



Crook County Community Development Planning Division

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STAFF REPORT CONDITIONAL USE 217-24-000198-PLNG

I. INTRODUCTION

Date: November 6, 2024

Owner: The Charles and Carleen Hegele Revocable Trust
Carleen C. Hegele, Trustee
7950 N. Lone Pine Rd
Terrebonne, OR 97760

Agent/Attorney: Mark D. Shipman of Saalfeld Griggs PC
PO Box 470
Salem, OR 97308

Subject Property: Tax Lot: 1414090000101

II. PROPOSAL

Applicant requests a conditional use permit for aggregate mining, crushing, and stockpiling of aggregate and other subsurface material on 12.37-acres of the above referenced subject property

III. PROCEDURAL STATUS

Concurrently with this Conditional Use Permit (“CUP”) request, the Applicant has submitted an application for a Comprehensive Plan Amendment to add the approximate 12.37-acre portion of property identified as Tax Lot No. 1414090000101 to Crook County’s inventory of Significant Mineral and Aggregate Sites (“Aggregate Inventory”). While the Comprehensive Plan Amendment and CUP applications will be processed concurrently, this staff report only addresses the conditional use permit request. The Applicant submitted application on August 2, 2024. The application was deemed complete on August 30, 2024. The Planning Commission is the decision maker for this request.

The hearing scheduled for November 13, 2024, is the first evidentiary hearing for this request. Newspaper notice of the first evidentiary hearing was published in the Central Oregonian on October 22, 2024. Neighbor notice of the first evidentiary hearing was mailed on October 24, 2024. The Planning Commission will have the opportunity to visit the site on November 13, prior to the hearing. A notice of site visit was mailed to neighbors on November 6, 2024.

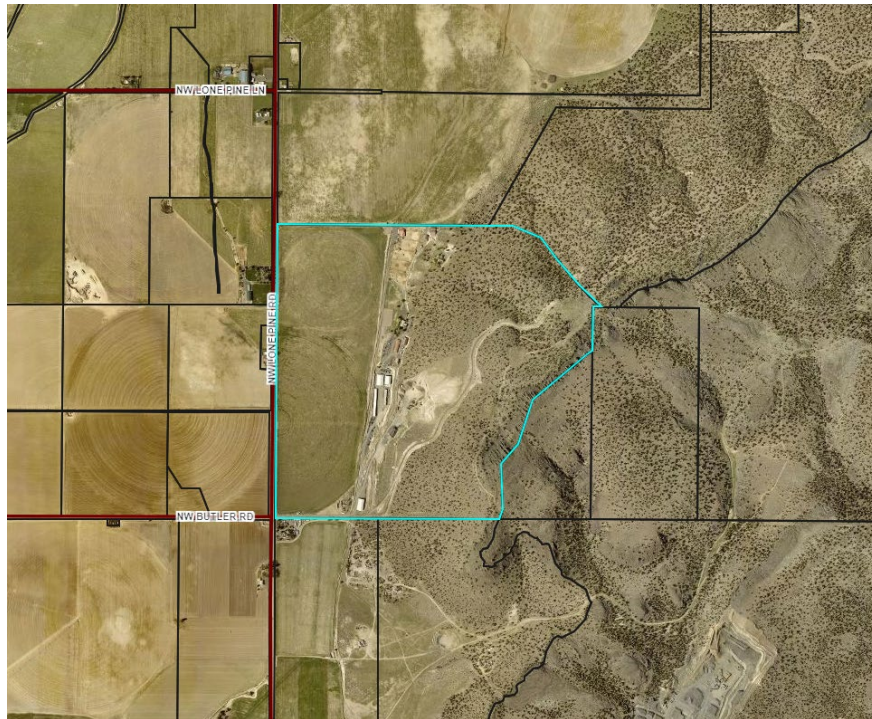
The Planning Commission will hear the comprehensive plan amendment request at the same time. If this CUP is approved by the Planning Commission, the decision will include a condition of approval noting that it is not effective until the Comprehensive Plan Amendment is approved by the Board of County Commissioners.

IV. BASIC FINDINGS

A. Location

The subject property is located in the northwest corner of Crook County, addressed as 7950 NW Lone Pine Road, Terrebonne, OR 97760 and is located to the south of the current permitted area that is 9 acres of the same Tax Lot. Figure 1 is a vicinity map depicting the subject property. Figure 2 is a map showing the proposed expansion area.

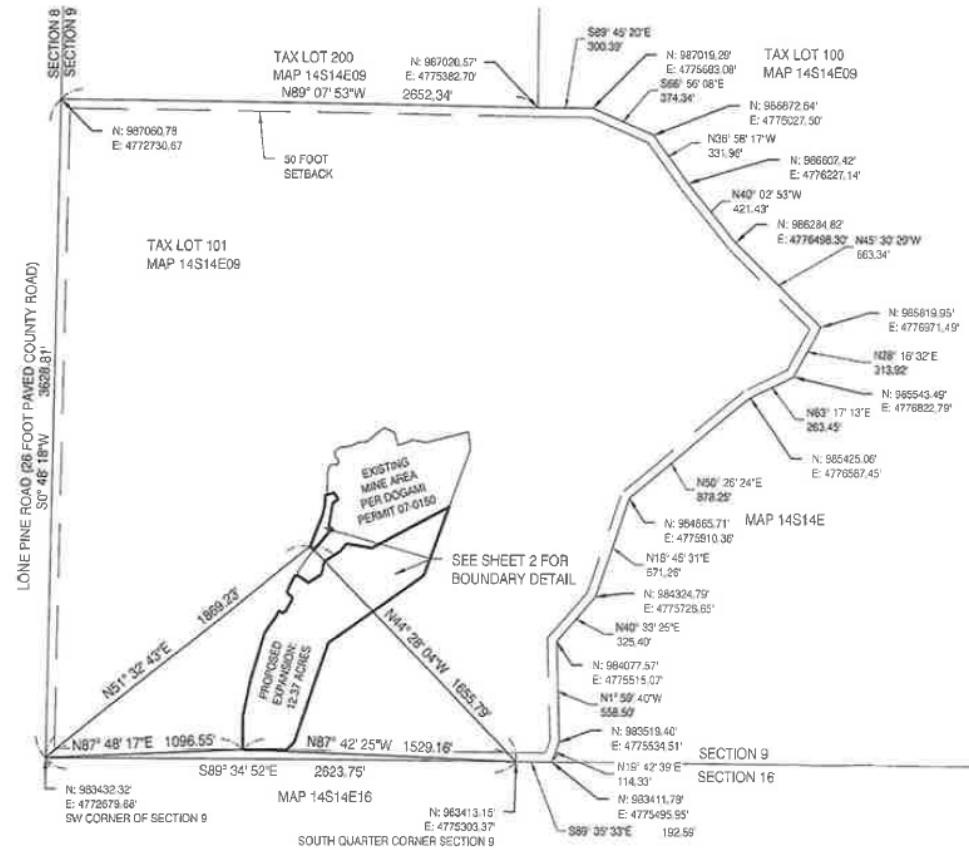
Figure 1¹



Property Lines are Approximate

¹ Figure 1 was created from County GIS mapping

Figure 2²



B. Zoning and Overlays

The subject property is zoned Exclusive Farm Use, EFU-2 (Prineville Valley-Lone Pine Areas) and is designated as Agricultural in the County’s Comprehensive Plan. The subject property is not located within sage grouse, deer, antelope, or elk habitat ranges. There are no floodplains mapped in the proposed expansion area.

C. Site Characteristics

The subject property is listed as 277.73 acres with the Crook County Assessor’s records and is west of NW Lone Pine Road. The property has a complex land use history regarding aggregate. In 2002 the Applicant (Charles Hegele) proposed a comprehensive plan amendment to add a 24-acre site to the Goal 5 inventory. That proposal was denied by the County Court (former name of the now titled Board of County Commissioners), then appealed and spent the next few years going through the Oregon Land Use Board of Appeals, Oregon Court of Appeals, and ending with the County Court adopting Amendment Nos. 61

² Figure 2 was provided by the Applicant as Exhibit 104 of the application

and 62 to Appendix A, Crook County Goal 5 Mineral & Aggregate Elements, Comprehensive Plan Ordinance No. 17, in 2007, to list the 24-acre site as “significant” and place on the Goal 5 inventory of significant aggregate resource sites. However, the Court declared the site as a “3B” site where conflicting uses would be fully allowed and denied the Applicant’s request for a conditional use permit to mine the property citing concerns raised by the neighboring property owners regarding the 24-acre site related to increased truck traffic, visual impacts in the Lone Pine Valley and impacts on the rural quality and livability of the area.

In 2015, the Applicant (Charles Hegele) applied for a conditional use permit (217-15-000236-PLNG attached hereto as Attachment A) for a 9-acre portion of the site rather than 24-acres and included mitigation such as vegetative screening on the berm to minimize visual impacts. Because a smaller site was proposed, Planning Staff required the applicant to request a new comprehensive plan amendment to address applicable criteria and make new findings regarding the location, quality and quantity of the aggregate materials on the smaller mine site. In 2016, the 9-acres site was added to the County’s inventory of significant mineral and aggregate resources as a “3C” site, with an adopted ESEE (Economic, Social, Environment, and Energy) analysis, and approved Conditional Use Permit to mine (217-15-000236-PLNG). In 2021 a modified approval (217-21-000532-PLNG attached hereto as Attachment B) was issued to include the designation of a stockpiling area within the 9-acre mining site.

This application is for a Conditional Use Permit to allow mining, crushing, and stockpiling of aggregate and other subsurface material. The Applicant proposes to expand the existing site by adding an approximately 12.37-acre portion to the Crook County’s inventory of Significant Mineral and Aggregate Sites (“Aggregate Inventory”).

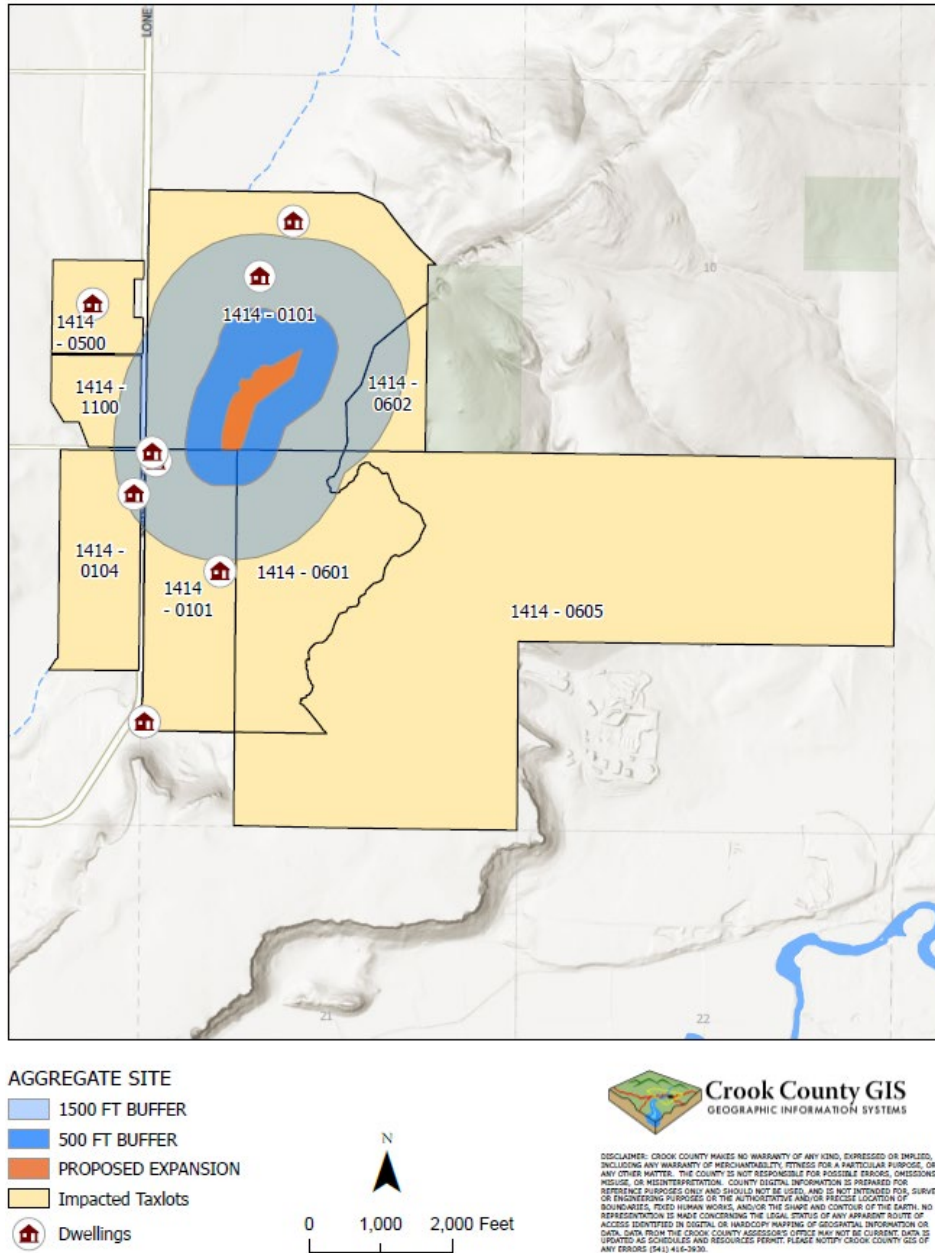
The current site and operation are described by the Applicant to include a 6-acre mining area on the sloped portion of the mining site where the Applicant mines 2-acre cell areas, then reclaims that mined area, while moving to the next 2-acre cell. They also describe existing stockpiling areas, a processing area, an office building, a haul road that enters off of NW Lone Pine Road on the south end of the property, and 8’-10’ berms and poplar trees along the western boundary of the current mining area that buffer views from NW Lone Pine Road. The property also contains the owner’s residence, machine sheds, hay sheds, and general-purpose buildings. The western portion of the property is irrigated and farmed for hay for the owner’s horse and cattle operation. The Applicant included irrigation maps and water right documentation with the application. According to the Applicant, the Hegele family also leases the adjoining irrigated property to the south, from the Butler Family, for hay.

D. Surrounding Area

The areas surrounding the subject property are depicted below in Figure 3 and Figure 4. Figure 3 depicts the Mining Area, a 500-foot impact area and a 1,500-foot impact area, while Figure 4 depicts the Mining Area and an impact area encompassing the entire Lone Pine Valley floor. All properties within the 1,500-foot impact area are zoned Exclusive Farm Use (EFU-2). Staff’s analysis found there are four (4) dwellings within a 1,500-foot impact area. During the Comprehensive Plan Amendment recommendation process, the Planning Commission will be tasked with determining the impact area of the mining site and the Board of County Commissioners will adopt the final version should they chose to add the site to the inventory.

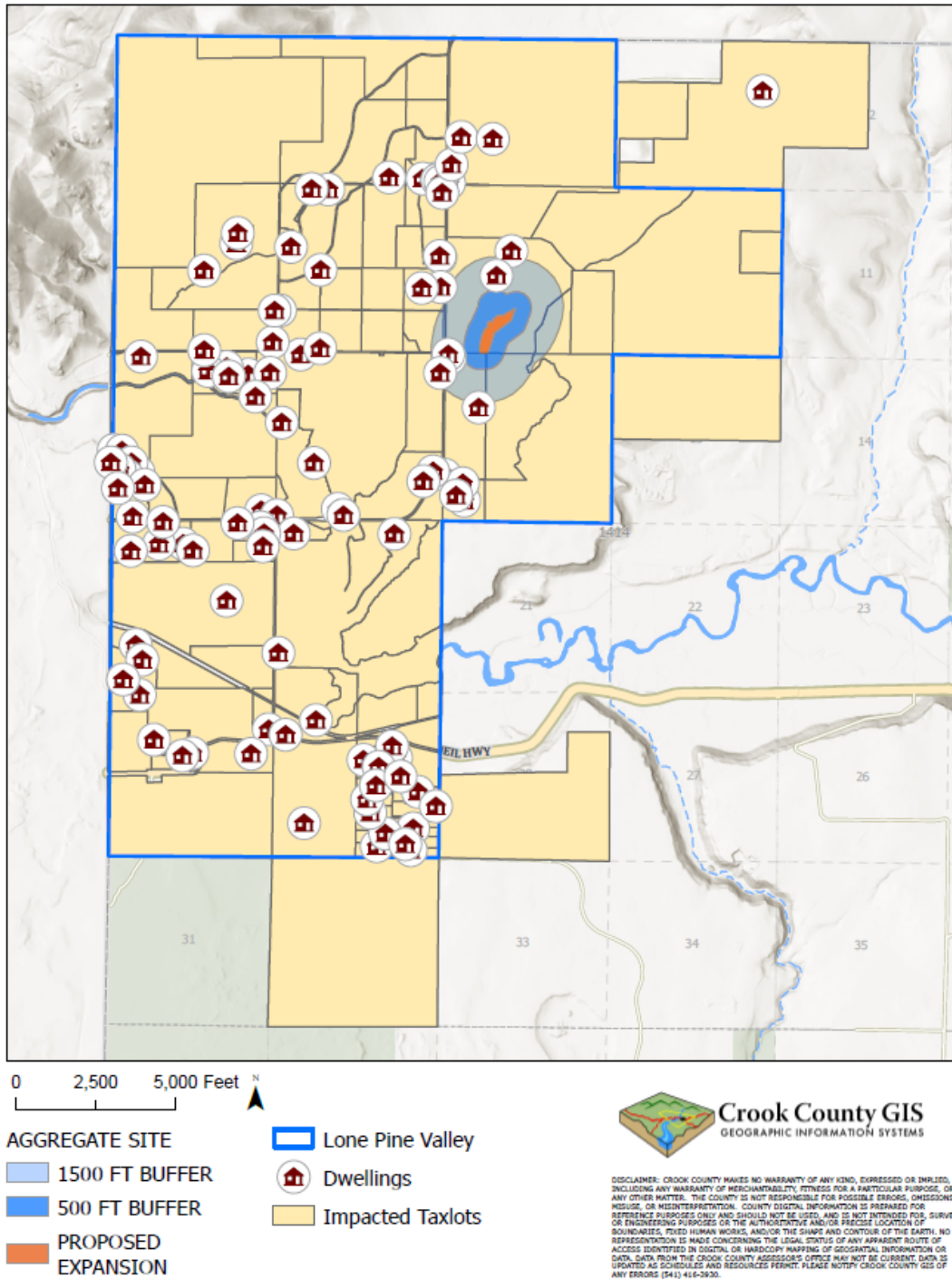
In addition to the Applicant’s proposed 500-foot or 1,500-foot impact areas, the Planning Commission may weigh a greater distance. Ordinance No. 17, Amendment 61 to Appendix A, Crook County Goal 5 Mineral & Aggregate Elements, regarding the request of the 24-acre site in 2007, adopted an impact area of the entire Lone Pine Valley floor. Again, that will be determined in the Comprehensive Plan Amendment process.

Figure 3³



³ Figure 3 was created from County GIS mapping

Figure 4⁴



⁴ Figure 4 was created from County GIS mapping

The Applicant describes the surrounding area as follows:

“Land uses in the surrounding area consist of irrigated pasture and cropland in the bottom of Crooked River Valley to the north and south. As you move further to the west and east, you leave the Valley floor and the land slopes uphill to lands that are non-irrigated and non-farmed, which is where the Applicant’s current mining operation lies. To the northeast of the Property lies property being mined by High Desert Aggregate and Paving. To the south of the Property lies property that is being mined by Knife River.

As a result of the topography of the proposed mining site, and Applicant’s proposed extraction plan, only a small section of the proposed expanded mining area will be visible from NW Lone Pine Road from the south and west. The proposed mine will not be visible from adjacent properties to the north and east.”

E. Access

Access to the proposed expansion site is existing from NW Lone Pine Road (County road), using a private gravel driveway labeled the “Haul Road” by the Applicant, which parallels the south end of the property then leads up to the mining site (see Applicant’s Exhibit 109). No access changes are proposed with the expansion.

F. Other Information

There are no mapped natural hazards in the subject expansion area. The property is not in a mapped special flood hazard area. The property is located within the Crook County fire protection district.

A. Public Comment

As of the date of this report, two exhibits have been submitted from the public. Exhibit 1 is from the property owner and farmer of the 240 acres due west across Lone Pine Rd. They object to the applications due to the “detriment to the beauty of the Lone Pine Valley.” They also claim that dust is unmanageable during the windy summer months, operational noise can be heard on the weekends, no attempt to repair hillside damage, and loss of property values.

Exhibit 3 is submitted by the property owner and farmer of the 410 acres southwest of the subject property. Their objections to the applications include noise, visible mining cavities in the hillsides, trucks traveling all times of the week with visible stockpiling areas, land values, and recreational impacts.

V. CRITERIA AND ANALYSIS

A. Applicable Approval Criteria

**Crook County Code
Title 18 Zoning
Chapter 18.08 Definitions**

Chapter 18.16 Exclusive Farm Use Zones, EFU-1 (Post-Paulina Area), EFU-2 (Prineville Valley-Lone Pine Areas), and EFU-3 (Powell Butte Area)
Chapter 18.144 Aggregate Resource Sites
Chapter 18.172 Administrative Provisions
Chapter 18.180 Transportation

B. Proposed Findings

CCC Chapter 18.16 – Exclusive Farm Use Zones

Chapter 18.16 provides standards and criteria for permissible uses in the EFU zones.

18.16.010 Use Table.

Table 1 identifies uses permitted in the EFU zone and applies to all new uses, expansions of existing uses, and changes of use. Section 4 of the table applies to mineral, aggregate, oil and gas uses in Exclusive Farm Use zones. Section 4.4 identifies operations for mining of aggregate materials as subject to conditional use permit review and public hearings before the Crook County Planning Commission.

4.4	Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources.	C	Planning Commission Hearing	18.16.015(11) 18.144
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18.16.015(11)

Mining, crushing or stockpiling of aggregate and other mineral and subsurface resources are subject to the following:

- (a) A land use permit is required for mining more than 1,000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre.***
- (b) A land use permit for mining of aggregate shall be issued only for a site included on the mineral and aggregate inventory in the Crook County comprehensive plan.***
- (c) Mining, crushing, stockpiling and process of aggregate and other mineral subsurface resources are subject to the provisions of Chapter 18.144 CCC.***

Proposed Finding: The proposed application is subject to the provisions of 18.16.015(11). A land use permit is required because more than 1,000 cubic yards of material and more than 1-acre will be excavated.

The Crook County Board of County Commissioners need to approve Applicant’s requested Plan Amendment (File 217-24-000197-PLNG) to add the subject property to the County Comprehensive Plan’s inventory of significant mineral and aggregate sites. A condition of approval is included requiring that the Mining Area be added to the County’ Aggregate Inventory prior operating under this requested conditional use permit.

Compliance with the provisions of CCC 18.144 are discussed below.

18.16.020 Conditional use review criteria.⁵

An applicant for a use permitted as a conditional use “C” in Table 1 must demonstrate compliance with the following criteria and specific requirements for conditional uses in Chapter 18.160 CCC:⁶

(1) The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;

Proposed Finding: Applicant states in its application material:

“The proposed mining use will not force a significant change in accepted farm practices on lands devoted to farm use. Adjacent farm uses include grass and alfalfa hay production, pasture and livestock grazing to the north, south and west of the Property. The Applicant owns and farms the irrigated farmland adjacent to the western edge of the mining area and leases the abutting farmland on the Butler property (1414160000101) directly to the south. These lands will remain in agricultural production without any need to change practices. In fact, Richard Butler has submitted a letter in support of the proposed expansion of the mining operation, see Exhibit 116. The farmland to the west of the Property is substantially buffered from the mining operation by the central location of the mining operation, being over 1000’ east of the owner’s westerly property line and NW Lone Pine Road. Due to the location of the mining operation and physical separation from abutting properties, those abutting properties would not have to change farming practices because of the expansion of the mining operation. The properties to the east are hilly and mostly undeveloped consisting of soils not suitable for agriculture. The property to the north is used for agricultural purposes, but because the mining operation is centrally located in the middle of the Property, and the mining operation is over 1000 feet away from the property line to the north. This indicates that expansion of the existing mining operation would not require a change in accepted farm practices on the property to the north. Properties to the northeast are owned and contain an active mine run by High Desert Aggregate and Paving. The mining area on the Property is operated on soils not suitable for farming, consisting mostly of Class 6 to Class 8 soils. Mining on the Property would not require a change in any farm practices that exist on the surrounding properties. None of the surrounding lands are devoted to forest use.”

Staff notes there is no evidence in the record, as of the date of this staff report, indicating the proposed mining use will force any change, let alone significant, on any surrounding lands devoted to farm use. Staff concurs that none of the surrounding lands are devoted to forest use.

⁵ Crook County Code language mirrors that of Oregon Revised Statute (ORS) 215.296 (1) and Oregon Administrative Rules (OAR) 660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses.

⁶ According to a previous County Court (former name of the Board of County Commissioners) interpretation of CCC 18.144, it was determined that the criteria listed in CCC 18.160 do not apply to aggregate applications. A copy of a memorandum prepared by Crook County Counsel’s Office is included in the record as Exhibit 2 in the record.

Should the Planning Commission concur with the Applicant and Staff, they can find that this criterion is met.

(2) The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

Proposed Finding: Applicant states in its application material:

“The proposed mining use will not significantly increase the cost of accepted farm practices on surrounding land. The proposed mining use is nearly imperceptible from the surrounding properties. As mentioned above, the farm uses to the west enjoy a substantial buffer from the mining operation. The existing mining operation is located on the southern half of the Property which means that the farm uses to the north also enjoy a substantial buffer from the mining operation. As mentioned above, the Applicant farms the farmland to the south of the Property. The Applicant will see no increases in the costs associated with their farming operation due to the expansion of the mining operation. The properties to the east are largely undeveloped and are sheltered from the mining operation by a substantial ridgeline on the eastern edge of the Property. All of this indicates that the mining operation will not have a significant impact on the costs associated with the surrounding lands devoted to farm use in the area. None of the surrounding lands are devoted to forest use.”

Like the above finding, staff notes there is no evidence in the record that the proposed mining use will significantly increase the cost of accepted farm practices on surrounding lands devoted to farm use. Staff concurs that none of the surrounding lands are devoted to forest use.

Should the Planning Commission concur with the Applicant and Staff, they can find that this criterion is met.

(3) The proposed use will be compatible with vicinity uses, and satisfies all relevant requirements of this title and the following general criteria:

(a) The use is consistent with those goals and policies of the comprehensive plan which apply to the proposed use;

Proposed Finding: The use of the property as an aggregate site will be consistent with the Crook County Comprehensive Plan, subject to the ESEE analysis and the adopted program to implement Statewide Planning Goal 5. The proposed use is allowed as a conditional use in the County’s EFU-zones. Aggregate operations are further regulated by Chapter 18.144 of the Crook County Code. As mentioned earlier, if an approval for the Comprehensive Plan Amendment is granted, the site would be listed in the Comprehensive Plan and thus consistent with these goals and policies.

(b) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

Proposed Finding: The parcel is suitable for the proposed use considering its size, shape, location, topography and existence of improvements and natural features. The parcel is large enough and has natural features that allowed it to be designated as a significant aggregate site based on the quantity and quality of aggregate materials. According to Applicant:

“The Property is suitable for the development of a mining operation because of the substantial aggregate resources available for extraction. The site is in a rural area with substantial distance between the mining area and other uses. The extraction area as proposed would use a small portion of land near the middle of the 277.73-acre Property, similar to the current operation, only extending south to the property line at the southern edge of the property. In addition, the storage and processing areas will continue to be at the current location, behind a berm that has been planted with 160 Poplar trees that form an additional vegetative buffer. These natural and manmade features of the property, combined with appropriate conditions of approval, make it suitable for mining.”

Should the Planning Commission concur with the Applicant and Staff, they can find that this criterion is met.

(c) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district.

Proposed Finding: This code provision requires that the proposed mining use not “substantially” limit, impair, or prevent allowed uses in the EFU-2 zone; not that the use have no negative impact on surrounding parcels.

Applicant states in the application material:

“The Property is located in the EFU-2 Zone which includes some of Crook County's most productive irrigated cropland. The EFU-2 Zone allows mining as a conditional use on EFU-2 land. The portion of the Property that can be feasibly irrigated and farmed remains as farmland, while the mining operation takes place on steeply sloped land on the central and eastern portions of the property with soils not suitable for agricultural use. As demonstrated above, surrounding properties can continue their existing agricultural uses indicating that allowing expansion of the mining operation would not change the character of the area. Because the mine is located in the central portion on a large (greater than 80 acre) parcel, the impacts beyond the property lines of the Property are extremely limited. New conflicting uses could be constructed on surrounding properties without falling into the 500-foot or 1500-foot Impact Areas. The County's control over siting can also influence where new conditional uses are sited, and that control can ensure that the character of the surrounding area is maintained. Moreover, the Applicant has been operating their current mining operation from the Property since 2016 without complaints. This can be attributed to the Applicant's mining operational characteristics, and adhering to the conditions of approval under their current mining permit.”

Staff notes that except for employee and truck traffic, the mining use will be contained within the Mining Area on the subject property. The program to achieve Goal 5 to be adopted as part of the Comprehensive Plan Approval includes conditions to limit fugitive dust. Moreover, the adjacent parcels are large enough that development on those parcels can be located with some distance between the proposed use and the Mining Area. Thus, the proposed mining use should not substantially limit, impair or prevent use of the surrounding properties for permitted uses in the EFU-2 zone.

(d) The proposed use is appropriate, considering the adequacy of public facilities and services existing or planned for the area affected by the use; and

Proposed Finding: Applicant states in the application material:

“Public facilities are adequate to support the proposed use. The Applicant intends to improve the driveway to the Property and its connection to NW Lone Pine Road, but otherwise the Property requires no new infrastructure. The on-site roads will be maintained in accordance with County road standards. Upon approval of the CUP, the Applicant will provide a letter of agreement to the County to maintain the road to the applicable County road standards.”

Applicant states in the application material that no new infrastructure or public facilities are needed to support the proposed use. The Applicant has agreed to improve access road where the roadway connects to NW Lone Pine Road in order to improve the transportation facilities serving the mining site. Applicant further notes that they anticipate no more than 34 trips per day (17 trucks outgoing and 17 trucks incoming). Staff would recommend the Applicant clarify if the traffic count is for the entire property or only the proposed expansion area.

The subject property is located within the Crook County Fire & Rescue District. Applicant notes the application is merely for an extension of the existing mine. Staff would recommend the Planning Commission ask for more information on fire protection and detail regarding an emergency and wildfire response plan. A proposed condition of approval has been added that the Applicant shall coordinate with Crook County Fire & Rescue prior to starting mining operations, for the purpose of implementing a fire protection plan to protect the site and surrounding properties. A copy of which shall be submitted to Crook County Community Development for the record. The operator shall maintain on site a 5,000-gallon water holding tank for wildfire protection and dust management.

With some additional clarification, proposed mining use is appropriate considering the necessary public facilities and services.

(e) The use is or can be made compatible with existing uses and other allowable uses in the area.

Proposed Finding: Applicant states in its application material:

“The Property has farmland to the north, west, and south that is developed with residences and a variety of other accessory buildings. The land to the east of the Property consists of uneven, hilly terrain with steep slopes that remains largely undeveloped. Because the mining operation is centrally located on a large lot, the impacts of the mining operation are unlikely to impact the

surrounding uses. The closest residential uses are still over 1000 feet from the mining site, indicating that the mining operation as proposed is compatible with the existing and allowed uses of the surrounding properties.”

Staff agrees that the use is isolated and should have minimal impact on existing and allowable uses in the area. Further, the Program to Achieve, adopted to balance the mining use with conflicting uses, will further limit impact on existing and allowed uses in the area. This criterion can be met.

The Applicant proposes the following condition to minimize quality of life impacts:

No more than 3 acres of ground shall be disturbed by mining at any time. The ‘disturbed area’ refers to the active mining and reclamation cells and does not include the processing and stockpile area.

Crook County Code 18.144 Aggregate Resource Sites

18.144.040 Approval and Review Criteria.

(1) Notwithstanding any provisions in this title to the contrary, an application for a permit for a use listed in CCC 18.144.030 shall be allowed if it meets the following criteria:

(a) The site must be designated as a mineral or aggregate resource site or an energy source site on an inventory of significant Goal 5 resources in the comprehensive plan.

Proposed Finding: Applicant submitted a plan amendment application (217-24-000197-PLNG) requesting the Mining Area be added to the Aggregate Inventory in the Crook County Comprehensive Plan. If the Board of County Commissioners approve the addition of the Mining Area to the Aggregate Inventory, this criterion can be met. A condition is included that requires the Mining Area be added to the Aggregate Inventory.

(b) The proposed use must be consistent with the applicable ESEE analysis and conditions contained in the comprehensive plan. In the event conditions imposed on the mining use by the comprehensive plan to mitigate mining impacts on specific conflicting uses are less restrictive than conditions necessary to address these same impacts under the standards of this section, the conditions imposed by the comprehensive plan control.

Proposed Finding: The Planning Commission must ensure that any conditions included with this decision are not more restrictive than the conditions adopted as part of the ESEE analysis and Program to Achieve. The Planning Commission will need to balance the mining use with conflicting uses as part of the comprehensive plan amendment and should include any conditions necessary to address the impacts as part of the Program to Achieve to be adopted with the comprehensive plan amendment. This will ensure that conditions included with this decision are not in conflict with the comprehensive plan.

A condition of approval is included requiring that the Mining Area being added to the Aggregate Inventory. Further, the condition is intended to address the potential outcome where the Board of County Commissioners substantially modifies the recommendation on the comprehensive plan from the Planning Commission. In such instance, this conditional use decision must be modified to ensure consistency with the ESEE analysis and conditions contained in the comprehensive plan.

(c) The proposed use must be shown to not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(d) The proposed use must be shown to not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(e) There must be adequate public facilities and services (street capacity, water supply, police protection, fire protection, energy and communications services) available to meet the additional demands created by the proposed use or that can be made available through the orderly and efficient extension or expansion of these facilities and service

Proposed Finding: See the above findings for 18.16.020.

(2) An applicant for a use allowed by CCC 18.144.030 may demonstrate that these standards for approval could be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

Proposed Finding: Applicant acknowledges that conditions of approval may be necessary to ensure consistency with applicable approval criteria.

(3) To the extent compliance with the approval criteria of this section has been determined as part of the identification and resolution of conflicting uses and development of a program to achieve goal compliance in the comprehensive plan, the determination shall be binding until changed by amendment to the plan.

Proposed Finding: Staff interprets this provision as requiring that findings and conditions under Chapter 18.144 must be consistent with the ESEE analysis and Program to Achieve adopted with the comprehensive plan amendment being processed concurrently.

(4) No application shall be approved to allow batching and blending of mineral and aggregate into asphalt cement within two miles of a planted vineyard.

Proposed Finding: No batching into asphalt has been requested and no batching is allowed on the subject property. Applicant is unaware of existing planted vineyards within two miles of the subject property. A condition of approval has been added that no concrete or asphalt batch plants are authorized at the site. This criterion is met.

18.144.050 Approval Procedures.

(1) Each application for approval shall be processed in accordance with Chapter 18.172 CCC and this chapter.

(2) The hearing authority shall review the application and shall grant or deny approval based on conformance of the application with the requirements of this chapter and with the appropriate site-specific or generic ESEE analysis in the comprehensive plan.

(3) The hearing authority may only require modifications to the application as are necessary to fulfill the requirements of this chapter and the appropriate site-specific or generic ESEE analysis. Any modifications must be clear and objective.

(4) The hearing authority shall deny approval only if the requirements of this chapter or the ESEE analysis are not or cannot be satisfied by the proposed application.

(5) Prior to establishing a use authorized by this chapter, the property owner or agent must receive approval from the county.

Proposed Finding: The proposed conditional use permit will be reviewed under the provisions of Crook County Code 18.172. The conditions of the site specific ESEE and program to achieve goal compliance will be adopted as part of the plan amendment and will be binding and applicable to all land use permits, including this conditional use permit request. Per this section of 18.144, approval or denial of the conditional use permit shall be based on Chapter 18.144 of the Crook County Code and the approved comprehensive plan amendment. All approvals from the County are required prior to mining the subject property.

(6) In addition to all information required for a site reclamation plan by DOGAMI, the applicant shall submit the following information:

(a) An application for a site plan approval shall contain suitable maps, drawings and narrative to assure the requirements of this chapter can and will be met. A complete application must contain the following information:

(i) A complete application form from the county.

Proposed Finding: Applicant submitted a complete application form, as required by the County. If any changes are made to the site, a final site plan is required prior to mining the property. Applicant states in its application material:

“Included with this Application is an applicable Site Plan (See, Exhibit 109), showing processing area, stockpiling area, berm, planted poplar trees, proposed mining areas (cells) and haul road, the Applicant also included a proposed Impact Area Map (See, Exhibit 110) showing both the 500-foot and 1,500-foot impact areas, also included is a survey map showing proposed mining area boundary (See, Exhibit 104), also included is a reclamation plan (See, Exhibit 114), a written narrative addressing the mandatory approval criteria, and finally, a completed application form.”

This criterion is met.

(ii) A list of known materials to be extracted or processed together with a general description of the excavation operations and the estimated duration of operation at the site.

Proposed Finding: Applicant states in its application material:

“The MRE Report attached as Exhibit 108 includes a list of known materials to be extracted or processed. The operation will remain perpetual until all materials are extracted or until operations are deemed to no longer be economically viable.”

This criterion is met.

(iii) A map of the site which shows existing trees and natural vegetation; existing water courses, including streams, rivers, ponds and lakes; adjacent ownerships, including the location of structures which relate to the setback or other requirements of this zone; and existing and proposed roads.

Proposed Finding: Applicant states in its application material:

“The MRE Report, attached as Exhibit 108, includes a "Site Vicinity Map" at Figure 1 and Figure 2 includes an Exploration Location & Permit Boundary Map of the Property, which shows existing trees and natural vegetation. In addition, there are no existing watercourses on the Property.”

This criterion is met.

(iv) A surface water management plan for the site and all phases of the operation.

Proposed Finding: There are no surface water features on the property. According to Applicant, all stormwater will be contained on site and a stormwater management plan will be required as part of the DOGAMI permitting process. It is not anticipated that groundwater will be encountered while mining the Mining Area. However, if it is, the Applicant shall notify the Crook County Community Development Department and seek an amendment to the Program to Achieve and this conditional use to ensure that the groundwater resource is protected. Staff also recommends a condition of approval that all surface and stormwater be contained on the subject property.

(v) A map which shows the location of the surface mining area, the location of all processing and storage areas, the location of caretaker dwelling (if proposed), landscaping, screening and buffer areas.

Proposed Finding: Applicant is not proposing a caretaker dwelling. Included with the application as Exhibit 109, is a Site Plan that shows the location of the surface mining area, as well as the location of all processing and storage areas. The Site Plan also shows the location of an earth berm and poplar trees planted on the berm used as a method of vegetative screening. Planning Commission may request additional screening or landscaping consistent with the adopted Program to Achieve.

The Applicant has proposed the following conditions:

The existing berm shall be maintained at the height of the berm existing as of February 1, 2016.

The poplar trees shall be irrigated and maintained for at least five years after reclamation is complete and the reclamation bond has been released by DOGAMI.

The Applicant shall stabilize slopes and other disturbed ground with hydro-seeding to minimize dust and erosion.

(vi) A landscape management and maintenance plan adequate to demonstrate compliance with provisions of this zone.

Proposed Finding: Applicant states in its application material:

“Applicant has indicated landscape features necessary to comply with provisions of the zone on the Site Plan which is attached as Exhibit 109. The Applicant has maintained these landscape features since initial approval of mining on the Property and intends to continue this maintenance.”

Planning Commission may request additional landscaping consistent with the adopted Program to Achieve or find this criterion met.

(vii) A map showing existing contours.

Proposed Finding: Applicant included a “Topographic Map” (Applicant’s Exhibit 108, Figure 3).

(viii) A map or other drawing showing the contours of the site upon completion of the operation together with a description of the proposed end use of the reclaimed site.

Proposed Finding: In response to this criterion, Applicant stated:

“The Applicant has submitted a proposed reclamation plan, which is attached hereto as Exhibit 114. Ultimately, the mined area will be reclaimed consistent with an approved DOGAMI reclamation plan.”

Staff has included a condition of approval requiring Applicant provide a copy of the reclamation plan approved by DOGAMI which is to include a map or drawing showing the contours of the site upon completion of the mining operation.

The Applicant has also proposed the following conditions:

The site will be reclaimed concurrently with mining as cells are completed.

All reclamation activities will be subject to a reclamation plan approved by the Department of Geology and Mineral Industries.

(ix) An environmental report from an engineer or other qualified professional which is adequate to demonstrate that the operation can conform to county, DEQ, and DOGAMI requirements as outlined in the “development standards” section of this zone (CCC 18.144.060).

Proposed Finding: Applicant’s Mineral Resource Evaluation Report (Applicant’s Exhibit 108) was prepared by a registered professional geotechnical engineer and a registered professional geologist. Conformance with County, DEQ and DOGAMI requirements are addressed in CCC 18.144.060 below.

(x) A security plan addressing the following issues:

(A) Lighting.

- (B) Fencing;**
- (C) Gates at access points;**
- (D) Water impoundments;**
- (E) Sloping; and**
- (F) Security of vehicles and equipment.**

Proposed Finding: In response, Applicant states:

“No operations are to be conducted at night so no lighting will be placed on the site. The Applicant has installed a gate at the end of the proposed haul road which is closed and locked when the site is not in operation. Due to the slope, the mining site will not create any depression or water impoundments. The Applicant will maintain the existing site drainage to the east.”

A condition of approval has been added that any additions of outdoor lighting will be required to meet the standards listed in CCC 18.126 Outdoor Lighting.

Based on Applicant’s response, this requirement is met.

(xi) A noxious weed control plan, acceptable to the Crook County weed master, to control the spread of noxious weeds within and arising from the aggregate resource site. This plan must be implemented in accordance with ORS 569.380 through 569.400 and 569.445 through 569.450 and Chapter 8.24 CCC.

Proposed Finding: A noxious weed plan has not been provided and the Applicant states no noxious weeds have been observed on the property. Applicant has agreed to provide a noxious weed plan approved by the County Weed Master. A condition of approval is included to ensure compliance.

18.144.060 Development Standards.⁷

Upon approval of a conditional mining use application, all the following standards apply:

(1) Mining activities shall be located and conducted at least:

(a) One hundred feet from an existing noise or dust sensitive use unless the owner of the residence or use signs and files an agreement which authorizes the mining to be conducted closer than 100 feet. In no case shall such mining be conducted closer than 50 feet of the boundary of an adjacent ownership.

Proposed Finding: In response, Applicant states:

“As shown on the Site Plan attached as Exhibit 109, the proposed mining use will be setback at least 50 feet from the property lines and roads not owned by the Applicant. Notwithstanding the

⁷ The provisions of 18.144.060 establish minimum requirements for operations on the subject property.

foregoing, there are no noise or dust sensitive uses located within 100 feet of the mining operation.”

Applicant has complied with this requirement.

(b) One hundred feet from a road not owned by the applicant and from the property line of the applicant unless that distance is not sufficient to protect the adjoining property from land movement, or the threat of land movement. In such cases, the setback shall be the minimum distance required by DOGAMI that will protect the adjoining property from movement or the threat of movement. This setback shall be reviewed and approved by DOGAMI prior to being approved by the hearing authority. In no case shall the setback be less than 100 feet.

Proposed Finding: In response, Applicant states:

“As shown on the Site Plan attached as Exhibit 109, the proposed mining use will be setback at least 50 feet from the property lines and roads not owned by the Applicant. Notwithstanding the foregoing, there are no noise or dust sensitive uses located within 100 feet of the mining operation.”

There is no evidence in the record that adjacent lands are at risk of land movement. Applicant’s Site Plan shows there will be a minimum 50-foot setback from all property lines and roads. If DOGAMI determines a greater setback is required to protect adjacent lands from land movement or the threat of movement, Applicant shall comply with such setback as determined by DOGAMI. A condition of approval is included requiring compliance with the DOGAMI operating permit.

(2) Processing of resource material and the storage of equipment shall be at least 500 feet from an existing noise or dust sensitive use unless the owner of the residence or use signs and files an agreement which authorizes the processing of resource material or storage of equipment closer than 500 feet. In no case shall such activities be located closer than 100 feet from any adjacent dwellings.

Proposed Finding: There are no existing noise or dust sensitive uses located within 500 feet of the subject property. There are no dwellings located within 100 feet of the proposed use. Per the Program to Achieve, if a noise or dust sensitive use is proposed within the adopted impact area, the owner will be required to sign a waiver of remonstrance to confirm they do not object to the mining use, including the processing of the mineral. Accordingly, a condition of approval is included requiring that no processing occur within the required 100-foot setback.

Applicant has also proposed the following condition: Mining operations and facilities (e.g., processing, stockpile, equipment) will be located at the current location, in the center of the existing 9-acre mining, to minimize impacts to the nearest adjacent residence. At a minimum, all processing activities will occur at least 1,800 feet from existing residences, as proposed by the Applicant. Any modification to this plan will require review and approval by the Crook County Community Development Department.

Applicant has complied with this requirement.

(3) Access. All private roads from mining sites to public highways, roads or streets shall be paved or graveled. All on-site roads and access roads from the site to a public road shall be designed, constructed, and maintained to accommodate the vehicles and equipment which use them. Whether paved or graveled, the roads shall be maintained by the applicant in accordance with county road standards. Before the applicant may exercise the privileges of the permit, the applicant shall provide a letter of agreement to the county to maintain the road to the applicable county road standards. If the applicant fails to provide the letter of agreement prior to exercising the privileges of the permit, or fails to so maintain the road, the applicant shall submit an agreement and security in accordance with CCC 17.40.080 and 17.40.090.

Proposed Finding: In response, Applicant states:

“As mentioned above, the Applicant has graveled the roadways on the Property associated with the current mining operation and the Applicant maintains these roadways in accordance with County road standards. Upon approval of the CUP, the Applicant will provide a letter of agreement to the county to maintain the access and haul roads to the applicable County road standards.”

The on-site roads will be maintained in accordance with County road standards. A condition of approval is included that requires upon approval of the CUP, Applicant is to provide a letter of agreement to the county to maintain the road to the applicable County road standards.

(4) Effective vehicle barriers or gates shall be required at all access points to the site.

Proposed Finding: According to Applicant, a lockable gate exists at the connection between the Applicant's private driveway which functions as the current mining operation haul road and NW Lone Pine Road. A condition of approval is included requiring the placement and maintenance of gates at all access points.

(5) Screening. Unless inconsistent with the conditions imposed to protect conflicting uses under the comprehensive plan, or of minimal value of effectiveness because of topography or other site features, the following requirements apply to the mining or resource site:

(a) Berms, fencing or vegetation shall be maintained or established to block the view of the mining or resource site from conflicting uses;

(b) To the extent feasible, all-natural vegetation and trees located within 100 feet of the mining site and that block the view of the mining area shall be preserved and fences maintained for the purpose of screening the operation.

Proposed Finding: In response, Applicant states:

“The mining operation exists near the center of a large 277-acre parcel. As a part of the current mining operation the Application has built and established a berm and vegetative buffer which have mitigated the effect of the mining operation on surrounding properties. The Site Plan (See, Exhibit 109), shows the location of a line of poplar trees which are a method of vegetative

screening. These trees effectively create a visual barrier between the current and proposed processing area and the surrounding properties and roads.”

To the extent feasible, the natural vegetation and trees located within 100 feet of the mining site and that block the view of the mining area will be preserved. A condition of approval is included requiring that natural vegetation and trees within 100 feet of the mining site be preserved to block the view of the mining area. The Applicant intends to maintain all existing screening measures. These criteria are satisfied.

(6) No alteration or removal of riparian vegetation located within 100 feet of the banks of a year-round stream shall occur.

Proposed Finding: Not applicable. There are no year-round streams on the subject property.

(7) Mining, storage, and processing operations shall conform to all standards of the Department of Environmental Quality and to the requirements of the Department of Geology and Mineral Industries (DOGAMI). The county may require information, data and analyses which demonstrates the ability to meet state environmental standards.

Proposed Finding: Applicant shall provide evidence of DOGAMI permit approval, including demonstrated compliance with DOGAMI and DEQ requirements to the Crook County Community Development Department. A condition of approval is included requiring compliance with this standard.

(8) Hours of Operation. All mining extraction, processing and equipment operation shall be subject to the following limitations unless waivers authorize operation at other times:

(a) June 1st through October 31st: 6:00 a.m. to 9:00 p.m., Monday through Friday. 8:00 a.m. to 5:00 p.m., Saturday.

(b) November 1st through May 31st: 7:00 a.m. to 6:00 p.m., Monday through Friday. 8:00 a.m. to 5:00 p.m.

(c) No operations shall be conducted on Sundays or the following legal holidays: New Year’s Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day.

Proposed Finding: Conditions of approval are included requiring compliance with the above hours of operation and limits imposed by the proposed Program to Achieve. The Applicant proposes the following conditions:

The Applicant shall operate the mine no more than 90 days (cumulative) in a calendar year. The calendar year will begin upon the Applicant’s receipt of a DOGAMI operating and reclamation permit. Operations shall include excavation, processing and transporting materials off-site. The Applicant shall provide an annual report to the Planning Commission (staff recommends Community Development Department instead of Planning Commission) regarding the number of days of operation. The first report will be due one year from the effective date of the DOGAMI operating and reclamation permit.

Ordinary operating hours shall be Monday through Friday, June 1st through October 31st from 6:00 a.m. to 9:00 p.m., or sunrise to sunset, whichever time period is less, and Saturday from 8:00 a.m. to 5:00 p.m. Operating hours shall be Monday through Friday, November 1st through May 31st from 7:00 a.m. to 6:00 p.m., or sunrise to sunset, whichever is less; and Saturday from 8:00 a.m. to 5:00 p.m. No operations shall be conducted on Sundays or on the following legal holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day.

(9) Blasting.

(a) A plan addressing the potential for earth movement, flying rock, and other effects on surrounding uses shall be submitted.

(b) Blasting shall be allowed unless prohibited by the comprehensive plan ESEE analysis.

(c) Blasting which is allowed and which is not to be conducted within 500 feet of any noise or dust sensitive use or agricultural use involving the raising of animals shall meet the following standards:

(i) DEQ noise control standards for blasting.

(ii) Blasting shall be restricted to the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday. No blasting shall occur on Saturdays, Sundays or legal holidays.

(iii) The operator shall be responsible for notifying the owners and inhabitants of conflicting uses located within 500 feet of the blasting site by written notice delivered by certified mail to be received by each person entitled to notice at least 48 hours prior to the time the blasting will occur.

Proposed Finding: In response, Applicant states:

“The Applicant will adhere to all blasting standards identified in this section. In the initial permit application to approve mining on the site, the County allowed blasting subject to conditions. The Applicant agrees to abide by those, and any other conditions of approval related to blasting.”

The Applicant also proposes the following condition: Blasting shall be restricted to the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday. No blasting shall occur on Saturdays, Sundays, or legal Holidays. The Applicant/operator shall provide written notice to adjacent property owners (within 2,000 feet) and to Crook County Community Development at least 72 hours prior to the time of blasting. Blasting shall not occur more than 3 days per year. Signs will be posted at the mine entrance on NW Lone Pine Road at least 72 hours in advance to notify adjacent property owners of the potential blasting.

The Planning Commission may elect to modify this condition as consistent with the adopted Program to Achieve.

(10) Surface and Ground Water Management. Surface water shall be managed to provide protection against ground or surface water contamination and sediment discharge into streams, rivers and lakes. There shall also be adequate water available to the site for reclamation of the property, maintenance of screening and buffer, dust control, landscape maintenance, and processing of materials.

Proposed Finding: No streams, rivers, or lakes are on the property. The Applicant states that they are required to obtain an operation permit from DOGAMI, which will include a reclamation plan. The Applicant will also comply with all DOGAMI and DEQ requirements regarding surface and ground water management.

The Applicant has proposed the following conditions for dust control: The Applicant shall control all fugitive dust emissions associated with all operations (extraction, processing, and storage) on the site. The Applicant shall control dust by applying water, seeding and/or mulching exposed soil surfaces. The Applicant shall submit a dust management plan to, and obtain the required permits from, the appropriate state agency (Department of Geology and Mineral Industries and/or Department of Environmental Quality).

(11) For surface mining, which is not regulated by DOGAMI, the following requirements apply:

Proposed Finding: Not applicable. The proposed mining operation for surface mining of the subject property is regulated by DOGAMI.

(12) All mining operations shall be subject to the dimensional standards, yard restrictions, sign limitations and all other substantive standards set out in the zoning district applicable to the property.

Finding: According to Applicant, the proposed mining operation, including all proposed buildings, will comply with all dimensional standards, yard restrictions and sign limitations applicable to the EFU-2 zoning district. Applicant cites to its Site Plan (Applicant's Exhibit 109, pg. 2). Applicant will be subject to the applicable standards of the EFU-2 zone.

(13) Noxious Weed Control. The operator, including all public agencies, shall document compliance with the noxious weed control plan submitted pursuant to CCC 18.144.050(6)(a)(xi) on a yearly basis by submittal of a written report to the Crook County weed master. The report shall be submitted not later than December 15th of each year.

Proposed Finding: Per a previously discussed condition of approval, Applicant shall be required to comply with this requirement.

18.180.010 Transportation impact analysis.

(1) Purpose. The purpose of this section is to coordinate the review of land use applications with roadway authorities and to implement Section 660-012-0045(2)(e) of the state Transportation Planning Rule, which requires the county to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. The following

provisions also establish when a proposal must be reviewed for potential traffic impacts, when a transportation impact analysis or transportation assessment letter must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities, the required contents of a transportation impact analysis and transportation assessment letter, and who is qualified to prepare the analysis.

(2) When a Transportation Impact Analysis Is Required. The county or other road authority with jurisdiction may require a transportation impact analysis (TIA) as part of an application for development, a change in use, or a change in access. A TIA shall be required where a change of use or a development would involve one or more of the following:

(a) The development generates 25 or more peak-hour trips or 250 or more daily trips.

(b) An access spacing exception is required for the site access driveway(s) and the development generates 10 or more peak-hour trips or 100 or more daily trips.

(c) The development is expected to impact intersections that are currently operating at the upper limits of the acceptable range of level of service during the peak operating hour.

(d) The development is expected to significantly impact adjacent roadways and intersections that have previously been identified as high crash locations or areas that contain a high concentration of pedestrians or bicyclists such as school zones.

(e) A change in zoning or a plan amendment designation.

(f) A TIA is required by ODOT.

(3) When a Transportation Assessment Letter (TAL) Is Required. If the provisions of subsections (2)(a) through (f) of this section do not apply, the applicant's traffic engineer shall submit a transportation assessment letter to Crook County planning department demonstrating that the proposed land use action is exempt from TIA requirements. This letter shall outline the trip-generating characteristics of the proposed land use and verify that the site-access driveways or roadways meet Crook County's sight-distance requirements and roadway design standards.

Proposed Finding: Applicant states:

"The operation shall generate no more than 34 trips per day from the site (17 trucks outgoing and 17 trucks incoming). The mining operator shall make trip logs available to the Community Development Department upon request." The Planning Commission may want to ask the Applicant to clarify if the total trips are for the entire operation, or for the proposed expansion."

In addition, the Applicant is not requesting a change in zoning or a plan amendment designation. As a result, no traffic impact assessment is required. To ensure compliance, staff recommends a condition of approval capping truck trips to 34 per day for the entire operation and no more than 25 peak hour trips

and requiring the operator to make trip logs available at the request of the Community Development Department. This will ensure a TIA is not required.

CONCLUSIONS

Based on the record and the proposed findings above, staff recommends approving the application subject to the below proposed conditions of approval:

CONDITIONS OF APPROVAL

1. Prior to initiating the use allowed under this conditional use permit, the Board of County Commissioners shall approve the Comprehensive Plan Amendment (217-24-000197-PLNG) to add the Mining Area to the County's Aggregate Inventory. If the Board of County Commissioners denies the Comprehensive Plan Amendment, this CUP shall be void. If the Board of County Commissioners approves the comprehensive plan amendment, but substantially modifies it in a manner so that the location or other provisions of this conditional use permit approval must be modified, this approval must be amended to maintain consistency with the Board of County Commissioner's approval of the comprehensive plan amendment.
2. Applicant shall comply with all conditions and requirements of the comprehensive plan amendment (217-24-000197-PLNG), including the Program to Achieve, adopted by the County.
3. **Fire Protection** – Prior to starting mining operations, the Applicant shall coordinate with Crook County Fire & Rescue for the purpose of implementing a fire protection plan to protect the site and surrounding properties. A copy of which shall be submitted to Crook County Community Development for the record.
4. **Ground disturbance** - No more than 3 acres of ground shall be disturbed by mining at any time on the property. The 'disturbed area' refers to the active mining and reclamation cells and does not include the processing and stockpile area.
5. **Unauthorized** - No concrete or asphalt batch plants are authorized at the site.
6. **Site Plan/Land Use** – A copy of the final site plan is required to be submitted to Crook County Community Development for review of compliance with this approval prior to mining the property. No additional structures are approved with this decision. Any additional structures shall be submitted for site plan approval from Crook County Community Development.
7. **Stormwater** – All storm and surface water shall remain on the subject property. Prior to mining, the Applicant shall provide a copy of the stormwater plan approved by DOGAMI to Crook County Community Development.
8. **Surface water** - It is not anticipated that groundwater will be encountered while mining the Mining Area. However, if it is, the Applicant shall notify the Crook County Community Development Department and seek an amendment to the Program to Achieve and Conditional Use to ensure that the groundwater resource is protected.

9. **Screening** - The existing berm shall be maintained at the height of the berm existing as of February 1, 2016. The poplar trees shall be irrigated and maintained for at least five years after reclamation is complete and the reclamation bond has been released by DOGAMI. The Applicant shall stabilize slopes and other disturbed ground with hydro-seeding to minimize dust and erosion.
10. **Reclamation Plan** – All reclamation activities will be subject to a reclamation plan approved by DOGAMI which is to include a map or drawing showing the contours of the site upon completion of the mining operation. A copy of the approved reclamation plan shall be submitted to Crook County Community Development. 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.
11. **Lighting** - Any additions of outdoor lighting will be required to meet the standards listed in CCC 18.126 Outdoor Lighting.
12. **Weed Plan** - Applicant shall document compliance with the noxious weed control plan to be submitted pursuant to CCC 18.144.050(6)(a)(xi) on a yearly basis by submittal of a written report to the Crook County Weed Master. The report shall be submitted not later than December 15th of each year.
13. **Operations** – Mining, storage, and processing operations shall conform to all standards of the Department of Environmental Quality (DEQ) and to the requirements of the DOGAMI operating permit. The county may require information, data and analyses which demonstrates the ability to meet state environmental standards. Applicant shall provide evidence of DOGAMI permit approval, including demonstrated compliance with DOGAMI and DEQ requirements to the Crook County Community Development Department.
14. **Processing** – No processing or crushing shall occur within 100 feet of property line.
15. **Operations** – Mining operations and facilities (e.g., processing, stockpile, equipment) will be located at the current location, in the center of the existing 9-acre mining, to minimize impacts to the nearest adjacent residence. At a minimum, all processing activities will occur at least 1,800 feet from existing residences, as proposed by the Applicant. Any modification to this plan will require review and approval by the Crook County Community Development Department.
16. **Road Standards** – Before Applicant may exercise the privileges of the permit, the Applicant shall provide Crook County Community Development a letter of agreement to maintain the road to applicable County road standards. If the applicant fails to provide the letter of agreement prior to exercising the privileges of the permit, or fails to so maintain the road, the applicant shall submit an agreement and security in accordance with CCC 17.40.080 and 17.40.090.
17. **Natural Vegetation** - To the extent feasible, all-natural vegetation and trees located within 100 feet of the mining site that block the view of the mining area shall be preserved and fences maintained for the purpose of screening the operation.

18. **Cumulative Operating** - The Applicant shall operate the mine no more than 90 days (cumulative) in a calendar year. The calendar year will begin upon the Applicant's receipt of a DOGAMI operating and reclamation permit. Operations shall include excavation, processing and transporting materials off-site. The Applicant shall provide an annual report to the Planning Commission (staff recommends Community Development Department instead of Planning Commission) regarding the number of days of operation. The first report will be due one year from the effective date of the DOGAMI operating and reclamation permit.
19. **Hours of Operation** - All mining extraction, processing and equipment operation shall be subject to the following limitations unless waivers authorize operation at other times:
- a. June 1st through October 31st: 6:00 a.m. to 9:00 p.m., or sunrise to sunset, whichever time period is less, Monday through Friday. 8:00 a.m. to 5:00 p.m., Saturday.
 - b. November 1st through May 31st: 7:00 a.m. to 6:00 p.m., or sunrise to sunset, whichever is less, Monday through Friday. 8:00 a.m. to 5:00 p.m., Saturday.
 - c. No operations shall be conducted on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day.
20. **Blasting** – Blasting shall be restricted to the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday. No blasting shall occur on Saturdays, Sundays, or legal Holidays. The Applicant/operator shall provide written notice to adjacent property owners (within 2,000 feet) and to Crook County Community Development at least 72 hours prior to the time of blasting. Blasting shall not occur more than 3 days per year. Signs will be posted at the mine entrance on NW Lone Pine Road at least 72 hours in advance to notify adjacent property owners of the potential blasting.
21. **Dust** – The Applicant shall control all fugitive dust emissions associated with all operations (extraction, processing, and storage) on site. The Applicant shall control dust by applying water, seeding and/or mulching exposed soil surfaces. The Applicant shall submit a dust management plan to, and obtain the required permits from, the appropriate state agency (Department of Geology and Mineral Industries and/or Department of Environmental Quality).
22. **Final Site Plan** – Prior to operating in the Mining Area, the Applicant shall provide Crook County Community Development Department, a final site plan, including information regarding the location of the mining extraction, processing, existing structures, proposed structures, equipment storage and parking, setbacks, and the impact area. The Applicant shall provide an updated site plan if operations change.
23. **Gates** - Effective vehicle barriers or gates shall be installed and maintained in an operable condition at all access points to the site.

24. **Trip Limits** – Truck traffic shall be limited to 34 truck trips per day for the entire operation and no more than 25 peak hour trips shall be permitted. Operator shall make trip logs available at the request of the Community Development Department.
25. **CUP Assignment** – Applicant shall notify Crook County Development if it assigns the conditional use permit to another operator or property owner.
26. **Dust and Wildfire:** Applicant shall maintain on site a 5,000-gallon water holding tank for wildfire protection and dust management.

VI. CONCLUSION

Based on the above findings, the Crook County Planning Commission may approve or deny the requested conditional use permit.

Attachments

A: 217-15-000236-PLNG

B: 217-15-000532-PLNG

Respectfully submitted:



Hannah Elliott, Associate Planner



Crook County

Community Development Department
Planning Division

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(541)447-8156

Email: plan@co.crook.or.us

BEFORE THE CROOK COUNTY PLANNING COMMISSION
IN THE MATTER OF APPLICATION 217-15-000236-PLNG FOR CONDITIONAL USE
APPROVAL OF MINING IN AN EXCLUSIVE FARM USE ZONE (EFU-2)

FINAL DECISION

DATE: March 23, 2016
APPLICATION: 217-15-000236-PLNG
APPLICANT/OWNER: Charles Hegele
7950 N Lone Pine Road
Terrebonne, Oregon 97760

See also
217-15-000100
comp plan
amendment

AGENT: Heidi Kennedy
64180 Old Bend Redmond HWY
Bend, OR 97701

LOCATION: T14 South, R14 East WM, Section 9, Tax lot 101

REQUEST: The applicant has requested that the County amend the Crook County Comprehensive Plan to add a 9 acre site to the County's inventory of significant mineral and aggregate resource sites and by adopting the site specific ESEE (Economic, Social, Environment, and Energy) analysis, to allow mining activities on the subject property. The Crook County Court approved Ordinance 292 on March 16, 2016 adding the site to the inventory and adopting the ESEE analysis. The applicant is requesting a conditional use approval for aggregate mining on the EFU zoned property.

APPLICATION RECEIVED: August 31, 2015

APPLICATION DEEMED COMPLETE: November 23, 2015 (the applicant agreed to an extension of the review period.)

PUBLIC NOTICE: December 23, 2015

PROPERTY OWNER NOTICE: December 21, 2015

site (17 trucks outgoing and 17 trucks incoming). The mining operator shall make trip logs available to the Community Development Department upon request.

Conditions Related to Mitigating Noise

The County has no noise ordinance but 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.

6. Operating Hours.

a. The applicant shall operate the mine no more than 90 days (cumulative) in a calendar year. The calendar year will begin upon the applicants' receipt of a DOGAMI operating and reclamation permit. Operations shall include excavation, processing and transporting materials off-site. The applicant shall provide an annual report to the planning commission regarding the number of days of operation. The first report will be due one year from the effective date of the DOGAMI operating and reclamation permit.

b. Ordinary operating hours shall be Monday through Friday, June 1st through October 31st 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 1st through May 31st from 7:00 a.m. to 6:00 p.m., or sunrise to sunset, whichever is less.

No operations shall be conducted on Saturdays, Sundays or on the following legal holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, or Christmas Day.

Conditions Related to Dust Mitigation

7. The applicant shall control all fugitive dust emissions associated with all operations (extraction, processing, and storage) on the site. The applicant shall control dust by applying water, seeding and/or mulching exposed soil surfaces.

8. The applicant shall submit a dust management plan to, and obtain the required permits from, the appropriate state agency (Department of Geology and Mineral Industries and/ or Department of Environmental Quality).

Lighting

9. No lighting will be allowed on the site without the approval of the Crook County Community Development Department.

Berm and Vegetation

10. The applicant shall plant poplar trees as indicated in the application at four foot intervals. The trees shall be a minimum of 3 inches in diameter when planted.

11. The berm shall be maintained at the height of the berm existing as of February 1, 2016, at a minimum.

12. The trees shall be irrigated and maintained for at least five years after reclamation is complete and the reclamation bond has been released by DOGAMI.

13. The applicant shall stabilize slopes and other disturbed ground with hydro-seeding to minimize dust and erosion.

Timing of Mining – Minimizing Quality of Life impacts

14. **No more than 2 acres of ground shall be disturbed by mining at any time.** The 'disturbed area' refers to the active mining and reclamation cells and does not include the processing and stockpile area.

Reclamation

15. The site will be reclaimed concurrently with mining as cells are completed.

16. All reclamation **activities will be subject to a reclamation plan approved by the Department of Geology and Mineral Industries.** The planning commission recommends that reclamation occur as illustrated by Option 1 of the applicants' exhibit 8, provided to the planning commission on January 15, 2016.

Weed Control

17. The applicant will submit a weed control plan as a condition of approval. The plan must be approved by the County Weedmaster prior to the start of any land disturbance on the mine site. The applicant will submit annual weed control reports as required by Crook County Code.

Water Quality

18. There will be no surface water discharges from the mining site. Surface water on the site will be managed in accordance with Oregon Department of Environmental Quality permit requirements.

Blasting

19. Blasting shall be restricted to the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday. No blasting shall occur on Saturdays, Sundays or legal holidays.

The applicant/operator shall provide written notice to adjacent property owners (within 2,000 feet) and to Crook County Community Development at least 72 hours prior to the time of blasting. Blasting shall not occur more than 3 days per year. Signs will be posted at the mine site entrance on Lone Pine Road at least 72 hours in advance to notify adjacent property owners of the potential blasting.

Other Permits

20. The applicant is responsible for acquiring all necessary permits from the Oregon Department of Geology and Mineral Industries and the Oregon Department of Environmental Quality.

I. Description of Proposed Use

The proposed mine site is part of a 278 acre parcel. The parcel consists of flat irrigated land and steeper, non-irrigated land where the mine will be located. The applicant proposed to mine the aggregate material that underlies the subject 9-acre portion of the property. The applicant states that they will mine the site in 2 acre cells. Cells will be reclaimed prior to mining the next area.

Materials will be processed on site and then transported to the applicant's construction projects. There will be no concrete or asphalt batch plants on the site. The property will be reclaimed for use in the applicant's agricultural operation.

The applicant will plant trees on an existing berm to help screen the mining operation. Processing will occur near the center of the mine site, away from adjacent properties.

II. Conditional Use Review Criteria

Crook County Code Chapter 18.20 establishes requirements for development in the County's EFU-2 zone (Exclusive Farm Use – Prineville Valley – Lone Pine Areas).

18.20.020 Conditional uses permitted.

In an EFU-2 zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements of Chapter 18.160 CCC and in conjunction with any other applicable provisions of this chapter: any use authorized by ORS 215.283(2) and (3).

Mining activities in EFU zones are allowed as conditional uses by Oregon Revised Statute (ORS) 215.283(2)(b).

18.20.030 Goal 5 conditional mining uses subject to planning commission review.

See uses and procedures described in Crook County Code 18.144.

18.20.040 Limitations on conditional uses. (EFU-2 zone)

A use allowed under CCC 18.20.020 may be approved where the county finds that the use will not:

- (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

An applicant for a use allowed under CCC 18.20.020 may demonstrate that the standards under subsections (1) and (2) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

The proposed mining operation will not force a significant change in existing farm practices and will not significantly increase the cost of accepted farm practices on surrounding lands devoted to farm use. Adjacent farm uses include grass and alfalfa hay production, pasture and livestock grazing. The applicant farms or leases the land directly surrounding the mine and these lands will remain in agricultural production.

The mine itself will be located on a part of the property that is not suitable for farming. The applicant has provided soils information from the Natural Resources Conservation Service (NRCS). Soil classifications on the site range from class 6 to 8 (non-irrigated). The applicant provided an analysis of 71 acres of the subject property (the area above the valley floor), including the proposed mine area. The predominate soil type is Lickskillet-Redcliff complex (30-60 percent south slopes). This soil type is classified as a 7 and is characteristic of 65 of the acres in the study area. Soils in class 7 have very severe limitations that make them unsuitable for cultivation, according to the NRCS classification system.

18.144 Aggregate Resource Sites

The provisions of 18.44 apply only to aggregate and mineral resource uses permitted subject to site plan review under the County's resource zones, including the EFU-2 zone.

18.144.030 requires that the following conditional mining uses are permitted subject to review on sites approved for surface mining under a comprehensive plan ESEE analysis. Uses include

operations for mineral and aggregate including the mining of aggregate and other mineral and subsurface resources subject to ORS 215.290; processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement and processing of non-aggregate mineral resources and other subsurface resources.

The 9-acre site has been designated as a significant resource site and an ESEE analysis has been adopted regarding the proposed mining of the site. Materials will be mined and sorted on the site but no concrete or batch plants are proposed.

18.144.040 Approval and review criteria.

(1) Notwithstanding any provisions in this title to the contrary, an application for a permit for a use listed in CCC [18.144.030](#) shall be allowed if it meets the following criteria:

(a) The site must be designated as a mineral or aggregate resource site or an energy source site on an inventory of significant Goal 5 resources in the comprehensive plan;

The site has been designated as a significant Goal 5 resource in the County's comprehensive plan (Ordinance 292).

(b) The proposed use must be consistent with the applicable ESEE analysis and conditions contained in the comprehensive plan. In the event conditions imposed on the mining use by the comprehensive plan to mitigate mining impacts on specific conflicting uses are less restrictive than conditions necessary to address these same impacts under the standards of this section, the conditions imposed by the comprehensive plan control;

In considering the ESEE analysis, the County Planning Commission is requiring specific conditions of approval to address impacts raised in testimony regarding conflicting uses. The applicant agrees to conditions limiting the extent of mining activity, the type of processing, the hours of operations, landscaping and compliance with DOGAMI, DEQ and other requirements. These conditions are intended to minimize visual impacts and impacts associated with dust, noise and traffic.

(c) The proposed use must be shown to not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use;

The applicant farms the properties directly adjacent to the mine site and states that the mine site will be a minimum of 1,500 feet to the nearest farm parcel. The mining operation is designed to not force a change in accepted farm practices.

(d) The proposed use must be shown to not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

Mining of aggregate on the site will likely have very little impact on any of the surrounding farm lands and will not increase the cost of any accepted farm practices. There are no surrounding parcels employed in forest use.

(e) There must be adequate public facilities and services (street capacity, water supply, police protection, fire protection, energy and communications services) available to meet the additional demands created by the proposed use or that can be made available through the orderly and efficient extension or expansion of these facilities and services.

The mining operation will have no impact on any of the listed public services. There may be some impacts on the transportation system but this is minimized by limiting the number of trucks entering and leaving the site. The applicants anticipate the mine site will generate approximately 34 truck trips per day on average when material is being transported. No extension of police, fire or communication services will be necessary. The applicant states that water for dust control will be trucked to the site.

(2) An applicant for a use allowed by CCC [18.144.030](#) may demonstrate that these standards for approval could be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

The Planning Commission has provided a list of conditions to minimize impacts associated with the proposed mining activities.

(3) To the extent compliance with the approval criteria of this section has been determined as part of the identification and resolution of conflicting uses and development of a program to achieve goal compliance in the comprehensive plan, the determination shall be binding until changed by amendment to the plan.

The applicant states that they understand that any approved Conditional Use permit and the accompanying conditions shall be binding until changed by amendment to the plan.

(4) No application shall be approved to allow batching and blending of mineral and aggregate into asphalt cement within two miles of a planted vineyard.

There are no vineyards within two miles of the proposed mine site.

18.144.050 Approval procedures.

18.144.050(5) Prior to establishing a use authorized by this chapter, the property owner or agent must receive approval from the County.

18.144.050(6) In addition to all information required for a site reclamation plan by DOGAMI, the applicant shall submit the following information:

(a) An application for a site plan approval shall contain suitable maps, drawings and narrative to assure the requirements of the chapter can and will be met. A complete application must contain the following information

(i) A complete application form from the county.

The applicant submitted applications for a comprehensive plan amendment on April 20, 2015. This application was deemed incomplete on May 1, 2015. The applicant submitted a

conditional use permit to the County on August 31, 2015 and requested that both the plan amendment and conditional use request be considered at the same time. The applicant agreed to a voluntary extension of the timeline to consider the application on November 23, 2015.

(ii) A list of known materials to be extracted or processed together with a general description of the excavation operations and the estimated duration of operation at the site.

According to the applicant, the Aggregate Resources Investigation Report prepared by Kleinfelder Inc., a geotechnical engineering firm in 2002 includes a complete list of the known materials to be extracted from the site. The material consists primarily of crushable basalt. The report states that test results indicate that sample rocks meet ODOT's durability specification for aggregate base and for asphalt aggregate. The application states that mining will occur in phases by mining 2 acre cells and then reclaiming the cells prior to mining the next two acre cell. The applicant did not state how long the mining operation would be active because mining activities would be driven by demand for materials and overall economic activity. According to the application, the primary area of mining will be located in the central portion of the site and will be mined in phases behind a vegetated berm. The application states that mining in the area will consist of removal of material from west to east. The material will be excavated in a downhill (east) direction using crawler tractors. Material will be screened separating the dirt from the rock materials. The top six inches of topsoil will be stockpiled for reclamation purposes. Some of the material will be crushed on site. Products will be stockpiled for removal. Storage of a bulldozer, loader and miscellaneous equipment will occur in the center of the site behind the berm. Water trucks will be used to control dust along the roadway.

(iii) A map of the site which shows existing trees and natural vegetation; existing water courses, including streams, rivers, ponds and lakes; adjacent ownerships, including the location of structures which relate to the setback or other requirements of this zone; and existing and proposed roads.

The applicant submitted an aerial photo showing existing vegetation and adjacent property ownerships including existing roads and structures. No new roads or structures are proposed. There are no existing water courses on the proposed site.

(iv) A surface water management plan for the site and all phases of the operation.

The applicant will need to submit a stormwater management plan (surface water management plan) to the Oregon Department of Environmental Quality and the Department of Geology and Mineral Industries as part of their mining operation and reclamation permit.

(v) A map which shows the location of the surface mining area, the location of all processing and storage areas, the location of caretaker dwelling (if proposed), landscaping, screening and buffer areas.

The proposed site plan shows the processing and storage areas. According to the applicant, a crusher, including conveyors, will be operated in the center of the property. Storage of machinery and equipment will be behind the berm area. No caretaker dwelling is requested. The applicant is proposing to add landscaping to provide screening of the site in addition to the fencing and existing berm.

(vi) A landscape management and maintenance plan adequate to demonstrate compliance with provisions of this zone.

The screening berm will be vegetated and irrigated. The conditions of approval specify the size of trees to be planted for screening and establish the period of time that the vegetation is required to be protected and maintained.

(vii) A map showing existing contours.

The applicant's site plan includes contour lines but no elevations are indicated. A report provided by the Wallace Group (February 2015) states that the proposed pit base elevation ranges from about 2,935 to 2,935 feet above mean sea level (MSL) and upper elevations on the site range from about 3,030 feet to 3,090 feet above MSL.

(viii) A map or other drawing showing the contours of the site upon completion of the operation together with a description of the proposed end use of the reclaimed site.

The applicant provided a diagram of the proposed slope of the reclaimed site. The applicant stated that they would use the site as part of their agricultural operation and would reclaim an area to be used for horses and other livestock.

(ix) An environmental report from an engineer or other qualified professional which is adequate to demonstrate that the operation can conform to county, DEQ, and DOGAMI requirements as outlined in the "development standards" section of this zone (CCC 18.144.060).

The applicant provided reports from Carlson (2002), Kleinfelder (2002) and the Wallace Group (2015) regarding site geology. The reports describe the geology of the site, the quality and quantity of materials and provide general information on the proposed mining operation. They do not discuss the timing or duration of mining activities or site reclamation.

(x) A security plan addressing the following issues:

(A) Lighting;

(B) Fencing;

(C) Gates at access points;

(D) Water impoundments;

(E) Sloping; and

(F) Security of vehicles and equipment.

No operations are to be conducted at night so no lighting will be placed on the site. The applicant states that the existing perimeter fence will be maintained around the project site. There will be a gate at the end of the proposed haul road which will be closed and locked when the site is not in operation. This will keep vehicles and equipment secure. Due to the slope, the mining of the site will not create any depression or water impoundments. The applicant states that the existing site drainage to the east will be maintained over the altered landscape.

(xi) A noxious weed control plan, acceptable to the Crook County weed master, to control the spread of noxious weeds within and arising from the aggregate resource site. This plan must be implemented in accordance with ORS [569.380](#) through [569.400](#) and [569.445](#) through [569.450](#) and Chapter [8.24](#) CCC. (

The applicant has consulted with the County Weedmaster. A weed control plan, approved by the County Weedmaster, is required prior to approval of a conditional use permit to allow mining.

18.144.060 Development standards. Upon approval of a conditional mining use application, all the following standards apply:

(1) Mining activities shall be located and conducted at least

(a) One hundred feet from an existing noise or dust sensitive use, unless the owner of the residence or use signs and files an agreement which authorizes the mining to be conducted closer than 100 feet. In no case shall such mining be conducted closer than 50 feet of the boundary of an adjacent ownership.

The applicant states that all mining activities will be conducted more than 100 feet from any existing noise and dust sensitive use. The nearest residence is at least 1,800 feet from the proposed mining location.

(b) One hundred feet from a road not owned by the applicant and from the property line of the applicant unless that distance is not sufficient to protect the adjoining property from land movement, or the threat of land movement. In such cases, the setback shall be the minimum distance required by DOGAMI that will protect the adjoining property from movement or the threat of movement. This setback shall be reviewed and approved by DOGAMI prior to being approved by the hearing authority. In no case shall the setback be less than 100 feet.

The applicant will maintain at least a 100-foot setback from any nearby public road.

(2) Processing of resource material and the storage of equipment shall be at least 500 feet from an existing noise or dust sensitive use, unless the owner of the residence or use signs and files an agreement which authorizes the processing of resource material or storage of

equipment closer than 500 feet. In no case shall such activities be located closer than 100 feet from any adjacent dwellings.

According to the applicant, all processing and equipment storage areas will be in the central portion of the property, at least 1,800 feet from the nearest residence.

(3) Access. All private roads from mining sites to public highways, roads or streets shall be paved or graveled. All on-site roads and access roads from the site to a public road shall be designed, constructed, and maintained to accommodate the vehicles and equipment which use them. Whether paved or graveled, the roads shall be maintained by the applicant in accordance with county road standards. Before the applicant may exercise the privileges of the permit, the applicant shall provide a letter of agreement to the county to maintain the road to the applicable county road standards. If the applicant fails to provide the letter of agreement prior to exercising the privileges of the permit, or fails to so maintain the road, the applicant shall submit a performance bond equal to 100 percent of the cost to construct a road of that type. The bond shall be deposited with the treasurer of the county.

The applicant states that they will use an existing private roadway on the property for the movement of vehicles and equipment. The road will be maintained and repaired by the applicant prior to mining and is otherwise suitable to accommodate the equipment that will use the road. The applicant is required to apply for and receive a road approach permit for the intersection with Lone Pine Road.

(4) Effective vehicle barriers or gates shall be required at all access points to the site.

According to the applicant, a lockable gate currently exists at the driveway access on Lone Pine Road.

(5) Screening. Unless inconsistent with the conditions imposed to protect conflicting uses under the comprehensive plan, or of minimal value of effectiveness because of topography or other site features, the following requirements apply to the mining or resource site:

(a) Berms, fencing or vegetation shall be maintained or established to block the view of the mining or resource site from conflicting uses;

(b) To the extent feasible, all natural vegetation and trees located within 100 feet of the mining site and that block the view of the mining area shall be preserved and fences maintained for the purpose of screening the operation.

A berm, fencing and introduced landscaping are planned in order to screen the site from the valley floor. The lower elevation of the mining site will help screen the site and minimize noise from the site for adjacent properties. The conditions of approval include specific requirements regarding the trees that will be planted to serve as a vegetative screen.

(6) No alteration or removal of riparian vegetation located within 100 feet of the banks of a year-round stream/

According to the applicant, the proposed 9-acre site is not within 100 feet of any year-round stream.

(7) Mining, storage, and processing operations shall conform to all standards of the Department of Environmental Quality and to the requirements of the Department of Geology and Mineral Industries (DOGAMI). The county may require information, data and analyses which demonstrates the ability to meet state environmental standards.

The applicant states that they will obtain all necessary permits from DOGAMI prior to commencing operations and will conform to all applicable standards of the DEQ as a continuing condition of operation.

(8) *Hours of Operation.* All mining extraction, processing and equipment operation shall be subject to the following limitations unless waivers authorize operation at other times:

(a) June 1st through October 31st: 6:00 a.m. to 9:00 p.m., Monday through Friday. 8:00 a.m. to 5:00 p.m., Saturday.

(b) November 1st through May 31st: 7:00 a.m. to 6:00 p.m., Monday through Friday. 8:00 a.m. to 5:00 p.m., Saturday.

(c) No operations shall be conducted on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day.

The conditions of approval include more limited operating hours to address concerns raised by neighboring property owners.

(9) *Blasting*

(a) A plan addressing the potential for earth movement, flying rock, and other effects on surrounding uses shall be submitted.

(b) Blasting shall be allowed unless prohibited by the comprehensive plan ESEE analysis.

(c) Blasting which is allowed and which is not conducted within 500 feet of any noise or dust sensitive use of agricultural use involving the raising of animals shall meet the following standards:

(i) DEQ noise control standards for blasting;

(ii) Blasting shall be restricted to the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday. No blasting shall occur on Saturdays, Sundays or legal holidays.

(iii) The operator shall be responsible for notifying the owners and inhabitants of conflicting uses located within 500 feet of the blasting site by written notice delivered by certified mail to be received by each person entitled to notice at least 48 hours prior to the time the blasting will occur.

The planning commission has imposed additional restrictions on blasting as a condition of approval.

(10) *Surface and Ground Water Management.* Surface water shall be managed to provide protection against ground or surface water contamination and sediment discharge into streams, rivers and lakes. There shall also be adequate water available to the site for reclamation of the property, maintenance of screening and buffer, dust control, landscape maintenance, and processing of materials.

According to the applicant, intermittent surface water drains on site and does not run-off the site. The applicant will address surface water management as part of the operation plan submitted to DOGAMI. The geotechnical report prepared by the Wallace Group stated that no ground-water was encountered in any of the test holes.

The applicant has stated that an existing well on the subject property will provide water for a water truck to use for dust control.

(11) *For surface mining, which is not regulated by DOGAMI, the following requirements apply:*

This section is not applicable. The mining operation will be regulated by DOGAMI with an approved and bonded reclamation plan. The applicant has not provided a copy of the proposed reclamation plan.

(12) All mining operations shall be subject to the dimensional standards, yard restrictions, sign limitations and all other substantive standards set out in the zoning district applicable to the property.

Mining will occur on the site and will meet set back requirements for the EFU-2 zone.

(13) Noxious Weed Control. The operator, including all public agencies, shall document compliance with the noxious weed control plan submitted pursuant to CCC [18.144.050\(6\)\(a\)\(xi\)](#) on a yearly basis by submittal of a written report to the Crook County weed master. The report shall be submitted not later than December 15th of each year.

The applicant shall submit a weed control plan and will be required to submit annual reports to the County Weedmaster as a condition of approval.

18.160.020 Conditional Uses - General criteria.

In judging whether or not a conditional use proposal shall be approved or denied, the planning director or planning commission shall weigh the proposal's appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

(1) The proposal will be consistent with the comprehensive plan and the objectives of the zoning ordinance and other applicable policies and regulations of the county.

The Crook County Court has added the 9-acre site to the Crook County comprehensive plan's inventory of significant aggregate resource sites.

(2) Taking into account location, size, design and operation characteristics, the proposal will have minimal adverse impact on the (a) livability, (b) value and (c) appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.

The area surrounding the proposed mine site is zoned for exclusive farm use. The primary use in the area is agriculture, with irrigated pasture and cropland located in the bottom lands of the Crooked River Valley to the north and northeast. There is a sand and gravel surface mine operation on the adjacent property to the east and north. Areas to the south have been cleared and are irrigated for pasture. Other lands to the south are partially irrigated. The applicant has considered the impacts of the proposed mine on abutting property compared to uses permitted outright in the EFU-2 zone. The applicant states that agricultural uses are not generally considered to be "noise and dust sensitive" uses and that agricultural uses appear to be thriving in the area despite the fact that there are three existing surface mines in the area.

There are farm and non-farm dwellings in the Lone Pine Valley and mine operations can have adverse impacts on residences in the area. Noise, dust and increased traffic may impact livability. The planning commission considered these impacts in evaluating the ESEE consequences of allowing mining activities. The applicant proposes to mitigate impacts of mining activities on other uses by limiting the mining area and operating hours, screening the mining operation activities behind a raised berm, planting a vegetative screen of poplar trees

and fencing the mining area. The conditions of approval were in response to concerns raised by neighboring property owners.

(3) The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrant.

The applicant agrees that surface mining is not an attractive land use but states that mining is a temporary use and that they have designed the operation in a manner that is intended to minimize visual impacts to the community.

(4) The proposal will preserve assets of particular interest to the county

The applicant notes that aggregate materials are necessary resources for the economy of the County and suggests that if no new mining sites were permitted, the demand for a limited supply of material would cause the cost of aggregate to increase dramatically. The planning commission also considered that required reclamation of the mine site would be in the County's interest.

(5) The applicant has a bona fide intent and capability to develop and use the land as proposed and has some appropriate purpose for submitting the proposal, and is not motivated solely by such purposes as the alteration of property values for speculative purposes

The applicant states that he has intent and capability to use the land as proposed. He has been in the agricultural and construction business in Oregon for 45 years. His company, American Sprinklers, Inc. provides fire protection services to local businesses including several of the largest businesses in Crook County. The applicant states that he has the capacity and intent to operate the site and to ensure existing good relationships with neighboring property owners.

18.160.30 General conditions.

In addition to the standards and conditions set forth in a specific zone, this chapter, and other applicable regulations, in permitting a new conditional use or the alteration of an existing conditional use, the planning director or planning commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the county as a whole. These conditions may include the following:

(1) Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.

As discussed above (section 18.144.060) , conditions of approval limit the hours of operation.

(2) Establishing a special yard or other open space or lot area or dimension.

(3) Limiting the height, size or location of a building or other structure.

No special yards are proposed. No permanent structures will be placed on the site.

(4) Designating the size, number, location and nature of vehicle access points.

No new access points are proposed. Traffic associated with the operation will access the site from an existing private road off Lone Pine Road.

(5) Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.

This is not applicable.

(6) Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or loading area.

According to the applicant, parking of equipment will be in the middle of the site and will be screened by the berm.

(7) Limiting or otherwise designating the number, size, location, height and lighting of signs.

No new signs will be placed on the property.

(8) Limiting the location and intensity of outdoor lighting and requiring its shielding.

No lighting will be placed on the site..

(9) Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.

The applicant is proposing a vegetated berm in front of the active mining area to screen the operation from nearby properties and to minimize noise and dust. Conditions of approval specify landscape requirements and maintenance.

(10) Designating the size, height, location and materials for a fence.

There is an existing fence on the site.

(11) Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.

There is limited vegetation on the site and no identified water resources, wildlife habitat or other significant natural resources.

(12) Other conditions necessary to permit the development of the county in conformity with the intent and purpose of this title and the policies of the comprehensive plan.

The planning commission has included a list of conditions of approval to address concerns about impacts associated with mining activities.

18.160.050 Standards governing conditional uses

(9) Mining, Quarrying or Other Extraction Activity.

(a) Plans and specifications submitted to the planning director or planning commission for approval must contain sufficient information to allow the planning director or planning commission to consider and set standards pertaining to the following:

(i) The most appropriate use of the land.

The site has been added to Crook County's inventory of significant aggregate resource sites and it has been determined, based on the ESEE analysis that mining can occur with limits to minimize impacts to conflicting uses. The property will be reclaimed to allow agricultural uses.

ii) Setback from the property line.

The applicant states that mining of the site will be conducted in accordance with all applicable setbacks. The applicant will provide a 1,000 foot setback from all property

lines and proposes an 1,800 foot setback from the processing area to the existing residence.

(iii) The protection of pedestrians and vehicles through the use of fencing and screening.

The property is currently fenced and a lockable gate is located at the access to Lone Pine Road. The primary processing, storage and stockpiling area will be located behind a berm that will be planted to provide additional screening.

(iv) The protection of fish and wildlife habitat and ecological systems through control of potential air and water pollutants.

The applicant will receive applicable permits from DEQ and DOGAMI to prevent air and water pollution. There will be no surface water discharges that could threaten fish or fish habitat. No significant wildlife habitat areas have been identified near the site. (Greg Jackle, District Wildlife Biologist, Oregon Department of Fish and Wildlife, January 9, 2015).

(v) The prevention of the collection and the stagnation of water of all stages of the operation.

The applicant agrees to comply with this requirement as a continuing condition of approval.

(vi) The rehabilitation of the land upon termination of the operation.

The applicant will reclaim the site according to a reclamation plan reviewed and approved by DOGAMI as part of the mine's operating permit. The applicant has not yet submitted a permit to DOGAMI for the site. According to the applicant, the reclamation plan is likely to include limitations on slopes and requirements to reseed all disturbed areas after mining.

(b) Surface mining equipment and necessary access roads shall be constructed, maintained and operated in such a manner as to eliminate, as far as is practicable, noise, vibration or dust which may be injurious or annoying to persons or other uses in the vicinity.

The applicant states that they will comply with this standard as a continuing condition of approval. A water truck will be located onsite at all times to help with dust control.

(c) The comments and recommendations of all appropriate natural resource agencies of the state and federal government shall be sought.

The County has sent notice to natural resource agencies. The Oregon Department of Fish and Wildlife has reviewed the proposal.

(d) A rock crusher, washer or sorter shall not be located closer than 500 feet from a residential or commercial use.

The applicant has agreed to locate processing machinery in the approximate center of the 9-acre site, more than 1,800 feet from any property line.

Staff reports dated January 5, January 22 and February 4, 2016 and all attachments to those reports are incorporated by reference. The effective date of the conditional use approval is upon the County Court's adoption of Ordinance 292, amending the Goal 5 map and text in the County's Comprehensive Land Use Plan to add the subject property to the significant aggregate inventory.


W.R. Gowen, Planning Commission Chair

MARCH 24, 2016
Date


William Zelenka, Planning Director

3 - 24 - 2016
Date

NOTICE TO PERSONS PROVIDING TESTIMONY

The above approval may be appealed in writing to the Crook County Court no later than 4:00 p.m. on April 4, 2016 (twelve working days from the effective date of this approval).



**Crook County
Community Development**
300 NE 3rd Street, Prineville, OR 97754
(541)447-3211
plan@co.crook.or.us

FINDINGS AND DECISION
(Site Plan Review - MODIFICATION)
217-21-000532-PLNG

June 28, 2021

OWNER: Chuck Hegele
7950 Lone Pine Road
Terrebone, Oregon 97756

APPLICANT’S REQUEST: The Applicant is requesting approval to modify the site plan for the approved aggregate site (217-15-000236-PLNG) to reflect the mining area

LOCATION: The subject property is located at 7950 Lone Pine Road. It is approximately 277.73 areas and is identified on the County Assessor’s tax map as: 1414090000101.



Property lines are approximate

ZONING: The property is zoned **Exclusive Farm Use (EFU-2; Prineville Valley-Lone Pine Areas)**.

BACKGROUND: The property was added to the County’s inventory of aggregate sites in 2015 (217-15-000100-PLNG) The Applicant also received conditional use approval to mine the site at the same time (217-15-000236-PLNG). The conditional use approval was granted for a nine-acre mine site. The Applicant has applied for a Department of Geology and Mineral industries surface mining permit. As part of the application process, the Applicant has revised the site plan to include the area designated for stockpiling material within the 9-acre mine site (see attached maps).

APPLICABLE CRITERIA

- Chapter 18.16 Exclusive Farm Use Zone
- [18.16.010](#) Uses table
- 18.16.075 Development Standards

FINDINGS of FACT

The subject property has an approved conditional use permit for aggregate mining. The original conditions of approval continue to apply. The Applicant is not requesting any new structures or other changes to the conditional use permit. The approved mining area remains at nine-acres, but the site plan is modified to include the material stockpile within the nine-acre area as required by the Oregon Department of Geology and Mineral Industries.

DECISION

Based upon the above Findings, application **217-21-000536-PLNG** is **APPROVED** to modify the approved mine area site plan to include the stockpile areas subject to the following conditions:

CONDITIONS AND REQUIREMENTS

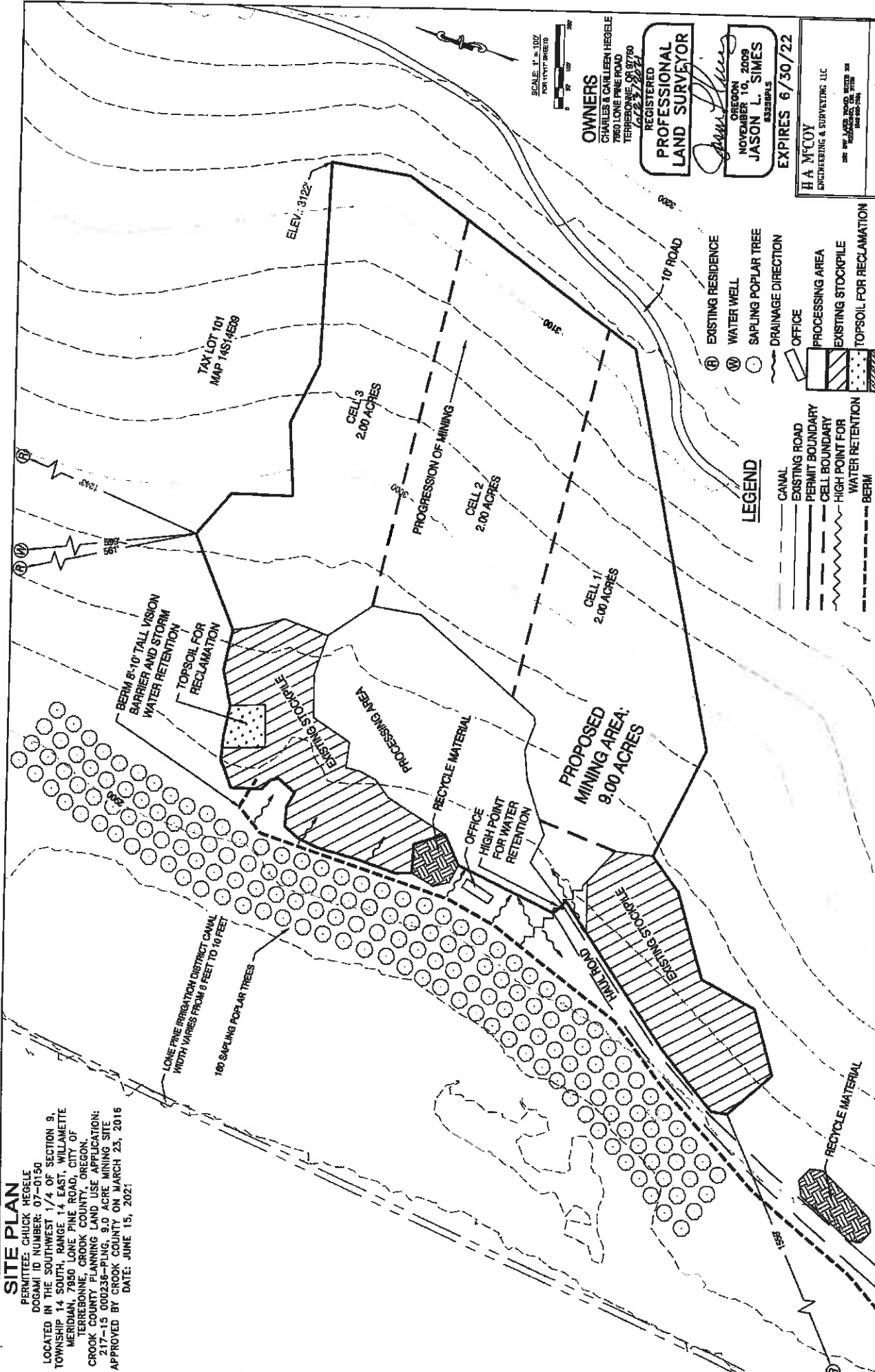
1. Original conditions of approval in 217-15-000236-PLNG will continue to apply.
2. No additional structures are to be placed on the property without separate Planning approval.
3. The Applicant shall submit a copy of the DOGAMI operating permit to the Community Development Department when the permit is issued.



Ann Beier, Director
Crook County Planning Department

SITE PLAN

PERMITTEE: CHUCK HEGELE
 DOGAMI ID NUMBER: 07-0150
 LOCATED IN THE SOUTHWEST 1/4 OF SECTION 9,
 TOWNSHIP 14 SOUTH, RANGE 14 EAST, WILLAMETTE
 MERIDIAN, 7850 LONE PINE ROAD, CITY OF
 TERRERONNE, CROOK COUNTY, OREGON.
 CROOK COUNTY PLANNING LAND USE APPLICATION:
 217-15 000236-PLNG, 9.0 ACRE MINING SITE
 APPROVED BY CROOK COUNTY ON 14 MARCH 25, 2016
 DATE: JUNE 15, 2021



LEGEND

- CANAL
- EXISTING ROAD
- PERMIT BOUNDARY
- CELL BOUNDARY
- HIGH POINT FOR WATER RETENTION
- BERM
- HAUL ROAD
- ⊕ EXISTING RESIDENCE
- ⊙ WATER WELL
- SAPLING POPLAR TREE
- DRAINAGE DIRECTION
- OFFICE
- ▨ PROCESSING AREA
- ▩ EXISTING STOCKPILE
- ▧ TOPSOIL FOR RECLAMATION
- ▦ RECYCLE MATERIAL

SCALE: 1" = 100'
 FOR VERTICAL HEIGHTS

OWNERS
 CHARLES & CARLEEN HEGELE
 7850 LONE PINE ROAD
 TERRERONNE, OR 97780
 503.237.2221

REGISTERED PROFESSIONAL LAND SURVEYOR

Jason L. Simes
 OREGON
 NOVEMBER 16, 2009
JASON L. SIMES
 428280045
 EXPIRES 6/30/22

H.A. MCCOY
 ENGINEERING & SURVEYING, LLC
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 TILLAMOOK, OR 97141
 503.838.3344
 PREPARED FOR: