



Marion County OREGON

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MEMORANDUM

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SURVEY

TO: Marion County Hearings Officer
FROM: Marion County Planning Division/Brandon Reich
SUBJECT: Conditional Use 21-062/ Allied Rock LLC
DATE: February 7, 2022

The Marion County Planning Division has reviewed the above-named case and offers the following comments:

FACTS:

1. Application of Allied Rock LLC to for a conditional use to expand an existing aggregate extraction operation from 50 acres to 102 acres on land zoned TC (Timber Conservation) located in the 18800 block of Old Mehama Rd, Stayton (T9S; R1E; Section 15; tax lot 100).
2. The property is located on the north side of Old Mehama Road, approximately 495 feet east of the intersection of Old Mehama Road and Dusty Place SE. The property is improved with one general purpose building. The property is currently being operated as a quarry and is not specially assessed for agriculture or forest use by the Marion County Tax Assessor’s Office. The property was approved for a comprehensive plan text and map amendment in 1993 to add the aggregate site on the property to the County’s “Other Sites” inventory and approved for a conditional use permit to establish a quarry and rock crusher (CP93-4). In 1997, Marion County Board of Commissioners modified the conditions of approval relating to accessing the property for quarry use (CU96-81). In 2020, the applicant requested and was approved to change the zone of the property from EFU (Exclusive Farm Use) to TC (Timber Conservation).
3. Surrounding properties in all directions are zoned EFU. Properties to the north and east are large tract forest and farmland. Properties to the south and west are small to medium sized farm parcels developed with residences.
4. The applicant requests conditional use approval to expand an existing aggregate operation in the TC zone.
5. Oregon Department of Geologic and Mineral Industries commented: Mining in the desired expansion area shall not commence until the DOGAMI Operating Permit amendment is approved.

At the time of this staff report all other contacted agencies either failed to respond or stated no objection to the proposal.

STAFF FINDINGS AND ANALYSIS

6. Mining and processing of aggregate is conditional use in the TC zone under MCC 17.138.040 (D)(1). It is subject to the criteria in 17.138.050(A) and 17.120.410 through 17.120.480.

7. The following criteria apply to all conditional uses in the TC zone (17.138.050(A)):

A. *The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on surrounding lands devoted to farm or forest use. Land devoted to farm or forest use does not include farm or forest use on lots or parcels in exception areas approved under ORS 197.731, or in an acknowledged urban growth boundary.*

The applicant states the operation has existed near farming operations since 1970. There is an established buffer that protects surrounding land from any impacts of the operation. Property to the east is forested and no change to forestry practices is expected from the expansion of this operation. Property to the north is being farmed; however, the operation has not caused a change in, or increased the cost of, nearby farming practices before. Therefore, no effect on the farming to the north is anticipated.

B. *The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.*

The applicant describes how no additional fire hazard is expected as a result of the expansion.

C. *Adequate fire protection and other rural services are or will be available when the use is established.*

The applicant describes how rural services are available to the property to serve the proposed use. It was previously determined in the 1996 land use case that Kingdom Lane could not serve as access to the site. Conditions related to traffic to the site can be retained as part of any approval.

D. *The use will not have a significant adverse impact on watersheds, groundwater, fish and wildlife habitat, soil and slope stability, and air and water quality.*

The applicant provide evidence that the expansion will not impact watersheds or groundwater. Any soil and slope issues are addressed through mining plan approved by DOGAMI. Air and water quality issue, such as dust suppression, can be address through any condition of approval. The applicant further provided evidence through an environmental scientist that there is no evidence that western rattlesnakes and dens discussed in the 1993 case are present on the property today.

E. *Any noise associated with the use will not have a significant adverse impact on nearby land uses.*

The applicant states that the extraction area is moving away from a nearby residential area. Conditions can be placed on notifying properties nearby when blasting will take place and limiting blasting to 30 days or less per year.

F. *The use will not have a significant adverse impact on potential water impoundments identified in the Comprehensive Plan, and not create significant conflicts with operations included in the Comprehensive Plan inventory of significant mineral and aggregate sites.*

There are no water impoundments or significant mineral and aggregate sites identifies in the area.

The proposal appears to meet the criteria for a conditional use in the TC zone.

8. Expansion of the operation must also meet the applicable criteria in MCC 17.120.410 through 17.120.480.
9. MCC 17.120.440 lists uses which are allowable at a mineral and aggregate extraction operation. The intends to conduct only the following uses:
 - A. *Processing, crushing, washing, sizing and screening of mineral and aggregate resources;*
 - B. *Stockpiling of mineral and aggregate materials and earth products;*
 - C. *Offices, shops or other accessory structures used for the management and maintenance of resource extraction and processing equipment;*
 - D. *Sale of mineral and aggregate resources, asphalt, cement treated base, and concrete;*
 - F. *Storage of equipment or machinery and maintenance facilities related to mineral and aggregate resource extraction processing or transportation equipment; provided, that independent commercial storage or commercial maintenance facilities open to the general public or not directly related to resource extraction shall not be allowed unless permitted in the underlying zone;*
 - G. *Transportation facilities and loading facilities related to mineral and aggregate resource mining and/or processing; and*
 - H. *Other incidental mineral and aggregate resource related activities including buildings, structures and other apparatus.*

The applicant does not intend to conduct asphalt batch plants, cement treated base pug plants and/or concrete batch plants. The proposal appears to meet this criterion for allowable uses at the site.

10. The proposal must also meet the review criteria in 17.120.450, in addition to any criteria in the applicable zone:
 - A. *The proposed uses, activities and facilities are included in MCC 17.120.440;*

As described above, the criterion is met.

- B. *A permit for mining of aggregate on farmland shall be issued only for a site included in an inventory in an acknowledged comprehensive plan as required under ORS 215.298(2);*

This criterion does not apply because the property is not farmland.

- C. *For sites that qualify as significant under the requirements of OAR 660-23-180(3)(a) through (d), the county has completed the requirements of OAR 660-23-180(5)(a) through (g); or*

- D. *For sites that qualify as significant under the requirements of OAR 660-23-180(4)(a) through (c), the county has completed the requirements of OAR 660-23-180(6)(a) through (d);*

If the property is not farmland, it is not required to be determined whether the site is significant. These criteria do not apply.

- E. *For sites that do not qualify as significant, only the following criteria apply:*
 1. *The proposed use, as conditioned, will not substantially limit, impair, or preclude the use of surrounding properties for the uses permitted in the applicable zone;*
 2. *The proposed use, as conditioned, will not have a significant adverse effect on air or water quality;*
 3. *Adequate public and utility facilities and services to serve the use are available or will be made available prior to establishment of the use;*

The applicant states that history of the site's operation, as well as setbacks from surrounding uses, the standards of operation, and conditions placed on the operation will ensure the use will meet the criteria in (E)(1) and (2). As described above, there are adequate rural services available to the property to serve the use.

F. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. "Planted vineyard" means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed, pursuant to OAR 660-033-130(15).

The applicant is not proposing batching or blending; therefore, this criterion does not apply.

It appears that the proposal meets the review criteria for expansion of an aggregate site on timber land.

11. The proposal must also comply with the standards for development and operation found in MCC 17.120.460:

Unless specifically deleted or modified as part of the post acknowledgment plan amendment or conditional use approval, the following standards and requirements apply:

A. Dimensional Requirements.

1. Lot Area. The minimum area shall be that area necessary to meet setback requirements.

2. Setbacks for mineral and aggregate extraction shall be:

a. The extraction area must be at least 100 feet from any property line;

b. The extraction area must be at least 500 feet from a habitable building existing on adjacent property at the time the use is established;

c. When a site abuts another mineral and aggregate site, no setback for mineral and aggregate extraction is required along the common boundary line, unless such setback is determined by the county to be necessary.

3. Setbacks for mineral and aggregate processing and loading shall be as follows:

a. One hundred feet from any property line; and

b. Five hundred feet from a habitable building existing on adjacent property at the time the processing operation is established.

4. Setbacks for offices, shops or other accessory structures shall be regulated by the zone in which the proposed operation is located.

5. Storage of overburden is allowed within setbacks. There shall be no setback for existing roads, internal truck paths or other transportation facilities. Any new roads, internal transportation or other transportation facilities shall not be located closer than 50 feet from a habitable building on adjacent property existing at the time storage commences.

6. Height. The maximum height of any structure, except mineral and aggregate processing and extraction equipment, shall be 85 feet.

B. Screening and Fencing.

1. Fencing shall be required only if the site is adjacent to an urban or rural residential zone. When fencing is required, it shall be of cyclone type, a minimum of six feet high. Any site owner or operator may voluntarily fence a site.

2. Existing deciduous and evergreen vegetation within required setback areas that screen visibility of the operation from adjacent property or public roads shall be retained unless located within a vision clearance area or determined by the county to be a public safety hazard.

C. Access.

- 1. For access to sites that do not qualify as significant, the following standards apply:*
 - a. All private access roads connecting mineral and aggregate sites to public highways, roads or streets shall be paved or graveled. If graveled, the applicant shall provide a written agreement to the county to grade and treat the access road as needed during the period from June to September, or as determined in the conditional use, to reduce dust. If the access connects with a paved public road it shall be paved for a distance of 100 feet from the existing paved road.*
 - b. If access from a mineral and aggregate site is by graveled public highways, roads or streets, the applicant shall provide a written agreement to the county to annually grade and treat the first 2,000 feet of such roadway, or as determined in the conditional use permit, to reduce dust impacts.*
 - c. Vehicular barriers or gates shall be required at all vehicular access points to the site. The gate shall be located no closer than 85 feet to the public right-of-way unless a lesser distance is established as part of the conditional use permit.*
 - d. The public roads used to access the site may be specified or otherwise regulated in the conditional use permit, including requirements for improvements at specific locations or on-going maintenance to address safety concerns.*

- 2. For sites that qualify as significant, access requirements shall comply with OAR 660-23-180(5)(b)(B).*

D. Hours of Operation.

- 1. Extraction, processing and transportation activity shall be allowed Monday through Friday between the hours of 6:00 a.m. and 6:00 p.m. Transportation activity shall be allowed Saturdays between the hours of 6:00 a.m. and 6:00 p.m. No extraction, processing or transportation activity is allowed on the following holidays: January 1st, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and December 25th.*

- 2. Blasting shall be restricted to the hours of 9:30 a.m. to 4:30 p.m., Monday through Friday. No blasting shall occur on Saturdays, Sundays or the following holidays: January 1st, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and December 25th.*

- 3. An owner or operator may request, and the director may grant, an exception to provide for additional hours of operation for a mineral and aggregate extraction and processing operation when additional hours of operation are needed to alleviate a public emergency. "Public emergency" includes:*
 - a. Damage to public roads or structures that requires immediate repair.*
 - b. Road construction or repair that is scheduled during nighttime hours to reduce traffic conflicts.*

E. Environmental Standards.

- 1. Any crusher, asphalt batch plant or concrete plant shall have a valid DEQ permit.*
- 2. Owners or operators shall present evidence of the appropriate DEQ permits prior to commencing operations.*
- 3. Owners or operators of mineral and aggregate operations shall comply with the Department of Environmental Quality ("DEQ") sound levels in OAR 340-35-035 for habitable buildings on nearby property.*

F. Safety Standards. Access roads to all mineral and aggregate resource sites shall be gated and locked when not in operation.

G. Site Reclamation. A site reclamation plan shall be submitted prior to the public hearing. It shall be amended to conform to any conditions of county approval and be approved by DOGAMI prior to

commencement of operations. DOGAMI approval shall be evidenced by a DOGAMI surface mining operating permit.

H. Performance Agreements.

1. The operator of a mineral and aggregate site shall provide the county with evidence that demonstrates the operator has in full force and effect the bond or security deposit with DOGAMI to assure conformance with the state-required reclamation plan. This information shall be provided to the county prior to commencing operations.

2. Mineral and aggregate operations shall be insured for \$100,000 against liability and tort arising from production activities or incidental operations conducted or carried on by virtue of any law, ordinance or condition, and the insurance shall be kept in full force and effect during the period of such operations.

Evidence of a prepaid policy of such insurance that is effective for a period of one year shall be deposited with the county prior to commencing any mineral and aggregate operations. The owner or operator shall annually provide the county with evidence that the policy has been renewed.

I. A landowner or operator shall hold a valid operating permit from the State Department of Geology and Mineral Industries (DOGAMI) for sites surface mined after July 1, 1972, as defined in ORS 215.298 and 517.750. A separate permit is required for each separate surface mining operation per ORS 517.790.

Continuous compliance with these standards for development and operation can be made a condition of any approval.

12. If this request is approved, staff recommends that the following conditions of approval be applied. These include the conditions from the previous land use cases which are either still applicable to this proposal or are conditions to be continuously complied with:

- A. At all times the proposed use shall be operated in accordance with the operation standards contained in MCZO 120.460.
- B. Applicants shall provide the evidence of obtaining the permits, compliance with environmental and safety standards, and agreements required in MCC 120.460.
- C. Blasting is to be limited to 30 days or less per year.
- D. Applicants shall notify all surrounding property owners within 1,500 feet of the quarry site that blasting will take place at least 24 hours prior to the blasting.
- E. Applicants shall retain existing and install additional landscaping along the southern boundary of the subject property to serve as a visual and noise abatement berm. Applicant shall plant sufficient trees on this berm to act as a vision and noise barrier.
- F. The proposed quarry site is limited to 102 acres. Any expansion of the site beyond 102 acres will require an additional land use approval.
- G. Applicants shall comply with all applicable standards and regulations of DEQ and DOGAMI.
- H. Applicants shall take all reasonable steps to minimize the dust resulting from the proposed use.
- I. Kingdom Lane shall not be used for truck traffic to and from the site, unless improved to the standards contained in CP/CU 93-4 condition 5. If Kingdom Lane is not improved to DPW standards, applicant shall inform customers, through posted notice and flyers, that use of Kingdom

Lane for access to the site is prohibited. Proof of such posting and availability of flyers shall be submitted to the Planning Division.

- J. The applicant, owner, or operator of the aggregate site shall include in any lease, contract, or agreement, stipulations that the use of Kingdom Lane is prohibited as a route for truck traffic accessing the mining operation.
- K. If the notification to customers is not effective, the Marion County Department of Public Works may investigate warrants for signs to control truck traffic. If the signs are determined to be warranted, applicant shall bear the cost of installing the signs.
- L. Applicant shall improve Old Mehama Road in accordance with Marion County Department of Public Works requirements. Applicant shall obtain all required permits and bonds.
- M. Applicant shall submit written verification from the Oregon Department of Transportation that vision restrictions at the east and west intersections of Old Mehama Road and State Highway 22 have been corrected to meet required standards.
- N. Applicant shall clear vision clearance triangles at any access to Old Mehama Road in accordance with Marion County Department of Public Works standards.
- O. Failure to comply with the conditions of approval may result in revocation of the land use approval. Any reconvoation would be appealable to the Hearings Officer for a hearing on the matter.