



MIKE McCALLISTER  
PLANNING AND ZONING DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

NAME: Parker-Northwest Paving Co, Inc.  
FILE NO: Z0568-17-CP, Z0569-17-MAO & Z0570-17-Z  
REPORT AUTHOR: Martha Fritzie, Sr. Planner  
HEARING DATE: January 22, 2018 (PC), March 7, 2018 (BCC)  
REPORT DATE: January 15, 2018

**PLANNING STAFF REPORT/RECOMMENDATION  
TO THE PLANNING COMMISSION**

**GENERAL INFORMATION:**

Applicant: Mrs. Nancy Traverso, Parker-Northwest Paving Co, Inc., 24370 S Hwy 99E, Canby, OR 97013

Owner: Parker-Northwest Paving Co, Inc., 24370 S Hwy 99E, Canby, OR 97013

Proposals: The applicant is proposing three actions:

- (1) A Post-Acknowledgement Comprehensive Plan Amendment (PAPA) to the Clackamas County Comprehensive Plan to designate the subject property, approximately 117.55 acres, as a Goal 5 significant mineral and aggregate resource site in Chapter III, Table III-02 of the Plan (Z0568-17-CP);
- (2) A zoning map amendment to apply a Mineral and Aggregate Overlay (MAO) to the subject properties (Z0570-17-Z); and
- (3) Approval of a Mineral & Aggregate Overlay District Site Plan Review application for the proposed mining operations, if the first two requests are approved (Z0569-17-MAO).

Location: On the east side of S. Barlow Road, at the intersection with HWY 99E; just south of the City of Barlow)

Legal Description: T4S, R1E, Section 5C, Tax Lot 01100 W.M.  
T4S, R1E, Section 5D, Tax Lots 01100 W.M.

Comprehensive Plan Designation: Agriculture

Zoning District: EFU; Exclusive Farm Use

Total Area Involved: The site includes approximately 117.55 acres.

---

**RECOMMENDATION:**

1. Approval of the PAPA Application (File No. Z0568-17-CP) to designate the subject properties as a “Significant” Goal 5 aggregate resource site in the Mineral and Aggregate Section of the Comprehensive Plan.
2. Approval of the Mineral Aggregate Overlay (MAO) district (File No. Z0570-Z), the boundaries of which would correspond with the property boundaries of the subject site only.
3. Approval of the Site Plan Review (File No. Z0569-17-MAO) approving the operational aspects of the mining proposal subject to conditions.

All approvals subject to the Conditions of Approval found in SECTION 4 of this Staff Report (pages 65 through 70).

---

**BACKGROUND INFORMATION, DESCRIPTION OF THE SUBJECT PROPERTY AND SURROUNDING AREA AND PUBLIC SERVICE PROVIDERS:**

A. Prior Land Use Applications:

File Nos. Z0371-86-C: In 1986, Wilmes Sand & Gravel obtained a conditional use permit for the extraction of raw aggregate materials on approximately eight (8) acres of the subject site. This acreage is located in the easternmost portion of the property, adjacent to the Molalla River, and is the only portion of the property located within the regulatory floodplain of that river. Aggregate from this site was transported to a neighboring property to the south of the subject for processing.

This mining site has been exhausted and reclamation under DOGAMI permit no. 03-0112 is currently under way.

File Nos. Z0519-99-PLA: A property line adjustment was completed to reconfigure and combine several taxlots to reflect the existing legal lot of record status of those lots. Approval of this action resulted in the current configuration of the subject lots, which contains two legal lots of record.

**B. Proposal:** The stated intent of this proposal (according to the applicant) is to “expand the Wilmes Sand & Gravel site in order to replace a supply on onsite aggregate required for processing at Canby Sand & Gravel Site.” Given that the “Wilmes” site was not designated as a significant Goal 5 resource, this proposal is being considered as a new (rather than expansion) use to designate the entire site as a significant Goal 5 resource and apply the Mineral & Aggregate Overlay (MAO) to the site.

In addition to the Comprehensive Plan text and zoning map amendments to establish the MAO, the applicant proposes to mine and process aggregate materials from the portion of the subject property that was not subject to the prior mining approvals (“Wilmes site”). The total excavation area is approximately 79 acres of the total 117.55 acres. The applicant estimates that there are approximately 6,500,000 tons of alluvial sand and gravel materials on the subject property and that the aggregate meets the applicable standards of Goal 5 to establish that the property is a Significant Mineral and Aggregate Resource site.

The proposed mining operations will involve processing (crushing, stockpiling and associated activities) either on-site or on the adjacent (to the northeast) “Canby Sand & Gravel site”, which is also owned and operated by Parker-Northwest Paving Company. Mining and processing operations on that site have been established as a legal, non-conforming use (per Z0155-12-NCU). Under either scenario for processing, materials would be transported across the “Wilmes site” to the adjacent “Canby Sand & Gravel site” and use the current, established driveway access from that site onto Highway 99E.

Excavation would occur across the proposed Extraction Area of the subject site, progressing from the southeast to the north and northwest. The site would be reclaimed, as identified in the application and **Figures 8, 12, and 13**, with a pond, wetland and associated vegetation. The applicant is working with the State Department of Geology and Mineral Industries (“DOGAMI”) to obtain that agency's approval of the reclamation plan.

Little site preparation is required before mining could begin on the property, as the majority of the property has been in seasonal agricultural production or used for grazing; as such, it contains little vegetation, only approximately 80 sequoia trees that were planted several decades ago along S. Barlow Rd and S. Tull Ave. These trees will remain and be incorporated into the screening plan for the site. There are no regulated wetlands on the site.

The rock will be excavated in three phases over an estimated 10-20 year period depending upon demand, as shown in **Figure 6, Application** and as described in detail on pages 1-5 of **Appendix D, Application**. Mining excavation setbacks of 50-200 feet from property lines will be maintained around the excavation area. Noise mitigation barriers, where appropriate, may be located within the setbacks, as allowed by the DOGAMI.

Proposed conceptual reclamation of the property will occur concurrently with the mining extraction activities, to the extent practical. Once excavation activities are completed in a

particular area of the property, they will progress to another area, and reclamation activities will commence in the excavated area and will include the creation of a natural area including a pond and wetlands and native vegetation. Being zoned Exclusive Farm Use (EFU), the potential for future development of this site is limited to agricultural or related uses; returning the land to a natural state with habitat is consistent with the intent of EFU land.

C. Definitions: Oregon Administrative Rule 660, Division 23 outlines the “Procedures and Requirements for Complying with Goal 5.” OAR 660-023-010 and 660-023-0180(1) includes the definitions of a number of words and terminology which will be used in the evaluation of this application.

D. Site Description As illustrated below, the subject property is generally located at the southeast corner of the intersection of Highway 99E and S Barlow Rd and is bound by S Barlow Road; the “Cadman” mining site; the Molalla River; the “Canby Sand & Gravel site; developed and undeveloped rural industrial sites; Highway 99E; and the historic Barlow House property. Maps of the subject property and the surrounding area are included in **Figures 1 through 4, Application**.

The subject property includes two separate legal lots of record, totaling 117.55 acres. The majority of the site (approx. 100 acres) is currently undeveloped, and has reportedly been in some sort of seasonal agricultural use and/or grazing for several decades. Site elevations range from a high of approximately 115 feet Mean Sea Level (“MSL”) in the northwestern portion of the property to a low of approximately 105 feet MSL in eastern portion of the property. The eastern portion of the property is also located within the 100-year floodplain; however the proposed Extraction Area all lies above and outside the mapped floodplain area.

There is little to no natural vegetation on the property and no regulated wetland areas.

E. Zoning: The subject property is currently zoned Exclusive Farm Use (EFU); the Comprehensive Plan designation is “Agriculture.” The property is located outside the Portland Metropolitan Urban Growth Boundary and the Metropolitan Service District Boundary.

F. Surrounding Conditions:

Detailed description of surrounding properties can be found on **pages 7-8, Application and Appendix G, table 1, Application**. Generally, there are large active or retiring surface mining operations to the west, south, east and northeast of the subject; and rural industrial properties to the north/northeast and to the northwest. Immediately north of the subject, across SE Highway 99E and the Union Pacific Railroad, is the city of Barlow, a small city with approximately 140 residents and a small commercial area.

**Table 1. Summary of Surrounding Uses**

<b>Location</b>	<b>Existing Use(s)</b>	<b>Zoning</b>	<b>Comments</b>
West (across S Barlow Rd)	Mining	EFU (Exclusive Farm Use)	Approx. 90 acres approved for aggregate mining (files Z0331-11-CP, Z0662-11-ZAP). MAO overlay includes entire site and the westernmost approx. 450 feet of the subject properties.
South	Mining/one residence (“Hanes” house)	EFU	Approx. 248 acres approved for aggregate mining (files Z0348-93-CP & Z0349-93-ZAP and Z0756-06-CP & Z0757-06-ZAP). MAO overlay includes entire mining site, does not extend over residence. Asphalt batch plant approved for a portion of this site (Z0652-99-C).
Southeast/ East/ Northeast	Mining/Molalla River	EFU	Molalla River traverses the easternmost boundary of the subject property, adjacent to the “Wilmes” site portion of the subject.  Properties under same ownership in the vicinity of the subject are actively being mined or have been and are in the reclamation process, including the neighboring site, operating under Z0155-12-NCU and a 53-acre mining site across the Molalla River (Z0393-93-CP).
North/ Northeast	Rural industrial uses	RI (Rural Industrial)	Uses generally consist of construction equipment repair, storage and/or sales; contractors; mechanic shops; marijuana businesses; and other similar rural industrial businesses.
North (across S Hwy 99E)	Residences, commercial; Historic Barlow House	City zones: C and R-1	City of Barlow, which primarily contains residences and a small commercial area with a mini storage facility.  The Barlow House – a designated historic home built c.1885 - is located on 1.48 acres of land fronting Highway 99E and surrounded on three sides by the subject property.
Northwest	Rural industrial uses; agriculture	RI and EFU	Rural industrial businesses in this area are primarily marijuana processing, conducted entirely indoors.

G. Service Providers:

1. Sewer: The subject property is not located within a public or private sewer district. Sewage disposal is accommodated by an on-site sewage disposal systems in this area.
2. Water: The subject and surrounding properties are served by private wells.
3. Surface Water: The subject property is not located within a public or private surface water district. Surface water is regulated pursuant to Section 1008 of the ZDO. The Oregon Dept. of Geology and Mineral Industries (DOGAMI) and the Oregon Dept. of Environmental (DEQ) also have jurisdiction over some aspects of surface water management for surface mining operations.
4. Fire Protection: Canby Fire District #62

H. Agency and Property Owner Notification List:

1. Cities of Canby and Barlow
2. Clackamas County WES/SWMAAC
3. Canby Fire District #62
4. Clackamas County DTD/Engineering Div.
5. Clackamas County WES/Soils Section
6. County Weighmaster
7. Dept. of Geology and Mineral Industries (DOGAMI)
8. Dept. of Environmental Quality (DEQ)
9. Dept. of Land Conservation and Development (DLCD)
10. Oregon Dept. of Water Resources (ODWR)
11. Metropolitan Service District (METRO)
12. Aurora Airport
13. Oregon Dept. of Aviation
14. Oregon Dept. of Transportation (ODOT)
15. Property owners of record within 2,500 ft. of the subject property (per ZDO Section 1307.10(3)(b)(iv))

I. CPO Recommendation: The subject property is located within the South Canby Community Planning Organization (CPO), which is not active.

J. Exhibits: See Exhibit List following the last page of this report.

---

**TABLE OF CONTENTS**

**Section 1. Post Acknowledgement Plan Amendment / Comprehensive Plan Text Amendment (File No. Z0568-17-CP).**

This application is subject to and must be consistent with the Statewide Planning Goals, County Comprehensive Plan (CP) policies and Oregon Administrative Rules (OARs).

Part 1 – Compliance with Statewide Planning Goals.....Page 8  
Part 2 – Compliance with Clackamas County Comprehensive Plan Policies.....Page 16  
Part 3 – Compliance with OAR 660-023 – General Provisions.....Page 28  
Part 4 – OAR 660-023-0060 – Notice Requirements.....Page 29  
Part 5 – OAR 660-023-0180(3) – Significance Determination .....Page 30  
Part 6 – OAR 660-023-0180(5) – Determination to Allow/ Not Allow Mining...Page 33  
Part 7 – OAR 660-023-0180(7) – Conflicting Uses in Impact Area.....Page 44  
Part 8 – OAR 660-023-0180(8) – Determination of Complete Application.....Page 45  
Part 9 – Summary of Findings Regarding PAPA.....Page 47

**Section 2. Zoning Map Change Application (File No. Z0570-17-Z).** The zone change application is subject to the criteria in Section 1202 of the Clackamas County Zoning and Development Ordinance.

Part 1 – Evaluation of criteria in Section 1202.....Page 48  
Part 2 – Summary of Zone Change Criteria.....Page 50

**Section 3: Site Plan Review Application (File No. Z0569-17-MAO)**

Part 1 – Evaluation of criteria in Section 708.....Page 50  
Part 2 – Summary of Site Plan Review Criteria.....Page 65

**Section 4: Recommended Conditions of Approval.** If approved, the approval will be subject to conditions, as recommended in this section.....Page 65

-----

## **SECTION 1- COMPREHENSIVE PLAN TEXT AMENDMENT (Z0568-17-CP)**

### **PART 1. COMPLIANCE WITH STATEWIDE PLANNING GOALS**

A. Goal 1: Citizen Involvement: *To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*

This is a quasi-judicial land use application. The Clackamas County Comprehensive Plan and Section 1300 of the Zoning and Development Ordinance (ZDO) contain adopted and acknowledged procedures for citizen involvement and public notification. This application has been processed consistent with the notification requirements in Section 1307 of the ZDO including notice to individual adjacent and surrounding property owners within 2,500 feet of the subject property, notice in the local newspaper, and notice to affected agencies and dual interest parties. Notice to the Community Planning Organization (CPO) in the area was not provided because the CPO is inactive. One or more advertised public hearings will also be conducted before the Clackamas County Planning Commission and Board of County Commissioners, which provides an opportunity for additional citizen involvement and input.

**This application is consistent with Goal 1.**

B. Goal 2; Land Use Planning: *To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The findings addressing this Goal include references to Oregon Administrative Rule 660, Division 23 as the applicable rule guiding the process for the County decision-making for Goal 5 Post-Acknowledgement Plan Amendments (PAPAs).

Goal 2 requires coordination with affected governments and agencies. Notice of this application has been provided to the following governmental agencies for comments; City of Barlow, Canby Fire District, Aurora Airport, County Dept. of Transportation and Development (DTD), Traffic Engineering, County Weighmaster, Oregon Dept. of Transportation; District 2B, Oregon Dept. of Aviation, Dept. of Geology and Mineral Industries (DOGAMI), Dept. of Environmental Quality, Dept. of Land Conservation and Development and Dept. of Water Resources. Notice of this application was provided to all these agencies and property owners of record within 2,500 feet of the subject property on November 22, 2017, well in advance of the first evidentiary public hearing. This notice provided an opportunity for these governments and agencies to evaluate and comment on this application and for the County to consider and coordinate this decision and action with the affected governments and agencies.

The subject property is located in proximity to the Cities of Canby and Barlow and within the boundary of the Urban Growth Management Agreement (UGMA) between Barlow and Clackamas County. Notice of the application was provided to both these cities. This proposal will not affect the Comprehensive Plan of any nearby cities. No comments have

been received from either Barlow or Canby.

Goal 2 requires that all land use actions be consistent with the acknowledged Comprehensive Plan. This application has been evaluated against all the applicable goals and policies of the Clackamas County Comprehensive Plan. The background information and findings provided by the applicant and within this report, and comments received from agencies and interested parties provide an adequate factual base for rendering an appropriate decision consistent with the adopted County Comprehensive Plan.

**This application is consistent with Goal 2.**

C. Goal 3; Agricultural Land: *To preserve and maintain agricultural lands.*

The subject property is designated Agriculture on the County Comprehensive Plan map. No change in the Agricultural plan designation is proposed. This PAPA application requires a “balancing” of Goal 3, which is intended to preserve agricultural lands and Goal 5 which is intended to protect significant natural resources including mineral and aggregate resources. The “balancing” test is essentially weighed using the Goal 5 process in OAR 660, Division 23. The findings throughout this staff report provide an analysis of that rule and other applicable Statewide Planning Goals and Comprehensive Plan policies. This proposal is consistent with Goal 3 because, as discussed herein, the mineral and aggregate resource on the property is considered “Significant”. Approval of this application will recognize and protect the resource, allow use of the resource to be mined for a limited duration and the post mining use for fish and wildlife habitat uses is an allowed use in agricultural area and consistent with the preservation of agricultural land. Based on those findings this proposal is consistent with Statewide Planning Goal 3.

**This application is consistent with Goal 3.**

D. Goal 4; Forest Land: *To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

The subject property is designed Agriculture on the Comprehensive Plan map. This application does not include any land designated Forest on the Comprehensive Plan map and therefore; Goal 4 is not applicable to these applications.

**Goal 4 is not applicable.**

E. Goal 5; Open Spaces, Scenic and Historic Areas, and Natural Resources: *To conserve open space and protect natural and scenic resources.*

Goal 5 resources include open space areas, scenic and historic resources and other natural features and resources, including mineral and aggregate resources. Chapter 3 of the

Clackamas County Comprehensive Plan identifies significant Goal 5 resources within the County.

The subject property is located in proximity to three significant Goal 5 resources:

1. The Historic Barlow House (T4S, R41E, Section 5C, Tax Lot 900) which is bound on the west, south and east by the subject property and on the north by Highway 99E.
2. The adjacent Mineral and Aggregate (MAO) sites to the south and west. These sites have received several separate approvals but are operated as one mining operation. Overall, approximately 340 acres have been designated as significant and the MAO overlay applied.
3. The riparian corridor, buffer and floodplain of the Molalla River, a designated Principal River, located adjacent to the eastern property line of the subject.

This application requests that the subject property be identified as a significant Goal 5 Mineral and Aggregate Resource site. This again requires a “balancing” of this potential Goal 5 resource against the protection of, and / or potential conflicts with, other Goal 5 resources in the area.

OAR 660-023-0180(5)(b)(D) requires a conflict analysis to consider impacts of the proposed mining on other Goal 5 resources. The finding in SECTION 1, Part 6 of this report demonstrate that, with mitigation, the proposed mining use and specified Extraction Area will not have significant impacts on the Barlow House; adjacent mining operations; or the Molalla River corridor, and are adopted to address this Goal.

**This application is consistent with Goal 5.**

F. Goal 6; Air, Water and Land Resources Quality: *To maintain and improve the quality of the air, water and land resources of the state.*

The County Comprehensive Plan and ZDO contain adopted implementing regulations to protect the air, water and land resources. These regulations, which include compliance with both County and State requirements (DEQ, DOGAMI, etc.), include standards to regulate air, dust, water, erosion and noise. Compliance with these regulations will be required and applied to any future development proposals (grading, mining, processing, hauling, etc.) on the property. Compliance with these regulations will ensure the proposed mining operation maintains and improves the air, water and land resources in the area.

**This application is consistent with Goal 6.**

G. Goal 7; Areas Subject to Natural Disasters and Hazards: *To protect life and property from natural disasters.*

The proposed Extraction Area is located outside of the regulatory (“100-year”) floodplain of the Molalla River. The portion of the subject site that lies within the 100-year floodplain includes the “Wilmes” site, currently is the process of reclamation, which includes the creation of a natural, vegetated buffer in the riparian area of the Molalla River.

The subject properties contain no other mapped hazard areas. The applicant has also submitted a surface water management plan to reduce or avoid potential adverse flooding impacts to off-site properties due to storm water runoff.

Therefore Staff can find that this proposal would have no significant impact on areas subject to natural disasters or hazards.

**This application is consistent with Goal 7.**

H. Goal 8; Recreational Needs: *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate to provide for the siting of necessary recreational facilities including destination resorts.*

This proposal does not involve any designated recreational or open space lands, or affect access to any significant recreational uses in the area. This project will have no impact on the recreational needs of the County or State.

**This application is consistent with Goal 8.**

I. Goal 9; Economic Development: *“To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens.”*

This Goal is intended to ensure Comprehensive Plans contribute to a stable and healthy economy in all regions of the state. Goal 9 also requires the County to provide for an adequate supply of sites of suitable sizes, types, locations, and services for a variety of industrial and commercial uses consistent with plan polices.

OAR 660-009 implements Statewide Planning Goal 9 for lands within urban growth boundaries. The subject property is not located within an urban growth boundary, therefore OAR 660-009 is not applicable. This proposal does not include any land designated for commercial, industrial or other types of employment uses specifically regulated under Goal 9.

However, the proposed project furthers the objectives of this goal by providing a material (rock) that is essential to the construction of a variety of infrastructure projects both within and outside the nearby Portland Metropolitan UGB area. Development of these infrastructure projects will support a variety of economic activities across the state.

**This application is consistent with Goal 9.**

J. Goal 10; Housing: *"To provide for the housing needs of citizens of the state."*

This goal requires local jurisdictions to provide for an adequate number of needed housing units and to encourage the efficient use of buildable land within urban growth boundaries. OAR 660-007 and 660-008 defines the standards for determining compliance with Goal 10. OAR 660-008 addresses the general housing standards. OAR 660-007 addresses the housing standards inside the Portland Metropolitan Urban Growth Boundary. OAR 660-007 takes precedence over any conflicts between the two rules.

Planning Staff finds that Goal 10 is not applicable because this application does not include land planned to provide for urban residential or rural residential housing. The Agricultural plan designation is intended to preserve and maintain the land for agricultural uses and is not intended to provide land for housing. This proposal will not affect the inventory or amount of buildable lands needed for housing in the County.

**Goal 10 is not applicable.**

K. Goal 11; Public Facilities and Services: *"To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."*

This Goal provides guidelines for cities and counties in planning for the timely, orderly and efficient arrangement of public facilities and services, such as sewer, water and storm drainage. The Goal requires these public facilities and services to be provided at levels necessary and suitable for urban and rural uses, as appropriate. The subject property is located outside of an urban growth boundary and is considered "Agriculture" land. The area is not located within, or serviced by any public or private water, sewer or storm drainage service district. The extension of public sewer, water or storm drainage facilities is not proposed or required to support the proposed mining operation.

The inclusion of the subject property as a significant mineral and aggregate site will have no affect on the planning of public facilities or services by the County or nearby cities of Canby and Barlow.

**This application is consistent with Goal 11.**

L. Goal 12; Transportation: *"To provide and encourage a safe, convenient and economic transportation system."*

Oregon Administrative Rule (OAR) 660-012 (Transportation Planning Rule) implements Statewide Planning Goal 12.

OAR 660-012-0060 applies to any plan map amendment that would significantly affect an existing or planned transportation facility. OAR 660-012-0060(1) requires any amendments to functional plans, acknowledged comprehensive plans, and land use

regulations which would significantly affect a transportation facility to demonstrate (put in place measures as provided in Section (2) of the rule) that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. Pursuant to OAR 660-012-0060(1) a plan or land use regulation amendment is deemed to significantly affect a transportation facility if it;

- a) *Changes the functional classification of an existing or planned transportation facility;*
  - b) *Changes standards implementing a functional classification; or*
  - c) *As measured at the end of the planning period identified in the adopted transportation system plan:*
    - A. *Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; or*
    - B. *Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or*
    - C. *Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*
3. Pursuant to OAR 660-012-0060(2) compliance with OAR 660-012-0060(1) can be achieved by one or a combination of the following;
- a) *Adopting measures that demonstrate the allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*
  - b) *Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.*
  - c) *Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.*
  - d) *Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*
  - e) *Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Local governments shall as part of the amendment specify when measures or improvements*

*provided pursuant to this subsection will be provided.*

The applicant has submitted a Traffic Analysis (TA) completed by Sandow Engineering dated September 29, 2017 (**Appendix E, Application**). The TA included a comparison of the reasonable worst-case trip generation scenario of the Site under the existing zoning designation (EFU), with the reasonable worst-case trip generation scenario under the proposed zoning designation (MAO) and concluded the following:

- *Highway 99E at South Barlow road currently does not meet the adopted mobility standard and will continue to do so through Clackamas County's Transportation System Plan planning horizon. Oregon Highway Plan Action 1F.5 defines the mobility standard as no further degradation for this intersection. The added traffic from the proposed aggregate extraction operation does not worsen the v/c beyond background conditions, meeting ODOT mobility targets as defined in the Oregon Highway Plan;*
- *The site driveway will meet the mobility standard for the year of opening and through the end of Clackamas County Transportation System Plan planning horizon with the comprehensive plan amendment; and*
- *The existing horizontal alignment of all roadways can accommodate truck traffic consistent with applicable standards under Goal 5.*

The Oregon Department of Transportation has submitted comments regarding this proposal (see Exhibit 2) in which state that they have *reviewed the traffic impact study submitted with the application and determined that there will be no significant effect on OR 99E*. The County's Traffic Engineering Division did not submit comments.

Therefore Staff finds that this proposal is consistent with OAR 660-012-0060(1)(a) and (b) because it does not include in a change in the functional classification of an existing or planned transportation facility, nor change the standards implementing a functional classification. This proposal will not significantly affect the State transportation system as defined in OAR 660-012-0060(1)(c)(C) because it will not worsen the performance of the Hwy. 99E / Barlow Road intersection. The TA demonstrates the County transportation system is adequate to accommodate anticipated traffic throughout the 20 year planning period as required in the Comprehensive Plan.

**This proposal is consistent with Goal 12.**

M. Goal 13; Energy Conservation: *To conserve energy.*

The objective of Goal 13's is the conservation of energy. The proposed project will have at least two significant positive energy consequences. First, mining the aggregate resource will facilitate completion of many needed transportation improvements, which will, in turn, provide greater capacity and smoother surfaces. As a result, vehicles on roads throughout the region will be able to consume less fuel because they will spend less time idling in traffic and/or confronting substandard road conditions.

Furthermore, the energy consequences of allowing a mine can also be considered positive due to the close proximity to the cities of Canby, Barlow, Aurora, and other nearby locations where there is a current or projected significant amount of growth and demand for aggregate. Locating a mine near these markets will reduce the distance the product must travel, resulting in lower fuel consumption. The property's proximity to major transportation corridors, such as Highway 99E and Interstate 5, also reduces fuel consumption and energy impacts compared to more remote locations.

**This proposal is consistent with Goal 13.**

N. Goal 14; Urbanization: *To provide for an orderly and efficient transition from rural to urban land uses.*

Planning staff finds that Goal 14 is not applicable to this application for the following reasons:

- a. The subject property is not located within an UGB or Urban Reserve Area.
- b. This proposal does not involve a change in the location of the UGB.
- c. This proposal does not include a conversion of rural land to urban land, or urbanizable land to urban land.

**Goal 14 is not applicable.**

O. Goal 15: Willamette River Greenway: *To protect, conserve, enhance and maintain the natural scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.*

1. The subject property is not located within or near the Willamette River Greenway and therefore Goal 15 is not applicable.

**Goal 15 is not applicable.**

P. Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands), Goal 18 (Beaches and Dunes) and Goal 19 (Ocean Resources).

**Goals 16, 17, 18 and 19 are not applicable to Clackamas County.**

---

**PART 2. COMPLIANCE WITH CLACKAMAS COUNTY COMPREHENSIVE PLAN POLICIES:**

A. **Chapter 1; Introduction:** *This Chapter identifies the purpose of the Comprehensive Plan and how to use the Plan.*

1. This Chapter of the Plan includes a general introduction to the plan and describes how to use the plan. This Chapter does not include any Goals or Policies applicable to a quasi-judicial land use application.

**Chapter 1 is not applicable.**

B. **Chapter 2; Citizen Involvement:** *The purpose of this Chapter is to promote citizen involvement in the governmental process and in all phases of the planning process.*

2. Policy 1.0 is applicable to this application.

a. Policy 1.0; *Require provisions for opportunities for citizen participation in preparing and revising local land use plans and ordinances. Insure opportunities for broad representation, not only of property owners and Countywide special interests, but also of those within the neighborhood or areas in question.*

The Clackamas County Comprehensive Plan and ZDO have adopted and acknowledged procedures for citizen involvement. Specifically, the County has provided notice to property owners within 2,500 feet of the subject property, and published public notices in the newspaper consistent with State law and Section 1307 of the ZDO. Notice to the Community Planning Organization (CPO) in the area was not provided because the CPO is inactive. The Planning Commission and Board of County Commissioners will also hold one or more public hearings, as necessary, consistent with Section 1307 of the ZDO. These public mailings, notices and hearings will ensure an opportunity for citizens to participate in the land use process. This application has been processed consistent with those procedures.

**This proposal is consistent with Chapter 2.**

C. **Chapter 3; Natural Resources and Energy:** *The purpose of this Chapter is to provide for the planning, protection and appropriate use of the County's land, water and air resources, mineral and aggregate resources, wildlife habitats, natural hazard areas and energy sources.*

This Chapter contains eight (8) distinct Sections addressing; 1) Water Resources; 2) Agriculture; 3) Forests; 4) Mineral and Aggregate Resources; 5) Wildlife Habitats and Distinctive Resource Areas; 6) Natural Hazards; 7) Energy Sources and Conservation and; 8) Noise and Air Quality. Sections with policies applicable to this proposal are discussed below.

Water Resources Section: This Section of the Chapter identifies policies applicable to River and Stream Corridors, Principal River Conservation Areas, Stream Conservation Areas, Wetlands and Groundwater.

- a. Principal River: The subject property is located in proximity to the Molalla River. The Molalla River is identified as a Principal River on the Principal River Conservation Area Design Plan map (Map III-1c) in the Comprehensive Plan and on the River and Stream Conservation Area (RSCA) Map. The boundary of the Molalla River Design Plan area, is approximately ¼ mile (1,320 feet) from the edge of the river; as noted on Map III-1c, aggregate extraction is allowed with a conditional use permit within the Design Plan area.

Consistent with Policies 1.0, 2.0 and 3.0 of this section, a minimum 100-foot wide undisturbed riparian buffer is required to each side of the mean high water line of the Molalla River. The riparian buffer and floodplain of the Molalla River crosses the easternmost edge of the subject property. No new extraction or disturbance is proposed in this area – it is completely within the area of the previously-approved extraction site which is currently completing reclamation (“Wilmes” site).

- b. Groundwater: The subject property is not located in any Limited or Critical Groundwater Area identified by the Oregon Department of Water Resources. The findings in the conflict analysis addressed in OAR 660-023-0180(5)(b)(A) demonstrate this proposal will not significantly impact groundwater resources in the area.

**This application is consistent with the Water Resources Section of Chapter 3.**

Agriculture Section: The subject property is designated Agriculture on the Comprehensive Plan map; however, there are no policies in this Section of the Comprehensive Plan applicable to this proposal.

**This application is consistent with the Agriculture Section of Chapter 3.**

Mineral and Aggregate Resources Section: This Section of the Plan is intended to protect and ensure the appropriate use of mineral and aggregate resources while minimizing adverse effects of mining and processing on surrounding land uses.

- a. The subject property is not currently identified on the “Inventory of Mineral and Aggregate Resource Sites” in Table III-2 of the Comprehensive Plan. This application proposes to include the subject property on the list of “Significant Sites” in the Inventory of Mineral and Aggregate Resource Sites in Table III-2. Policies 1.0, 3.0, 4.0, 8.0 and 9.0 are applicable.

1. Policy 1.0: *To identify and protect mineral and aggregate resources, the county will comply with Statewide Planning Goal 5 and administrative rules adopted by LCDC interpreting the Goal 5 planning process.*

The findings in the application and throughout this staff report provide an evaluation and analysis of the Statewide Planning Goal 5 and the most recent administrative rules adopted by LCDC interpreting the Goal 5 planning process.

**This policy is met.**

2. Policy 3.0: *Where the county has completed the Goal 5 planning process and developed a program for protection of a significant mineral or aggregate site, the county shall use a Mineral and Aggregate Overlay District. The county may use other tools to carry out its program to achieve the Goal. If any aspect of the overlay requires interpretation, the county shall rely on direction in the site-specific program in the comprehensive plan.*

This application includes a request for a Mineral and Aggregate Overlay District. If the subject property is determined to be a “Significant Mineral and Aggregate Site” the MAO overlay district will allow mining of the subject property.

**This policy is met.**

3. Policy 4.0: *The county shall use the site plan review process for the Mineral and Aggregate Overlay District solely for determining whether an application to mine complies with the site-specific program developed through the county’s Goal 5 analysis or complies with other standards of the Zoning and Development Ordinance.*

Site plan review is required through a Mineral and Aggregate Resource District permit. See Policy 8.0d below. If this PAPA application and MAO zoning district is amended to authorize mining, the operator will be required to submit and obtain approval of a Mineral and Aggregate Resource District Permit as required in Section 708 of the ZDO. The applicant has submitted a site review permit application concurrently with the PAPA and MAO requests. This permit review will ensure that mining complies with the site specific program approved in this application and requirements in Section 708 of the ZDO.

**This policy is met.**

4. Policy 8.0: *The county will coordinate its planning and permitting processes for mineral and aggregate resources with the Oregon Department of Geology and Mineral Industries (DOGAMI) and Oregon Department of State Lands.*

The County has sent notice and a copy of this application to the DOGAMI and Oregon Department of State Lands (DSL). The County will coordinate the review of this permit and any other required permit with these agencies if the application is approved. A condition of approval is warranted to that effect.

**This policy is met.**

a. Policy 8.0a: *To assist state agency permit decisions, the county will identify post-mining land uses as part of any program to protect a significant mineral and aggregate resource site.*

The application includes a post-mining (conceptual reclamation plan) use of the property to include fish and wildlife habitat. This is an allowed use in the underlying EFU zoning district. This use is also consistent with the approved post-mining use on the adjacent mining site. If this application is approved a condition of approval will specifically identify the post-mining use to assist the DOGAMI and other state agencies in the issuance of operating permits.

**This policy is met.**

b. Policy 8.0b: *The county recognizes the jurisdiction of DOGAMI for the purpose of mined land reclamation pursuant to ORS 517.750 to 517.900 and the rules adopted thereunder.*

The policy does not require any findings. If the application is approved a condition of approval will require DOGAMI to regulate reclamation of the mining site.

**This policy is met.**

c. Policy 8.0c: *Unless specifically authorized under ORS 517.830(3), DOGAMI should delay its final decision of approval of a reclamation plan and issuance of an operating permit, as those terms are defined by statute and rule, until all issues concerning the local land use are decided by the county.*

There is no evidence of specific authorization under ORS 517.830(3) in the record. Therefore, DOGAMI should delay its final decision of approval of a reclamation plan until such time as County approvals are obtained to allow mining.

**This policy is met.**

d. Policy 8.0d: *No mining or processing activity, as defined by the Zoning and Development Ordinance, shall begin until the county has issued a final land use decision and the permittee provides copies of an approved reclamation plan and operating permit issued by DOGAMI or DSL.*

This policy does not require any findings. If the application is approved a condition of approval will require the mining operator to submit and obtain approval of a Mineral and Aggregate Resource District operating permit from the County and to provide evidence to the County that all other necessary permits have been obtained from the DOGAMI, the DSL and any other applicable agencies.

**This policy is met.**

5. Policy 9.0: *The county shall resolve issues relating to mine truck use of public roads as directed in county transportation plans and policies. The county reserves the right to make agreements with aggregate operators about the use of county roads independent from its decision in Goal 5 analysis.*

The adequacy and safety of the public roads is addressed under the discussion of Statewide Planning Goal 12 – Transportation (and the implementing Transportation Planning Rule) and in the discussion of the zone change criteria in Section 1202 of the ZDO. Those finding demonstrate the transportation system is adequate to accommodate truck traffic from the existing and proposed mine.

**This policy is met.**

**This application is consistent with the Mineral and Aggregate Resources Section of Chapter 3.**

Wildlife Habitats and Distinctive Resource Areas: The subject properties are partially within the Molalla River Principal River Corridor, as identified on Map III-2 of the Comprehensive Plan located on or near the subject property. However, there are no policies in this section specific to that corridor except for policies requiring coordination with the appropriate state agencies, which, as noted throughout the application and this Staff Report has been and will continue to be done if this proposal is approved.

**This application is consistent with the Wildlife Habitats and Distinctive Resource Areas Section of Chapter 3.**

Natural Hazards Section: This Section of the Chapter identifies policies applicable to floodplains, natural and geologic hazards, steep hillsides and areas with limiting soil characteristics such as shrink-swell soils, compressed soils, etc.

The easternmost portion of the subject properties is located within the regulatory (100-year) floodplain of the Molalla River; however the proposed Extraction Area lies upland and outside the boundary of the floodplain. The subject property is located outside of the area map by the DOGAMI which identifies natural and geologic hazards.

There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

**This application complies with the Natural Hazards Section of Chapter 3.**

Noise and Air Quality. This Section of the Chapter identifies policies intended to minimize noise and improve air quality. Policy 2.0 and 3.0 are applicable.

a. Policy 2.0: *Implement a procedure to minimize the impact of external noise on*

*sensitive land uses.*

1. Policy 2.1: *Require, through the review process, buffering of noise sensitive areas or uses where appropriate. For example, adjacent to arterials, expressways, freeways or heavily used rail lines, landscaped berms or other solid barriers may be required. Encourage setbacks and / or noise insulation in structures.*

This application includes a noise study to address noise impacts on noise sensitive uses including nearby residential uses. The review and evaluation of this noise study is considered in the PAPA application. The submitted noise study prepared by Acoustics by Design, dated September 15, 2017 demonstrates that noise impacts from the proposed mining operation, with reasonable mitigation conditions, can be minimized in compliance with DEQ Noise standards.

**This policy is met.**

2. Policy 2.2: *Noise mitigation plans, subject to County approval, shall be required of significant new noise generating land uses adjacent to or impacting established noise sensitive properties.*

The proposed mining operation is considered a significant new noise generator. The submitted noise study (see previous finding) includes a noise mitigation plan, including the berms, landscaping and other noise reducing technology on mining equipment and vehicles. The review and evaluation of this noise study including the appropriate mitigation measures are considered in the PAPA application. This review will ensure noise impacts satisfy minimum DEQ noise standards.

**This policy is met.**

b. Policy 3.0: *Cooperate with local, regional, state, and federal agencies and industry to maintain and / or improve local air quality.*

This application includes a number of measures to eliminate or reduce fugitive dust from the mining activities and processing facilities. The review and evaluation of dust impacts which affect air quality are evaluated in the PAPA application. These findings demonstrate dust and any other adverse impacts to the air quality can be minimized and satisfy DEQ air quality standards. If the application is approved a condition of approval will also require the mining operation to obtain a General Air Contaminant Discharge Permit, if required by the DEQ.

**This policy is met.**

**This application is consistent with Chapter 3.**

**D. Chapter 4; Land Use:** *This Section of the Comprehensive Plan provides the definitions for urban and rural land use categories, and outlines policies for determining the appropriate Comprehensive Plan land use designation for all lands within the County.*

1. This Chapter contains three distinct Sections; 1) Urbanization; 2) Urban Growth Concepts and; 3) Land Use Policies for the following Land Use Plan designations; Residential, Commercial, Industrial, Open Space and Floodplains, Rural Communities, Rural, Agriculture and Forest. Applicable Sections are addressed below.

Urbanization Section. This Section of the Plan outlines policies guiding land use in Immediate Urban Areas, Future Urban Areas, Future Urban Study Areas, Urban Reserve Areas and Rural Reserve Areas.

The subject property is located within an adopted Rural Reserve Area, as identified as Map 4-9. Policies under 4.F.Rural Reserve Area Policies apply to the subject properties.

Policy 4.F.3. *The County shall not amend the Comprehensive Plan or Zoning and Development Ordinance, or the Comprehensive Plan Map or zoning designations:*

*4.F.3.1 To allow within the Rural Reserve areas, new uses that were not allowed on the date Rural Reserve areas were designated, except as authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after the designation of Rural Reserve areas.*

*4.F.3.2 To allow within Rural Reserve areas, the creation of new lots or parcels smaller than allowed on the date Rural Reserve areas were designated, except as authorized by amendments to the Oregon Revised Statutes or Oregon Administrative Rules enacted after designation of Rural Reserve areas.*

The proposed amendment to the County's Plan and zoning map to add the subject sites as a "significant aggregate site" and to apply the Mineral and Aggregate Overlay (MAO) are no inconsistent with this policy for the following reasons:

1. The uses proposed for the site – mineral and/or aggregate extraction –are currently listed as allowed uses in the EFU zoning district, subject to approval procedures that are being followed in this application. In other words, the proposed changes to the Plan and the county's zoning maps are not allowing new uses, rather they are following the complicated process required to allow a use that has been allowed in this zoning district since well before the designation of the Reserves.

2. Further, OAR 660-027-0070(4) specifically allows counties to adopt or amend Plan provisions or land use regulations in rural reserves *in order to allow: (a) Uses that the county inventories as significant Goal 5 resources, including programs to protect inventoried resources as provided under OAR chapter 660, division 23...* which is what this application is proposing to do.

3. This proposal will not create any new lots or parcels.

**These policies are met.**

Land Use Plan Designations. The subject property is currently designated Agriculture on the Comprehensive Plan map. The remaining policies pertaining to the Residential, Industrial, Open Space and Floodplains, Rural Communities, Rural and Forest plan designations in this Section of the plan are not applicable. The proposal does not involve a change to the Agricultural plan designation. Policy 3.0 in the Agricultural Section of the Plan is applicable.

1. Policy 4.00.3: *Land uses which conflict with agricultural uses shall not be allowed.*

The potential conflicts with nearby agricultural uses is evaluated in the conflict analysis under OAR 660-023-0180(5)(a)(E). Those findings demonstrate the proposed mining use will not significantly conflict with agricultural uses and adopted by reference to address this policy.

**This policy is met.**

**This application is consistent with Chapter 4.**

**E. Chapter 5; Transportation:** *This Chapter outlines policies addressing all modes of transportation.*

This Chapter contains eight (8) distinct Sections addressing; 1) Foundation and Framework; 2) Land Use and Transportation; 3) Active Transportation; 4) Roadways; 5) Transit; 6) Freight, Rail, Air, Pipelines and Water Transportation; 7) Finance and Funding; and 8) Transportation Projects and Plans. Section with policies applicable to this proposal are discussed below.

Land Use and Transportation. The Section includes policies relating to the integration of land use and transportation; parking; rural tourism; and scenic roads.

a. Policy 5.F.6. *Require changes in land use plan designation and zoning designation to comply with the Transportation Planning Rule [Oregon Administrative Rules (OAR) 660-012-0060].*

As noted in the findings under Statewide Planning Goal 12 (SECTION 1, Part 1), the Traffic Analysis (TA) found that this proposal complies with the Transportation Planning Rule and would have no significant impact on the existing roadway system. ODOT concurred with these findings, as noted in **Exhibit 2**.

**This policy is met.**

Roadways. This Section includes policies relating to functional classification; urban and rural roadway considerations; project development; improvements to serve development; and performance evaluation and access standards.

a. Policy 5.Q.3. *Support the implementation of state access management standards (OAR Chapter 734, Division 51, as amended, and the Oregon Highway Plan) on state highway facilities and within Interchange Management Areas. Coordinate with the Oregon Department of Transportation for access control on state highways.*

The existing mining and processing site owned and operated by the applicant has an access drive directly onto Highway 99E. Materials from the proposed site would traverse that property and use the existing access; no new access drives to either Highway 99E or S Barlow Road are proposed. ODOT was given notice and opportunity to comment in this proposal and provided a comment (**Exhibit 2**) which concurs with the TA's finding that the existing access will be sufficient and the proposed use will have no significant impact on the existing roadway system.

**This policy is met.**

5.R.1. *Require new development to be served by adequate transportation facilities and access points that are designed and constructed to safely accommodate all modes of travel.*

The findings addressing Statewide Planning Goal 12 and comments from ODOT demonstrate that the affected road system is adequate to accommodate the proposed mining. No new access points are proposed.

**This policy is met.**

d. Policy 5.R.3: *Assess anticipated off-site traffic impacts caused by new developments and land divisions. The developer or subdivider may be required to participate financially or otherwise in the provision of off-site improvements, dedications or other requirements.*

The findings addressing Statewide Planning Goal 12 and comments from ODOT demonstrate that the anticipated off-site traffic impacts were assessed and no off-site improvements are needed or proposed with this application.

**This policy is met.**

**This application is consistent with Chapter 5.**

**F. Chapter 6; Housing:** *The purpose of the Housing element of the Plan is to, "Provide opportunities for a variety of housing choices, including low and moderate income housing, to meet the needs, desires, and financial capabilities of all Clackamas County residents to the year 2010."*

There are no policies in this Chapter applicable to this application.

**Chapter 6 is not applicable.**

**G. Chapter 7; Public Facilities and Services:** *The goal of the Public Facilities and Services Chapter is to ensure an appropriate level of public facilities and services are necessary to support the land use designations in the Comprehensive Plan, and to provide those facilities and services at the proper time to serve the development in the most cost effective way.*

The subject property is located outside of the Urban Growth Boundary and is not located within any public sewer, water or storm drainage districts. This proposal will have no affect on any public facilities (sanitary sewer, water, storm drainage, solid waste, street lighting).

Law enforcement is provided by the Clackamas County Sheriff's Office. The property is located within the Canby Fire District #62. A condition of approval will require review and approval of this development by the Canby Fire District. This proposal will have no effect on schools because no new housing is proposed. This proposal will have no effect on County Government services.

**This application is consistent with Chapter 7.**

**H. Chapter 8; Economics:** *The goal of the Economics element of the Plan is to "Establish a broad-based, stable and growing economy to provide employment opportunities to meet the needs of the County residents." This Chapter contains 4 Sections related to; 1) Existing Industry and Business; 2) New Industry and Business; 3) Coordination; and 4) Target Industries.*

Planning Staff finds that approval of the proposal would enable the applicant to continue to provide stable, family-wage jobs with benefits for existing employees and to continue to provide products needed for construction of roads, buildings, and other facilities supporting the area economy. There are no specific policies under this section that would be in conflict with an approval.

**This application is consistent with Chapter 8.**

**I. Chapter 9; Open Space, Parks, and Historic Sites:** *The purpose of this Chapter of the Plan is to protect the open space resources of the County, to provide land, facilities and programs which meet the recreation needs of County residents and visitors, and to preserve the historical, archaeological, and cultural resources of the County.*

The subject property does not include any lands designated as park land. There are no designated Historic Districts or Historic Corridors on or adjacent to the subject property. However, the "Barlow House" is located adjacent to the property on the north; this house

is designated as a Historic Landmark. Therefore, Policy 6.0 is applicable.

a. Policy 6.0: *Develop policies and programs to protect historic resources and minimize conflicts.*

OAR 660-023-0180(5)(b)(D) requires a conflict analysis to consider impacts of the proposed mining on other Goal 5 resources. The findings in SECTION 1, Part 6 of this report demonstrate that, when appropriate mitigation methods are employed, mining within the proposed Extraction Area will not have significant impacts on the Barlow House and are adopted to address this Goal.

**This policy is met.**

**This application is consistent with Chapter 9.**

J. **Chapter 10; Community Plan and Design Plans:** *This Chapter of the Comprehensive Plan includes the Mt. Hood Community Design Plan, Kruse Way Design Plan, Sunnyside Village Plan, Clackamas Industrial Area and North Bank of the Clackamas River Design Plan, Clackamas Regional Center Area Design Plan, Sunnyside Corridor Community Plan, and McLoughlin Corridor Design Plan.*

1. The subject property is not located within a Community Plan or Design Plan area.

**Chapter 10 is not applicable.**

K. **Chapter 11; The Planning Process:** *The purpose of this Chapter is to establish a framework for land use decisions that will meet the needs of Clackamas County residents, recognize the County's interrelationships with its cities, surrounding counties, the region, and the state, and insure that changing priorities and circumstances can be met.*

1. This Chapter contains two (2) Policy Sections titled: 1) City, Special District and Agency Coordination and; 2) Amendments and Implementation. In the City, Special District and Agency Coordination Section of this Chapter, Policy 1.0 is applicable to this application. In the Amendments and Implementation Section, Policy 1.0 and 3.0 are applicable.

a. **City, Special District and Agency Coordination Section**

1. Policy 1.0; *Participate in interagency coordination efforts with federal, state, Metro, special purpose districts and cities. The County will maintain an updated list of federal, state and regional agencies, cities and special districts and will invite their participation in plan revisions, ordinance adoptions, and land use actions which affect their jurisdiction or policies.*

The findings addressing Statewide Planning Goal 2 identify the coordination efforts the County has completed in the review of this application and a list of all affected agencies

which have been sent notice of the application. Those findings are adopted to address this policy by reference therein and demonstrate substantial compliance with this policy.

**This policy is met.**

b. Amendments and Implementation Section

1. Policy 1.0; *Assure that the Comprehensive Plan and County ordinances meet the goals of LCDC, the Region 2040 Urban Growth Management Functional Plan and the Metro Framework Plan.*”

Based on the findings in SECTION 1, Part 1 of this report, this proposal is consistent with the Statewide (LCDC) Planning Goals. The Urban Growth Management Functional Plan and Metro Framework Plan are not applicable to this application because the property is not located within an urban growth boundary or urban reserve area.

**This policy is met.**

2. Policy 3.0; *Amend the Comprehensive Plan pursuant to the following procedures and guidelines (listed in subpolicies 3.1 through 3.6). This is a quasi-judicial Comprehensive Plan map amendment and is subject to subpolicies 3.1, 3.3 and 3.4.*

a. Subpolicy 3.1; *A map amendment may be initiated only by the Board of County Commissioners, the Planning Commission, the Planning Director, or the owner of the property for which a change is requested.*

This application has been initiated by the property owner, Pacific Rock Products, LLC.

**This policy is met.**

b. Subpolicy 3.3; *All proposed Comprehensive Plan amendments are to be considered at advertised public hearings before the Planning Commission, in accordance with state law and County requirements.*

Both the Planning Commission and Board of County Commissioners will review this application through one or more public hearings. Notice of the hearings have been published in the local newspaper and advertised consistent with or exceeding all adopted ZDO notice requirements.

**This policy is met.**

c. Subpolicy 3.4; *If the proposed amendment is quasi-judicial, property owners will be notified as required. The Community Planning Organization in the affected area shall be notified at least 35 days prior to the first hearing.*

The property owners within 2,500 feet of the subject property were notified of this

application on November 22, 2017, consistent with the requirement of Section 1307 of the ZDO. The Community Planning Organization for this area is South Canby. This CPO is inactive.

**This policy is met.**

**This application has been processed consistent with Chapter 11.**

---

**PART 3. OREGON ADMINISTRATIVE RULE 660-023 – General Provisions and Requirements.**

A. General Process: Oregon Administrative Rule 660, Division 23 contains the procedures and requirements for complying with Statewide Planning Goal 5. Oregon Administrative Rule 660-23-0180 specifically relates to Mineral and Aggregate Resources. OAR 660-023-0180(2) outlines the general process for evaluating the PAPA. The application correctly summarizes this process on **page 11** of the **Application**.

B. Individual Applications: OAR 660-23-180(2) requires local governments to amend acknowledged Comprehensive Plan inventories with regard to mineral and aggregate resources at periodic review or in response to an individual application for a Post Acknowledgement Plan Amendment (PAPA). This PAPA application has been submitted by an individual land owner.

C. Processing Time Line: Pursuant to OAR 660-023-0180(5) the County has 180 days after the receipt of the application to complete the review process and render a decision. The application was deemed complete on November 2, 2017. The 180 processing deadline is May 1, 2018. The Board of County Commissioners public hearing is scheduled on March 7, 2017.

D. Applicable Sections: The following Sections of OAR 660-023 are applicable to this application: Section 10 (Definitions), Section 60 (Notice and Land Owner Involvement) and Section 180 (Mineral and Aggregate Resources).

---

**PART 4. OREGON ADMINISTRATIVE RULE 660-023-0060 - Notice and Landowner Involvement Requirements.**

*A. OAR 660-023-0060: Local governments shall provide timely notice to landowners and opportunities for citizen involvement during the inventory and ESEE process. Notification and involvement of landowners, citizens, and public agencies should occur at the earliest possible opportunity whenever a Goal 5 task is undertaken in the periodic review or plan amendment process. A local government shall comply with its acknowledged citizen involvement program, with statewide goal requirements for citizen involvement and coordination, and with other applicable procedures in statutes, rules, or local ordinances.*

Section 1307 of the ZDO identifies the notice requirements and procedures for a quasi-judicial application and public hearings. This Section requires notice at least 35 days before the first evidentiary hearing to the CPO. The CPO is inactive in this case, and therefore notice was not provided.

Notice is also required at least 20 days prior to the hearing to the applicant, property owners of record within 1,000 feet of the subject property's impact area (generally 1,500 feet from the subject) and contiguously owned property, nearby airport owners, the Oregon Department of Aviation and dual interest organizations. Notice must also be provided in a newspaper of general circulation in the affected area at least 10 days prior to the hearing.

Paragraph H in the BACKGROUND Section of this report includes a list of all the agencies sent notice of this application. This list includes all the affected dual interest area parties, including the Aurora Airport and the Oregon Dept. of Aviation. Notice was mailed to all these parties on November 22, 2017, approximately 61 days prior to the first scheduled hearing before the Planning Commission on January 22, 2018.

Notice of this application has also been provided to adjacent and nearby property owners within 2,500 of the subject property and contiguous property. Notice was also provided to property owners on November 22, 2017, approximately 61 days prior to the first public hearing. A notice of the public hearing was provided to the Canby Herald newspaper for publication in December 2017.

Notice of the application has been provided consistent with State law, County Comprehensive Plan policies and ZDO requirements. The notice for this application was also provided well in advance of the minimum notice requirements and at the earliest possible opportunity.

**The Notice and Landowner Involvement Requirements are met.**

**Note:** the Determination of Completeness and Adequate Application (OAR 660-023-0180(8) is discussed at Part 9, herein, so as to maintain numerical order of the OARs.

---

**PART 5. OREGON ADMINISTRATIVE RULE 660-023-0180(3) - Determination of Whether the Aggregate Resource Site is Significant (“Step 1”).**

A. OAR-660-23-180(3): *An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality and location of the resource demonstrates that the site meets any **one** of the criteria in subsections (a) through (c) of this section, except as provided in Subsection (d) of this Section.*

1. OAR-660-23-180(3)(a): *A representative set of samples of aggregate material in the deposit on the site meets Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and soundness, and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley, or more than 500,000 tons outside the Willamette Valley.*

This application includes an *Aggregate Resource Evaluation and Goal 5 Significance Determination, Traverso Aggregate Expansion Property, Clackamas County, Oregon* completed by Kuper Consulting, LLC (“KC”), dated September 26, 2017. **Appendix A, Application**). The evaluation was undertaken specifically to determine the location, quality and quantity of aggregate material on the subject property. KC reviewed available published geologic literature, completed a subsurface investigation, quantified the potential aggregate resources and submitted aggregate samples to a certified testing laboratory, Carlson Testing, Inc. for quality testing.

The applicant summarizes the KC analysis regarding the quantity of material as follows: *To estimate the quantity of aggregate at the Site, the top and bottom elevations of the aggregate deposit were identified based on the borings and trenches. The top elevations of the aggregate deposit, that is, the top of the aggregate resource located below the residual soil/weathered material (overburden), were identified using the trenches. The bottom elevations of the aggregate deposit were also identified using the borings. The bottom elevations of the resource, for the purposes of volume calculations, were artificially limited to the depths of the proposed mine floor, which varies in depth from the western portion of the site of approximately 68 feet to along the eastern site boundary of approximately 45 feet in depth. As a result, the volume of resource as set forth in **Appendix A**, is considered a conservative estimate of the quantity of aggregate present on the site. In addition, it is noted that cubic yards were translated to tons using a very conservative conversion factor of 1.3 tons per one cubic yard (p. 13, **Application**)*

The subsurface exploration conducted on the property included 10 exploratory trenches with depths up to 35 feet and three borings ranging from 60-70 feet in depth. Three monitoring wells have been installed in the borings. The location of the test pits and boring/monitoring wells are identified on **Figure 3, Appendix A, Application**.

Based on the analysis completed by KC, the trenches and boring samples indicate the proposed mining site generally consists of a layer of topsoil/silt up to 7 feet deep. The sand and gravel resource is located below this overburden to a depth up to 61 feet. KC used an assumption of 40 feet for the resource thickness for the purposes of calculating the quantity under this criterion. This estimate is believed to be conservative because the boring nearest to the Barlow House found the resource to actually be present to 61 feet in depth.

The quantity of the resource is addressed in Section 2.5 of the Aggregate Resource Evaluation report. Clackamas County is considered part of the Willamette Valley. Therefore this application is subject to the 2,000,000 ton threshold. The quantity of aggregate material is calculated based on the estimated cubic yards of material converted to tons. (1.3 tons / cubic yard). The total cubic yards of material is estimated based on the size of the Extraction Area (79 acres), depth of the mine (40 feet) and configuration of the actual mining site.

The volume estimate indicates there is at least 5 million cubic yards of sand and gravel aggregate resource available to mine. Based on these estimates there is approximately 6.5 million tons (5,000,000 cubic yards x 1.3) of usable mineral and aggregate materials on the subject property.

The quality of the mineral and aggregate resource is summarized in Section 2.2 of the Aggregate Resource Evaluation report. Representative samples were submitted to Carlson Testing Inc. for air degradation, abrasion and soundness testing. The laboratory data sheets for this quality testing are included in the appendix of the aggregate evaluation report. The test results demonstrate the sand and gravel resource meets the applicable ODOT specifications for base rock.

Pursuant to OAR 660-023-180(3)(d), even if a site meets the quality and quantity thresholds, it cannot be deemed a significant site if either: (a) more than 35% of the proposed mining area consists of Class I soils, as classified on Natural Resource and Conservation Service (“NRCS”) maps on June 11, 2004; or (b) more than 35% of the proposed mining area consists of Class II soils, or a combination of Class I, II, or Unique soils as classified on NRCS maps on June 11, 2004, unless the average thickness of the mining area exceeds 25 feet.

According to the applicable NRCS maps and summarized in the Aggregate Resource Evaluation report, more than 86% of the subject site is mapped with Class II soils. As noted in the applicant’s narrative and **Appendix A**, the width of the aggregate was determined to be at least an average of 40 feet thick, thus far exceeding the 25-foot minimum requirement.

Planning Staff finds that the location, quantity and quality standards are met for the following reasons:

1. The KC Evaluation for this site was completed by qualified professionals in the field of geology.
2. The Evaluation includes a review and analysis of a number of different resources such as geologic mapping, well logs, boring samples and subsurface exploration.
3. The subsurface exploration provide a representative sample of the mineral and aggregate resource potential.
4. There is an estimate of approximately 6.5 million tons of aggregate resource on the property.
5. Representative samples from the test borings were tested for quality. The quality of the mineral and aggregate resources satisfies the applicable ODOT specifications for base rock for air degradation, abrasion and soundness.

**The location, quality and quantity standards are met.**

2. OAR-660-23-180(3)(b): *The material meets local government standards establishing a lower threshold for significance than subsection (a) of this section.*

Clackamas County has not adopted a separate standard establishing a lower threshold for significance. **This criterion is not applicable.**

3. OAR-660-23-180(3)(c): *The aggregate site was on an inventory of significant aggregate sites in an acknowledged plan on September 1, 1996.*

The subject property is not identified as a “Significant Sites” on Table III-2 - Inventory of Mineral and Aggregate Resource Sites in Chapter 3 of the Clackamas County Comprehensive Plan. **This criterion is not applicable.**

**CONCLUSION: The proposed expansion area qualifies as a “Significant” site under OAR 660-023-0180(3) because it satisfies the location, quantify and quality standard in OAR 660-023-0180(3)(a) and satisfies OAR 660-023-0180(3)(d).**

-----

**PART 6. OREGON ADMINISTRATIVE RULE 660-023-0180(5) – Determination to Allow or Not Allow Mining (“Steps 2 through 5”).**

A. OAR 660-023-0180(5): *For significant mineral and aggregate sites, local governments shall decide whether mining is permitted. For a PAPA application involving an aggregate site determined to be significant under section (3) of this rule, the process for this decision is set out in subsections (a) through (g) of this section. A local government must complete the process within 180 days after receipt of a complete application that is consistent with section (8) of this rule, or by the earliest date after 180 days allowed by local charter.*

**1. OAR 660-023-0180(5)(a)** (“Step 2”): *The local government shall determine an impact area for the purpose of identifying conflicts with proposed mining and processing activities. The impact area shall be large enough to include uses listed in subsection (b) of this section and shall be limited to 1,500 feet from the boundaries of the mining area, except where factual information indicates significant potential conflicts beyond this distance. For a proposed expansion of an existing aggregate site, the impact area shall be measured from the perimeter of the proposed expansion area rather than the boundaries of the existing aggregate site and shall not include the existing aggregate site.*

OAR 660-023-0010(3) defines the “Impact Area” as the geographic area within which conflicting uses could adversely affect a significant Goal 5 resource. The application includes a map entitled “Traverso Aggregate – Tax Lot Map and Impact Area” (**Figure 2, Application**) depicting the 1500-foot potential impact area. There is no information in the record which indicates there may be potential conflicts with existing and approved land uses beyond the proposed 1,500 foot impact area, which would warrant a larger buffer area. Therefore, Planning Staff finds that the 1,500 impact area is appropriate for the conflict analysis.

**This criterion is met.**

**2. OAR 660-023-0180(5)(b)** (“Step 3”): *The local government shall determine existing or approved land uses within the impact area that will be adversely affected by proposed mining operations and shall specify the predicted conflicts. For purposes of this section, “approved land uses” are dwellings allowed by a residential zone on existing platted lots and other uses for which conditional or final approvals have been granted by the local government.*

The “approved uses” within 1,500 feet from the boundaries of the mining area are identified in **Figure 2, Application**, and generally include the following: surface mining, rural industrial uses, residential (primarily in the city of Barlow) and a minimal amount of farming.

**This criterion is met.**

*(cont.)For determination of conflicts from proposed mining of a significant aggregate site, the local government shall limit its consideration to the following:*

a. **OAR 660-023-0180(5)(b)(A):** *Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges;*

1. **Noise:** The mining operation will generate noise from activities including removal of overburden, aggregate extraction and from vehicles and equipment. There is no “blasting” proposed at this site.

Pursuant to DEQ classifications, the subject property is a “previously unused industrial or commercial site,” because it has not been used by an industrial or commercial noise source in the 20 years prior to the commencement of mining operations on the Property. OAR 340-035-0015(47). As a result, the more restrictive of the following standards apply to the mine: (1) the maximum allowable noise levels for industrial and commercial noise sources set forth in Table 8 of OAR 340-035-0035, which are set for 1%, 10%, and 50% of an hour; or (2) the “ambient noise degradation” levels which require that any “new industrial or commercial noise source” on a “previously unused industrial or commercial site” cannot produce noise sufficient to cause existing ambient noise levels to increase by more than 10 decibels (“dB”) pursuant to OAR 340-035-0035(1)(b)(B).

The applicant has submitted a Noise Study to address noise impacts from the proposed mining operation. The Noise Study was completed by Acoustics by Design & Associates, Inc, and is dated September 15, 2017 (**Appendix D, Application**).

The noise study was conducted using the criteria in OAR 340-035-035 – Noise Control Regulations for Industry and Commerce. The study include a “worst case scenario” which evaluates potential noise assuming all the following equipment would be used on or near the site, operating simultaneously: crusher system, screening equipment; front-end loaders; on-site haul trucks, off-site dump trucks; and excavators. ABD selected eight representative locations of residences within the impact area for predicting future sound level estimates under this “worst case scenario”. It should be noted that the noise study did include consideration of processing on the subject site rather than the neighboring Canby Sand & Gravel site.

In completing this analysis, ABD proceeded through the following steps: (1) ABD measured existing ambient noise levels to determine which of the two DEQ standards would be more restrictive; (2) ABD predicted the loudest hourly statistical noise levels that could ever radiate from the mine to each of the noise-sensitive uses; and (3) ABD compared the predicted loudest hourly noise levels at each residence with the most restrictive DEQ standard. ABD completed its assessment utilizing industry-standard equipment and methodologies.

Based upon this analysis, ABD concluded as follows:

- a. Without mitigation measures, noise at as many as five of the receivers are predicted to exceed DEQ noise standards, “under the worst case”;
- b. The processing plant (if it is to locate on the subject) is the loudest source of noise, but in some instance the front-loader and excavator also exceed the noise limits;
- c. Noise mitigation is required for the processing plant, front-end loader and excavator;
- d. ABD identifies several mitigation measures and recommends noise deflection berms separating extraction areas from neighboring properties and bordering the processing plant to the west (if it is to locate on the site);
- e. With those mitigation measures in place, ABD predicts noise levels at all eight representative residential sites to fall under the maximum allowed DEQ limit;
- f. ABD further notes that the mitigation measures recommended and modeled do not include the effect to the screening berms that will be constructed along the southern, western, and northern boundaries, as proposed by the applicant; and that construction of those berms could result in even lower levels of noise than shown in their analysis.

Because noise is regulated by a State DEQ standard, any conflicts or impacts from noise generated from the mining area are deemed to be “minimized” if the applicable DEQ standard can be met. The Noise Study provides substantial evidence demonstrating the proposed mining operation, with mitigation measures, can satisfy the State of Oregon DEQ Noise Standards. There is no evidence to the contrary.

2. Dust: Dust will be potentially be generated from all aspects of the mining and processing operation, including overburden and aggregate extraction, berm building, processing, on and off-site truck and equipment movement.

The applicant states that the mining plan for the site includes excavation into the water table and no dewatering will occur. *By "mining in the wet", the sand and gravel are excavated from the water, thereby having a high moisture content. This form of mining, versus "dry mining or dewatering a site", allows for a reduction of dust generation.*

To address other potential dust generating activities, the applicant proposes to employ dust mitigation measures on the subject site – many of which are recommended measures in the DOGAMI Best Management Practices guidelines, including:

- a. Watering onsite haul roads, conveyors, as necessary, and staging areas;
- b. Installing water sprays at the aggregate processing plant if it is located on the Site.
- c. Stockpiling topsoil onsite for future reclamation purpose in mounds not exceed eight (8) feet in height and will be located a minimum of 500 feet from neighboring properties to reduce wind erosion affecting those properties;

- d. Maintaining the truck wheel wash that currently exists near the exit driveway connecting to S. Highway. All trucks exiting the site are required to use the facility as a preventative dust control and potential mud tracking measure.
- e. Installing 5 MPH speed limit for onsite truck traffic on all interior haul roads; and Obtaining all necessary DEQ permits prior to initiation of processing on site (if it is to occur).

C. Other Potential Discharges: The final potential conflict that the County must consider under this conflict category is “other discharges.” Other potential discharges at the site include: (1) diesel engine emissions from on-site mobile equipment and vehicle travel; (2) discharges into the groundwater; (3) stormwater; and (4) combustion byproduct emissions from use of explosives during blasting operations.

- (1) Diesel: Use of mining equipment and vehicles will generate diesel engine exhaust, which contains pollutants such as nitrogen oxides, carbon monoxide, sulfur dioxide, and particulate matter. The release of diesel emissions could, if not minimized, create potential conflicts with residential uses in the Impact Area.

In order to mitigate, control, and limit these criteria pollutants from diesel engines in operation at the project site, the following actions and preventative measures will be implemented.

- On-site idle time will be limited to no more than three minutes.
- The majority (on a combined total horsepower basis) of diesel engines on site will meet Federal Tier 3 off Road Engine Standards. Equipment can either be used that meet these existing standards, or additional abatement measures can be undertaken on existing equipment.
- Adherence to DEQ and EPA standards.

- (2) Groundwater: The applicant retained the professional services of H.G. Schlicker & Associates (“HGS”) for the purpose of providing a study reflecting groundwater conditions on the Site. The resulting study, *Hydrogeologic Analysis, Traverso Aggregate Expansion Property*, H.G. Schlicker & Associates, Inc. (**Appendix B, Application**) notes that “of particular interest is avoidance of potential impacts to groundwater levels on the city of Barlow municipal water supply we located approximately 400 feet north of the proposed mine property and approximately 900 feet from the nearest proposed mining”.

H.G. Schlicker and Associates has analyzed potential effects on groundwater from the operations at the proposed Extraction Area. The study indicates that with proper mining management and mining cell configuration, there will be no adverse effect on the groundwater in this area. More specifically:

- a. The City of Barlow well draws from an aquifer zone below the maximum planned mining depth on the proposed site and that the well appears to be substantially isolated from the upper materials that are to be mined by less permeable clays and tight gravels.

- b. Three monitoring wells were installed on the subject site in late July/early August 2017.
- c. Mining has been ongoing in this area for more than 70 years, including dewatering or extraction cells for more than 40 years, with no reported adverse effects on the groundwater.
- d. The mining plan at proposed site includes three cells that will be mined wet (no dewatering), which will result in a condition of no loss of groundwater and maintain existing groundwater levels for use by wells.

Planning Staff concurs with these findings in the HGS study, as summarized on **pages 23 to 24, Application** and adopts recommended conditions of approval from the study.

(3) Stormwater: As explained in the *Stormwater Analysis* dated September 2017 (**Appendix C, Application**), and prepared by Westlake Consultants, Inc. (“Westlake”), the mining plan has been developed to minimize harmful effects of stormwater runoff. This study further concludes that:

- a. Based on existing contours, the majority of the site area is characterized by gradual slopes from the east, thus there is no substantial runoff from the mining area into the Molalla River (located to the east).
- b. The applicant will develop and implement a stormwater control plan in accordance with DOGAMI regulations and Best Management Practices for erosion and sediment control. As explained in Westlake’s report, the applicant has designed the project such that there will be no off-site stormwater point discharge from the property. In short, there will be no stormwater flowing from the property directly to off-site locations. Based upon this expert testimony, the County can find that there will be no conflicts with approved uses in the Impact Area due to stormwater discharges.

Because there are no identified conflicts associated with off-site stormwater discharges, the staff finds that it is not required to identify measures that would minimize such conflicts.

(4) Blasting: There will be no blasting at the subject site and therefore no byproduct emissions from use of explosives.

**This criterion is met.**

- b. **OAR 660-023-0180(5)(b)(B):** *Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. Conflicts shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the*

*transportation plan and implementing ordinances. Such standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials;*

This criterion requires an analysis of “Potential conflicts to local roads. ....” Two relevant legal opinions have been issued by the LUBA in regards to this criterion. The first opinion interpreted the word "local" to mean the classification of the road (i.e. local, collector, arterial, etc.), and not a geographical area. Under that opinion, conflicts with the transportation system could not be evaluated if the development takes access to a road classified something other than "local." A subsequent LUBA case found that although that is a correct interpretation of the language, the County is required to consider Goal 12 of the Statewide Planning Goals. The purpose of Goal 12 is "To provide and encourage a safe, convenient and economic transportation system." Therefore, the adequacy of the transportation system as a whole can be evaluated to ensure it is safe and adequate to accommodate the traffic impacts from the proposed mining operation.

The subject site has direct access to Highway 99E, via adjacent property owner and operated by the applicant. The project traffic engineer, Sandow Engineering, LLC (“Sandow”), completed an analysis of existing conditions, projected transportation impacts of the proposed mine, and applicable standards as set forth in the Transportation Impact Analysis (TA). (**Appendix E, Application**)

The findings addressing Statewide Planning Goal 12 – Transportation and Section 1202 of the ZDO (Zone Change criteria) address the adequacy of the transportation system including relevant site distance standards, road capacity and safety. Those findings demonstrate the road system is safe and adequate to accommodate the anticipated amount of traffic and type of truck traffic associated with the existing mining area and proposed expansion area. Those findings are adopted to address these criteria and demonstrate there are no significant conflicts to the local transportation system.

**This criterion is met.**

**c. OAR 660-023-0180(5)(b)(C):** *Safety conflicts with existing public airports due to bird attractants, i.e., open water impoundments as specified under OAR Chapter 660, Division 013;*

There are no public airports located in the 1,500 buffer area. The closest public airport is the Aurora Airport which is over 2 miles (approximately 12,000 feet) to the west. The subject property is located outside of the “Approach Corridor” and the “Conical Surface” but within the “Horizontal Surface” of this airport. This airport is considered an Instrument Approach airport. The proposed post mining use for this property includes ponds (water impoundment) for fish and wildlife habitat. OAR 660, Division 13 regulates Airport Planning. OAR 660-013-0080 identifies land use compatibility requirements for public use airports. OAR 660-013-0080(1)(f) requires the local government to regulate

water impoundments of one-quarter acre or larger consistent with the requirements of ORS 836.623(2) through (6).

ORS 836.623(2)(a) prohibits new water impoundments of one-quarter acre or larger within an Approach Corridor and within 5,000 feet from the end of a runway, or on land owned by the airport or airport sponsor where the land is necessary for airport operations. The subject property is not located within an Approach Corridor or within 5,000 feet of the end of the runway.

ORS 836.632(2)(b) allows the local government to adopt regulations that limit the establishment of new water impoundments of one-quarter acre or larger for areas outside a Approach Corridor and within 5,000 feet of a runway if the local government adopts findings that the water impoundment is likely to result in a significant increase in the hazardous movements of birds across the runway or Approach Corridor. The subject property is not located within 5,000 feet of a runway.

ORS 836.632(2)(c) allows the local government to adopt regulations that limit the establishment of new water impoundments of one-quarter acre or larger between 5,000 feet and 10,000 feet of a runway outside and Approach Corridor and between 5,000 feet and 40,000 feet within an Approach Corridor for an airport with an instrument approach only where the local government adopts findings that the water impoundment is likely to result in a significant increase in hazardous movements of birds across the runways or approach corridor. The Aurora Airport is an Instrument Approach airport and the subject property is located within 40,000 feet of the approach corridor. Therefore the County has the authority to regulate the proposed post mining use (water impoundment) if it determines the use will result in a significant increase in the hazardous movement of birds across the runway or Approach Corridor of the airport. Both the Aurora Airport and Oregon Department of Aviation were sent notice of this application.

The proposed mining operation and post mining use is consistent with OAR 660, Division 13 and ORS 836.623(2) through (6) because no water impoundments will be created within 5,000 feet of an Approach Corridor or runway. No comments have been received from the airport owner, the Oregon Department of Aviation or any other interested parties indicating the proposed post mining use would result in a significant increase in the hazardous movement of birds across the runway or approach corridor of the Aurora Airport. Therefore the proposed mining operation will not create any conflicts with this existing public airport.

**This criterion is met.**

**d. OAR 660-023-0180(5)(b)(D):** *Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;*

1. There are three (3) Goal 5 resources located within the “buffer” area: the adjacent

mining sites, Historic Barlow House, and the Molalla River corridor.

a. Mineral and Aggregate Sites (MAOs): The adjacent properties to the west and south contain approximately 340 acres that are designated as significant Goal 5 Mineral and Aggregate Resource sites in the Mineral and Aggregate Section of the Comprehensive Plan. The application does not include any findings addressing this Goal 5 resource. The Planning Staff finds that mining of the proposed site will not conflict with the existing Significant Mineral and Aggregate Resources because they are the same type of Goal 5 resource that consist of similar types of operations and self-generated aggregate mining conflicts and there is no evidence to that a mining use conflicts with a mining use.

b. Historic Barlow House: This Goal 5 resource is located to the north of the subject property on Hwy. 99E and is surrounded on three sides by the subject property. The property is zoned EFU / HL (Historic Resource Overlay). The historic resource includes the dwelling and an accessory structure. Planning Staff finds mining of the proposed expansion area will not conflict with this Historic Resource for the following reasons:

1. The conflict analysis addressing noise and dust demonstrates the mining of the proposed expansion area will not generate any significant conflicts outside the buffer area. The noise study, specifically found that with mitigation measures in place, the impacts to this dwelling would not be significant.
2. No blasting or other activities which generate significant vibrations will occur in the mining area which would result in structural damage to the dwelling.
3. The applicant is proposing to provide a roughly 8-acre buffer around this residence, including berms and native trees and vegetation.

### 3. Molalla River Corridor

The subject property is located adjacent to the Molalla River. However, no new extraction or disturbance is proposed in this area – it is completely within the area of the previously-approved extraction site which is currently completing reclamation (“Wilmes” site). Areas to be mined are screened and cannot be seen from the river and as noted previously, the upland area where mining is proposed sloped away from the river, providing natural drainage away from river.

Planning Staff agrees with applicant’s findings that the proposed use would not conflict with Molalla River Corridor; the natural setting of the Molalla River will not be disturbed by the proposed use.

Nonetheless, the applicant proposes measures to minimize any potential conflict with the Molalla River Corridor, as listed on pages **31-32, Application**, and include such measures as maintaining a 200-foot buffer between the mining site and the river; fencing the Extraction Area boundary along the buffer area; planting trees within the buffer; and not using chemicals, fertilizers or pesticides at the extraction site.

**This criterion is met.**

e. **OAR 660-023-0180(5)(b)(E)**: *Conflicts with agricultural practices; and*

OAR 660-23-180(4)(c) requires ORS 215.296 to be followed when determining if conflicts to agricultural practices exist, and/or if they can be minimized. ORS 215.296 requires the local government to find the proposed use will not: 1) force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and 2) significantly increase the cost of accepted farm and forest practices on surrounding lands devoted to farm or forest uses.

The existing agricultural uses within the 1,500 foot impact area are minimal and are identified in the aerial photo in **Figure 2, Application**.

The Planning Staff concludes that, due to the limited nature and small scale of existing agricultural practices, the relative lack of proximity to the mining operation, and the various measures that will minimize project conflicts; e.g. noise, dust, other issues noted, to a level that is insignificant, the project will not force a significant change in or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. Therefore, there will be no conflicts between the project and agricultural practices within the Impact Area.

**This criterion is met.**

f. **OAR 660-023-0180(5)(b)(F)**: *Other conflicts for which consideration is necessary in order to carry out ordinances that supersede Oregon Department of Geology and Mineral Industries (DOGAMI) regulations pursuant to ORS 517.780;*

The County has not adopted any ordinances that supersede the Oregon DOGAMI regulating mining activities pursuant to ORS 517.780.

**This criterion is not applicable.**

3. **OAR 660-023-0180(5)(c)** (“Step 4”): *The local government shall determine reasonable and practicable measures that would minimize the conflicts identified under subsection (b) of this section. To determine whether proposed measures would minimize conflicts to agricultural practices, the requirements of ORS 215.296 shall be followed rather than the requirements of this section. If reasonable and practicable measures are identified to minimize all identified conflicts, mining shall be allowed at the site and subsection (d) of this section is not applicable. If identified conflicts cannot be minimized, subsection (d) of this section applies.*

The conflicts associated with the proposed expansion area are identified and addressed above in OAR 660-023-0180(5)(b). Based on this analysis, the all the identified conflicts, including the off-site noise impacts can be minimized with reasonable and practicable conditions, such as clearly identified setbacks and buffers, normal and customary mining processes, and compliance with applicable state standards. Therefore mining should be allowed at the subject site, and Subsection (d) of this Section is not applicable (i.e. an

ESEE Analysis is not required). The reasonable and practical measures necessary to minimizing conflicts are identified in the **Application (pages 16-18)** and included in recommended conditions of approval (SECTION 4).

**This criterion is met.**

4. **OAR 660-023-0180(5)(d)** (“Step 5”): *The local government shall determine any significant conflicts identified under the requirements of subsection (c) of this section that cannot be minimized. Based on these conflicts only, local government shall determine the ESEE consequences of either allowing, limiting, or not allowing mining at the site. Local governments shall reach this decision by weighing these ESEE consequences, with consideration of the following:*

a. OAR 660-023-0180(5)(d)(A): *The degree of adverse effect on existing land uses within the impact area;*

b. OAR 660-023-0180(5)(d)(B): *Reasonable and practicable measures that could be taken to reduce the identified adverse effects; and*

OAR 660-023-0180(5)(d)(C): *The probable duration of the mining operation and the proposed post-mining use of the site.*

Based on the findings in OAR 660-023-0180(5)(b) all the identified conflicts can be minimized with reasonable and practical measures and conditions. Therefore, an ESEE analysis is not required.

**This criterion is not applicable.**

5. OAR 660-023-0180(5)(e): *Where mining is allowed, the plan and implementing ordinances shall be amended to allow such mining. Any required measures to minimize conflicts, including special conditions and procedures regulating mining, shall be clear and objective. Additional land use review (e.g., site plan review), if required by the local government, shall not exceed the minimum review necessary to assure compliance with these requirements and shall not provide opportunities to deny mining for reasons unrelated to these requirements, or to attach additional approval requirements, except with regard to mining or processing activities:*

a. OAR 660-023-0180(5)(e)(A): *For which the PAPA application does not provide information sufficient to determine clear and objective measures to resolve identified conflicts;*

b. OAR 660-023-0180(5)(e)(B): *Not requested in the PAPA application; or*

c. OAR 660-023-0180(5)(e)(C): *For which a significant change to the type, location, or duration of the activity shown on the PAPA application is proposed by the operator.*

1. Pursuant to the findings in OAR 660-023-0180(5)(c) the staff has found that mining should be allowed on the property. The measures to minimize conflicts are identified in

the Application Narrative and the proposed and recommended conditions of approval. Noise conflicts do extend off the property, but meet DEQ standards at the nearest residential uses as determined by the Daly-Standlee *Noise Study*.

2. The recommended conditions of approval are clear and objective standards. Pursuant to Section 708 of the ZDO additional land use review of this proposal is required through a Mineral and Aggregate Operating Site Plan Review permit to ensure the site specific program and conditions are met prior to mining. The applicant has submitted an MAO Site Plan Review application concurrently with the Plan text and Zoning map change requests. That application will be reviewed later in this report.

**This criterion can be met.**

6. OAR 660-023-0180(5)(f): *Where mining is allowed, the local government shall determine the post-mining use and provide for this use in the comprehensive plan and land use regulations. For significant aggregate sites on Class I, II and Unique farmland, local governments shall adopt plan and land use regulations to limit post-mining use to farm uses under ORS 215.203, uses listed under ORS 215.213(1) or 215.283(1), and fish and wildlife habitat uses, including wetland mitigation banking. Local governments shall coordinate with DOGAMI regarding the regulation and reclamation of mineral and aggregate sites, except where exempt under ORS 517.780.*

The subject property is not located on Class I Soils, but does primarily contain Class II Soils. Therefore the post-mining use is specifically limited to uses listed under ORS 215.283(1) and fish and wildlife habitat uses. The applicant has proposed a post mining use for the proposed expansion area to include fish and wildlife habitat. This is an allowed use under this criterion and in the underlying EFU zoning district and is an appropriate use because it is the same post mining use authorized on the existing mining operation on the adjacent property.

A condition of approval will require coordination between Clackamas County and DOGAMI regarding final reclamation plans and activities for this mining site.

**This criterion is met.**

7. OAR 660-023-0180(5)(g): *Local governments shall allow a currently approved aggregate processing operation at an existing site to process material from a new or expansion site without requiring a reauthorization of the existing processing operation unless limits on such processing were established at the time it was approved by the local government.*

The processing will occur either onsite or on a neighboring property with a legally established non-conforming use.

**This criterion is not applicable.**

---

**PART 7. OREGON ADMINISTRATIVE RULE 660-023-0180(7) – Determination to Allow, Limit, or Prevent Conflicting Use within the Impact Area.**

OAR 660-023-0180(7): *Except for aggregate resource sites determined to be significant under section (4) of this rule, local governments shall follow the standard ESEE process in OAR 660-023-0040 and 660-023-0050 to determine whether to allow, limit, or prevent new conflicting uses within the impact area of a significant mineral and aggregate site. (This requirement does not apply if, under section (5) of this rule, the local government decides that mining will not be authorized at the site.)*

The Mineral Aggregate Overlay (MAO) zoning district is the tool within the Clackamas County Comprehensive Plan used to identify an “impact area” and to protect a significant mineral and aggregate site from conflicting uses.

Based on the findings in OAR 660-023-0180(3), the proposed site qualifies as a “Significant Mineral and Aggregate Site.” Therefore the Mineral Aggregate Overlay zoning district should be applied to protect the site from conflicting uses. Based on the conflict analysis in OAR 660-023-0180(5) all the conflicts associated with the proposed expansion area are minimized with the proposed and conditioned mitigation measures implemented. Therefore, the MAO zoning district should reflect only the area included in the subject properties.

Planning Staff finds that reliance upon the development standards set forth in Section 708.08 of the ZDO is sufficient to protect the significant mineral and aggregate resource from conflicting uses and will recommend that the MAO overlay district boundary encompass only the subject properties.

New residential units shall also be prohibited within the MAO zoning district (the subject properties) because such a use would cause the mining operation to violate DEQ Noise Standards. This will ensure that there are no conflicting uses within the impact area of this significant mineral and aggregate site. As a result an ESEE analysis to determine whether to allow, limit or prevent new conflicting uses within the impact area is not required.

---

**PART 8. OREGON ADMINISTRATIVE RULE 660-023-0180(8) – Determination of a Complete and Adequate Application.**

A. OAR 660-023-0180(8): *In order to determine whether information in a PAPA submittal concerning an aggregate site is adequate, local government shall follow the requirements of this section rather than OAR 660-023-0030(3). An application for approval of an aggregate site following sections (4) and (6) of this rule shall be adequate if it provides sufficient information to determine whether the requirements in those sections are satisfied. An application for a PAPA concerning a significant aggregate site following sections (3) and (5) of this rule shall be adequate if it includes:*

1. OAR 660-023-0180(a): *Information regarding quantity, quality, and location sufficient to determine whether the standards and conditions in section (3) of this rule are satisfied;*

The narrative of the application contains narrative summarizing the findings of the *Aggregate Resource Evaluation and Goal 5 Significance Determination for the Traverso Aggregate Expansion Property*, completed by Kuper Consulting LLC dated September 26, 2017. The full report is found in **Appendix A** of the **Application**. SECTION 1, Part 5 of this report specifically addresses the standards regarding the quantity, quality and location of the resource as required in OAR 660-23-180(3). Those findings demonstrate the information in the report is adequate to determine the location, quantity and quality of the aggregate resource on the subject property.

**This submittal standard is met.**

2. OAR 660-023-0180(b): *A conceptual site reclamation plan;* (Final approval of reclamation plans resides with DOGAMI rather than local governments, except as provided in ORS 517.780)

A conceptual reclamation plan has been submitted in the **Application** and illustrated in **Figures 8, 12, 13 and 14**. The proposed reclamation use is fish and wildlife habitat.

**This submittal standard is met.**

3. OAR 660-023-0180(c): *A traffic impact assessment within one mile of the entrance to the mining area pursuant to section (5)(b)(B) of this rule;*

The narrative of the application titled “Transportation” includes a traffic analysis completed by Sandow Engineering , dated September 29, 2017 (**Appendix E, Application**). Section (5)(b)(B) of this rule requires an analysis of local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan.

The submitted traffic information provides an analysis of the closest intersections impacted by the proposed mining site. No other roads or intersections within a one mile radius will be significantly impacted and therefore an analysis of other roads or intersections within one mile is not required.

**This submittal standard is met.**

4. OAR 660-023-0180(d): *Proposals to minimize any conflicts with existing uses preliminarily identified by the applicant within a 1,500 foot impact area; and*

The location of conflicts within the 1,500 buffer area is identified in the ABD *Noise Study* in **Appendix D, Application**. A land use conflict analysis is provided in the narrative of the **Application**. This analysis includes an evaluation of conflicts with existing uses identified by the applicant and identified subject experts. The evaluation includes impacts from noise, dust and impacts or conflicts with groundwater resources, wetlands, storm water, roads, other Goal 5 resources and agricultural land and practices.

Proposed mitigation and other measures to reduce or minimize potential conflicts are discussed in the Narrative and proposed conditions of approval throughout the application materials.

**This submittal standard is met.**

5. OAR 660-023-0180(e): *A site plan indicating the location, hours of operation, and other pertinent information for all proposed mining and associated uses.*

The section of the application titled “Mine Plan” includes a general site plan of the existing and proposed mining site. The application also includes other maps and aerial photos of the existing and proposed mining site which identify existing mined areas, the access road to the existing site, location of processing areas, monitoring wells, proposed landscape berms and other features. The application also includes substantial information addressing hours of operation, mining activities, types of equipment, proposed berms and landscaping and other pertinent operational characteristics regarding the existing and proposed mining activities.

**This submittal standard is met.**

---

**PART 9. SUMMARY OF FINDINGS AND CONCLUSIONS ON THE PAPA**

Parts 1-8 of this report outline and addresses all the policies, standards and criteria found to be applicable to this proposal in the Statewide Planning Goals, County Comprehensive Plan and Oregon Administrative Rules. In consideration of the findings in Parts 1-8, the Planning Staff finds that this proposal should be approved for the following reasons:

- A. This proposal is consistent with the Statewide Planning Goals 1 - 3, 5, 6 - 9 and 11 - 13. Statewide Goals 4, 10, 14 - 19 are not applicable.
  
  - B. This proposal is consistent with the general policies in Chapters 2 - 5, 7 - 9 and 11 in the Clackamas County Comprehensive Plan. Chapters 1, 6 and 10 are not applicable.
  
  - C. The adequacy and safety of the transportation system is subject to the Statewide Planning Goal 12 and a number of Comprehensive Plan policies. The findings in this report demonstrate compliance with the Statewide Planning Goal 12 – Transportation, the implementing Transportation Planning Rule in OAR 66-012 and Roadway Policies in Chapter 5 of the Comprehensive Plan. Therefore, the affected State and County transportation facilities are adequate.
  
  - D. This proposal complies with OAR 660-023. Specifically:
    - 1. The findings in SECTION 1, Part 8 demonstrate the PAPA application is complete.
    - 2. The findings in SECTION 1, Part 4 demonstrate the application has been processed in compliance with the minimum notice and landowner involvement requirements.
    - 3. The findings in SECTION 1, Part 5 demonstrate the mining site is “Significant” because it includes more than 2,000,000 tons of usable aggregate which meets ODOT’s specifications for base rock and (depth) the property is not located on more than 35% Class I, II or unique soils.
    - 4. The findings in SECTION 1, Part 6 demonstrate all the potential conflicts associated with mining can be minimized subject to reasonable and practical measures, therefore mining of the site should be allowed.
    - 5. The findings in SECTION 1, Part 7 demonstrate that no conflicting uses are located within the impact area, which has been determined to be the same as the subject properties.
  
  - E. The post mining use is fish and wildlife habitat which is an allowed use in the underlying EFU zoning district.
-

**SECTION 2- ZONE CHANGE TO APPLY MINERAL AGGREGATE  
OVERLAY ZONING DISTRICT (MAO) (Z0570-17-Z)**

**PART 1. COMPLIANCE WITH SECTION 1202 OF THE ZDO**

A. The zone change criteria are listed in Section 1202 of the Clackamas County Zoning and Development Ordinance (ZDO). Section 1202.01 states that the Hearings Officer shall allow a zone change, after a hearing conducted pursuant to Section 1300, if the applicant provides evidence substantiating the following criteria:

1. Section 1202.01A: *Approval of the zone change is consistent with the Comprehensive Plan.*

Based on the findings in Section 1 of this report, the PAPA application is consistent with the Clackamas County Comprehensive Plan and the proposed expansion site qualifies as a “Significant” Mineral and Aggregate. The findings addressing the applicable Goal 5 requirements in OAR 660-023-0180 demonstrate mining should be allowed on the property. The proposed MAO zoning district implements the requirements of “Significant” Mineral and Aggregate sites where mining should be allowed. Therefore, application of the MAO zoning district to the subject properties is consistent with the Comprehensive Plan.

**This criterion is met.**

2. Section 1202.01B: *If development has a need for public sanitary sewer, surface water management and/or water service, a zone change may be approved if development under the new zoning designation can be accommodated with the implementation of service providers' existing capital improvement plans. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered.*

The subject properties are not located in a public sewer, surface water or water district, nor is the extension of these services proposed or necessary to support the proposed mining operation.

**This criterion is not applicable.**

3. Section 1202.01C: *The transportation system is adequate, as defined in Subsection 1022.07(B) and will remain adequate with approval of the zone change. Transportation facilities that are under the jurisdiction of the State of Oregon are exempt from this subsection. For the purpose of this criterion:*

a) Section 1202.01C(1): *The evaluation of transportation system adequacy shall include both the impact of the proposed zone change and growth in background traffic for a twenty-year period beginning with the year that a complete land use application is submitted.*

b) Section 1202.01C(2): *It shall be assumed that all improvements identified in the Clackamas County 20-Year Capital Improvement Plan, the Statewide Transportation Improvement Plan, and the capital improvement plans of other local jurisdictions are constructed.*

c) Section 1202.01C(3): *It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.*

d) Section 1202.01C(4): *Transportation facility capacity shall be calculated pursuant to Subsection 1022.07(C).*

e) Section 1202.01C(5): *A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.*

The adequacy of the transportation system has been addressed under the discussion of Statewide Planning Goal 12 and the implementing Transportation Planning Rule. Those findings demonstrate the County transportation facilities are adequate to accommodate the proposed zone change. Those findings are adopted by reference to address this criterion.

**This criterion is met.**

4. Section 1202.01D: *The proposal, as it relates to transportation facilities under the jurisdiction of the State of Oregon, complies with the Oregon Highway Plan.*

The adequacy of the State transportation system has been addressed under the discussion of Statewide Planning Goal 12 and the implementing Transportation Planning Rule. Those findings are adopted by reference to address this criterion. Those findings demonstrate this proposal will have no significant effect on the State transportation facilities; ODOT concurs with this finding (see Exhibit 2)

**This criterion is met.**

5. Section 1202.01E: *Safety of the transportation system is adequate to serve the level of development anticipated by the zone change.*

The Planning staff has concluded that the safety of the transportation system is adequate to serve the level of development anticipated by the zone change. This conclusion is adopted as part of this report by reference therein and demonstrate the affected County road system is safe to accommodate traffic from the proposed expansion area. ODOT has not raised or identified any safety issues at the Hwy. 99E / Barlow Road intersection.

No access is proposed from the subject properties onto S Barlow Rd or any other

county road.

**This criterion is met.**

## **PART 2. SUMMARY OF ZONE CHANGE CRITERIA**

This application satisfies the applicable criteria in ZDO Section 1202.

---

## **SECTION 3: SITE PLAN REVIEW APPLICATION (FILE NO. Z0570-17-MAO)**

### **PART 1. COMPLIANCE WITH SECTIONS 708, 1006, AND 1010 OF THE ZDO**

If the PAPA (Z0568-17-CP) and MAO Overlay District (Z0570-17-Z) applications are approved, the applicant also seeks Site Plan Review approval for an aggregate mining operation on the subject properties, to include an extraction area and potential processing area on an approximately 79-acre portion of the property, as identified in the “mining plan” (**Figure 5, Application**).

This request is subject to the standards set forth in Section 708 of the County Zoning and Development Ordinance (ZDO).

Section 708.02, Definitions, contains the definitions of terms applicable to this request.

Section 708.04: This subsection identifies the specific uses which may be allowed in the mining Extraction Area.

1. Section 708.04A(1) lists mining as a permitted use in the Extraction Area.
  - a. The proposed Extraction Area is the approximately 79-acre portion of the property located northwest of the existing “Wilmes site”, as identified in **Figure 5 Application**.
  - b. None of the “Wilmes site: area will be utilized for extraction or processing activities, but will be used to provide access to the Extraction Area.
  - c. Mining will occur within the proposed Extraction Area boundary. Processing may occur with the proposed Extraction Area boundary or will occur on the adjacent “Canby Sand & Gravel site”.
2. Section 708.04A(2) lists processing, except the batching or blending of mineral and aggregate materials into asphalt concrete within two miles of a commercial vineyard existing on the date the application was received for the asphalt batch plant.
  - a. Processing of aggregate by crushing and screening is proposed within the Extraction Area. An asphalt batch plant is not proposed with this request.

3. Section 708.04A(3) lists Stockpiling of mineral and aggregate materials extracted and processed onsite as a permitted use in the Extraction Area.
  - a. Stockpiling of mineral and aggregate materials is proposed within the extraction area. Proposed stockpile locations (approximate) are described in the narrative of the application.
4. Section 708.04A(4) lists temporary offices, shops or other accessory structures used for the management and maintenance of onsite mining and processing equipment as a permitted use in the Extraction Area.
  - a. A temporary office, parking and scale area is proposed within the Extraction Area, within the area identified as the processing area and is shown on **Figure 16, Application**. At this time, no other accessory structures are proposed.
5. Section 708.04A(5) lists the sale of mining products extracted and processed onsite as a permitted use in the Extraction Area.
  - a. The sale of mining products extracted and processed onsite is not proposed within the Extraction Area.
6. Section 708.04A(6) lists storage of transportation equipment or machinery used in conjunction with onsite mining or processing as a permitted use in the Extraction Area.
  - a. The Extraction Area will be used to store equipment used in conjunction with the onsite mining. This equipment will generally include, but not be limited to a portable conveyor system, hydraulic excavator and front end loader. The applicant states that all other equipment such as dump trucks, service vehicles, water trucks will be stored at the existing Canby Sand and Gravel equipment storage facility on the adjacent property.
7. Section 708.04A(7) lists other activities including buildings and structures necessary and accessory to development or reclamation of the onsite mineral or aggregate resource as a permitted use in the Extraction Area.
  - a. The uses proposed in the Extraction Area are limited to mining and possibly processing, a management office, an associated scale, temporary stockpiling of material, as well as the use and storage of some of the equipment for the purpose of mining and processing.
8. Section 708.04B states that the County may permit other uses allowed by the underlying zone subject to requirements of the underlying zone and requirements of this section for protection of significant mineral and aggregate sites within the Extraction Area.

- a. No other uses are proposed within the Extraction Area at this time.

**These criteria are met.**

E. Section 708.05 contains the Extraction Area Development Standards. The following standards are the basis for regulating mining and processing activities in the Mineral and Aggregate Overlay District. Requirements adopted as part of the Comprehensive Plan also apply to mining and processing activities in the overlay. Before beginning any mining or processing activity, the applicant shall show compliance with these standards and requirements adopted as part of the Comprehensive Plan program.

- a. Section 708.05A: Access. *Onsite roads used in mining and processing, and access roads from the Extraction Area to a public road shall meet the following standards:*
  1. *All access roads within 100 feet of a paved county road or state highway shall be paved, oiled or watered.*

Applicant states that

*The subject site will not require new access/egress locations. The existing ODOT permitted driveways connecting to S. Highway 99E will be utilized for access purposes. The ODOT permits are identified as Permit No. 53617 and Permit No. 53618.*

*The driveways are paved for a distance of approximately three hundred (300) feet and are washed on a daily basis as a dust control measure. Connecting gravel roads leading to the processing facility and extraction site areas are graveled, well maintained and watered for dust control. A truck wheel wash is located approximately two hundred (200) feet south of the exit driveway connecting to S. Highway 99E. Trucks are required to use the facility prior to leaving the site.*

*Additionally, the paved shoulder of the east bound traffic lane on S. Highway 99E is washed on a daily basis which provides as a dust control measure.*

**This criterion is met.**

2. *All roads in the Extraction Area shall be constructed and maintained to ensure compliance with applicable state standards for noise control and ambient air quality.*

The Acoustic by Design (ABD) *Noise Study* report (September 15, 2017) has analyzed site operations to account for the loudest potential noise sources anticipated within the operation. Conditions have been proposed within that report designed to mitigate for those loudest potential sources. The report concludes, "If mitigation measures such as

those discussed in this report are included as part of the mining plan, the noise associated with the excavation operations in the proposed Traverso Site will be in compliance with DEQ noise regulations at all residences.”

The recommendations from the noise study have been incorporated into the proposed mining plan. *A list of measures and methods incorporated in the Mining Plan operations are as follows:*

*(a) Onsite haul roads will be elevated, graded, graveled, ditched (where necessary) and maintained.*

*(b) Operations at the site will include the watering of haul roads and staging areas. This mitigation method ensures that dust emissions are reduced to minimal levels.*

*(c) Onsite haul roads will not be constructed within two hundred fifty (250) feet of a neighboring residence. This measure ensures that dust emissions will not be generated.*

Conditions of approval, including a condition requiring compliance with recommendations in the ABD noise study, can ensure that roads in the extraction area will be constructed and maintained for ambient air quality purposes.

**This criterion is met.**

3. *All roads in the Extraction Area shall be paved at all points within 250 feet of a noise or dust sensitive use existing on February 22, 1996.*

No roads are proposed by the applicant within 250 feet of the two noise and dust sensitive areas adjacent to the subject – the Barlow House and the Hanes residence (adjacent to the southwest corner of the in the southwest corner of the site). The proposed berms and screening from those homes ensure that and internal haul roads will necessarily be farther than 250 feet of those homes. If in the future, any roads internal to the Extraction Area are constructed within 250 feet of these uses, those roads would be paved.

**This criterion is met.**

- b. Section 708.05B requires screening of the mining activities.

1. *The mining activities listed in Subsection (B)(2) of this Section shall be obscured from the view of screened uses, unless one of the exceptions in Subsection (B)(4) applies. Screening shall be accomplished in a manner consistent with Subsection (B)(3).*

Several levels of screening have been identified and/or are proposed around the perimeter of the proposed Traverso Aggregate Site, as identified in **Figures 5, 9, 10 and 11, Application**. No exception under Subsection (B)(4) applies to the subject site.

The proposed screening of the extraction site will include the construction of new screening and noise control berms around a large portion of the extraction site. There are presently two (2) existing screening berms in place (located near the intersection of S.

Tull Ave and China Ave.) that will be incorporated into the overall screening of the extraction site.

The new screening berms are separated into three (3) identified locations around portions of the extraction site. The locations and construction details are as follows:

99E, Tull Avenue, Barlow House property, S Tull Avenue to S. Barlow Road Screening Berm:

Berm will extend from the existing berm located at the intersection of S. Tull Avenue and S. China Avenue and travel in a westerly direction, a distance of approximately fifteen hundred (1,500) feet to the berm located adjacent to S. Barlow Rd. Construction details for the berm are listed below:

Length – Approximately 1,500 Feet

Height – 8 Feet

Base width – 42 Feet

Top of berm width – 10 Feet

Slope – 2:1

Vegetation: Perennial Rye Grass and Douglas Fir Trees

The area to the north of the referenced berm will be developed into approximate eight (8) acre buffer zones and planted with Oregon White Oak and Willamette Valley Ponderosa Pine trees, which will provide for a more than adequate screening of the extraction site from the Barlow House property, S. Hwy. 99E, and S. Tull Ave.

S. Barlow Road Screening:

The S. Highway 99E, Tull Avenue, Barlow House property screening berm will connect to a new berm in the immediate proximity of S. Barlow Road and Highway 99E. The screening berm will be part of a fifty (50) foot setback area adjacent to S. Barlow Road. The dimensions and length of the S. Barlow Road screening berm are as follows:

Length – Approximately 1,050 Feet

Height – 6 Feet Base

Base width – 34 Feet

Top of berm width – 10 Feet

Slope – 2:1

Vegetation: Perennial Rye Grass, Douglas Fir, Sequoia Trees

Hanes-Cadman Property Line Screening Berm:

This screening berm will connect to the south end of the berm constructed along S. Barlow Road. The berm will extend from this point (Barlow Road) and extend east approximately twenty-eight hundred (2,800) feet ending at the southeast boundary of the extraction site. The dimensions and distances of the berm are listed below:

Total Distance – Approximately 2,800 Feet

Height – 10 feet (adjacent to Hanes property)

Height – 6' (adjacent to Cadman property line)

Base width (Hanes berm) – 50 feet

Base width (Cadman berm) 34' feet

Top of berm width – 10 Feet

Slope – 2:1

Vegetation: Perennial Rye Grass and Douglas Fir Trees

**This criterion is met.**

2. Mining activities to be screened:

- a) *All excavated areas, except: areas where reclamation activity is being performed, internal onsite roads existing on the date of county adoption, new roads approved as part of the Site Plan Review, material excavated to create berms, and material excavated to change the level of the mine site to an elevation that provides natural screening,*
- b) *All processing equipment.*
- c) *All equipment stored on the site.*

The applicant's proposed screening berms will screen all mining activities and equipment to be stored on site. If there is processing on site in the southeast portion of the Extraction Area (rather than on the neighboring Canby Sand & Gravel site), the process equipment will be located either at grade, or approximately 7 feet below ground surface on stable ground. If located at grade, a berm 12 feet high will be placed within 200 feet of the processing area, if placed 7 feet below the surface, a berm five feet high will be constructed. Either berm will be located along the western part of the processing area.

**This criterion is met.**

3. Types of screening

- a) *Natural screening is existing vegetation or other landscape features within the boundaries of the Extraction Area that obscure mining activities from screened uses. Natural screening shall be preserved and maintained except where removed according to a mining or reclamation plan approved by DOGAMI.*
- b) *Supplied screening is either vegetative or earthen screening. Supplied vegetative screening is screening that does not exist at the time of the Site Plan Review. Plantings used in supplied vegetative screening shall be evergreen shrubs and trees, and shall not be required to exceed six feet in height when planted. Supplied earthen screening shall consist of berms covered with earth stabilized with ground cover.*

As discussed above, the subject properties contain little to no existing vegetation or other landscape features within the boundaries of the Extraction Area aside from approximately eighty (80) Redwood Sequoias that were planted adjacent to S. Barlow Road and S. Tull

Avenue in 1999. The majority of the Sequoias average twenty to twenty-five (20-25) feet in height. The trees have been incorporated into the screening plan.

Supplied screening will both be used as appropriate to the circumstance found at the specific location around the boundary of the Extraction Area. The screening berms will be seeded in a Perennial Rye Grass for ground cover and erosion control purposes. The exterior slope of the berms will be planted in Douglas Fir trees, which provide for the screening of the extraction site.

**This criterion is met.**

4. Exceptions. *Supplied screening shall not be required if any of the following circumstances exist:*
  - a) *The natural topography of the site obscures mining and processing from screened uses.*
  - b) *Supplied screening cannot obscure mining and processing from screened uses because of local topography.*
  - c) *Supplied vegetative screening cannot reliably be established or cannot survive due to soil, water or climatic conditions.*

As discussed above and noted by the applicant, none of these exceptions apply. Supplied screening of the subject site will be established by implementing best management practices. The practices include the selection of trees and plants conducive to the intended use, applying proper planting techniques and maintaining the vegetation planted in a manner that provides for healthy growth, which in turn provides for an established screening of the aggregate extraction site.

**This criterion is met.**

- c. Section 708.05C: Air and Water Quality. *The discharge of contaminants and dust created by mining and processing shall comply with applicable state air quality and emissions standards and applicable state and federal water quality standards.*

As explained in detail in the Application Narrative and consultant reports in support of the PAPA/MAO Applications discussed in the earlier sections of this report, the applicant shall develop and operate the mine in compliance with applicable state air quality and emissions standards and applicable state and federal water quality standards.

The applicant states that they shall *operate the subject mining site in compliance with applicable State Air Quality and Emission Standards. The applicant maintains two (2) DEQ issued permits that regulate operating conditions and requirements at the active aggregate mining operation. The permits are identified as Air Contaminant Discharge Permit No. 03-2032 and NPDES-1200A-Stormwater Discharge Permit No. 104396. If the*

*application is approved, the applicant will amend the referenced permits to include operations at the subject site. Copies of the permits are included in the application in Appendix K. Should a different processing facility be utilized, an Air Contaminant Discharge Permit will be obtained.*

*Additionally, the applicant has an approved DOGAMI regulated Stormwater Control Plan in place. The plan will also be amended to include onsite Stormwater Control measures and methods that will be employed at the subject aggregate extraction site.*

The applicant has proposed conditions of approval to ensure compliance with these standards.

**This criterion is met.**

- d. Section 708.05D: Streams and Drainage. *Mining and processing shall not occur within 100 feet of mean high water of any lake, river, perennial water body or wetland not constructed as part of a reclamation plan approved by DOGAMI unless allowed by specific provisions adopted in the Comprehensive Plan.*

The applicant is not proposing any mining or processing activities within 100 feet of the mean high water line of any lake, river, perennial water body or wetland not constructed as part of a reclamation plan.

**This criterion is met.**

- e. Section 708.05E: Noise. *Mining and processing shall comply with state noise control standards. Operators may show compliance with noise standards through the report of a certified engineer that identifies mitigation methods to control noise. Examples of noise mitigation measures are siting mining and processing using existing topography, using supplied berms, or modifying mining and processing equipment.*

The Traverso Aggregate Site – Goal 5 Noise Study (September 15, 2017) is included as part of the application package and was prepared by a certified engineer, Kerrie Standlee. (**Appendix D, Application**). The purpose of the study was to identify noise impacts resulting from aggregate extraction and potential processing onsite operations and to recommend mitigation methods for noise control. The Noise Study concluded "*If mitigation measures such as those discussed in this report are included as part of the mining plan, the noise associated with the excavation operations in the proposed Traverso Site will be in compliance with the DEQ noise regulations at all residences. Compliance with the DEQ noise regulations means that all mining noise conflicts will be minimized as required by the Oregon Statewide Planning Goal 5 rules.*" The mitigation methods recommended in the Study have been incorporated into the applicant's Mining and Operations Plan and into the recommended conditions of approval.

In addition to the mitigation methods recommended by Acoustics by Design, the

applicant states she will employ additional measures that will further reduce noise generated at the site, including:

1. Modified noise reduction backup alarms will be installed on equipment and trucks operating at the subject site.
2. Operating equipment will have factory or better muffler systems.
3. Aggregate mining equipment identified as the hydraulic excavator and front end loader will be equipped with engine side panels that effectively reduce noise levels when equipment is being operated.

**This criterion is met.**

f. Section 708.05F: Hours of Operation.

*1. Mining and processing is restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday, and 8:00 AM to 5:00 PM Saturday. Hauling and other activities may operate without restriction provided that state noise control standards are met.*

*2. No operations shall take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.*

The following conditions have been proposed under the applicant's General Operations Related Conditions in order to ensure compliance with this section:

- a) Mining (including but not limited to excavation and processing) is restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday, and 8:00 AM to 5:00 PM Saturday. Hauling and other activities may operate without restriction provided that state noise control standards are met.
- b) No mining (including but not limited to excavation and processing), drilling, or blasting operations shall take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.
- c) No drilling or blasting is authorized for the Extraction Site.

**This criterion is met.**

g. Section 708.05G: Drilling and Blasting.

*1. Drilling and blasting is restricted to the hours of 9:00 AM to 4:00 PM Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.*

*2. Notice of blasting events shall be posted at the Extraction Area in a manner calculated to be seen by landowners, tenants and the public at least 48 hours prior to the blasting event. In the case of ongoing blasting activities, notice shall be provided once each month for the period of blasting activities, and specify the days and hours when the blasting event is expected to occur.*

No drilling or blasting is proposed at the subject site. A condition of approval is included which states that drilling and blasting are not authorized on the site.

**This criterion is met.**

- h. Section 708.05H: Surface and Ground Water. *Surface and ground water shall be managed in a manner that meets all applicable state water quality standards and DOGAMI requirements. The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.*

An extensive analysis of surface and ground water systems has been performed for this application by H.G. Schlicker & Associates (see **Appendix B, Application**). The H.G. Schlicker & Associates report identifies site conditions, future aggregate extraction methods, potential impacts, neighboring wells, and mitigation measures that can be implemented in the applicants' Mine Plan that mitigate impacts associated with the identified potential conflicts. Monitoring of the three wells on site will provide long term data gathering to observe any changes, should there be any.

A Stormwater Analysis Report for the proposed site has been prepared by Westlake Consultants, Inc. (**Appendix C, Application**). The applicant also maintains a DEQ issued NPDES-1200A Discharge Permit that allows for surface water discharge into the Molalla River at the adjacent Canby Sand & Gravel site. If this application is approved, the applicant has indicated she will amend the referenced permits to include the subject extraction site property, as necessary. The use of water at the site will be limited to dust control purposes. A water truck will be used to spray water on internal haul roads as a method of suppressing dust created by equipment and trucks. In addition, if there is a processing facility on site, water spray bars on the processing equipment will be used to suppress dust. It is estimated by the applicant that the daily volumes required will be less than 5,000 gallons per day. Mining in the wet (below approximately 15-20 feet) will reduce the amount of dust generated, given the groundwater at that depth. ORS 537.0545(f) exempts a water use permit requirement for ground water if the volume is less than 5,000 gallons per day for a single industrial or commercial use.

It should be noted that all aspects of the proposed onsite and offsite stormwater management will be under the authority of the applicable agencies. For stormwater, ground water, and wetlands, those agencies include DOGAMI, Clackamas County, Water Environment Services, the Surface Water Management Agency of Clackamas County, DSL and the Army Corp of Engineers.

**This criterion is met.**

- i. Section 708.05I: Compliance with Special Conditions. *The County may impose additional, special conditions to resolve issues specific to an individual site. The conditions shall be specified in the site-specific program to achieve the Goal adopted as part of the Comprehensive Plan.*

The applicant acknowledges that the County may impose special conditions to resolve issues specific to an individual site, and that these conditions must be specified in the site-specific program to achieve the Goal adopted as part of the Comprehensive Plan text amendment and MAO overlay designation process. In the companion PAPA/MAO applications, the applicant has proposed a series of conditions designed to limit potential conflicts with proposed mining activities as well as the impacts associated with those conflicts. Imposing these conditions should resolve issues specific to the property.

**This criterion is met.**

- j. Section 708.05J: Security. *The permittee shall fence the Extraction Area boundary between the mining site and any parcel where dwellings are a principal use. Fencing shall be a cyclone type fence a minimum of six feet high.*

“Principal use” is interpreted to mean a use allowed as a primary use in the County’s Zoning and Development Ordinance (ZDO). The requirements of this Subsection do not apply to the permit application because the two dwellings located adjacent to the subject site lay within an Exclusive Farm Use (EFU) Zoning District and a dwelling is not considered the principal use in the EFU Zone.

In lieu of fencing, the applicant has proposed land separation and screening berms around the two dwellings adjacent to the site to provide visual and noise separation from the mining operation and these dwellings.

**This criterion is met.**

- k. Section 708.05K: Performance requirements:
  - 1. *The mining operator shall maintain DOGAMI and other state agency permits.*
  - 2. *The mining operator shall carry a comprehensive general liability policy covering mining, and incidental activities during the term of operation and reclamation, with an occurrence limit of at least \$500,000. A certificate of insurance for a term of one year shall be deposited with the County prior to the commencement of mining and a current certificate of insurance shall be kept on file with the County during the term of operation and reclamation.*

The applicant has proposed the following conditions to ensure compliance with this requirement, as identified in Section 4 of this report. Staff finds the proposed conditions will be sufficient to meet this criterion.

**This criterion is met.**

A. Section 708.06: Reclamation.

1. Section 708.06A: *No mining shall begin until the permittee provides the county with a copy of a DOGAMI Operating Permit or exemption in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder.*

The applicant has proposed the following conditions to ensure compliance with this requirement:

- a) Applicant shall not initiate mining and activities on the Traverso Aggregate site until the State Department of Geologic and Mineral Industries approves the reclamation plan and operating permit for the site.
- b) Applicant shall obtain approval from the State Department of Geology and Mineral Industries of a reclamation plan for the site and shall affect reclamation in accordance with same.

**This criterion can be met.**

2. Section 708.06B: *The County's jurisdiction over mined land reclamation is limited to determining the subsequent beneficial use of mined areas, ensuring that the subsequent beneficial use is compatible with the Comprehensive Plan and Zoning and Development Ordinance, and ensuring that mine operations and reclamation activities are consistent with the program to achieve the Goal adopted as part of the Comprehensive Plan.*

The reclamation Plan and subsequent beneficial use of the mining site is based on a water feature/pond and associated plantings. The beneficial use is consistent with OAR 660-023-180(5)(f) and is consistent with beneficial use criteria of the County's Comprehensive Plan.

**This criterion is met.**

3. Section 708.06C: *The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County in the following manner.*
  - a) *When notified by DOGAMI that an operator has applied for reclamation plan and an Operating Permit, the County shall inform DOGAMI whether Site Plan Review approval by the County is required.*

- 1) *If Site Plan Review approval is required, the County shall request that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the Operating Permit until after Site Plan Review approval has been granted.*
- 2) *If Site Plan Review approval is not required, the County shall so notify DOGAMI and the County shall review the proposed reclamation plan and Operating Permit during DOGAMI's notice and comment period.*

This section requires coordination with DOGAMI in reviewing Operating Permits and Reclamation Plans. The requested Site Plan Review, if approved, shall be completed prior to the issuance of the DOGAMI Operating Permit and Reclamation Plan. A condition of approval to this effect is warranted.

**This criterion is met.**

- b) *When reviewing a proposed reclamation plan and Operating Permit application circulated by DOGAMI, the County shall review the plan against the following criteria:*
  - 1) *The plan provides for rehabilitation of mined land for a use specified in the Comprehensive Plan, including subsequent beneficial uses identified through the Goal 5 planning process.*
  - 2) *The reclamation plan and surface mining and reclamation techniques employed to carry out the plan comply with the standards of Section 708.05.*
  - 3) *Measures are included which will ensure that other significant Goal 5 resources determined to conflict with mining will be protected in a manner consistent with the Comprehensive Plan.*

During the DOGAMI permit application and review process, the County will have the opportunity for input on the proposed reclamation plan. County staff will review that submittal against the criteria listed above.

**This criterion is met.**

#### G. Section 708.07: Site Plan Review.

1. *Site Plan Review under the Mineral and Aggregate Overlay District is a Planning Director administrative action. An application for a permit shall be processed pursuant to Subsections 1305.02(A), (E) and (G) through (I) to the extent these Subsections are consistent with the requirements of ORS 215.425 and 197.195.*

Although Site Plan Review is typically a Planning Director administrative action under the terms of this subsection, the Planning Commission and Board of County Commissioners (BCC) have jurisdiction to hear and decide applications filed concurrently with a comprehensive plan amendment application under Section 1307.04 of the ZDO. The applicant has filed the application concurrently with the PAPA/MAO applications. Therefore, the Planning Commission has jurisdiction to hear this matter and advise the BCC on the Site Plan Review application.

**This criterion is met.**

2. The County shall approve, approve with conditions, or deny the application for the permit based on the conformance of the site plan with the standards of ZDO Sections 708, 1006, 1010, and the requirements of the site-specific program to achieve Goal 5 adopted as part of the Comprehensive Plan.

The applicant has directly responded to the requirements of section 708 in the preceding findings. The Site Plan Review section also incorporates the standards of sections 1006 and 1010, which are discussed below:

- a) 1006 – Water Supply, Sanitary Sewer, Surface Water, and Utilities Concurrency

Water Supply: The applicant notes that water will be required for dust control management on haul roads and staging areas within the aggregate extraction site. The volume required is estimated at less than 5,000 gallons per day, and is based on present day quantities used in similar operations at Canby Sand and Gravel.

Pertaining to the availability of water necessary for the proposed operation, under the exempt uses section of the Oregon Water Laws (ORS section 537.545), a water right not to exceed 5,000 gallons per day is provided for “any single industrial or commercial purpose.” This provision states, “no registration, certificate of registration, application for permit, permit, certificate of completion or ground water right certificate under 537.505 to 537.795 and 537.992 is required for the use of ground water.”

Sanitary Sewer/Sewage Disposal: The applicant expects that portable toilets (port-a-potties) will be used rather than a subsurface sewage disposal system. Portable toilets have been utilized at the company's existing operations for decades and are considered a better alternative to septic tanks and drain fields at active aggregate sites because as extraction operations move throughout the aggregate extraction site, portable restrooms can be relocated as a means of accommodation and accessibility.

Stormwater: Westlake has addressed stormwater issues within their report dated September 2017. The Westlake report looks at storm water management, both internal and external to the Traverso Aggregate Site project. In response to the overall management of surface and ground water, Westlake concluded the following: “*The*

*overall intent of the proposed surface water and groundwater management plan is to keep water sources within the site, replenish groundwater where appropriate, maintain existing conditions wherever feasible and protect surrounding watersheds by implementing SWMACC regulations and Best Management Practices for erosion and sediment control. Another key and no less important objective of the plan is the protection of water quality, through the segregation and treatment of any potentially unclean water within the active mining area, away from clean surface and ground water flows found on site.*

Compliance with state water quality standards for storm water occurring within the Extraction Area will be based upon review and approval by the DOGAMI. The applicant notes that she has an approved Stormwater/Surface Water Management Control plan in place for operations at the existing Canby Sand and Gravel site. If this application is approved, the applicant will amend the Management Plan to include operations at the subject site.

All aspects of the proposed onsite and offsite stormwater management will be under the authority of the applicable agencies. For stormwater, ground water, and wetlands, those agencies include DOGAMI, Clackamas County, Water Environment Services, the Surface Water Management Agency of Clackamas County, DSL and the Army Corp of Engineers.”

Power: Power will be provided to the site via the existing PGE lines that service the area. Per the applicant, PGE has a utility easement and in place lines extending approximately 500 feet south of S. China Avenue onto the subject site, which provides the site with a power source. The location of the easement is identified on the Mine and Operations Plan (**Figure 5, Application**).

Sensitive Groundwater Areas: The Traverso Aggregate site is located outside the Portland Metropolitan Urban Growth Boundary and Mount Hood Urban Area; however the standards found under 1006.05 do not apply to the proposal because it is not located within a Sensitive Groundwater area.

**This criterion is met.**

- b. 1010 – Signs. This section of the ZDO sets forth the standards for all on-premise signs for multiple use types.

At this time, the applicant is not proposing any signing on the exterior of the Traverso Aggregate Site. The application does not include new access/exit driveways onto S. Highway 99E or a County road. Access to and from the subject site will be through an onsite road beginning at the existing processing plant facility. The access/exit locations to the subject site are identified on the site plan.

The existing access/exit driveways connecting to S. Highway 99E are permitted by the Oregon Department of Transportation (ODOT), and ODOT requirements and conditions

pertaining to those permits require Parker-Northwest to install "Entrance Only" and "Exit Only" signs at the specific locations. The conditions were met prior to the issuance of the permits. Additionally, the company has installed an ODOT approved "Stop Sign" at the exit driveway as a safety factor for motorists' traveling S. Highway 99E. The only other sign installed adjacent to the highway is a "Trucks 500 Feet Ahead" warning sign advising motorists of incoming and outgoing truck traffic from driveways onto S. Highway 99E. Traffic and directional signs are not regulated through the ZDO.

If, through this review process, ODOT or the County require additional signage be installed along S. Highway 99E, the applicant has stated that she will comply with the condition of approval.

## **PART 2. SUMMARY OF MINERAL & AGGREGATE SITE REVIEW CRITERIA**

Based upon the application materials and these findings, Planning Staff finds that this application satisfies, or can satisfy, the applicable approval standards of the Sections 708, 1006 and 1010.

---

## **SECTION 4: PROPOSED CONDITIONS OF APPROVAL**

### **General Conditions**

1. Table III-2 in the Mineral and Aggregate Resources Section of the Comprehensive Plan shall be amended to add "Parker-Northwest Paving Co / Traverso Aggregate Site" to the list of Significant Sites.
2. Mining shall be allowed on the property subject to the site specific program in the submitted application to the extent it is consistent with the remaining conditions of approval.
3. The post reclamation use of the subject property shall be limited to fish and wildlife habitat uses consistent with the Clackamas County Comprehensive Plan, Clackamas County Zoning and Development Ordinance and specifically those uses listed under ORS 215.283(1). All plant species used in reclamation shall be native species, and approved in coordination with the DOGAMI and ODFW.
4. The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusion by the County concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsible for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

## **General Operations Related Conditions**

5. Mining (including but not limited to excavation and processing) is restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday, and 8:00 AM to 4:00 PM on Saturday. Mining (including but not limited to excavation and processing 400 feet of the Barlow and Hanes residences) is limited to the hours of 8:00 AM to 5:00 PM, Monday through Friday and 8:00 AM to 4:00 PM on Saturdays. No mining operations will occur on Sunday.
6. No mining (including but not limited to excavation and processing), shall take place on any of the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.
7. There shall be no blasting on Site.
8. The applicant and/or operator shall not initiate mining and activities on the Traverso Aggregate Site ("Site") until the Oregon Department of Geologic and Mineral Industries (DOGAMI) approves the reclamation plan and operating permit for the Site.
9. The Canby Fire District shall review and approve this mining operation to ensure it is acceptable for access by fire and emergency vehicles. The Fire District shall also review and approve any provisions for storage and utilization of both hazardous and flammable liquids in accordance with Uniform Fire Code requirements.
10. The applicant and/or operator shall obtain approval from the DOGAMI of a reclamation plan for the Site and shall implement the same.
11. The applicant and/or operator shall obtain Oregon DEQ approval of a Spill Prevention Controls and Countermeasures Plan for the site and shall comply with same.
12. Applicant/operator shall obtain or amend its current Stormwater Control permit issued by DEQ and regulated by DOGAMI to include stormwater generated at the proposed extraction site, as necessary.
13. Copies of all permits issued for the Traverso Aggregate Site shall be provided to the County including, but not limited to, any permits issued by DOGAMI, DSL, DEQ, the Oregon Water Resources Department, the Oregon Fire Marshal's Office, local Fire Marshal's Office if applicable, and the U.S. Army Corps of Engineers.
14. The Site operator shall carry a comprehensive liability policy covering mining and incidental activities during the term of the operation and reclamation, with an occurrence limit of at least \$500,000. A certificate of insurance for a term of one (1) year shall be deposited with the County prior to the commencement of mining, and a

current certificate of insurance shall be kept on file with the County during the term of operation and reclamation.

### **General Mine Plan Related Conditions**

15. Extraction, processing and stockpiling activities shall be limited to areas within the Extraction Area labeled as appropriate for such activities and depicted on the approved Site Plan. No extraction, processing, or stockpiling activities shall take place on the "Wilmes" site portion of the property, or anywhere within the bounds of the regulatory 100-year floodplain.
16. All lighting shall be directional to eliminate any new lighting on surrounding properties.
17. Identified setbacks from the property lines, utilities, and easements will be maintained in accordance with the Mining Plan.
18. The 200-foot buffer setback adjacent to the Molalla River corridor will be fenced. "No Entry Restricted Area" signs will be placed along the fenced boundary of the buffer zone. The buffer zone will be graded to slope inward from the riparian area. The buffer-setback will be planted in a mixture of conifer and deciduous trees, the types of trees will include Douglas fir, Big Leaf Maple, Red Alder, Western Cedar, Cottonwood and White Ash.
19. In the event that buried cultural deposits are encountered during the project activities, State laws and regulations would require that work in the vicinity of such finds be suspended immediately. The State Historic Preservation Office (SHPO) should be notified, and a qualified archaeologist should be called in to evaluate the discovery and recommend subsequent courses of action in consultation with the appropriate tribes and SHPO.
20. Slope inclinations will not exceed an average slope of 1:1 – (horizontal to vertical) within the excavation during mining, unless approved by DOGAMI.
21. Interior extraction slopes will be graded, shaped, and planted for erosion control purposes. Finished slopes will be also planted in a mixture of conifer and deciduous trees.
22. Reclamation of the aggregate extraction site will be concurrent with aggregate mining, beginning with mining in Cell 2.
23. There will be no dewatering of the excavation.
24. Onsite monitoring well reports will be forwarded to the City of Barlow for a period of two years once mining commences.

25. If water well damage occurs, operator will replace or restore any well that is demonstrated to be significantly affected by its operations to its historical level of production.
26. A Fuel, Oil Prevention Plan and Response Plan will be in place for operations at the subject extraction site.
27. There will be no livestock grazing on the subject site.

### **Transportation Related Conditions**

28. No interior haul roads will be constructed within 250 feet of the Hanes Residence or Barlow House.
29. The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces. Loading spaces shall also be afforded adequate maneuvering room. The applicant shall show the paths traced by the extremities of anticipated large vehicles (dump trucks with pups, delivery trucks, fire apparatus, garbage and recycling trucks), including off-tracking, on the site plan to insure adequate turning radii are provided for the anticipated large vehicles maneuvering on the site.
30. Any roads constructed through the regulatory floodplain or within 150 feet of the mean high water line of the Molalla River may be subject to the regulations and standards found in ZDO Sections 703 and 704.
31. Employees shall park their personal vehicles at the designated paved parking lot located at Canby Sand and Gravel or onsite in designated areas. Parking spaces shall meet minimum ZDO section 1007 dimensional requirements. Parking spaces for disabled persons and the adjacent accessible areas shall be paved.
32. Aggregate trucks shall use the truck wheel wash located near the exit driveway connecting to South Highway 99E as a sediment/dust control method.
33. The applicant shall install and maintain an ODOT approved "Stop Sign" at the exit driveway connecting to South Highway 99E.
34. The "Entrance Only" and "Exit Only" direction signage from South Highway 99E will be maintained in accordance with ODOT access permit requirements.
35. The existing access-exit driveway connecting to South Highway 99E will be paved for a minimum of 300 feet.

### **Acoustic Related Conditions**

36. The mine operator shall comply with all recommended noise mitigation measures included in the noise study prepared by Acoustics by Design (ABD) dated September 15, 2017.
37. Berms shall be constructed near the Barlow and Hanes residences per the Acoustics by Design (ABD) report and throughout the Extraction Area, per the Mining and Operation Plan.
38. The screening berms shall be seeded in a Perennial Rye Grass or similar vegetation for ground cover. Exterior slopes of the screening berms shall be planted in Douglas Fir trees or similar native evergreens, randomly planted at 10 to 12 feet spacing distances.
39. There shall be strict compliance with the Berm Landscaping Plans, identified in the Mining and Operations Plan. Dead or dying trees shall be replaced at least annually. The trees shall be planted in conformance with industry standards and planted during the fall or early spring to ensure high survival rates.
40. Off-road equipment (*i.e.* excavators, front-end loaders, loading trucks, and bulldozers) used for internal site operations shall be fitted with broadband rather than traditional narrowband backup alarms.
41. The operator must use factory or better muffler systems.
42. Onsite equipment will be fitted with "Smart System" backup alarms.
43. The hydraulic excavator and front end loader will be equipped with engine side panels to reduce noise levels.

#### **Air Quality Related Conditions**

44. The operator shall maintain vegetative ground cover on stockpiles to reduce dust.
45. The operator shall sprinkle interior roads with a water truck to reduce dust.
46. The operator shall have water spray bars on the crusher/screens, if located on site, to reduce dust potential. No more than 5,000 gallons per day will be used for dust suppression.
47. A 15 MPH speed limit for onsite truck traffic will be posted on all haul roads within the subject site.
48. If processing occurs on the Site, the crusher shall comply with any DEQ Air Contaminant Discharge permit requirements.

49. Off-road equipment shall meet federal Tier 3 off-road engine standards, and/or equipment to be modified as such.
50. Onsite idle times for heavy-duty diesel truck engines shall be limited to no more than three minutes per truck trip.
51. The operator shall clearly mark the DOGAMI permit boundary and required setbacks in the field, visible to all equipment operators.
52. The operator shall salvage, stockpile and retain all available soil and overburden material for final reclamation. Soil and overburden stockpiles and berms must be seeded in a cover crop to reduce erosion.
53. The operator shall maintain a minimum 50-foot property line setback for excavation and processing. Sound and noise berms, stockpiling of aggregate materials, construction of internal access roads, and construction of DOGAMI approved stormwater control measures are allowed within the setback areas.
54. If mining operations disturb any area outside of the permit area or area designated for active mining in the reclamation plan, including but not limited to disturbances caused by landslide or erosion, the operator must restore the disturbed area to a condition that is comparable to what it was prior to the disturbance.