

AUG 13 2024

Crook County
Community Development



OPEN RECORD PERIOD
APPLICANT SUBMITTAL: Round 3 (Applicant final argument)

BEFORE THE CROOK COUNTY PLANNING DEPARTMENT

FILE NO.: 217-24-000070-PLNG

APPLICANT/: GREENBAR EXCAVATION, LLC
OWNER Tanner Brown
P.O. Box 7
Prineville, Oregon 97754

ATTORNEY: Lisa Andrach
Fitch & Neary P.C.
210 SE 5th St., Suite 2
Redmond, Oregon 97756

GEOTECHNICAL
ENGINEER: Watkins Testing & Inspection
19061 Choctaw Road
Bend, Oregon 97702

REQUEST: An Application to modify the Crook County Basalt Resource Inventory to add basalt aggregate volume located on tax map 161612, Lot 500 to the Mineral and Aggregate Inventory of the County Comprehensive Plan, Appendix 5.3, and to make the ESEE findings to allow mining of the additional resource. The Bartels Site was added by Ordinance 172 of the Crook County Court (2006-162);

In support of the application, the applicant submits the following:

1. New Evidence – ODOT Aggregate Sites

The opposition incorrectly submitted new evidence during the rebuttal round of the Open Record period. While not properly a part of the record, the applicant’s response to the new evidence is that the ODOT report regarding its aggregate needs and inventory is not relevant to the applicable criteria for the application before the county.

ODOT’s aggregate inventory is not available to the public. The county’s growth, and the economic feasibility of its growth, are directly related to the cost of development. A lack of a

necessary resource, and the cost of the resource, will directly affect the economic growth and development of the area.

The site has high value aggregate and a substantial quantity of it available to the public to support the county's needs. The law prohibits denial of the application based upon a finding that there is an abundance of the resource elsewhere. In fact, there is not an abundance of the aggregate resource where the site is located.

Therefore, an "abundance of the resource" argument is without merit in this proceeding.

2. Opposition Complaints

The opposition also threatens to complain about the site to the governing authorities, which does not meet the standard to tip the scale to find that the conflicts with the site are so great as to find that only the residential uses of the area should be protected, and the site should not be protected.

The reasonable approach is to allow both uses to continue. Thus far, the uses have demonstrably been able to co-exist relatively harmoniously.

The opposition can make all kinds of threats, phone calls, emails, complaints, but if the mining operation is complying with the applicable laws, there is no negative impact to the mining operation. Thus far, the opposition has not demonstrated that the mining operation has been violating the applicable regulations. So being a nuisance by harassing the government entities that oversee mining operations does not tip the scale in favor of protecting the residential use in favor of the state's valuable aggregate resource.

There is no evidence that the standard required to favor the residential use over the aggregate resource has been met.

3. Conclusion

Based upon the applicable criteria and the evidence in the record, the site should be added to the county's aggregate inventory.

DATED this 13th of August, 2024.

FITCH & NEARY PC


LISA ANDRACH, OSB #040012
Attorney for Applicant

Jennifer Orozco

From: Lisa Andrach <lisa@fitchandneary.com>
Sent: Tuesday, August 13, 2024 12:11 PM
To: Plan
Cc: Tanner Brown; Wendy Smith
Subject: Greenbar Excavation - Open Record Round 3 - Applicant Final Argument
Attachments: Open Record Round 3 Applicant Final Argument.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Planning,

Attached is the applicant's final argument for the 3rd Round.

This should close the open record period.

Lisa Andrach, Attorney



Fitch and Neary, PC
210 SW 5th St, Suite 2
Redmond, OR 97756
Ph: 541-316-1588
Fax: 541-316-1943
www.fitchandneary.com

CONFIDENTIALITY NOTICE: This email transmission, and any documents, files or previous email messages attached to it, may contain confidential information that is legally privileged. If you are not the intended recipient or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this message is STRICTLY PROHIBITED. If you have received this transmission in error, please notify us by reply at info@fitchandneary.com or by telephone at [541 316-1588](tel:5413161588), and destroy the original transmission and its attachments without reading them or saving them to a disk.

[CAUTION:This email originated from outside of the organization. DO NOT CLICK LINKS or open attachments unless you recognize the sender and know the content is safe]