

## AGENDA ITEM REQUEST



**Date:**

*March 4, 2025*

**Meeting date desired:**

*March 12, 2025*

**Subject:**

*Request for Reconsideration – Greenbar Excavation*

**Background and policy implications:**

The Board of Commissioners heard an application by Greenbar Excavation, LLC to add an area of the Bartels Site to the County's inventory of significant resources. There was an apparent agreement reached during the hearing regarding setbacks and a specific neighbor. The motion was to approve Ordinance No. 346. The decision/ordinance has not yet been signed by the Board.

Greenbar's attorney submitted the attached *Request to Reconsider single issue for clarification in the matter of an Application to Amend Comp Plan to add area to Bartels Site on Inventory Greenbar Excavation, LLC*. Before the Board today is whether to reconsider the matter and, if so, process and time and date certain for notice.

As this is a quasi-judicial amendment to our comprehensive plan (CCC 18.172.010(4)), we are to follow our standard administration provisions in chapter 18.172. CCC 18.172.025. There is nothing in chapter 18.172 about reconsiderations. State law (LUBA) expressly allows them after a decision and an appeal but before the record is due. ORS 197.830(13)(a).

However, as mentioned above, the decision has not been signed. That means the decision is not yet final (CCC 18.172.090(3)), which I believe would make this not a reconsideration in the technical sense, but some form of withdrawing/amending the prior motion made at the conclusion of the last hearing and to re-open the record. Reopening the record is governed by CCC 18.172.080(18):

Reopening the Record. When the hearing authority reopens the record to admit new evidence, arguments, or testimony, the hearing authority must

allow people who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts. Upon announcement by the hearing authority of their intention to take notice of such facts in its deliberations, any person may raise new issues which relate to the new evidence, arguments, testimony, or standards and criteria which apply to the matter at issue.

I interpret that language to permit a motion to reopen the record to admit new evidence, argument, or testimony on the limited issue raised by the applicant:

**“the setback for the mining operation to the dwelling on tax Lot 501/ Lot 14 of the Cimmaron Hills Subdivision owned by Carter.”**

Notice would need to be provided to all persons entitled to notice and a third hearing held. Please let me know if you have any questions.

**Budget/fiscal impacts:**

*N/A*

**Requested by:**

*John Eisler; Community Development Director*

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**Presenters:**

*John Eisler*