

EXHIBIT LIST
Z0406-19-CP, Z0407-19-MAO & Z0408-19-ZAP
(Cadman – Canby Phase 4 Aggregate Mining Site)

| Ex. No. | Date of Exhibit | Author or Source | Subject |
|----------------|------------------------|-------------------------|---|
| 1 | 11/22/19 | DTD, Planning Staff | Notices sent |
| 2 | 12/9/19 | DTD, Planning Staff | Document: Conditions of Approval for Z 0348-93-CP/ Z0349-93-Z & Z1826-97-MAR (“Phase 1”/ processing site) |
| 3 | 12/9/19 | DTD, Planning Staff | Document: Conditions of Approval for Minor Modification of Z0348-93-CP/Z0349-93-Z |
| 4 | 12/9/19 | DTD, Planning Staff | Document: Conditions of Approval for Z0756-06-CP, Z0757-06-ZAP & Z0566-07-MAR (“Phase 2” site) |
| 5 | 12/9/19 | DTD, Planning Staff | Document: Conditions of Approval for Z0331-11-CP, Z0332-11-ZAP & Z0362-12-MAR (“Phase 3” site) |
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NOTICE OF PUBLIC HEARINGS BEFORE THE PLANNING COMMISSION AND THE BOARD OF COUNTY COMMISSIONERS ON A PROPOSAL IN YOUR AREA

Date of Mailing of this Notice: November 6, 2019

Notice Sent To: Agencies, Community Planning Organizations and property owners within 2,500 feet of the proposed mining site parcels and within 750 feet of the site with the existing processing facility.

PLANNING COMMISSION HEARING DATE & TIME: Monday, December 16, 2019; 6:30PM

HEARING LOCATION: Clackamas County Development Services Building Auditorium
150 Beaver Creek Road
Oregon City, OR 97045

BOARD OF COUNTY COMMISSIONERS HEARING DATE & TIME: Wednesday, February 5, 2020; 9:30AM

HEARING LOCATION: Clackamas County Public Services Building, BCC Hearing Room, 4th Floor
2051 Kaen Road
Oregon City, OR 97045

Planning File Number(s): Z0406-19-CP, Z0407-19-MAO & Z0408-19-Z

Applicant(s): Cadman Materials, Inc.

Property Owner(s): Multiple property owners - Cadman Materials, Inc; Chong Yaxeulue; Rodney W & Charis G Yoder; Jake Vanpelt, co-trustee; Floyd R Lapp, co-trustee; Arthur D Blumenkron

Proposal: The applicant is proposing (1) a Post-Acknowledgement Plan Amendment (PAPA) to the Clackamas County Comprehensive Plan (Plan) to designate approximately 99 acres of the proposed mining site, which includes eight taxlots and approximately 106.5 total acres, as a Goal 5 significant mineral and aggregate resource site in Chapter 3, Table III-2 of the Plan; (2) a zoning map amendment to apply a Mineral and Aggregate Overlay (MAO) to the site; (3) approval of a Mineral & Aggregate Overlay District Site Plan Review application for the proposed mining operations; and (4) a modification of conditions of approval in Planning file numbers Z0348-96-CP & Z0349-93-Z to allow processing on Saturdays.

Applicable Zoning and Development Ordinance and Comprehensive Plan Criteria: Sections 401, 708, 1202 and 1307 of the Zoning and Development Ordinance (ZDO). The Post-Acknowledgement Comprehensive Plan amendment (PAPA) is subject to the Statewide Planning Goals, Oregon Administrative Rule Chapter 660, Division 23. These criteria may be viewed online at <https://www.clackamas.us/planning/zdo.html> and <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3073>

Site Address and/or Location: Approximately three-quarters of a mile south of the intersection of S Barlow Rd and S Hwy 99E

Assessor's Map: Proposed mining site: T4S, R1E, Section 07 Tax Lot(s) 500, 600, 700, 800, 801, 1002, 1003 & 1004 W.M.
Proposed condition of approval modification: T4S, R1E, Section 08 Tax Lot(s) 600, 700 & 800 W.M.

Property Size: Proposed mining site: approx. 106.5 total acres
Proposed condition of approval modification site: approx..157.0 total acres

Zoning: Exclusive Farm Use (EFU); Mineral & Aggregate Overlay (MAO) & Rural Industrial, limited use (RI/LUZ)

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

HOW TO OBTAIN ADDITIONAL INFORMATION

Staff Contact: Martha Fritzie; 503-742-4529; mfritzie@clackamas.us.

A copy of the entire application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost at the Planning Division offices. In addition, a staff report on the application will be available for inspection at no cost at least **seven days prior to the hearing**. Hard copies of documents will be provided at reasonable cost. You may inspect or obtain these materials by:

1. Emailing or calling the staff contact;
2. Visiting the Planning & Zoning Division at the address shown at the top of this notice during regular business hours, which are Monday through Thursday, 8AM to 4PM and Friday, 8AM to 3PM; or
3. Going to the Clackamas County website page: <http://www.clackamas.us/planning/zdoproposed.html>

Community Planning Organization for Your Area: The following recognized Community Planning Organization (CPO) has been notified of this application and may develop a recommendation. You are welcome to contact the CPO and attend their meeting on this matter, if one is planned. If this CPO currently is inactive and you are interested in becoming involved in land use planning in your area, please contact the Citizen Involvement Office at 503-655-8552. **CPO: South Canby CPO (not active).**

HOW TO SUBMIT TESTIMONY ON THIS APPLICATION

- All interested citizens are invited to attend the hearings and will be provided with an opportunity to testify orally, if they so choose.
 - Written testimony received by December 3, 2019 will be considered by staff prior to the issuance of the staff report and recommendation on this application. However, written testimony will continue to be accepted until the record closes, which may occur as soon as the conclusion of the Board of County Commissioners' hearing.
 - Written testimony may be submitted by email, fax, regular mail, or hand delivery. Please include the case file number on all correspondence and address written testimony to the staff contact who is handling this matter.
 - Testimony, arguments, and evidence must be directed toward the criteria identified above, or other criteria in the Zoning and Development Ordinance or Comprehensive Plan that you believe apply to the decision. Failure to raise an issue in person at the hearing or by letter prior to the close of the record, or failure to provide statements or evidence sufficient to afford the Board of County Commissioners and the parties involved an opportunity to respond to the issue, precludes an appeal to the Oregon Land Use Board of Appeals based on that issue.
 - Written notice of the Board of County Commissioners' decision will be mailed to you if you submit a written request **and provide a valid mailing address.**
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PROCEDURE FOR THE CONDUCT OF THE HEARING

The following procedural rules have been established to allow an orderly hearing:

1. The length of time given to individuals speaking for or against an item will be determined by the Chair presiding over the hearing prior to the item being considered.
2. A spokesperson representing each side of an issue is encouraged.
3. Prior to the conclusion of the evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. The Planning Commission or the Board of County Commissioners may either continue the hearing or leave the record open for additional written evidence, arguments, or testimony.
4. The Planning Commission will make a recommendation to the Board of County Commissioners on the application. The Board of County Commissioners is the final decision maker for Clackamas County on this matter.

**NOTICE OF PUBLIC HEARINGS
SCHEDULED ON PROPOSED COMPREHENSIVE PLAN MAP AMENDMENT
AND ZONE CHANGE TO DESIGNATE A SIGNIFICANT AGGREGATE MINING
SITE**

The Clackamas County Planning Commission and Board of Commissioners will hold public hearings to consider a proposed Post-Acknowledgement Plan Amendment (PAPA) to the Clackamas County Comprehensive Plan in order to designate a portion of the subject properties as a Goal 5 significant resource (mining site); to consider a proposed zone change to apply a Mineral and Aggregate Overlay (MAO) zone; to allow aggregate mining on the site; and to modify a condition of approval for file numbers Z0348-93-CP/Z0349-93-Z to allow for processing on Saturdays. The proposed mining site includes 106.53 acres of land located approximately three-quarters of a mile south of the intersection of S Barlow Rd and Hwy 99E at T4S, R1E, Section 07 Tax Lots 500, 600, 700, 800, 801, 1002, 1003 & 1004 W.M. The site processing site includes 157.0 acres of land located at T4S, R1E, Section 08 Tax Lots 600, 700 & 800 W.M.

The proposed amendments, File Z0406-19-CP, Z0407-19-MAO & Z0408-19-Z are available at <http://www.clackamas.us/planning/zdoproposed.html>. The public may review and comment on the proposed amendments before and/or at the public hearings.

Planning Commission Public Hearing

6:30 p.m., Monday, December 16, 2019

Development Services Bldg Auditorium, Rm. 115, 150 Beaver Creek Rd., Oregon City

Board of Commissioners Public Hearing

9:30 a.m., Wednesday, February 5, 2020

Board Hearing Room, Public Services Bldg, 2051 Kaen Rd., Oregon City

For more information: Martha Fritzie, 503-742-4529 or mfritzie@co.clackamas.or.us



CLACKAMAS COUNTY

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COUNTY COURSE
Department of Transportation & Development

THOMAS J. VANDERZANDEN
EXECUTIVE DIRECTOR

File No. Z0348-93-CP/Z0349-93-Z CONDITIONS OF APPROVAL

Conditions for Extraction Area Uses within the Extraction Area

1. The Extraction Area uses are subject to the Extraction Area Development Standards of Subsection 708.06 of the Mineral and Aggregate Resources District to the extent they are consistent with the remaining conditions of this approval.
2. The level of aggregate and mineral extraction shall not exceed 150,000 cubic yards per calendar year.
3. There shall be no Mining, Processing and associated activities within 250 feet of the ordinary high water line of the Molalla River and 100 feet of the south property line.
4. An asphaltic concrete batch plant and cement batch plant shall not be operated within the Mineral and Aggregate Resources District.
5. Mining, Processing and hauling shall be restricted to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. Other activities may operate without restriction provided that Department of Environmental Quality noise control standards are met.
6. The mining operator shall meet Department of Environmental Quality noise regulations and shall assure that mining operations on the site do not violate such regulations. Noise mitigation measures to include berming shall be considered to insure Department of Environmental Quality daytime noise regulations are not exceeded at existing residential structures.
7. The mining operator shall be responsible for implementing a noise monitoring program, submitted to the Clackamas County Department of Transportation and Development and Department of Geology and Mineral Industries for review and approval, to insure continued compliance with Department of Environmental Quality noise regulations before any mining occurs.
8. The Extraction Area affected by mining shall be visually screened from properties within the Impact Area to the west, north, and east. Screening shall be accomplished by

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- maintained plantings and/or earthen berm for the duration of mining.
9. The rock crushing machinery shall be permanently stationed within the northeast portion of the Extraction Area. A site plan specifically locating this machinery shall be submitted as part of the Mineral and Aggregate Resources District Permit.
 10. The work area containing the rock crushing machinery shall be visually screened from properties within the proposed Impact Area to the south, west, east, and north. Screening shall be accomplished by evergreen plantings and/or an earthen berm for the duration of mining.
 11. All property owners within the Impact Area shall be notified of the County Mineral and Aggregate Resources District Permit process and given the opportunity to participate and comment on the issue of screening, including berms and plantings, between the area(s) of Mining and Processing within the Extraction Area and surrounding properties.
 12. The mining operator shall have a hydrogeological investigation done to determine groundwater flow directions and time-of-travel for evaluating the potential water quality risks to area water sources including the City of Barlow's well prior to any mining.
 13. The mining operator shall be responsible for implementing a groundwater monitoring well program, submitted to the Clackamas County Department of Transportation and Development, Department of Geology and Mineral Industries, and Department of Environmental Quality for review and approval, to insure compliance with the Department of Environmental Quality water quality standards before any mining occurs. The program shall address the number and location of the wells and the reporting frequency.
 14. The mining operator shall be responsible for restoring the water source for any other property in the area to include the city of Barlow's well for which damage has been proven to water quantity and/or quality by virtue of Mining and Processing within the Extraction Area.
 15. Reports shall be submitted to the Clackamas County Department of Transportation and Development by the appropriate state agencies with regulatory authority on the surface water and groundwater impacts of Mining and Processing within the Extraction Area for review as part of the County's site plan review for the Mineral and Aggregate Resources District permit.
 16. All process water shall be retained in a closed water system within the mining site.

17. The mining operator shall have approval of a National Pollutant Discharge Elimination System Permit from the Department of Environmental Quality for any surface water discharge into the Molalla River before any mining occurs.
18. The mining operator shall submit a wetlands study to the Division of State Lands to identify if there are any jurisdictional wetlands within the Extraction Area before any mining occurs. Any jurisdictional wetlands shall be retained unless otherwise permitted by Clackamas County and/or the Division of State Lands.
19. The mining operator shall be responsible for implementing a spill prevention and response program, submitted to the Clackamas County Department of Transportation and Development, Department of Geology and Mineral Industries, and Department of Environmental Quality for review and approval, to insure compliance with Department of Environmental Quality water quality standards before any mining occurs. The program shall address substances used in the mining operation such as fuels and lubricants.
20. The entrance of the private access road onto Barlow Road shall meet Clackamas County road standards, and the mining operator shall maintain this entry in good repair. This private access road shall be paved to adequately accommodate two-way truck traffic.
21. The mining operator shall be responsible for implementing a program, submitted to the Clackamas County Department of Transportation and Development for review and approval, for the policing and cleanup of any dust, mud, rocks, and other debris at the access point onto Barlow Road.
22. The mining operator shall have an operational water truck stationed on-site and/or utilize other methods as required to insure Department of Environmental Quality standards for fugitive dust are met for the entire mining operation before any mining occurs.
23. The mining operator shall develop a plan for the annual exterior cleaning of the Barlow House as long as it remains designated as a historic resource. This plan shall be developed with the Barlow House operator, and the Historic Review Board may act as mediator to resolve any disputes on the implementation of this condition.
24. The Extraction Area uses are subject to the Extraction Area Reclamation Standards of Subsection 708.07 of the Mineral and Aggregate Resources District.
25. The sequential reclamation of this mining site is required. The area exposed for extraction and not being reclaimed, excluding roads, ponds, and stockpiles shall be limited to

five (5) acres or the minimum area needed to extract the depth of the identified aggregate resource, whichever is greater. This area shall be determined by the Department of Geology and Mineral Industries and extraction shall be limited to one area at any given time.

26. The overburden and spoils from the Extraction Area shall be used for reclamation.
27. The mining operator shall have approval of a Floodplain Development Permit before any development, as defined in Subsection 703.03C of the Zoning and Development Ordinance, occurs within the 100-year floodplain of the Molalla River.
28. The mining operator shall have approval of a Principal River Conservation Area Review before any development and tree-cutting activities, as defined in Subsection 704.06A of the Zoning and Development Ordinance, occurs within the Principal River Conservation Area.
29. The mining operator shall have approval of an Operating Permit from the Department of Geology and Mineral Industries before any mining occurs.
30. Clackamas County's Dispute Resolution Service is a procedure that should be utilized to settle disputes regarding the conduct of Mining and Processing.
31. The violation of any of these conditions shall be cause for revocation of Clackamas County's Mineral and Aggregate Resources District Permit.

Conditions for Conflicting Uses allowed conditionally within the Impact Area.

1. The proposed use shall be subject to the Impact Area approval criteria of Subsection 708.09D of the Mineral and Aggregate Resources District.
2. The proposed use will not cause or threaten to cause the mining operation to violate environmental standards contained in permits issued by State and County agencies.
3. The proposed use will not cause the mining operation to violate noise control standards and ambient air quality and emission standards as measured at the proposed use. It is the responsibility of the applicant for the proposed use to demonstrate whether standards are or can be met. Mitigation measures which may be necessary to assure standards compliance shall be the responsibility of the applicant and shall be a condition of approval.

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CLACKAMAS COUNTY

Department of Transportation & Development

THOMAS J. VANDERZANDEN
EXECUTIVE DIRECTOR

NAME: Clackamas County
FILE NO.: Z0348-93-CP/Z0349-93-Z
REPORT AUTHOR: Gary Naylor
HEARING DATE: January 31, 1994
REPORT DATE: January 24, 1994

PLANNING STAFF REPORT/RECOMMENDATION TO PLANNING COMMISSION

FACTS

GENERAL INFORMATION

Applicant: Clackamas County

Owner(s): Arlie Oster, Canby Sand & Gravel Co.; Frank J. Schmidt III; James S. & Janice K. Green; Curtis W. Hulit; Steven Van Gorder; Jackson Rodrigues; Sharon D. Vermillion; Norman F. Hurst; Sidney & Cynthia Miles; Patrick McCormick; Steve Allen

Proposal: Comprehensive Plan Amendment to identify this site as a significant Aggregate Resource. Zoning Map Change to apply the Mineral and Aggregate Resources Overlay District.

Location: East side of Barlow Rd., approximately 1/2 mile south of State Hwy. 99E; Barlow-Canby area.

Legal Description: T4S, R1E, Section 5C, Tax Lot 960, Part of Tax Lots 970, 980, and 1100; T4S, R1E, Section 5D, Part of Tax Lots 300, 900, 1001, 1100, and 1190; T4S, R1E, Section 8, Tax Lots 490, 600, 700, 800, 900, 1000, 1100, Part of 100, 300, 400, 1200, 1201, 1400, 1500, and 1501, W.M.

Zone: GAD, General Agricultural District; EFU-20, Exclusive Farm Use 20 Acre District

Comprehensive Plan Designation: Agriculture

History: Part of the existing Wilmes Sand and Gravel Mining Operation began prior to the adoption of zoning in this area of Clackamas County, and all of the present mining operation began prior to the adoption of Section 708 of the Clackamas County Zoning and Development Ordinance (Mineral and Aggregate Resources District). The original nonconforming use was for the extraction of approximately 12,000 cubic yards of gravel per year from the bed and banks of the Molalla River and the processing of that gravel through rock crushing and screening machinery on a portion of Tax Lot 600.

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Ex. D

Conditional Use File No. 619-84-C authorized an increase in the volume of gravel extraction and processing to approximately 50,000 cubic yards per year. Conditional Use File No. 371-86-C authorized the extraction of sand and gravel from a roughly 8-acre area of Tax Lots 1100 and 1190 immediately to the north of the processing area on Tax Lot 600. Conditional Use File No. Z0507-91-C, PRC authorized the siting of an office and scale facility on an approximately .33-acre area at the northwest corner of Tax Lot 800. Therefore, the existing mining operation is a preexisting use subject to the conditions of the three approved conditional uses unless those conditions are removed or modified through this Goal 5 process. This preexisting use is established on properties described as T4S, R1E, Section 5D, Tax Lots 1100, 1190, and T4S, R1E, Section 8, Tax Lots 600, 700, and 800. This mining operation is subject to an operating permit from the Oregon Department of Geology and Mineral Industries. (See Exhibit No. 6.)

There are eight (8) dwellings located within the proposed Impact Area and three (3) dwellings located within the proposed Extraction Area of the Mineral and Aggregate Resources District. These dwellings are the existing Conflicting Uses, but are nonconforming uses which are not subject to the requirements of Section 708. These nonconforming uses may be continued indefinitely subject to the provisions of Section 1206 of the Zoning and Development Ordinance.

RECOMMENDATION

Approval of the Comprehensive Plan text amendment to inventory the Extraction Area as a Significant Aggregate Resource. Approval of the zoning map change to apply the Mineral and Aggregate Resources (Overlay) District on the proposed Extraction Area and Impact Area as shown in Figure 2 of the David Newton Associates report. (See Exhibit No. 7.)

CONCLUSIONS

- I. The first part of this report is the consideration of the Comprehensive Plan text amendment. Policy 2.0 within the Mineral and Aggregate Resources section of the Comprehensive Plan requires Significant Aggregate Resource Sites be inventoried through the Statewide Planning Goal 5 process. Accompanying Policies 5.0 and 6.0 identify what constitutes a Significant Aggregate Resource Site. Specifically, Policy 5.0 states the quality standard for a significant site is based on meeting three (3) materials tests. Data provided by Northwest Testing Laboratories Inc. and Carlson Testing Inc. from on-site samples tested confirms the gravel deposit within the proposed extraction area exceeds the quality standard for these materials tests. David Newton Associates, the consulting firm hired by Clackamas County to prepare a report on this aggregate site, has reviewed this data and agrees with this conclusion.

Policy 6.0 states a Significant Aggregate Resource Site must also contain reserves in excess of one million cubic yards. Four (4) core drillings were done within the proposed extraction area which identified layers of sand, gravel, and/or cobbles to depths ranging from 34 to 61 feet. Using the average depth of the resource as 46 feet and subtracting the average depth of the overburden, substantiates the aggregate resource within the approximately 150-acre extraction area roughly 10 million cubic yards. David Newton Associates estimates the sand and gravel resource on the proposed 150-acre extraction area is 11.1 million cubic yards. The quantity of aggregate within the proposed extraction area far exceeds the one million cubic yard threshold for a Significant Aggregate Resource Site.

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In conclusion, the staff finds the location of this aggregate resource is site-specifically described on the extraction area site plan submitted by David Newton Associates. The data from Northwest Testing Laboratories, Cascade Earth Sciences, and Donald Kenner Construction, based on the on-site testing, confirms this aggregate resource exceeds the quality and quantity standard in the Comprehensive Plan for a Significant Aggregate Resource Site. David Newton Associates concludes this is a Significant Aggregate Resource Site, as does the staff. Therefore, the Planning Division staff recommends this site be inventoried as a Significant Aggregate Resource Site on Comprehensive Plan Table III-2, as required by Policy 8.0 within the Mineral and Aggregate Resources section of the Plan.

- II. The second part of this report is the consideration of the zoning map change. Subsection 708.04 of the Zoning and Development Ordinance identifies the procedure for applying the Mineral and Aggregate Resources District. The Planning Division staff has reviewed all the information in this file with respect to this subsection and finds:
- A. Subsection 708.04A requires the County determine whether this aggregate resource site is significant based on all the available information relating to the location, quality, and quantity of the resource. A site-specific map has been submitted by David Newton Associates showing the location of this resource. Laboratory test data from Northwest Testing Laboratories and Carlson Testing demonstrates this resource exceeds the quality standard for a Significant Aggregate Resource site. Data submitted from on-site core drillings demonstrates this resource far exceeds the quantity standard for a Significant Aggregate Resource Site. Based on the requirements of this subsection, it is the staff's determination this is a Significant Aggregate Resource Site.
 - B. Subsection 708.04B states that, based on the information supplied pursuant to 708.04A relating to the location, quality, and quantity of the resource, the County shall determine the inventory status of the resource site. The staff has determined this is a Significant Aggregate Resource Site and recommended it be placed on the inventory of significant sites.
 - C. Subsection 708.04C requires the Impact Area be identified and mapped for each Significant Site. The Impact Area has been identified in the David Newton Associates report as the standard 750-foot distance from the Extraction Area stated in the Mineral and Aggregate Resources District, and it has been mapped on Figure 2 of that report. David Newton Associates determined the standard 750-foot distance adequately covered the area of potential impacts in this case. The staff concurs with their determination.
 - D. Subsection 708.04D requires Conflicting Uses be identified for a Significant Site placed on the inventory. David Newton Associates has determined the existing Conflicting Uses within the proposed Impact Area are eight (8) dwellings, and within the proposed Extraction Area are three (3) dwellings. They estimated the potential for establishing 3-6 additional dwellings (Conflicting Uses) within the Impact Area. However, elements of House Bill 3661, which became effective November 4, 1993, likely precludes establishing any additional dwellings within this Impact Area zoned Exclusive Farm Use and General Agricultural District. David Newton Associates further identifies a number of other permitted and discretionary uses within the Exclusive Farm Use District and General Agricultural District on pages 7, 8, 9, and 10 of their

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report. As required by this subsection, the Impact Area portion of the Mineral and Aggregate Resources District must be applied due to the presence of Conflicting Uses and the potential of additional Conflicting Uses.

- E. Subsection 708.04E requires an Economic, Social, Environmental, and Energy (ESEE) consequences analysis be performed since Conflicting Uses have been identified for this Significant Site. The David Newton Associates report includes an ESEE Analysis. The ESEE Analysis identifies the impacts of existing and potential Conflicting Uses and the Significant Site on each other. It further includes consideration of outright permitted uses and discretionary uses within the Exclusive Farm Use District and General Agricultural District, opportunities to avoid or mitigate conflicts, an analysis of allowing Conflicting Uses fully or allowing Mining and Processing fully, and protecting Significant Goal 5 resources found to be Conflicting Uses. It lastly includes consideration of the applicability of the other Statewide Planning Goals, the County's Comprehensive Plan, and the County's Zoning and Development Ordinance, as required by this subsection. This staff report and recommendation also considers the provisions of ORS 215.296 as required by this subsection.

Since the proposed Extraction Area is within an agricultural zoning district, the applicable portions of ORS 215.296 must be considered. Specifically, 215.296(1)(a) and (b), which requires the proposed Mining and Processing will not force a significant change in accepted farm practices on surrounding lands devoted to farm use or will not significantly increase the cost of these practices. David Newton Associates determined Mining and Processing would not have significant economic consequences on farm uses. There are commercial farm uses on surrounding lands. Some of these commercial farm uses have coexisted with the existing mining operations in this area for many years with no apparent change in farm practices and increase in the cost of these practices. The proposed Mining and Processing is not a habitable use, and it is the staff's judgment it will not force any significant change in or significantly increase the cost of any accepted farm practices on surrounding lands devoted to commercial farm uses.

The Economic part of the ESEE Analysis within the David Newton Associates report concludes the consequences of allowing Conflicting Uses fully next to this mining site are that extraction of the resource may be severely curtailed or prohibited by complaints from neighbors. The proposed Extraction Area contains a very large quantity of quality aggregate in proximity to markets and with good access to these markets. The ESEE Analysis then concludes the consequences of allowing Mining and Processing fully will not be significant to the primary purpose of the Exclusive Farm Use District and General Agricultural District, as exemplified by the history of Mining and Processing in this area. It further states the continuation of activity at the subject site would not appear to adversely affect property values.

The Social part of the ESEE Analysis concludes the consequences of allowing Conflicting Uses fully, adjacent to this mining operation, relates to aesthetic impacts, potential loss of natural, scenic and historic resources, the value and necessity of conflicting uses and potential impacts to resource cost. It then concludes the consequences of allowing Mining and Processing fully is minimal since the proposed mining plan retains a dense vegetative buffer along the southern side of the site and proposes a landscaped berm along the western and northern sides limiting views of the site from existing and potential

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conflicting uses. Specifically, regarding the aesthetic impact of the proposed mining operation, the site will be mined in phases and reclamation of each phase will begin as mining of the next phase commences.

Clackamas County has identified the Barlow House as a Historic Resource in this area through the County's Goal 5 inventory process. The Barlow House and immediate grounds are recognized through a 1.48-acre Cultural Resources Overlay District. While this overlay district is approximately 1,650 feet north of the proposed Extraction Area, it is highly visible across a large agricultural field. A landscaped earth berm can be constructed at the perimeter of the mining operation to block the views of the extraction from the site of the Barlow House.

Natural Resources, other than the aggregate, include the Molalla River, wetlands, and fish and wildlife habitats. A very small portion of the proposed Extraction Area (northeast corner) is within the flood fringe of the Molalla River. The remainder of the proposed Extraction Area is outside the 100-year floodplain of the Molalla River. The eastern boundary of the proposed Extraction Area is from 150 feet to 550 feet west of the Molalla River. There is a wooded fringe along the west bank of the river, except in the area of the existing Wilmes Sand and Gravel processing site, which provides visual screening between the river and the proposed Extraction Area. The National Wetlands Inventory identifies significant wetland areas associated with the Molalla River east of the proposed Extraction Area. While the Inventory does not identify any wetlands within the proposed Extraction Area, several of the soil types are hydric soils, which is a wetland indicator. The staff-recommended conditions will include Division of State Lands approval of any encroachment into any jurisdictional wetlands within the proposed Extraction Area.

The Environmental part of the ESEE Analysis concludes the consequences of allowing Conflicting Uses fully are that a new noise- or dust-sensitive use could cause the mining operation to violate noise standards which may stop, restrict, or delay mining and processing operations. It then concludes the consequences of allowing Mining and Processing would be an incremental increase in dust in the Impact Area. A permit is required from the Department of Environmental Quality (DEQ) to maintain air quality standards. A water truck can be stationed on-site or some other method used to suppress the dust on the haul roads. Noise from the proposed mining operation could exceed DEQ daytime noise standards at several locations without mitigation. There is no available data on the noise impact. Again, the consultant determined noise mitigation measures may be needed for mining operations within at least a portion of the proposed Extraction Area in order to meet noise standards. A staff-recommended condition will require an acceptable noise abatement plan be submitted before any mining occurs.

The ESEE Analysis concludes traffic generated by the proposed mining operation is not expected to be substantially different from traffic related to the existing one. It further states operation of the proposed mining site is not expected to significantly increase existing traffic volumes or contribute to the need for future transportation improvements. The Oregon State Highway Division has concerns about the impact of this land use on the signalized intersection of State Highway 99E and Barlow Road, and requests a traffic impact analysis be reviewed and approved. The available data includes a

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1992 traffic study by Kittleson and Associates (see Exhibit No. 13) which examines traffic impacts at the intersection of State Highway 99E and Barlow Road. The Transportation Planning Section within the Department of Transportation and Development has reviewed this traffic study and determined the existing road system has the design capacity to accommodate the traffic generated by this continuing mining operation. The Department of Transportation and Development staff has also determined there is excellent sight-distance at the haul road entrance, but some road entrance improvements are needed.

The David Newton Associates report states the use of buffers, consisting of unremoved natural vegetation, will reduce impacts to the riparian area to the east of the proposed Extraction Area. It further states surface water drainage will be controlled through the mining operation plan and will not discharge into the Molalla River or adjacent wetlands, therefore water quality of the river will not be affected. It lastly states management of on-site water quality and quantity would be integrated in the site design. A staff-recommended condition will require a report be submitted from a hydrologist for review and approval before any mining occurs. This may require mining occur in small segments, may regulate the depth of quarrying, and may require the excavation not be dewatered.

The Oregon Department of Human Resources, Drinking Water Section (see Exhibit No. 18), has submitted a statement and delineated an interim well head protection area for the city of Barlow's well. Again, limiting the size of the phased excavation and dredging below the water table rather than dewatering would greatly reduce the drop in groundwater levels identified in the referenced Slicker and Associates report (see Exhibit No. 14). It should also be noted that report states that given the aquifer characteristics in the region, contamination to nearby wells due to turbidity is unlikely but contamination due to chemical spills is possible. While the Slicker and Associates report refers to a site northwest of the proposed Extraction Area, its findings are generally applicable to the proposed Extraction Area. Lastly, as stated in the report, chemical spills are the more important problem, and gives examples of methods to prevent chemical contamination of the groundwater. Again, staff-recommended conditions will require the review and approval of methods to prevent detrimental groundwater quantity and quality impacts.

Roughly 53 percent of the soils within the proposed Extraction Area are rated as Class II for agriculture and considered prime farmland. The remainder of the soils are rated as Class III and IV for agriculture. Most of the Extraction Area is now planted in seed grass, and there have been several historic agricultural uses on this property. There are no forested areas, but rather several groves of mixed hardwoods and softwoods in the northeastern portion of the property, and some brush and hardwoods associated with the escarpment at the southern boundary.

Reclamation will be in accordance with the requirements of the State Department of Geology and Mineral Industries and will consist of a combination of refilled land for agricultural use and ponded areas for open space and wildlife habitat. It is estimated that roughly 25 percent of the proposed Extraction Area can be refilled from on-site materials and another 25 percent could be refilled from materials hauled back onto the site. The area left in ponds could also be used for irrigation of farm crops. These are uses

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recognized under the goals within the Agriculture section of the Comprehensive Plan and purpose statement of the Exclusive Farm Use District. Careful reclamation can maintain the quality of the existing land resource.

Lastly, the significant fishery is the Molalla River to the east, and the significant wildlife habitat area is the corridor of mature trees and shrubs along the Molalla River to the east and the vegetation to the south on the escarpment. These areas are outside of the proposed Extraction Area and can be maintained as open space.

The Energy part of the ESEE Analysis concludes the consequences of allowing Conflicting Uses fully relates to the efficiency of the mining operation at this site and the proximity of this site to potential markets. Energy savings result from continued use of the already developed infrastructure for Mining and Processing. It then concludes there are no consequences of allowing Mining and Processing fully on conflicting uses.

The Molalla River is a Goal 5 resource within the proposed Impact Area. It is protected through Clackamas County's Principal River Conservation Area review process. It is not considered a Conflicting Use by the staff since it will not force a change in Mining at the proposed Extraction Area.

The David Newton Associates report reviews the applicability and requirements of the other Statewide Planning Goals, and the County's Comprehensive Plan and Zoning and Development Ordinance. Regarding the former, Agricultural Lands Goal 3 refers to preserving and maintaining agricultural lands. The overburden and spoils from the proposed Extraction Area will be used for reclamation of a portion of that area for agricultural use consistent with Goal 3. Haulback of materials onto the site will be used for reclamation of additional area for agricultural use. However, extraction of the underlying aggregate resource will leave much of the proposed Extraction Area ponded. While nearly half of the property has soils which are not considered prime farmland, there would be some loss of agricultural land. Goal 3 acknowledges mining and processing of aggregate resources as uses which may be established in any area zoned for Exclusive Farm Use while stating such nonfarm uses should be minimized to allow for a maximum agricultural productivity. It is the staff's judgment the proposed Extraction Area is an example of an area where establishing a nonfarm use minimally affects the preservation of agricultural lands and does not affect a significant area of prime farmland where agricultural productivity is maximized. In addition, there will be no adverse impacts on and restrictions placed on agricultural uses within the proposed Impact Area.

Regarding other Statewide Planning Goals, it is the staff's judgment this proposal is consistent with Goals 6, 7, 8, 9, and 13 for the reasons stated on pages 13 and 14 of the David Newton Associates report.

The Agriculture section of the County's Comprehensive Plan likewise refers to preserving agricultural lands and provides for nonfarm uses as allowed by state law. For the reasons previously stated in consideration of Goal 3, it is the staff's judgment the proposed Extraction Area and Impact Area is consistent with the Agriculture section of the Plan.

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The other pertinent Comprehensive Plan section is the recently adopted Mineral and Aggregate Resources section. Specifically, the Extraction Area is a Significant Aggregate Resource as per the quality and quantity standards of Policies 5.0 and 6.0. As required by Policy 3.0, the County is completing the Goal 5 process on this Significant Site.

The recently adopted Mineral and Aggregate Resources District section of the Zoning and Development Ordinance provides for the zoning overlay district in question. It also provides for the Extraction Area development standards, Extraction Area reclamation, and Impact Area development standards discussed later in this report. These development and reclamation standards are specifically identified in the staff's recommended conditions.

Other pertinent sections of the Zoning and Development Ordinance are the Exclusive Farm Use District and General Agricultural District. This proposal is consistent with the purpose statement of these districts for the same reasons previously discussed in the corresponding Comprehensive Plan sections and Statewide Planning Goal 3. The Principal River Conservation Area section of the Zoning and Development Ordinance is also applicable. The Floodplain Management District section of the Zoning and Development Ordinance may also be applicable within the small area of the proposed Extraction Area within the 100-year floodplain of the Molalla River. The requirements of these sections with respect to development in proximity to the Molalla River and within the 100-year floodplain of the river are incorporated into the staff-recommended conditions.

In summary, it is the Planning Division staff's judgment the ESEE Analysis submitted by David Newton Associates adequately covers the wide range of issues described in Subsection 708.04E. This staff report further elaborates on some of these issues. It is our staff judgment there is sufficient information contained in this file to make a decision on a program to provide the appropriate level of Goal 5 protection for this Significant Aggregate Resource site.

- F. Pursuant to Subsection 708.04F, David Newton Associates determined the consequences of the conflicts between mining the valuable resource in the Extraction Area and the existing and potential Conflicting Uses within the Impact Area are primarily economic and environmental and negatively affect both. Therefore, based on the ESEE Analysis, they determined the appropriate level of protection is provided by a decision under Subsection 708.04F2. This decision balances protection of this Significant Site and the Conflicting Uses and permits Mining and Processing. This decision provides for application of the Extraction Area and Impact Area of the Mineral and Aggregate Resources (Overlay) District as shown on the site plan (Figure 2) in their report. The David Newton Associates report identifies the specific program to achieve Goal 5 on pages 17-20. The Planning Division staff concurs with this decision and recommends approval of the zoning map change for the Mineral and Aggregate Resources (Overlay) District identified on Figure 2 of the report and their program to achieve Goal 5.
- III. The third part of this report contains the specific David Newton Associates and Planning Division staff recommended conditions for the required staff administrative applications for Extraction Area uses and for Conflicting Uses allowed conditionally in the Impact Area. The following conditions are recommended for the Extraction Area uses identified in Subsection 708.05A:

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1. The Extraction Area development standards of Subsection 708.06.
2. The area affected by mining shall be visually screened from properties within the proposed Impact Area to the west and north. Screening shall be accomplished by a planted earthen berm for the duration of the mining.
3. A wetlands study shall be submitted to the Division of State Lands to determine if there are any jurisdictional wetlands within the proposed Extraction Area before any mining occurs. Any jurisdictional wetlands shall be retained unless otherwise permitted by the Division of State Lands.
4. A noise study shall be submitted for review and approval before any mining occurs. Noise mitigation measures to include berming shall be considered to insure Department of Environmental Quality daytime noise regulations are not exceeded at existing residential structures.
5. A report shall be submitted on the surface water and groundwater impacts of mining for review and approval before any mining occurs.
6. Approval of a National Pollutant Discharge Elimination System permit for surface water drainage before any mining occurs.
7. Approval of a Principal River Conservation Area review before any development and tree cutting activities, as defined in Subsection 704.06A, occurs within the Principal River Conservation Area.
8. The Extraction Area reclamation standards of Subsection 708.07.
9. Approval of an Operating Permit from the State Department of Geology and Mineral Industries before any mining occurs.
10. Approval of a Floodplain Development Permit before any development, as defined in Subsection 703.03C of the Floodplain Management District, occurs within the 100-year floodplain of the Molalla River.

The following conditions are recommended for Conflicting Uses allowed conditionally under Subsection 708.09B and identified on page 19 of the David Newton Associates report:

1. The impact area approval criteria of Subsection 708.09D.
2. The proposed use will not cause or threaten to cause the mining operation to violate environmental standards contained in permits issued by state and county agencies.
3. The proposed use will not cause the mining operation to violate noise control standards and ambient air quality and emission standards as measured at the proposed use. It is the responsibility of the applicant for the proposed use to demonstrate whether standards are or can be met. Mitigation measures which may be necessary to assure standard compliance shall be the responsibility of the applicant and shall be a condition of approval.

FINDINGS

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Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP

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BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of the Modification
of a Condition of a Previously
Approved Comprehensive
Plan and Zone Change
for Pacific Rock Products.

ORDER NO. 2000-116
(Page 1 of 2)

File No.: Z0348-93-CP; Z0349-93-Z Modification

This matter coming regularly before the Board of County Commissioners, and it appearing that Pacific Rock Products made application for a modification of a condition of approval on property described as T4S, R1E, Section 8, Tax Lots 600, 700, 800 W.M., located off the east side of Barlow Road approximately 1/3 mile south of Highway 99E, Canby area; and

It further appearing that planning staff, by its report dated August 23, 1999, recommended denial of the application, but by later memorandum dated December 3, 1999 meeting, recommended approval, based on further information; and

It further appearing that the Planning Commission at its December 13, 1999, has recommended approval of the application; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners in the County Courthouse Annex at 906 Main Street, Oregon City, OR, on January 5, 2000, in which testimony and evidence were presented, and that a preliminary decision was made by the Board on March 1, 2000.

Based upon the evidence and testimony presented, this Board makes the following findings:

1. The applicant requests modification of a condition of approval of a previous Comprehensive Plan amendment and zone change designating the property as a significant aggregate site and putting in place a mineral and aggregate overlay district. The requested modification would increase the limit on extraction from 150,000 cubic yards to 3,000,000 tons per calendar year.
2. This request complies with the applicable Statewide Goals and Oregon Administrative Rules, Comprehensive Plan provisions and Zoning and Development Ordinance criteria for the reasons stated in the attached Exhibit "A", "Findings of Fact and Conclusions of Law".

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of the Modification
of a Condition of a Previously
Approved Comprehensive
Plan and Zone Change
for Pacific Rock Products.

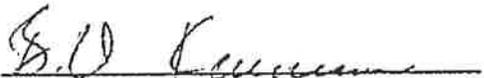
ORDER NO. 2000-116
(Page 2 of 2)

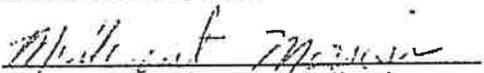
File No.: Z0348-93-CP; Z0349-93-Z Modification

NOW, THEREFORE, IT IS HEREBY ORDERED
that the requested modification of condition of approval is granted, subject to the conditions of
approval stated in attached Exhibit "B".

DATED this 8th day of June, 2000.

BOARD OF COUNTY COMMISSIONERS


Bill Kennemer, Chair


Millicent Morrison, Recording Secretary

NOTICE OF DECISION ON
MINOR MODIFICATION - APPROVAL

CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
LAND-USE AND ENVIRONMENTAL PLANNING DIVISION
9101 SE Sunnybrook Blvd, Clackamas OR 97015
Phone: (503) 353-4400

TO: Applicant, Agencies, and Property Owners within 750 feet of this application.

DATE: July 28, 2000

LAST DATE TO APPEAL: August 9, 2000

FILE NO: Z0348-93-CP, Z0349-93-Z

STAFF CONTACT: Gary Naylor

APPLICANT: Pacific Rock Products, LLC

OWNER OF PROPERTY: Same

LOCATION: On the east side of Barlow Road approximately 1/3 mile south of its intersection with Highway 99E; Barlow area.

LEGAL DESCRIPTION: T4S, R1E, Section 8, Tax Lots 600, 700, 800 and 1000, W.M.

SITE ADDRESS: 25000 South Barlow Road

TOTAL AREA INVOLVED: Approximately 195 acres

PRESENT ZONING: EFU, Exclusive Farm Use and MAO, Mineral and Aggregate Overlay District.

CITIZENS PLANNING ORGANIZATION FOR AREA: South of Canby Community Planning Organization (Inactive)

PROPOSAL: Modify the condition in the Goal 5 specific program requirements for this mining site to relocate the originally approved access road to the same location approved for the asphaltic concrete batch plant on Tax Lot 1000.

CONCLUSIONS: Subsection 1305.01L of the Clackamas County Zoning and Development Ordinance, under Administrative Responsibility of the Planning Director, states it is the duty of the Planning Director or designate to review minor modifications to applications or conditions thereto which have been approved under the provisions of the Zoning Ordinance. It further states a modification shall be considered minor, and thus may be approved by the Planning Director or designate, only if the proposed modification meets three (3) criteria. The Planning Division staff has reviewed this proposal with respect to these criteria and finds:

1. The first criterion requires the modification be consistent with the prior approval. Comprehensive Plan change Z0348-93-CP modification and Zoning Map change Z0349-93-Z modification were approved by the Board of County Commissioners on June 8, 2000. Condition No. 16 of that approval required applicant Pacific Rock Products immediately submit an application for a modification of that Post Acknowledgement Plan Amendment for the relocation of the originally approved access road for this mining operation to the same location approved for the asphaltic concrete batch plant on Tax Lot 1000 under file number Z0652-99-C. This requirement was due to a traffic safety hazard at the originally approved access road. This present application relocates the access road for the mining operation to the same location approved for the asphaltic concrete batch plant where all traffic safety requirements for vehicle maneuvering on and off Barlow Road are met. This is consistent with the Board of County Commissioners prior approval. This first criterion is met.
2. The second criterion requires the proposal be consistent with all zoning ordinance provisions in effect at the time of this modification. Section 708 of the Clackamas County Zoning and Development Ordinance continues to provide for the mining of aggregate resources within the Mineral and Aggregate Overlay District. This second criterion is met.
3. The third criterion requires the proposal not result in a number of changed circumstances. The Planning Division staff has reviewed each of these circumstances and finds:
 - A. The first requires the proposal not result in a change in the type of use (commercial, industrial, community service, et. al.) This proposal to relocate the originally approved access road for this mining operation does not result in any change in the type of use.
 - B. The second requires the use not result in an increase greater than 10% of the originally approved building floor area or an increase in the overall lot coverage exceeding 10% of the original approved plan. This proposal is only to relocate the originally approved access road and results in no increase in approved building floor area and overall lot coverage of buildings.
 - C. The third requires the proposal not result in an increase in the density of development (residential or recreational uses), or intensity of use, as demonstrated by a change in occupancy rating requiring substantial modifications to structures. This proposal to relocate the originally approved access road does not result in any increase in the intensity of this mining operation.

- D. The fourth requires the proposal not result in an increase in traffic congestion or use of public facilities. Again, this proposal to relocate the originally approved access road does not result in any increase in traffic generated by this mining operation and requires no use of public facilities.
- E. The fifth requires the proposal not result in a reduction in approved open space. The proposed relocation of the access road extends through areas approved for aggregate extraction and processing. It does not extend into any area approved as an open space buffer from this mining operation.
- F. The sixth requires the proposal not result in a reduction of off-street parking and loading spaces. The proposed relocation of the access road does not extend into any area providing off-street parking and loading spaces for this mining operation.
- G. The seventh requires the proposal not result in a reduction in required pavement widths or a change in major access locations except as required by the County. The pavement width for this relocated access road will be increased and meet County requirements. This proposed change in the major access location has been required by the Board of County Commissioners in the modification of Z0348-93-CP and Z0349-93-Z approved on June 8, 2000 in order to meet traffic safety standards. This proposed relocation of the originally approved access road meets all traffic safety standards to include vehicle sight-distance and vehicle turning movements onto and off Barlow Road.

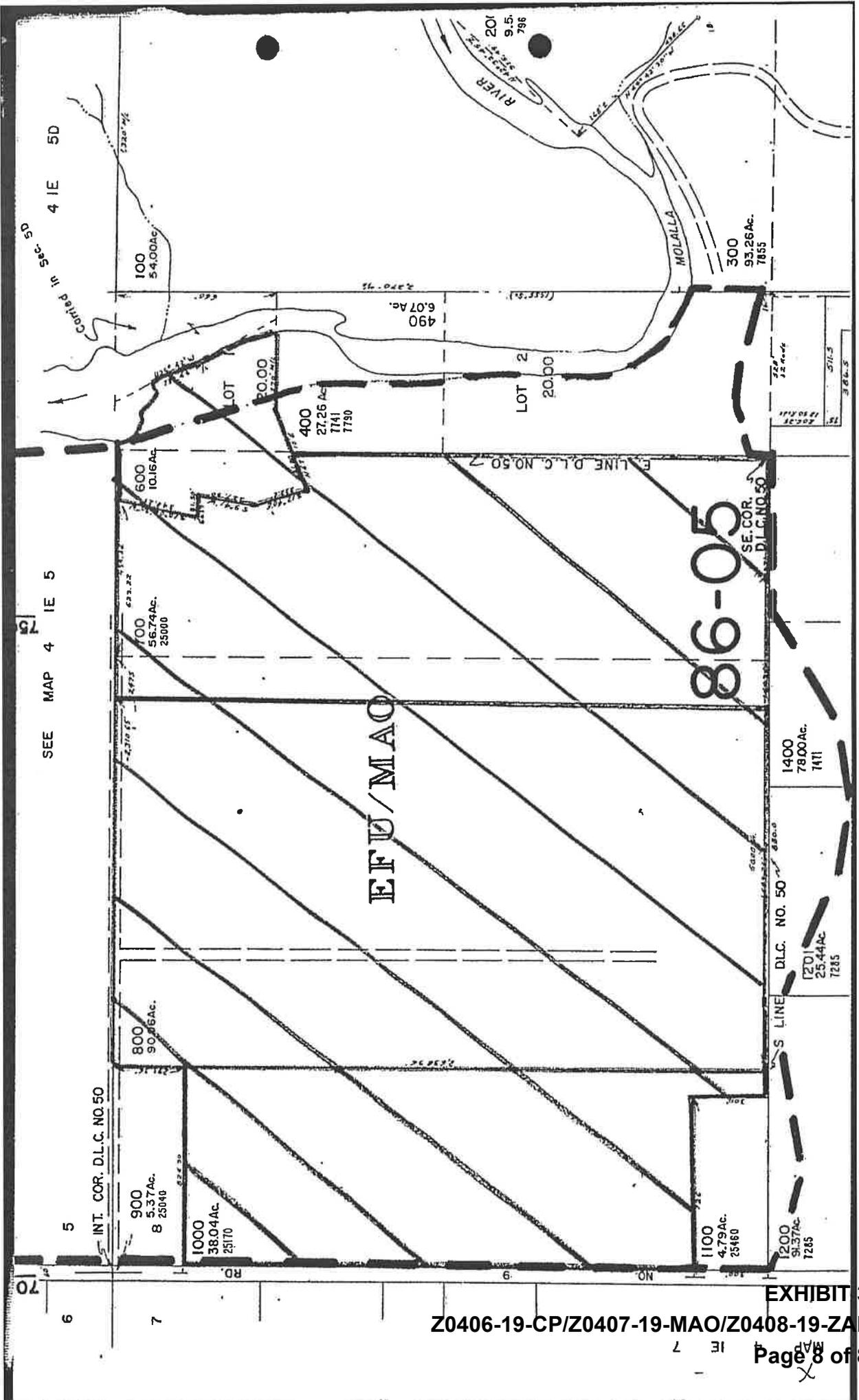
In summary, the Planning Division staff finds this third criterion is met.

In conclusion, the Planning Division staff finds this proposal is consistent with the three (3) criteria in Subsection 1305.01L of the Zoning and Development Ordinance and, therefore, it is APPROVED as a minor modification of the approved Comprehensive Plan Amendment and Zoning Map change for this mining operation subject to the following conditions:

1. The existing conditions of Z0348-93-CP and Z0349-93-Z modification.
2. County Traffic Engineering Section review and approval of the proposed relocation of the originally approved access road to this mining site.
3. The originally approved access road to this mining site shall not be used for any traffic associated with this mining operation when the new access road is constructed.
4. The proposed relocation of the originally approved access road shall be reviewed and meet the requirements of the Canby Fire District for access for fire and emergency vehicles.
5. The address for this mining operation shall be in plain view at the entrance of the relocated access road.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS CHAPTER 215
REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY
FORWARDED TO THE PURCHASER.

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE
PLANNING DIVISION OFFICE. IF YOU DISAGREE WITH THESE FINDINGS OR
CONDITIONS, YOU MAY APPEAL THIS DECISION TO THE CLACKAMAS COUNTY
HEARINGS OFFICER. THE COST OF THE APPEAL IS \$100. YOUR APPEAL MUST BE
RECEIVED IN THE PLANNING DIVISION OFFICE BY 5:00 PM ON THE LAST DATE TO
APPEAL, WHICH IS AUGUST 9, 2000. THIS PERMIT WILL NOT BE ISSUED UNTIL
THE DAY AFTER THE APPEAL DEADLINE.



SEE MAP 4 IE 5

EFU/MAO

86-05

EXHIBIT 3

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP

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MAP 7 IE

X

PACIFIC ROCK
FILE NOS. Z0756-06-CP / Z0757-06-Z

FINAL CONDITIONS OF APPROVAL

1. GENERAL CONDITIONS:

- A. Table III-2 in the Mineral and Aggregate Resources Section of the Comprehensive Plan shall be amended to add "Pacific Rock / Rodrigues Property" to the list of Significant Sites.
- B. **This approval authorizes modifications to conditions of approval in Files Nos. Z0348-93-CP / Z0349-93-Z and File No. Z1826-97-MAR. Condition of approval number 8 in Files Nos. Z0349-93-CP / Z0349-93-Z (Exhibit 2) and condition of approval number 6 in the July 28, 2000 Decision in File No. Z1826-97-MAR (Exhibit 6) is modified to allow the required noise berm on the west boundary of the existing site to be relocated to the western boundary of the Rodrigues property along Barlow Road. Condition of approval number 5 in File Nos. Z0348-93-CP / Z0349-93-Z (Exhibit 2) and condition of approval number 25 in the July 28, 2000 Decision in File No. Z1826-97-MAR (Exhibit 6) is modified to allow loading and hauling activities from existing mining site between the hours of 6:00 P.M. to 10:00 P.M. on Monday through Friday and 8:00 A.M. to 5:00 P.M. on Saturdays in addition to the existing approved hours of operation providing these activities fully comply with DEQ with noise standards.**
- C. Mining shall be allowed on the property subject to the site specific program in the submitted PAPA application to the extent it is consistent with the remaining conditions of approval.
- D. The post reclamation use of the subject property shall be limited to fish and wildlife habitat uses and / or farm 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.
- E. 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

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the approve activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

2. PROCESSING/OPERATING/MONITORING CONDITIONS:

- A. Compliance with all operating conditions proposed in the submitted application, to the extent they are consistent with the remaining conditions of approval.
- B. The combined level of aggregate and mineral extraction for Rodrigues site and the existing Pac Rock site shall not exceed 3 million tons per calendar year.
- C. **All mining activities except for routine maintenance for the existing mining site and the Rodrigues property shall be limited to the hours of 7:00 A.M. to 6:00 P.M. Monday through Friday. Loading and hauling activities are permitted from 7:00 A.M. to 10:00 P.M. on Monday through Fridays and from 8:00 A.M. to 5:00 P.M. on Saturday. No mining, loading or hauling activities shall occur on Sundays and the following legal holidays: New Years Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.**
- D. Prior to any land disturbance associated with this mining operation, the applicant shall submit to the County Planning Division a copy of an Operating Permit and approved reclamation plan from the Oregon Department of Geology and Mineral Industries. The mining operator shall maintain a State Department of Geology and Mineral Industries, Operating Permit and all other applicable permits for the duration of this mining operation.
- E. A County Mineral and Aggregate Overlay District Permit shall be obtained before any land disturbance associated with this mining operation. This mining operation is subject to all the applicable standards in Section 708 of the ZDO, including Extraction Area uses, development standards and reclamation. All property owners within the Impact Area shall be notified of the County Mineral and Aggregate Resources District permit process and given the opportunity to participate and comment on the issue of screening, including berms and plantings.
- F. The processing plant located on the existing mining operation (Pac Rock Site) shall be used for processing mineral and aggregate materials from the Rodrigues site. No new processing facilities shall be established on the Rodrigues site.
- G. 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 the provisions for storage and utilization of both hazardous and flammable liquids in accordance with Uniform Fire Code requirements.
- H. Review and approval of this development by the Oregon Dept. of Water Resources, of any water resource issues that fall within their jurisdiction, including but not limited to obtaining a ground water right permit for industrial uses such as dust control, truck and gravel washing, and water rights for the reclamation ponds.

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- I. All mining operator owned mobile diesel extraction and loading equipment shall be fitted with the original equipment manufacturer muffler, or its equivalent.
- J. All non-mining operator owned equipment that will be utilized at this mining site shall be equipped with the original equipment manufacturer muffler, or its equivalent.
- K. All mining operator mobile diesel equipment shall have original equipment manufacture engine compartment side panels.
- L. Subject to State and Federal warning signal requirements, all backup warning signal devices shall be selected or set to the minimum sound level possible, or shall be the ambient noise sensing type which adjust the sound level to the ambient noise off the rear of the vehicle. Back-up beepers that may be switched to light / strobe mode shall be installed and used on all loading equipment and maintenance vehicles. The back-up beepers shall be switched to the light / strobe mode when allowed under State and Federal Warning Signal Requirements (e.g. After Dark).
- M. This mining operation shall utilize mining techniques approved by DOGAMI. Aggregate material shall be transferred to the processing facility by a conveyor system. Transfer points between the conveyors shall be treated to reduce noise. Rubber screens and noise reduction equipment commonly used in the industry shall be employed at this mining site.
- N. Blasting shall not be used for any purpose at this mining site.
- O. All process water shall be retained in a closed water system within the mining site. The mining site may be dewatered for mining individual cells. All water removed form the mining cell as part of dewatering operations shall be reintroduced into the water table by pumping the water to other onsite ponds, or other onsite or offsite methods approved by DOGAMI. This can include utilizing the pond on the adjacent property to the south (Miles property) as a recharge source subject to written approval from the property owner. A copy of the written agreement shall be provided to the Clackamas County Planning Division.
- P. Prior to any land disturbance associated with this mining operation, the applicant shall submit to the County Planning Division a copy of a 1200-C-General National Pollutant Discharge Elimination System Permit (storm water and erosion control) approved by DOGAMI or the Water Environment Services Department.
- Q. A Department of Environmental Quality, Air Contaminant Discharge Permit (ACDP) shall be obtained and maintained by the mining operator throughout the duration of this mining operation.
- R. On site haul roads shall be graveled. An operational water truck shall be maintained on-site for dust control (and fire control) on the interior roadways and access road

throughout the duration of this mining operation. Water shall be sprayed over the crusher to control dust as required by DEQ.

- S. The mining operator shall be responsible for restoring the water source for any property within the final impact area where the State Department of Geology and Mineral Industries, in consultation with other State agencies, determines this mining operation has damaged a well or caused water quality to not meet health standards in place at the time this mining operation is approved.
- T. The mining operator shall submit to the Clackamas County Planning Department any surface water and groundwater studies included in the DOGAMI operating permit application for review as part of the County's required Mineral and Aggregate Resources District Permit.
- U. In coordination with other sand and gravel operators in the area, operators will consider joint efforts to clean the exterior of the Barlow House upon request by the property owner, not to exceed once per year.
- V. **A minimum setback of 30 feet shall be maintained between the extraction area and the north, south and west property lines of the subject property. A greater setback shall be maintained if required by the DOGAMI or by Clackamas County in the review of the Mineral and Aggregate Operating Permit if deemed necessary to protect the structural integrity and stability of Barlow Road and the natural gas pipeline on the west side of Barlow Road. The County shall send notice and request comments from the natural gas company in the review of the Mineral and Aggregate Overlay Operating Permit. The applicant and County shall coordinate with the natural gas company to ensure mining does not impact the natural gas line.**
- W. The asphaltic concrete batch plant approved under File No. Z0652-99-C may continue to operate on the Rodrigues property in the approved location subject to compliance with all conditions of approval.
- X. Topsoil shall only be removed from new mining area on the Rodrigues property between October and May, or at other times using approved dust suppression techniques. Seed and mulch all unvegetated stockpiled topsoil/overburden prior to October 1 of each year. The overburden from the Extraction Area shall be used for reclamation.
- Y. The mining operator shall be responsible for developing and implementing a spill prevention and response program. The program shall be reviewed and approved by Clackamas County Planning Department, DOGAMI and DEQ, if applicable, in order to ensure compliance with DEQ water quality standards. The program shall address substances used in the mining operation including fuels and lubricants. Spill response equipment shall be located on site near the crusher operation area at all times.

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3. VISUAL SCREENING CONDITIONS:

- A. The applicant shall provide visual screening along Barlow Road pursuant to Section 708.05B of the ZDO.
- B. All lighting shall be designed to direct light downward and shield adjacent properties from glare.
- C. **There shall be strict compliance with the Berm Landscaping Plans required for the existing mining site and proposed for the Rodrigues property. All 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. The west side of the required berm along Barlow Road shall include in addition to the required trees, a combination of ground cover or shrubs planted to landscape industry standards.**

4. NOISE RELATED CONDITIONS:

- A. **Noise resulting from all mining activities within the subject site shall comply with the Department of Environmental Quality noise standards at all existing residences during the lifetime of this mining operation. All berms identified in the Noise Study shall be constructed to mitigate noise. Before the beginning of any aggregate extraction and processing on the Rodrigues property the applicant shall submit to the County Planning Division verification that all of the noise mitigation measures have been implemented and the DEQ Noise Standards are met at all existing residences.**
- B. **Within 45 days after extraction operations are commenced on the Rodrigues property, the operator shall submit a noise study to demonstrate the extraction operations are in compliance with applicable DEQ standards. These reports shall be submitted to the Clackamas County Planning Department.**
- C. All vehicles and equipment used on the subject site shall meet required DEQ Noise Standards.

5. TRAFFIC / ROAD IMPROVEMENT CONDITIONS:

- A. All frontage improvements in, or adjacent to Clackamas County right-of-way, shall be in compliance with *Clackamas County Roadway Standards*.
- B. The applicant shall design and construct improvements on Barlow Road from the site driveway to a point approximately 400 feet northerly from the site driveway. The improvements shall be completed prior to initiation of mining activities on tax lot 1000. These improvements shall consist of:
 - 1. Thermoplastic to replace existing painted longitudinal striping and painted turn lane arrows.

2. Replacement of all damaged or missing reflectorized buttons with new reflectorized buttons.
- C. Prior to the initiation of mining activities on tax lot 1000 , the applicant shall submit to Clackamas County Engineering Office a set of street improvement construction plans for review, in conformance with *Clackamas County Roadway Standards* Section 130, to Clackamas County's Engineering Office and obtain written approval, in the form of a Street Construction and Encroachment Permit. The permit will be for thermoplastic longitudinal striping and turn lane arrows, and reflectorized buttons. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp the construction plans for all required improvements.
- D. The applicant shall design and construct necessary infrastructure on site to prevent mud and other debris from entering onto the County Road systems. The mining operator shall be responsible for keeping Barlow Road entrance clean of any such material that may be tracked from the mining site onto the right-of-way.
- E. A 15 mile per hour speed limit shall be maintained for all vehicles using the roadways within the subject site.
- F. Prior to final approval of a Mineral and Aggregate Operating Permit, the applicant shall enter into a maintenance agreement with Clackamas County for the applicant's proportional share of the maintenance of Barlow Road between the access drive and Hwy. 99E.
- G. The mining operation on the Rodrigues property in combination with the existing Pac Rock mining site shall not generate daily traffic exceeding 154 A.M. Peak Hour trips and 120 P.M. Peak Hour trips.

6. CONFLICTING USES WITHIN IMPACT BOUNDARY:

- A. Property within the Impact Area is subject to Section 708.08 of the ZDO.
- B. No proposed use will be allowed which would cause the mining operation to violate noise control standards measured at the proposed use. It is the responsibility of the applicant for the proposed use to demonstrate compliance with the noise standards. Mitigation measures necessary to achieve compliance with the noise standards shall be the responsibility of the applicant for the proposed use.

PACIFIC ROCK
FILE NOS. Z0756-06-CP / Z0757-06-Z

Exhibit C

1. Condition of approval number 8 in File No. Z0348-93-CP / Z0349-93-Z (Exhibit 2) are amended to read as follows:

“The Extraction Area affected by mining shall be visually screened from properties within the Impact Area to the north and east. Screening shall be accomplished by maintained plantings and / or earthen berm for the duration of mining.”

2. Condition of approval number 6 in the July 28, 2000 Decision in File No. Z1826-97-MAR (Exhibit 6) is amended to read as follows:

“The applicant shall visually and acoustically screen surface mining and processing within the Extraction Area by construction of an earthen berm planted in trees at least 6 feet in height as shown on the Revised Site and Mining Plan. This planted berm shall be extended eastward along the north property line to the northeast corner of the Extraction Area when the mining operation progresses into the area leased to the former property owner. The berm shall be extended eastward to obstruct vision through it that would otherwise result from construction of the relocated access road. The required berm along the west side of the Extraction Area may be removed upon approval of a Mineral and Aggregate Operating Permit for mining on the Rodrigues Property.”

3. Condition of approval number 5 in File Nos. Z0348-93-CP / Z0349-93-Z (Exhibit 2) are amended to read as follows:

“Mining and processing shall be restricted to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. Loading and hauling activities are also allowed between the hours of 6:00 p.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturdays providing these activities fully comply with DEQ noise standards. Other activities may operate without restriction provided that Department of Environmental Quality noise control standards are met.”

4. Condition of approval number 25 in the July 28, 2000 Decision in File No. Z1826-97-MAR (Exhibit 6) is amended to read as follows:

“Mining and processing shall be restricted to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. Loading and hauling activities are also allowed between the hours of 6:00 p.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturdays providing these activities fully comply with DEQ noise standards. Other activities may operate without restriction provided that Department of Environmental Quality noise control standards are met.”

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NOTICE OF DECISION ON MINERAL AND AGGREGATE
OVERLAY DISTRICT OPERATING PERMIT- **APPROVAL**

CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
LAND USE AND ENVIRONMENTAL PLANNING DIVISION
9101 SE Sunnybrook Blvd., Clackamas, Oregon, 97015
Phone: 503-353-4500

TO: Applicant, Citizens Planning Organization, Agencies, and Property Owners within 1500 feet of this application.

DATE: September 20, 2007

LAST DATE TO APPEAL: October 2, 2007

FILE NO: Z0566-07-MAR

STAFF CONTACT: Steve Koper

APPLICANT: Pacific Rock Products, LLC; 8705 NE 117th Avenue, Vancouver, WA 98662

PROPERTY OWNER: Pacific Rock Products, 1501 Belvedere Road, West Palm Beach, FL 33406

LEGAL DESCRIPTION: T4S, R1E, Section 8, Tax Lot 1000

SITE ADDRESS: 25100 S. Barlow Road, Canby, Oregon 97013

TOTAL AREA INVOLVED: Approximately 38 acres

PRESENT ZONING: Exclusive Farm Use (EFU) and Mineral Aggregate Overlay (MAO)

CITIZENS PLANNING ORGANIZATION FOR THE AREA: South Canby CPO. This organization is currently inactive. If you are interested in becoming involved in land use planning in your area, call Clackamas County Citizen Involvement at (503) 655-8552.

PROPOSAL: Request for a Mineral and Aggregate Overlay Resources District Permit to authorize mining on the property. A Comprehensive Plan amendment and zone change application (File Nos. Z0756-06-CP / Z0757-06-Z) was approved on this property in 2007. This Post Acknowledgement Plan Amendment (PAPA) authorized a Mineral and Aggregate Overlay District on the property subject to the conditions of approval. Condition No. 2E of the PAPA requires the applicant to obtain a Mineral and Aggregate Operating Permit pursuant to Section 708 of the Clackamas County Zoning and Development Ordinance (ZDO) prior to commencement of mining activities. Review of this operating permit constitutes a specific site plan review to ensure compliance with the extraction area development standards in Section 708 of the ZDO and conditions of approval in the PAPA.

DECISION: Approval, with conditions.

LAND USE ORDINANCE CONSIDERATIONS:

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This application is subject to the Mineral and Aggregate Overlay District Standards in Section 708 of Clackamas County Zoning and Development Ordinance.

Section 708.07 of the ZDO outlines the requirements for Site Plan Review under the Mineral and Aggregate Overlay District. Site Plan Review is considered a Planning Director Administrative Action and processed pursuant to Section 1305.02(A), (E) and (G) through (I) of the ZDO. Section 708.07B states 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 (MAO), 1006 (Utility Lines and Facilities), 1010 (Signs), and the requirements of the site specific program to achieve Goal 5 adopted as part of the Comprehensive Plan.

The Planning Staff has reviewed each of these applicable Sections and requirements of the site specific Goal 5 application approved on this property under File Numbers Z0756-06-CP / Z0757-06-Z and makes the following findings.

1. Section 708.04: Extraction Area Uses. This subsection identifies the specific uses which may be allowed in the mining extraction area. The approved extraction area is approximately 38.04 acre site. The extraction site (known as the “Rodrigues site”) is located between Barlow Road to the west and the existing mining and processing operation to the east (“Pac Rock site”).

A. Section 708.04A: *The County may allow the following uses subject to standards of ZDO 708.05, and any requirements adopted as part of the Comprehensive Plan.*

1. *Mining;*

Mining is proposed within the approved extraction area.

2. *Processing, except the batching or blending of mineral and aggregate materials into asphalt concrete within two miles of a planted commercial vineyard existing on the date the application was received for the asphalt batch plant;*

No processing of aggregate or other materials are proposed within the approved extraction area. The processing plant located on the existing mining operation (Pac Rock Site) shall be used for processing mineral and aggregate materials from the Rodrigues site. No new processing facilities shall be established on the Rodrigues site. The asphaltic concrete batch plant approved under File No. Z0652-99-C may continue to operate on the Rodrigues property in the approved location subject to compliance with all conditions of approval. This is consistent with conditions 2F and 2W of the approval for Files Z0756-07-CP / Z0757-07-Z.

3. *Stockpiling of mineral and aggregate materials extracted and processed on site;*

Stockpiling of mineral or aggregate materials is proposed. Extracted gravel may be temporarily placed in windrows prior to being transported on the conveyor system.

4. *Temporary offices, shops or other accessory structures used for the management and maintenance of on site mining and processing equipment;*

No temporary office, shops or other structures are proposed in the extraction area. All such facilities have previously been established on the Pac Rock Site and will remain because the processing areas will be located at this site.

5. *Sale of mining products extracted and processed onsite;*

No sale of mining products extracted from the site will be sold in the extraction area.

6. *Storage of transportation equipment or machinery used in conjunction with onsite mining or processing;*

The extraction area will be used to store limited pieces of equipment used in conjunction with the on site mining. This equipment is generally limited to a trackhoe and front end loader. No processing equipment will be stored or allowed on site because processing is prohibited under the conditions of the approval.

7. *Other activities including buildings and structures necessary and accessory to development or reclamation of the onsite mineral or aggregate resource.*

No other activities or buildings are proposed in the extraction area.

The uses proposed in the extraction area are limited to mining, temporary stockpiling and storage of equipment used for mining. These are all listed and allowed uses within the extraction area. **This criterion is met.**

B. Section 708.04B: *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.*

The applicant has not proposed any other uses in the extraction area. **This criterion is not applicable.**

2. Section 708.05: Extraction Area Development Standards. This subsection identifies the specific development standards applicable to the mining and operating areas within the approved site.

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.*

An existing access road to the Pac Rock site is established on Barlow Road. This access road will also be used for mining on the subject property. The access road is paved in excess of 1000 feet from Barlow Road. **This standard 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.*

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Internal roads within the extraction area will be graveled and watered to maintain compliance with state noise and ambient air quality. Access to the extraction area is from Barlow Road. A water truck shall be on-site at all times to control any dust within the extraction area. The findings in the approval support that this means of dust control is adequate to meet minimum air quality standards. In addition, the applicant will be required to provide and maintain an Air Contaminant Discharge Permit for the duration of mining operations to ensure compliance with emission standards. **This standard can be 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.*

Noise and dust sensitive uses include residential structures, churches, hospitals, schools, public libraries and campgrounds during their period of use. Forest and farm uses are not noise or dust sensitive uses unless so determined in the Goal 5 process. These uses were not determined to be noise or dust sensitive in the Goal 5 process.

There are several residential structures within 250 feet of the extraction area which currently exist or existed on February 22, 1996. However, all roads in the Extraction Area are paved at all points within 250 feet of all noise or dust sensitive uses. In addition, Condition of Approval 2R requires that an operational water truck be maintained on-site for dust control for the duration of the mining operation. Water shall be sprayed over the crusher to control dust as required by the DEQ. **This standard is met.**

B. Section 708.05B: *Screening;*

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).*

Screened uses are defined as "Noise sensitive uses or other uses determined to be conflicting uses through the Goal 5 planning process or scenic viewpoints or other areas designated as significant Goal 5 scenic resources. The mining activities in Subsection (B)(2) authorized in the Extraction Area include mining, stockpiling and storage of equipment and machinery. The "Screened Use" identified in the Goal 5 process is the impact area to the north and west of the subject site. No screening is required to the east because it is adjacent to the existing Pac Rock site. Condition 1B of the PAPA authorized the noise berm located on the west of the Pac Rock site to be relocated to the west boundary of the Rodrigues site along Barlow Road. The impact area to the south is adjacent to the natural bluff topography. An exception to the screening is warranted based on the finding in Section 708.05(B)(4).

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.*

The applicant shall provide visual screening along the north and west boundaries of the extraction area. Screening is not required to screen the existing access road.

b) *All processing equipment.*

No processing equipment is proposed or will be allowed in the extraction area. Therefore no screening is required for processing equipment.

c) *All equipment stored on the site.*

All equipment will be stored on the previously approved processing site (Pac Rock site). Equipment may be temporarily stored on the subject site in conjunction with extraction activities only.

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.*

Natural screening is not present on the subject site. Required screening shall be supplied earthen and vegetative screening.

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.*

The applicant shall supply earthen berm screening stabilized with ground cover and evergreen shrubs and trees consistent with the supplied Landscaping Plan. All 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. The west side of the required berm along Barlow road shall include in addition to the required trees, which shall be Douglas Firs, a combination of ground cover or shrubs, which shall include Cascara (*Rhamnus purshiana*), Mockorange (*Philadelphus lewisii*), Ocean-Spray (*Holidiscus discolor*), Red Currant (*Ribes sanguineum*) and / or Western Serviceberry (*Amelanchier aifolia*), planted to landscape industry standards. See Exhibit 20 of the application.

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.*

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- 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.*

Screening along the impact area to the south of subject site is not possible as the natural bluff topography prevents the ability to fully screen mining and processing uses. An exception to screening the extraction area from the properties to the south is warranted. **This standard 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.*

The findings in the PAPA approval for the Pac Rock site and Condition of Approval 2C demonstrate the proposed operation with appropriate conditions are adequate to ensure the mining will comply with all state air emissions standards and water quality standards. The applicant has obtained and provided evidence of a DEQ NPDES 1200C permit for surface and subsurface water control and a DEQ NACDP permit for air quality purposes for the existing processing facilities on the Pac Rock site. A condition of approval is warranted requiring applicant to obtain DEQ NPDES 1200C and NACDP permits for the Rodrigues site. **This standard can be 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.*

There are no lakes, rivers, perennial water bodies or wetlands located within 100 feet of the extraction area, except lakes and ponds approved as part of a reclamation plan on the Pac Rock site.

The Molalla River is located adjacent to existing Pac Roc Site. However, the Molalla River is not within the 1500 foot impact area of the subject site. **This standard 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 original PAPA application included a noise study demonstrating the mining activities can be conducted in compliance with DEQ noise standards, subject to certain mitigation measures. See Noise Study completed by Daly-Standlee and Associates dated September 11, 2006. Condition of Approval 4A requires that noise resulting from all mining activities within the subject site shall comply with DEQ noise standards at all existing residences during the lifetime of the mining operation. Condition of Approval 4B requires that within 4

commencement of extraction operations, the operator shall provide a noise study to demonstrate compliance with the applicable DEQ standards, which shall be submitted to the County Planning Division. The specific noise mitigation measures will be included as a condition of approval. **This standard can be 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.*

The hours of operation for all mining activities except for routine maintenance for the existing mining site and the Rodrigues site are limited to between 7:00 A.M. and 6:00 P.M. Monday through Friday. Condition of approval 2C limits loading and hauling activities from 7:00 A.M. to 10:00 P.M. on Monday through Friday and 8:00 A.M. to 5:00 P.M. on Saturday. No mining, loading, or hauling activities shall occur on Sundays and the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day. A condition of approval to this effect is warranted. **This standard is 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.*

Operations on these days are prohibited. A condition of approval to this effect is warranted. **This standard 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.*

This is a wet mining operation. Condition 2N prohibits blasting for any purpose at this site. No drilling or blasting is proposed or permitted in this mining operation. **This standard is not applicable.**

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.*

This is a wet mining operation. No drilling or blasting is proposed or permitted in this mining operation. **This standard is not applicable.**

H. Section 708.05H: *Surface and Ground Water; Surface and ground water shall be* **EXHIBIT 4**

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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.

The applicant has obtained an operating permit from DOGAMI, including a National Pollutant Discharge Elimination System 1200C Permit under DEQ requirements for the Pac Rock site. A condition of approval is warranted requiring the applicant to obtain an operating permit from DOGAMI, and a DEQ NPDES 1200C permit for the Rodrigues site.

The applicant has provided evidence of water availability, a certificate of water right, applicant's statutory exemption, existing Oregon Water Resources Department water permits for the existing Pac Rock site. A condition of approval is warranted requiring applicant to provide evidence that all water necessary for the proposed operation can be supplied. The applicant shall also demonstrate that the Water Recharge Agreement in Exhibit 12 is approved by the Oregon Department of Water Resources (OWDR). This evidence shall be in the form of written approval from the OWDR provided to the County Planning Division or otherwise included in the DOGAMI operating permit. Compliance with these permits will ensure surface water and ground water is managed in compliance with state water quality standards and DOGAMI requirements.

This standard can be 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 County staff does not find it necessary to impose any additional conditions to resolve issues related to the site other than those required under Section 708 and adopted as part of the original PAPA application and subsequent approval for the Rodrigues site (File Nos. Z0756-06-CP / Z0757-06-Z). Each of the conditions in the PAPA approval is either satisfied or can reasonably be met. Those conditions will be incorporated as part of this approval. Condition 2V requiring notice to the Natural Gas Utility Provider has been met, and no comments regarding this application were received. Section 708 of the ZDO also requires compliance with Section 1006 (Utility Lines and Facilities) and 1010 (Signs). These Sections of the ZDO are not applicable as no utility lines are proposed or required for the operation. No new signs are proposed. **This standard 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.*

The subject property is located in, and entirely surrounded by lands zoned Exclusive Farm Use (EFU). Dwellings are not a listed principal use in the EFU zoning district. Therefore, security fencing is not required around the extraction area. **This standard is not applicable.**

- K. Section 708.05K: *Performance requirements;*

- I. *The mining operator shall maintain DOGAMI and other state agency permits* **EXHIBIT 4**

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The applicant shall be required to submit evidence of a current operating permit from DOGAMI and associated NPDES permits for surface and storm water management for the Rodrigues site as a condition of approval. **This standard can be met.**

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.*

A condition of approval is warranted requiring the mining operator to submit evidence of a liability policy in the form of a Certificate of Liability Insurance covering mining, and incidental activities during the term of operation and reclamation for the Rodrigues site, with an occurrence limit of at least \$500,000. Evidence of coverage for a term of one year shall be submitted to the County Planning Division prior to the commencement of mining operations, and a current certificate of insurance shall be kept on file with the County during the term of operation and reclamation. **This standard can be met.**

3. Section 708.06: Reclamation. This subsection identifies the requirements for reclamation of the approved mining site.

- A. 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 shall be required to provide evidence of a current operating permit from DOGAMI for the Rodrigues site as a condition of approval. **This standard can be met.**

- B. 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 proposes to establish fish and wildlife habitat and/or farm uses. These uses are allowed in the underlying EFU zoning district. This reclamation use was determined to be a beneficial use and compatible with the County Comprehensive Plan in the PAPA application. **This standard is met.**

- C. Section 708.06C: This Section of the ZDO requires coordination with DOGAMI in reviewing Operating Permits and Reclamation Plans. The Operating Permit and Reclamation Plans will be reviewed and approved by DOGAMI prior to issuance of an Operating Permit and approval of the applicant's Reclamation Plan. **This standard is not applicable.**

Based on the above findings it is the decision of the Clackamas County Planning Division to approve

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this application subject to the following conditions:

A. The following conditions shall be satisfied **prior** to any land disturbance (grading, berm construction, or any other similar activities) associated with this mining operation:

1. The applicant shall submit to the County Planning Division a copy of an Operating Permit and approved reclamation plan from the DOGAMI.

2. The applicant shall design and construct improvements on Barlow Road from the site driveway to a point approximately 400 feet northerly from the site driveway. All frontage improvements in, or adjacent to Clackamas County right-of-way, shall be in compliance with the *Clackamas County Roadway Standards*. These improvements shall consist of:

a. Thermoplastic to replace existing longitudinal striping and painted turn lane arrows.

b. Replacement of all damaged or missing reflectorized buttons with new reflectorized buttons.

c. The applicant shall submit to Clackamas County Engineering Division a set of street improvement construction plans for review, in conformance with *Clackamas County Road Standards* Section 130, and obtain written approval in the form of a Street Construction and Encroachment (SC & E) Permit. The permit will be for thermoplastic longitudinal striping and turn lane arrows, and reflectorized buttons. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp the construction plans for all required improvements.

3. The applicant shall submit to the County Planning Division evidence of a signed maintenance agreement with Clackamas County for the applicant's proportional share of the maintenance of Barlow Road between the access drive and Highway 99E.

4. The applicant shall obtain a National Pollutant Discharge Elimination System Storm Water General Permit 1200-C (storm water and erosion control) from DOGAMI or by the County Water Environment Services Department. A copy of this NPDES Permit shall be provided to the County Planning Division.

5. The applicant shall obtain and maintain an Oregon Department of Environmental Quality Air Contaminant Discharge Permit for the duration of mining operations. A copy of this permit shall be provided to the County Planning Division.

6. The mining operator shall submit to the County Planning Department any surface water and groundwater studies included in the DOGAMI operating permit application.

7. The applicant shall provide a copy of a letter of approval from the Canby Fire District evidencing that the mining operation has been reviewed and approved to ensure it is acceptable for access by fire and emergency vehicles.

8. The applicant shall provide evidence of written approval or evidence in the DOGAMI permit of the proposed operation by the Oregon Department of Water Resources of any water resource

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issues that fall within their jurisdiction, including but not limited to obtaining a ground water right permit, for industrial uses such as dust control, truck and gravel washing, and water rights for the reclamation ponds, as well as the Mile Water Recharge Agreement.

9. The mining operator shall submit to the County Planning Division evidence of a general liability policy in the form of a Certificate of Liability Insurance covering mining, and incidental activities during the term of operation and reclamation for the Rodrigues site, with an occurrence limit of at least \$500,000, for a term of one year. A current certificate of insurance shall be submitted to and kept on file with the County Planning Division during the term of operation and reclamation.

10. The mining operator shall develop and implement a spill prevention and response program. The program shall be reviewed and approved by Clackamas County Planning Department, DOGAMI, and DEQ, if applicable, in order to ensure compliance with DEQ water quality standards. The program shall address substances used in the mining operation including fuels and lubricants. Spill response equipment shall be located on site near the crusher operation area at all times. The Fire District shall also review and approve the provisions for storage and utilization of both hazardous and flammable liquids in accordance with Uniform Fire Code requirements.

B. The following conditions shall be satisfied **prior** to any aggregate extraction on the site:

1. The applicant shall construct the required earthen berms and landscape the berms with ground cover, evergreen shrubs and trees consistent with the supplied Landscaping Plan. See Exhibit 20. Pursuant to condition of approval 3C, all 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. The west side of the required berm along Barlow road shall include in addition to the required trees, which shall be Douglas Firs, a combination of ground cover or shrubs, which shall include Cascara (*Rhamnus purshiana*), Mockorange (*Philadelphus lewisii*), Ocean-Spray (*Holidiscus discolor*), Red Currant (*Ribes sanguineum*) and / or Western Serviceberry (*Amelanchier aifolia*), planted to landscape industry standards. See Exhibit 20 of the application.

2. All dead or dying trees on the landscape berms screening the Pac Rock site shall be replaced.

3. Topsoil shall only be removed from the new mining area between October and May, or at other times using approved dust suppression techniques. The mining operator shall seed and mulch all unvegetated stockpiled topsoil / overburden prior to October 1 of each year. The overburden from the Extraction Area shall be used for reclamation.

4. Noise radiating from all mining operations within the expansion area shall comply with the Department of Environmental Quality noise regulations at all existing residences around the proposed expansion area during the lifetime of the mining operation. All berms identified in the noise study prepared Daly-Standlee and Associates, Incorporated shall be constructed to mitigate noise. The applicant shall submit to the County Planning Division verification that all of the noise mitigation measures listed in the noise study has been implemented and the DEQ Noise Standards are met at all existing residences.

5. A minimum setback of 30 feet shall be maintained between the extraction area and the north, south, and west property lines of the subject property. A greater setback shall be maintained **EXHIBIT 4**

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required by DOGAMI or if deemed necessary by Clackamas County to protect the structural integrity and stability of Barlow Road and the natural gas pipeline on the west side of Barlow Road. The applicant and Clackamas County shall coordinate with the natural gas company to ensure mining does not impact the natural gas line. No portion of any berms shall be located within the Barlow Road Right-of-Way.

6. No temporary office, shops or other structures are permitted in the extraction area.
7. No sale of mining products extracted from the site shall be sold in the extraction area.
8. The extraction area will be used to store limited pieces of equipment used in conjunction with the on site mining. This equipment is generally limited to a trackhoe and front end loader. No processing equipment shall be stored or allowed on site.
9. Access to the extraction area shall use the existing paved access road from Barlow Road. The paving on this road shall be maintained in good condition. All other on site haul roads shall be graveled. An operational water truck shall be maintained on-site for dust control (and fire control) on the interior roadways and access road throughout the duration of this mining operation. Water shall be sprayed over the crusher to control dust as required by DEQ.
10. The applicant shall design and construct necessary infrastructure on site to prevent mud and other debris from entering onto the County Road systems. The mining operator shall be responsible for keeping the Barlow Road entrance to the site clean of any such material that may be tracked from the mining site onto the right-of-way.

C. The applicant shall comply with and maintain as necessary the following conditions during the life of the mining operation:

1. This application is approved for the specific surface mining operation described in the application to the extent it is consistent with the remaining conditions of approval.
2. The mining operator shall maintain a State DOGAMI Operating Permit and all other applicable permits for the duration of the mining operation.
3. This mining operation shall be phased and concurrently reclaimed as generally shown within the Mine Plan, and the Conceptual Reclamation Plan. The post reclamation use of the subject property shall be limited to fish and wildlife habitat uses and / or farm 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 plan species used in reclamation shall be native species, and approved in coordination with the DOGAMI and ODFW.
4. All mining activities except routine maintenance for the existing mining site (Pac Rock Site) and the Rodrigues site is restricted to the hours of operation of between 7:00 A.M. and 6:00 P.M. Monday through Friday. Loading and hauling activities are permitted from 7:00 A.M. to 10:00 P.M. on Monday through Friday and 8:00 A.M. to 5:00 P.M. on Saturday. No mining, loading, or hauling activities shall occur on Sundays and the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.

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5. Within 45 days after extraction operations are commenced on the Rodrigues property, the operator shall submit a noise study to demonstrate the extraction operations are in compliance with the applicable DEQ Noise Standards. These reports shall be submitted to the County Planning Division.
6. The extraction area is limited to the 38.04 acre expansion area.
7. The combined level of aggregated and mineral extraction for the Rodrigues site and the existing Pac Rock site shall not exceed 3 million tons per calendar year. The applicant shall submit an annual report to the County Planning Division identifying the amount of extracted mineral and aggregate materials.
8. The mining operation on the Rodrigues property in combination with the existing Pac Rock site shall not generate daily traffic exceeding 154 A.M. Peak Hour trips and 120 P.M. Peak Hour trips.
9. There shall be no stockpiling of aggregate within the expansion area but the extracted aggregate can be temporarily placed in windrows prior to being transported for processing on the Pac Rock Site.
10. There shall be no storage of off-site generated materials on the subject property.
11. All process water shall be retained in a closed water system within the mining site. The mining site may be dewatered for mining individual cells. All water removed from the mining cell as part of dewatering operations shall be reintroduced into the water table by pumping the water to other onsite ponds, or other onsite or offsite methods approved by DOGAMI. This can include utilizing the pond on the adjacent property to the south (Miles property) as a recharge source subject to written approval from the property owner and regulation, if any, by the Oregon Department of Water Resources.
12. The mining operator shall be responsible for restoring the water source for any property within the final impact area where the Oregon DOGAMI, in consultation with other State agencies, determines this mining operation has damaged a well or caused water quality to not meet health standards in place at the time this mining operation was approved.
13. All lighting shall be designed to direct light downward and shield adjacent properties from glare.
14. In coordination with other sand and gravel operators in the area, operators will consider joint efforts to clean the exterior of the historic Barlow House upon request by the property owner, not to exceed once per year.
15. A 15 mile-per-hour speed limit shall be maintained for all vehicles using the access roads within the subject site.
16. A water truck shall be assigned to this mining site during all times of operation to control any dust within the activity areas.

17. All vehicles and equipment operated on the subject site shall meet required DEQ noise standards.

18. All mining operator owned mobile diesel extraction and loading equipment shall be fitted with the original equipment manufacturer muffler, or its equivalent. All mining operator owned mobile diesel extraction equipment shall be fitted with original equipment manufacture engine compartment side panels.

19. All non-mining operator owned diesel extraction and loading equipment shall be fitted with the original equipment manufacturer muffler, or its equivalent.

20. Subject to State and Federal warning signal requirements, all backup warning signal devices shall be selected or set to the minimum sound level possible, or shall be the ambient noise sensing type which adjust the sound level to the ambient noise off the rear of the vehicle. Back-up beepers that may be switched to light / strobe model shall be installed and used on all loading equipment and maintenance vehicles. The back-up beepers shall be switched to the light / strobe mode when allowed under State and Federal Warning Signal Requirements (e.g. After Dark).

21. This shall be a wet mining operation. No drilling or blasting is proposed or permitted in this mining operation.

22. The processing plant located on the existing mining operation (Pac Rock site) shall be used for processing mineral and aggregate materials from the Rodrigues site. No new processing facilities shall be established on the Rodrigues site.

23. The asphaltic concrete batch plant approved under County File No. Z0652-99-C may continue to operate on the Rodrigues property in the approved location subject to continued compliance with all conditions of approval.

24. This mining operation shall utilize mining techniques approved by DOGAMI. Aggregate material shall be transferred to the processing facility located on the Pac Rock site by a conveyor system. Transfer points between the conveyors shall be treated to reduce noise. Rubber screens and noise reduction equipment commonly used in the industry shall be employed at this mining site.

25. 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.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE. IF YOU DISAGREE WITH THESE FINDINGS OR CONDITIONS, YOU MAY APPEAL THIS DECISION TO THE CLACKAMAS COUNTY HEARINGS OFFICER. THE COST OF THE APPEAL IS \$250. YOUR APPEAL MUST BE RECEIVED IN THE PLANNING DIVISION OFFICE BY 5:00 ON THE LAST DATE TO APPEAL WHICH IS **October 2, 2007**. THIS PERMIT WILL NOT BE ISSUED UNTIL THE DAY AFTER THE APPEAL DEADLINE.

Z0331-11-CP / Z0332-11-ZAP (PACIFIC ROCK)

CONDITIONS OF APPROVAL

1. **GENERAL CONDITIONS:**

- A. Table III-2 in the Mineral and Aggregate Resources Section of the Comprehensive Plan shall be amended to add "Pacific Rock / Paradis Property" to the list of Significant Sites.
- B. 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.
- C. 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.
- D. 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.

2. **PROCESSING / OPERATING / MONITORING CONDITIONS:**

- A. Compliance with all operating conditions proposed in the submitted application, to the extent they are consistent with the remaining conditions of approval.
- B. The combined level of aggregate and mineral extraction for the Paradis properties, the Rodrigues site, and the existing Pac Rock site (e.g., Phases 1-3) shall not exceed 3 million tons per calendar year.
- C. All mining activities on Phase 3, except for routine maintenance, shall be limited to the hours of 7:00 A.M. to 6:00 P.M. Monday through Friday and from 8:00 A.M. to 5:00 P.M. on Saturday. No mining activities shall occur on Sundays and the following legal holidays: New Years Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day and Christmas Day. No loading and hauling activities are permitted. Loading, hauling, mining and processing hours on Phase 1 and Phase 2 shall remain unchanged.
- D. Prior to any land disturbance associated with the mining operation on Phase 3, the applicant shall submit to the County Planning Division a copy of an Operating Permit and approved

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reclamation plan from the Oregon Department of Geology and Mineral Industries which covers Phase 3 (either as a separate permit or an expansion of the existing permit for Phase 1 and Phase 2). The mining operator shall maintain a State Department of Geology and Mineral Industries Operating Permit and all other applicable permits for the duration of this mining operation.

- E. A County Mineral and Aggregate Overlay District Permit shall be obtained before any land disturbance associated with this mining operation. This mining operation is subject to all the applicable standards in Section 708 of the ZDO, including Extraction Area uses, development standards and reclamation. All property owners within the Impact Area shall be notified of the County Mineral and Aggregate Resources District permit process and given the opportunity to participate and comment on the issue of screening, including berms and plantings.
- F. Prior to any land disturbance within the Bonneville Power Administration ("BPA") right-of-way, the applicant shall submit to the County Planning Division a copy of a current Land Use Agreement between the applicant and the BPA authorizing mining within the BPA right-of-way. The applicant shall comply with any conditions included in such Land Use Agreement.
- G. The processing plant located on the existing mining operation (Phase 1) shall be used for processing mineral and aggregate materials from the Paradis properties. No new processing facilities shall be established on the Paradis properties.
- H. 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.
- I. Review and approval for this development by the Oregon Department of Water Resources, of any water resource issues that fall within their jurisdiction, including but not limited to obtaining a ground water right permit for industrial uses.
- J. Mining operations on Phase 3 shall comply with DEQ noise standards.
- K. All mining operator-owned mobile diesel extraction and loading equipment shall be fitted with the original equipment manufacturer muffler, or its equivalent. All non-operator owned equipment that will be utilized at this mining site shall be equipped with original equipment manufacturer muffler, or its equivalent.
- L. All mining operator-owned mobile diesel equipment shall have original equipment manufacturer engine compartment side panels.
- M. Subject to State and Federal warning signal requirements, all backup warning signal devices shall be selected or set to the minimum sound level possible, or shall be the ambient noise sensing type which adjust the sound level to the ambient noise off the rear of the vehicle. Back-up beepers that may be switched to light/strobe mode shall be installed and used on all

loading equipment and maintenance vehicles. The back-up beepers shall be switched to the light/strobe mode when allowed under State and Federal Warning Signal Requirements (e.g., After Dark).

- N. This mining operation shall utilize mining techniques approved by DOGAMI. Aggregate material shall be transferred to the processing facility by a conveyor system. Transfer points between the conveyors shall be treated to reduce noise. Rubber screens and noise reduction equipment commonly used in the industry shall be employed at this mining site.
- O. Blasting shall not be used for any purpose at this mining site.
- P. The mining site may be dewatered for mining individual cells. All water removed from the mining cell as part of dewatering operations shall be reintroduced into the water table by pumping the water to other onsite ponds at the Canby operation, or other onsite or offsite methods approved by DOGAMI.
- Q. Prior to any land disturbance associated with the mining operation on Phase 3, the applicant shall submit to the County Planning Division a copy of a 1200-C-General National Pollutant Discharge Elimination System Permit (storm water and erosion control for Phase 3) approved by DOGAMI or the Water Environment Services Department.
- R. If required for Phase 3, a Department of Environmental Quality, Air Contaminant Discharge Permit (ACDP) shall be obtained and maintained by the mining operator throughout the duration of this mining operation.
- S. A water truck shall be maintained at the Canby operations for dust control (and fire control) at Phases 1-3 of the mining operation. Access drive(s) for employee access and parking areas shall be graveled. Access onto County roads shall meet County Roadway standards.
- T. The mining operator shall be responsible for restoring the water source for any property within the final impact area where the State Department of Geology and Mineral Industries, in consultation with other State agencies, determines this mining operation has damaged a well or caused water quality to not meet health standards in place at the time this mining operation is approved.
- U. Prior to extraction within the Paradis properties, the operator shall install three additional monitoring wells in a south to north orientation, as shown on Figure 5 in the Hydrology Report. Installation of these three additional wells shall be completed at least 12 months in advance of dewatering operations on the Paradis site.
- V. The operator shall monitor all on-site monitoring wells (the three existing monitoring wells and the three additional wells described in Condition U) on a bi-weekly basis for one year before commencing dewatering operations on the Paradis properties. The purpose of this condition is to assure that there is a full year of accurate data before dewatering commences, and to provide real-time data on groundwater levels as mining progresses. The operator shall share this monitoring data with the City of Barlow and any other interested regulatory agency (e.g., DOGAMI and OWRD). If a trend is observed that could significantly affect

the City of Barlow well, the operator shall work with the City of Barlow and regulatory agencies to modify its mining plans to eliminate the problem. Strategies to accomplish this could include:

- establishment of a recharge area at the north end of the Paradis properties so that the recharge activity is directly between the mining activity and the City of Barlow well;
 - altering mining cell order and/or the size of the mining cells;
 - requiring wet mining for final lift on Cells 1 and 2 or the first or second lift of gravel on Cells 3 and 4 (i.e., further reduce or control dewatering per actual on-site conditions established by monitoring well data);
 - reducing mining depths.
- W. The operator shall mine the site from south to north utilizing four mine cells, beginning at Cell 1 as shown on Figure 3 in the Hydrology Report. On Cells 3 and 4, the operator shall dewater only for the first two lifts of aggregate removal (approximately 28 feet) and shall use an excavator and "wet" extraction for removal of the final lift of gravel.
- X. A minimum setback of 40 feet shall be maintained along Highway 99 (westerly boundary) of Phase 3. A minimum setback of 30 feet shall be maintained between the extraction area and the property lines on the remainder of the subject property. A greater setback shall be maintained if required by the DOGAMI or by Clackamas County in the review of the Mineral and Aggregate Operating Permit, if deemed necessary to protect the structural integrity of S. Barlow Road. Berms may be constructed in the set-back area. In addition, the operator shall maintain the setbacks required by BPA to protect the structural stability of the BPA transmission lines and towers, pursuant to the BPA Land Use Agreement (also discussed in Condition F).
- Y. In coordination with other sand and gravel operators in the area, the operator will consider joint efforts to periodically clean the exterior of the Barlow House. All mineral and aggregate operators in the general area must contribute an equal share to the cost of such cleaning, if any.
- Z. The permitted operations on Phase 1 and Phase 2, approved under File Nos. Z1826-97-MAR, Modification and Z0756-06-CP/Z0757-06-Z, may continue to operate subject to compliance with all conditions of the approvals in the relevant files. The asphaltic concrete batch plant approved under File No. Z0652-99-C may continue to operate on the Phase 2 property in the approved location subject to compliance with all conditions of approval in that file.
- AA. Topsoil shall only be removed from the new mining area between October and May, or at other times using approved dust suppression techniques. Seed and mulch all unvegetated stockpiled topsoil/overburden prior to October 1 of each year. The overburden from the Extraction Area shall be used for reclamation.

BB. The mining operator shall be responsible for incorporating Phase 3 into the existing spill prevention and response program. The program shall be reviewed and approved by Clackamas County Planning Department, DOGAMI and DEQ, if applicable, in order to ensure compliance with DEQ water quality standards.

3. VISUAL SCREENING CONDITIONS:

- A. The applicant shall provide adequate visual screening between any mining activity and Barlow Road and Highway 99E pursuant to Section 708.05B of the ZDO.
- B. All lighting on Phase 3, if any, shall be designed to direct light downward and shield adjacent properties from glare, pursuant to ZDO Subsection 1005.05.
- C. There shall be strict compliance with the Berm Landscaping Plans required for the Paradis properties. 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. The east side of the required berm along S. Barlow Road shall include in addition to the required trees, a combination of ground cover or shrubs planted to landscape industry standards.

4. NOISE RELATED CONDITIONS:

- A. Noise resulting from all mining activities within Phase 3 shall comply with the Department of Environmental Quality Noise Standards at all existing residences during the lifetime of this mining operation. All berms identified in the Noise Study shall be constructed to mitigate noise. At the operator's election, Cell 1 may be mined from East (Barlow Road) to West (Highway 99E), or from West to East. The remaining cells (Cell 2-4) must be mined West (Highway 99E) to East (Barlow Road). Before the beginning of any aggregate extraction on the Paradis properties, the applicant shall submit to the County Planning Division verification that all of the noise mitigation measures have been implemented.
- B. Within 45 days after extraction operations are commenced on the Paradis properties, the operator shall submit a noise study to demonstrate the extraction operations are in compliance with applicable DEQ standards. The report shall be provided to the County Planning Department.
- C. All vehicles and equipment used on the subject site shall meet required DEQ Noise Standards.

5. TRANSPORTATION RELATED CONDITIONS:

- A. All material from the Paradis properties shall be sent by conveyor under Barlow Road to the existing processing area in Phase 1. No trucks will be used to transfer gravel across Barlow Road. No loading or hauling shall be allowed from Phase 3.
- B. Employees shall generally cross Barlow Road via motorized vehicles except in emergency or unusual situations.

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- C. Prior to final approval of a Mineral and Aggregate Operating Permit, the applicant shall renew the maintenance agreement with Clackamas County for the applicant's proportional share of the maintenance of Barlow Road between the access drive and Highway 99E.
- D. The applicant has indicated an interest in constructing a new driveway approach to Barlow Road via tax lot 41E07 00300. The applicant shall permanently close and remove the existing driveway approach to Barlow Road on tax lot 41E07 00300 with approval of a new driveway to this tax lot. The existing driveway approach shall be replaced with matching shoulder, ditch and landscaping. A new access meeting current drainage, sight distance, circulation, surfacing, etc. may be constructed at that time. The applicant shall apply for and obtain a Development Permit for those improvements.
- E. At such time that mining operations commence on tax lot 41E06 01900, the applicant will discuss with the gas pipeline company, the possibility of combing driveway access to Tax Lot 41E 06 1800 and 41E 06 1900 and the possibility of a mutual access easement. If applicant and gas company ultimately decide that the driveways can be combined, driveway access to Tax Lot 41E 06 1800 shall be permanently closed and the existing driveway approach to tax lot 41E 06 01900 shall be replaced with a matching shoulder, ditch and landscaping. In the event of a combination of these two driveway access points, the applicant shall apply for an obtain a Development Permit for the improvements.
- F. The Phase 3 mining operation, in combination with Phase 1 and Phase 2, shall not generate more than 154 weekday AM peak hour trips and 120 weekday PM peak hour trips.
- G. 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 (i.e. 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 and at the site driveway intersections with Barlow Road.
- H. Parking spaces shall meet minimum *ZDO* dimensional requirements. The plans shall list the number of parking spaces required and the number of parking spaces provided. The applicant shall label all compact, carpool, disabled, and loading berth spaces on the plans.
- I. Parking spaces for disabled persons and the adjacent accessible areas shall be paved.
- J. The applicant shall generally not allow debris from the site to deposit onto Barlow Road. Should debris be deposited on Barlow Road, the applicant shall be responsible for cleanup of debris on a daily basis.
- K. The applicant shall provide and maintain adequate intersection sight distance and adequate stopping sight distance at the driveway intersections with Barlow Road. Adequate intersection sight distance for drivers turning left into the site shall also be provided and

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maintained. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct vehicular sight distance. Minimum intersection sight distance, at the driveway intersection with Barlow Road, shall be 665 feet along Barlow Road, measured 14.5 feet back from the edge of the travel lane. Minimum stopping sight distance shall be in accordance with AASHTO standards, appropriately adjusted for grades and measured along the middle of the individual travel lanes. Minimum intersection sight distance for drivers turning left into the site shall be 490 feet measured from the driver's location at the intersection to the middle of the oncoming travel lane.

- L. The applicant shall provide adequate corner vision. No sight-obscuring structures or plantings exceeding 30 inches in height, measured from the roadway surface, shall be located within a 20-foot radius of the lot corner nearest the intersection of two public, County, or State roads, or from the intersection of a private driveway, access drive, or private road and a public, County, or State road. Trees located within a 20-foot radius of such an intersection shall be maintained to allow eight feet of visual clearance below the lowest-hanging branches. The limits of a public, County or State road are defined by the entire right-of-way width.
- M. Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards section 245.
- N. The applicant shall install and maintain a 30-inch "STOP" sign, with the bottom of the sign positioned five feet above the pavement surface, at the driveway intersection with Morgan Road. (*Manual on Uniform Traffic Control Devices*)
- O. All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.
- P. Prior to the issuance of a building permit, the applicant shall submit to Clackamas County Engineering Office:
 - 1. Written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply as applicable. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.
 - 2. Written approval from the appropriate surface water management authority for surface water management facilities and erosion control measures.
 - 3. A set of street and site improvement construction plan for review, in conformance with *Clackamas County Roadway Standards* Section 140, to Deana Mulder in Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.
 - 4. The permit will be for driveway, drainage, parking and maneuvering area, and other site improvements.

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- a) The minimum fee is required for eight or fewer, new or reconstructed parking spaces. For projects with more than eight parking spaces, the fee will be calculated at a per parking space rate according to the current fee structure for commercial/industrial/multi-family development at the time of the Development Permit application.
 - b) The applicant shall have an Engineer, registered in the state of Oregon, design and stamp the construction plans for all required improvements.
- Q. Before the County issues a Development Permit, the applicant shall submit a construction vehicle management and staging plan for review and approval by the County DTD, Construction and Development Section. That plan shall show that construction vehicles and materials will not be staged or queued-up on public streets and shoulders without specific authority from DTD.
6. CONFLICTING USES WITHIN MAO BOUNDARY:
- A. Property within the Impact Area is subject to Subsection 708.09D of the ZDO.
 - B. No proposed use will be allowed which would cause the mining operation to violate noise control standards measured at the proposed use. It is the responsibility of the applicant for the proposed use to demonstrate compliance with the noise standards. Mitigation measures necessary to achieve compliance with the noise standards shall be the responsibility of the applicant for the proposed use.

Memo



Daly • Standlee & Associates, Inc.

4900 S.W. Griffith Drive
Suite 205
Beaverton, Oregon 97005
(503) 646-4420
Fax (503) 646-3385

Date: November 17, 2011

To: Paul Hribernick

Black Helterline LLP
1900 Fox Tower
805 SW Broadway
Portland, OR 97205

From: Valerie Smith, Acoustical Consultant
Kerrie G. Standlee, P.E., Principal

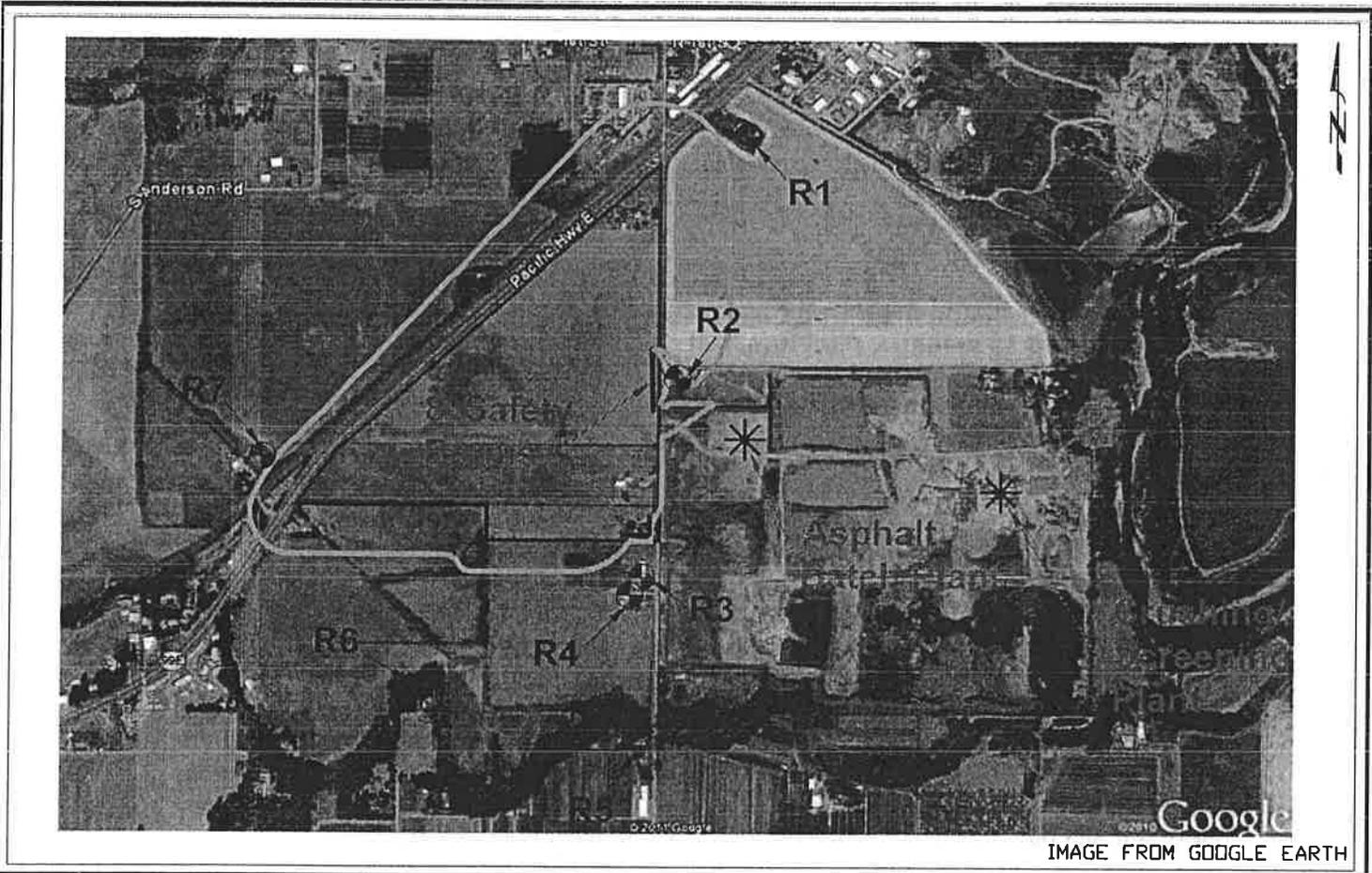
Re: Noise Compliance Boundary for Paradis Property Operations

DSA File #: 156083

Paul:

At your request, an additional figure has been generated to supplement our June 13, 2011 noise study report entitled "Noise Study for the Proposed Cemex USA Canby/Barlow Road Aggregate Mine, Phase 3 Mining Area". The attached Figure 7 shows the "DEQ Noise Compliance Boundary" for the operations that will occur solely on the Paradis expansion property (Phase 3 of the Canby/Barlow Road Aggregate Mine mining plan). Figure 6 in the 6/13/11 noise study report shows the "DEQ Noise Compliance Boundary" for the operations that could occur in all three phase areas of the site (the proposed Paradis expansion property operations and the existing permitted Phase 1 and 2 property operations).

The "DEQ Noise Compliance Boundary" shown in Figure 7 is defined as the boundary around the mining area within which noise radiating from operations in the mining area will exceed the DEQ noise regulation limits. Outside the boundary, the noise levels will be less than or equal to those specified by the DEQ noise control regulations. DSA considers the area inside the "DEQ Noise Compliance Boundary" as the area identified in the Goal 5 rule where noise impacts to noise sensitive receivers must be minimized. Since there are no noise sensitive receivers located within the "DEQ Noise Compliance Boundary" shown in Figure 7, DSA concludes the noise associated with operations in the proposed Paradis expansion area has been minimized as required in the Goal 5 rule.



Daly-Standlee & Associates, Inc.
 ph: 503-646-4420
 fax: 503-646-3385
 email: DSA@acoustechgroup.com

Canby/Barlow Road Aggregate Mine, Phase 3 Mining Area Analysis
 Noise Compliance Boundary for Paradis Property Operations

| | | | |
|-----------------------|--------------------------|-------------------|------------|
| PROJECT NO. 156082 | Project Engineer: VCS | DATE: 11/17/11 | FIGURE # 7 |
|-----------------------|--------------------------|-------------------|------------|

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Land Use and Zoning

Development Services Building

Mike McCallister, Manager

150 Beaver Creek Road, Oregon City, OR 97045

Phone: (503) 742-4500 fax: (503) 742-4550

e-mail: zoninginfo@co.clackamas.or.us

Web: <http://www.clackamas.us/transportation/planning/>

NOTICE OF LAND USE DECISION

This document represents the Land Use and Zoning Staff findings for a Land Use Application for a Mineral and Aggregate Overlay District Site Plan Review as cited below. It contains three parts:

Section 1 – Summary, Section 2 – Conditions and Section 3 – Findings.

SECTION 1 – SUMMARY

DATE: November 28, 2012

APPEAL DATE: December 10, 2012

CASE FILE NO.: Z0362-12-MAR

STAFF CONTACT: Steve Koper, (503)742-4551, stevekop@co.clackamas.or.us

LOCATION: No situs;

T4S R1E Section 6, Tax Lot(s) 1800 and 1900; T4S R1E Section 7, Tax Lot(s) 100, 190, 300, 390, and 400

APPLICANT: Pacific Rock Products, LLC; 8705 NE 117th Ave, Vancouver, WA 98662

OWNER: Same

CONTACT: Black Helterline LLP, 805 SW Broadway, Ste 1900, Portland, OR 97205

TOTAL AREA: Approximately 90 acres

ZONING: Exclusive Farm Use (EFU) / Mineral and Aggregate Overlay Zone (MAO)

CITIZENS PLANNING ORGANIZATION: South Canby

The South Canby CPO is inactive. No comment was received from any citizen, interested party, agency or department, except for the Oregon Department of Aviation. Those comments will be satisfied by imposition of conditions already required by the Board of County Commissioners in Board Order 2012-12.

SCANNED EXHIBIT 5

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PROPOSAL: Request for a Mineral and Aggregate Overlay Resources District Permit to authorize mining on the property. A Comprehensive Plan amendment and zone change application (File Nos. Z0331-11-CP and Z0332-11-ZAP) was approved on this property in 2012 by Board Order 2012-12. This Post Acknowledgement Plan Amendment (PAPA) authorized a Mineral and Aggregate Overlay District on the property subject to the conditions of approval. Condition No. 2E of the PAPA requires the applicant to obtain a Mineral and Aggregate Operating Permit pursuant to Section 708 of the Clackamas County Zoning and Development Ordinance (ZDO) prior to commencement of mining activities. Review of this operating permit constitutes a specific site plan review to ensure compliance with the extraction area development standards in Section 708 of the ZDO and conditions of approval in the PAPA.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS Chapter 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

OPPORTUNITY TO REVIEW THE RECORD: A copy of the Land Use and Zoning Staff Decision and all evidence submitted with this application is available for inspection, at no cost, at the Land Use and Zoning office during normal business hours. Copies of all documents may be purchased at the rate of 11-cents per page. The Land Use Decision contains the findings and conclusion upon which the decision is based along with any condition of approval.

APPEAL RIGHTS: If you disagree with this decision or findings as found in Section 2, you may appeal the decision to the Clackamas County Land Use and Zoning Hearings Officer. The cost of the appeal is \$250. Your appeal must be received in the Land Use and Zoning office by 4:00 pm on the last date to appeal which is DECEMBER 10, 2012. No permits will be issued until the day after the appeal deadline.

APPLICABLE APPROVAL CRITERIA: This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Sections(s) 401, 708 1005, 1006 and 1305.

SECTION 2 – CONDITIONS

A. The following conditions shall be satisfied **prior** to any land disturbance (grading, berm construction, or any other similar activities) associated with this mining operation:

1. The applicant shall submit to the County Planning Division a copy of an Operating Permit and approved reclamation plan from the Oregon Department of Geology and Mineral Industries which covers Phase 3 (either as a separate permit or an expansion of the existing permit for Phase 1 and Phase 2).
2. The applicant shall renew the maintenance agreement with Clackamas County for the applicant's proportional share of the maintenance of Barlow Road between the access drive and Highway 99E.
3. Prior to any land disturbance within the Bonneville Power Administration ("BPA") right-of-way, the applicant shall submit to the County Planning Division a copy of a current Land Use Agreement between the applicant and the BPA authorizing mining within the BPA right-of-way. The applicant shall comply with any conditions included in such Land Use Agreement.
4. The applicant shall obtain a National Pollutant Discharge Elimination System Storm Water General Permit 1200-C (storm water and erosion control) from DOGAMI or by the County Water Environment Services Department. A copy of this NPDES Permit shall be provided to the County Planning Division.
5. The applicant shall maintain an Oregon Department of Environmental Quality Air Contaminant Discharge Permit for the processing activities on Phase 1 for the duration of mining operations. A copy of this permit shall be provided to the County Planning Division.
6. The applicant shall obtain approval for this development by the Oregon Department of Water Resources, of any water resource issues that fall within their jurisdiction, including but not limited to obtaining a ground water right permit for industrial uses.
7. The mining operator shall submit to the County Planning Department any surface water and groundwater studies included in the DOGAMI operating permit application.
8. The applicant shall provide a copy of a letter or e-mail from the Canby Fire District evidencing that the mining operation has been reviewed and approved 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.
9. The mining operator shall submit to the County Planning Division evidence of a general liability policy in the form of a Certificate of Liability Insurance covering mining, and incidental activities during the term of operation and reclamation for the Paradise

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an occurrence limit of at least \$500,000, for a term of one year. A current certificate of insurance shall be submitted to and kept on file with the County Planning Division during the term of operation and reclamation.

10. The mining operator shall be responsible for incorporating Phase 3 into the existing spill prevention and response program. The program shall be reviewed and approved by Clackamas County Planning Department, DOGAMI and DEQ, if applicable, in order to ensure compliance with DEQ water quality standards.

B. The following conditions shall be satisfied **prior** to any aggregate extraction on the site:

1. Prior to extraction within the Paradis properties, the operator shall install three additional monitoring wells in a south to north orientation, as shown on Figure 5 in the Hydrology Report. Installation of these three additional wells shall be completed at least 12 months in advance of dewatering operations on the Paradis site.
2. The operator shall monitor all on-site monitoring wells (the three existing monitoring wells and the three additional wells described in Condition U) on a bi-weekly basis for one year before commencing dewatering operations on the Paradis properties. The purpose of this condition is to assure that there is a full year of accurate data before dewatering commences, and to provide real-time data on groundwater levels as mining progresses. The operator shall share this monitoring data with the City of Barlow and any other interested regulatory agency (e.g., DOGAMI and OWRD). If a trend is observed that could significantly affect the City of Barlow well, the operator shall work with the City of Barlow and regulatory agencies to modify its mining plans to eliminate the problem. Strategies to accomplish this could include:
 - a. establishment of a recharge area at the north end of the Paradis properties so that the recharge activity is directly between the mining activity and the City of Barlow well;
 - b. altering mining cell order and/or the size of the mining cells;
 - c. requiring wet mining for final lift on Cells 1 and 2 or the first or second lift of gravel on Cells 3 and 4 (i.e., further reduce or control dewatering per actual on-site conditions established by monitoring well data);
 - d. reducing mining depths.
3. The applicant shall construct the earthen berms required by the Noise study and landscape the berms with ground cover, evergreen shrubs and trees consistent with the supplied Landscaping Plan. See Tab 20 of the application. All 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. The east side of the required berm along Barlow road shall include in addition to the required trees, which shall be Douglas Firs, a combination of ground cover or shrubs, which shall include one or more of the following species: Cascara (Rhamnus purshiana), Mockorange (Philadelphus lewisii), Ocean-Spray (Holidscus discolor), Red Currant (Ribes sanguineum) and / or Western Serviceberry (Amelanchier ainifolia), planted

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to landscape industry standards. See Tab 20.

4. All dead or dying trees on the landscape berms screening the Pac Rock site shall be replaced.
5. Topsoil shall only be removed from the new mining area between October and May, or at other times using approved dust suppression techniques. The mining operator shall seed and mulch all unvegetated stockpiled topsoil / overburden prior to October 1 of each year. The overburden from the Extraction Area shall be used for reclamation.
6. A minimum setback of 30 feet shall be maintained between the extraction area and the north, south, and west property lines of the subject property. A greater setback shall be maintained if required by DOGAMI or if deemed necessary by Clackamas County to protect the structural integrity and stability of Barlow Road and the natural gas pipeline on the west side of Barlow Road. The applicant and Clackamas County shall coordinate with the natural gas company to ensure mining does not impact the natural gas line. No portion of any berms shall be located within the Barlow Road Right-of-Way.
7. No temporary office, shops or other structures are permitted in the extraction area.
8. No mining products extracted from the site shall be sold in the extraction area. Rock products will be transported by conveyor for processing on Phase I. Products extracted from Phases II and III, may be sold to market from Phase I.
9. The extraction area will be used to store limited pieces of equipment used in conjunction with the onsite mining. This equipment is generally limited to conveyors, a dozer and trackhoe and/or front end loaders. No processing equipment shall be stored or allowed on site.
10. Ongoing access to the processing area shall use the existing paved access road from Barlow Road. The paving on this road shall be maintained in good condition. All other on site haul roads, including those on Phase III, shall be graveled. An operational water truck shall be maintained on-site for dust control (and fire control) for the interior roadways and access road throughout the duration of this mining operation. Consistent with current practice, water spraybars will be used at the crusher to control dust as required by DEQ.
11. The applicant shall generally not allow debris from the site to deposit onto Barlow Road. Should debris be deposited onto Barlow Road, the applicant shall be responsible for cleanup of debris on a daily basis.
12. Within 45 days after extraction operations are commenced on the Paradis properties, the operator shall submit a noise study to demonstrate the extraction operations are in compliance with applicable DEQ standards. The report shall be provided to the County Planning Department.
13. The applicant shall install and maintain a 30-inch "STOP" sign, with the bottom of the sign positioned five feet above the pavement surface, at the driveway intersection with Morgan Road. (*Manual on Uniform Traffic Control Devices*)
14. The applicant has indicated an interest in constructing a new driveway approach to Barlow Road via tax lot 41E07 00300. The applicant shall permanently close and remove the

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existing driveway approach to Barlow Road on tax lot 41E07 00300 with approval of a new driveway to this tax lot. The existing driveway approach shall be replaced with matching shoulder, ditch and landscaping. A new access meeting current drainage, sight distance, circulation, surfacing, etc. may be constructed at that time. The applicant shall apply for and obtain a Development Permit for those improvements.

15. At such time that mining operations commence on tax lot 41E06 01900, the applicant will discuss with the gas pipeline company, the possibility of combining driveway access to Tax Lot 41E 06 1800 and 41E 06 1900 and the possibility of a mutual access easement. If applicant and gas company ultimately decide that the driveways can be combined, driveway access to Tax Lot 41E 06 1800 shall be permanently closed and the existing driveway approach to tax lot 41E 06 01900 shall be replaced with a matching shoulder, ditch and landscaping. In the event of a combination of these two driveway access points, the applicant shall apply for and obtain a Development Permit for the improvements.
16. Parking spaces shall meet minimum *ZDO* dimensional requirements. The plans shall list the number of parking spaces required and the number of parking spaces provided. The applicant shall label all compact, carpool, disabled, and loading berth spaces on the plans.
17. Parking spaces for disabled persons and the adjacent accessible areas shall be paved.
18. The applicant shall submit to Clackamas County Engineering Office:
 - a. written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply as applicable. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.
 - b. Written approval from the appropriate surface water management authority for surface water management facilities and erosion control measures.
 - c. A set of street and site improvement construction plan for review, in conformance with *Clackamas County Roadway Standards* Section 140, to Deana Mulder in Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.
 - d. The permit will be for driveway, drainage, parking and maneuvering area, and other site improvements.
 - e. The minimum fee is required for eight or fewer, new or reconstructed parking spaces. For projects with more than eight parking spaces, the fee will be calculated at a per parking space rate according to the current fee structure for commercial/industrial/multi-family development at the time of the Development Permit application.
 - f. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp the construction plans for all required improvements.
19. The applicant shall submit a construction vehicle management and staging plan for review and approval by the County DTD, Construction and Development Section. That plan shall show that construction vehicles and materials will not be staged or queued-up on public streets and shoulders without specific authority from DTD.

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C. The applicant shall comply with and maintain as necessary the following conditions during the life of the mining operation:

GENERAL CONDITIONS:

1. Table III-2 in the Mineral and Aggregate Resources Section of the Comprehensive Plan shall be amended to add "Pacific Rock / Paradis Property" 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.

PROCESSING / OPERATING / MONITORING CONDITIONS:

5. Compliance with all operating conditions proposed in the submitted application, to the extent they are consistent with the remaining conditions of approval.
6. The combined level of aggregate and mineral extraction for the Paradis properties, the Rodrigues site, and the existing Pac Rock site (e.g., Phases 1-3) shall not exceed 3 million tons per calendar year.
7. All mining activities on Phase 3, except for routine maintenance, shall be limited to the hours of 7:00 A.M. to 6:00 P.M. Monday through Friday and from 8:00 A.M. to 5:00 P.M. on Saturday. No mining activities shall occur on Sundays and the following legal holidays: New Years Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day and Christmas Day. No loading and hauling activities are permitted. Loading, hauling, mining and processing hours on Phase 1 and Phase 2 shall remain unchanged.
8. The processing plant located on the existing mining operation (Phase 1) shall be used for processing mineral and aggregate materials from the Paradis properties. No new processing facilities shall be established on the Paradis properties.

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9. Mining operations on Phase 3 shall comply with DEQ noise standards.
10. There shall be no permanent stockpiling of aggregate within the expansion area but the extracted aggregate can be temporarily placed in surge pile within the pit floor prior to be transported for processing on Phase I. The permanent stockpiles for the operation will be on Phase I at the processing site where the crusher is located. The Phase I processing plant includes the radial arm stacker which feeds these permanent stockpiles.
11. All mining operator-owned mobile diesel extraction and loading equipment shall be fitted with the original equipment manufacturer muffler, or its equivalent. All non-operator-owned equipment that will be utilized at this mining site shall be equipped with original equipment manufacturer muffler, or its equivalent. All mining operator-owned mobile diesel equipment shall have original equipment manufacturer engine compartment side panels.
12. Subject to State and Federal warning signal requirements, all backup warning signal devices shall be selected or set to the minimum sound level possible, or shall be the ambient noise sensing type which adjust the sound level to the ambient noise off the rear of the vehicle. Back-up beepers that may be switched to light/strobe mode shall be installed and used on all loading equipment and maintenance vehicles. The back-up beepers shall be switched to the light/strobe mode when allowed under State and Federal Warning Signal Requirements (e.g., After Dark).
13. This mining operation shall utilize mining techniques approved by DOGAMI. Aggregate material shall be transferred to the processing facility by a conveyor system. Transfer points between the conveyors shall be treated to reduce noise. Rubber screens and noise reduction equipment commonly used in the industry shall be employed at this mining site.
14. This shall be an alluvial mining operation. No blasting is proposed or permitted in this mining operation.
15. The mining site may be dewatered for mining individual cells. All water removed from the mining cell as part of dewatering operations shall be reintroduced into the water table by pumping the water to other onsite ponds at the Canby operation, or other onsite or offsite methods approved by DOGAMI.
16. A water truck shall be maintained at the Canby operations for dust control (and fire control) at Phases 1-3 of the mining operation. Access drive(s) for employee access and parking areas shall be graveled. Access onto County roads shall meet County Roadway standards.
17. The mining operator shall be responsible for restoring the water source for any property within the final impact area where the State Department of Geology and Mineral Industries, in consultation with other State agencies, determines this mining operation has damaged a well or caused water quality to not meet health standards in place at the time this mining operation is approved.
18. The operator shall mine the site from south to north utilizing four mine cells, beginning at Cell 1 as shown on Figure 3 in the Hydrology Report. On Cells 3 and 4, the operator shall

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dewater only for the first two lifts of aggregate removal (approximately 28 feet) and shall use an excavator and “wet” extraction for removal of the final lift of gravel.

19. A minimum setback of 40 feet shall be maintained along Highway 99 (westerly boundary) of Phase 3. A minimum setback of 30 feet shall be maintained between the extraction area and the property lines on the remainder of the subject property. A greater setback shall be maintained if required by the DOGAMI or by Clackamas County in the review of the Mineral and Aggregate Operating Permit, if deemed necessary to protect the structural integrity of S. Barlow Road. Berms may be constructed in the setback area. In addition, the operator shall maintain the setbacks required by BPA to protect the structural stability of the BPA transmission lines and towers, pursuant to the BPA Land Use Agreement (also discussed in Condition F of the original PAPA conditions, Board Order 2012-12).
20. In coordination with other sand and gravel operators in the area, the operator will consider joint efforts to periodically clean the exterior of the Barlow House. All mineral and aggregate operators in the general area must contribute an equal share to the cost of such cleaning, if any.
21. The permitted operations on Phase 1 and Phase 2, approved under File Nos. Z1826-97-MAR, Modification and Z0756-06-CP/Z0757-06-Z, may continue to operate subject to compliance with all conditions of the approvals in the relevant files. The asphaltic concrete batch plant approved under File No. Z0652-99-C may continue to operate on the Phase 2 property in the approved location subject to compliance with all conditions of approval in that file.

VISUAL SCREENING CONDITIONS:

22. The applicant shall provide adequate visual screening between any mining activity and Barlow Road and Highway 99E pursuant to Section 708.05B of the ZDO.
23. All lighting on Phase 3, if any, shall be designed to direct light downward and shield adjacent properties from glare, pursuant to ZDO Subsection 1005.05.
24. There shall be strict compliance with the Berm Landscaping Plans required for the Paradis properties. 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. The east side of the required berm along S. Barlow Road shall include in addition to the required trees, a combination of ground cover or shrubs planted to landscape industry standards.

NOISE RELATED CONDITIONS:

25. Noise resulting from all mining activities within Phase 3 shall comply with the Department of Environmental Quality Noise Standards at all existing residences during the lifetime of this mining operation. All berms identified in the Noise Study shall be constructed to mitigate noise. At the operator’s election, Cell 1 may be mined from East (Barlow Road) to West (Highway 99E), or from West to East. The remaining cells (Cell 2-4) must be mined West (Highway 99E) to East (Barlow Road). Before the beginning of any aggregate

extraction on the Paradis properties, the applicant shall submit to the County Planning Division verification that all of the noise mitigation measures have been implemented.

26. All vehicles and equipment used on the subject site shall meet required DEQ Noise Standards.

TRANSPORTATION RELATED CONDITIONS:

27. All material from the Paradis properties shall be sent by conveyor under Barlow Road to the existing processing area in Phase 1. No trucks will be used to transfer gravel across Barlow Road. No loading or hauling shall be allowed from Phase 3. Employees shall generally cross Barlow Road via motorized vehicles except in emergency or unusual situations.
28. The Phase 3 mining operation, in combination with Phase 1 and Phase 2, shall not generate more than 154 weekday AM peak hour trips and 120 weekday PM peak hour trips.
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 (i.e. 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 and at the site driveway intersections with Barlow Road. A 15 mile-per-hour speed limit shall be maintained for all vehicles using the access roads within the subject site.
30. The applicant shall generally not allow debris from the site to deposit onto Barlow Road. Should debris be deposited on Barlow Road, the applicant shall be responsible for cleanup of debris on a daily basis.
31. The applicant shall provide and maintain adequate intersection sight distance and adequate stopping sight distance at the driveway intersections with Barlow Road. Adequate intersection sight distance for drivers turning left into the site shall also be provided and maintained. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct vehicular sight distance. Minimum intersection sight distance, at the driveway intersection with Barlow Road, shall be 665 feet along Barlow Road, measured 14.5 feet back from the edge of the travel lane. Minimum stopping sight distance shall be in accordance with AASHTO standards, appropriately adjusted for grades and measured along the middle of the individual travel lanes. Minimum intersection sight distance for drivers turning left into the site shall be 490 feet measured from the driver's location at the intersection to the middle of the oncoming travel lane.
32. The applicant shall provide adequate corner vision. No sight-obscuring structures or plantings exceeding 30 inches in height, measured from the roadway surface, shall be located within a 20-foot radius of the lot corner nearest the intersection of two public, County, or State roads, or from the intersection of a private driveway, access drive, or private road and a public, County, or State road. Trees located within a 20-foot radius of such an intersection shall be maintained to allow eight feet of visual clearance below the

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lowest-hanging branches. The limits of a public, County or State road are defined by the entire right-of-way width.

33. Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards section 245.
34. All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.

CONFLICTING USES WITHIN MAO BOUNDARY:

35. Property within the Impact Area is subject to Subsection 708.09D of the ZDO.
36. No proposed use will be allowed which would cause the mining operation to violate noise control standards measured at the proposed use. It is the responsibility of the applicant for the proposed use to demonstrate compliance with the noise standards. Mitigation measures necessary to achieve compliance with the noise standards shall be the responsibility of the applicant for the proposed use.

SECTION 3 – FINDINGS

Section 708.07 of the ZDO outlines the requirements for Site Plan Review under the Mineral and Aggregate Overlay District. Site Plan Review is considered a Planning Director Administrative Action and processed pursuant to Section 1305.02(A), (E) and (G) through (I) of the ZDO. Section 708.07B states 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 (MAO), 1005 (Sustainable Site and Building Design) 1006 (Water Supply, Sanitary Sewer, Surface Water, and Utilities Concurrency) and the requirements of the site specific program to achieve Goal 5 adopted as part of the Comprehensive Plan.

The Planning Staff has reviewed each of these applicable Sections and requirements of the site specific Goal 5 application approved on this property under File Numbers Z0331-11-CP / Z0332-11-ZAP and Board Order 2012-12 and makes the following findings.

1. Section 708.04: Extraction Area Uses. This subsection identifies the specific uses which may be allowed in the mining extraction area. The approved extraction area is approximately a 90 acre site. The extraction site (known as the “Paradis site”) is located west of Barlow Road, to the west and the existing mining and processing operation to the east (“Pac Rock site”). The Paradis site is separated by Barlow Road from the Pac Rock site, and therefore extracted aggregate material will be transported under Barlow Road by conveyor system to the existing processing facility of the Pac Rock site. No processing will occur on the Paradis site.
 - A. Section 708.04A: *The County may allow the following uses subject to standards of ZDO 708.05, and any requirements adopted as part of the Comprehensive Plan.*

1. *Mining*

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