tract.
A facility for the processing of farm products with a processing area of less than 2,500 square feet.
Agricultural buildings customarily provided in conjunction with farm use.
Creation of, restoration of, or enhancement of wetlands.
A facility for the processing of farm products with a processing area of at least 2,500 square feet but less than 10,000 square feet.
A facility for the primary processing of forest products.
Primary farm dwelling.
Relative farm help dwelling.
Accessory farm dwelling.
Lot of record dwelling.
Nonfarm dwelling.
Replacement dwelling for historic property.
Replacement dwelling.
Temporary hardship dwelling.
Residential home as defined in ORS 197.660 , in existing dwellings (limited to the EFU-2 and EFU-3 zones only).
Room and board arrangements for a maximum of five unrelated persons in existing residences.
Dog training classes or testing trials.
Farm stand.
Winery.
Cider business.
Agri-tourism and other commercial events or activities that are related to and supportive of agriculture.
Parking of up to seven log trucks.
Home occupations.

Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under Use 3.1.
A landscape contracting business, as defined in ORS 671.520 , or a business providing landscape architecture services, as described in ORS 671.318 , if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Use 1.6, but excluding activities in conjunction with a marijuana crop.
Equine and equine-affiliated therapeutic and counseling activities.
Guest ranch.
Exploration for and production of geothermal, gas, oil and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead.
Operations for the exploration for minerals as defined by ORS 517.750 .
Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted.
Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources.
Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement.
Processing of other mineral resources and other subsurface resources.
Climbing and passing lanes within the right-of-way existing as of July 1, 1987.
Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur or no new land parcels result.
Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.
Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065 .
Personal use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities.
Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505 .
Land application of reclaimed water, agricultural or industrial process water or biosolids, or the on-site treatment of septage prior to the land application of biosolids.
Utility facility service lines.
Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height.
Transmission towers over 200 feet in height.
Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities.
Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.

Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.
Disposal site for solid waste approved by the governing body and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245 , together with equipment, facilities or buildings necessary for its operation.
Composting facilities on farms or for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060 .
Firearms training facility in existence on September 9, 1995.
Fire service facilities providing rural fire protection services.
On-site filming and activities accessory to on-site filming for 45 days or less as provided for in ORS 215.306 .
A site for the takeoff and landing of model aircraft.
On-site filming and activities accessory to on-site filming for more than 45 days as provided for in ORS 215.306 .
Living history museum as defined in CCC 18.08.120 .
Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.
Public parks and playgrounds.
Public parks or park uses in an adopted park master plan.
Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210 .
A county law enforcement facility that lawfully existed on August 20, 2002 and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(1) .
Operations for the extraction of water.
Churches and cemeteries in conjunction with churches.
Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.

Private parks, playgrounds, hunting and fishing preserves, and campgrounds.

Golf courses.

An outdoor mass gathering of more than 3,000 persons that is expected to continue for more than 24 hours but less than 120 hours in any three-month period, as provided in ORS [433.735](#).

Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by a county planning commission under ORS [433.763](#).

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