

ANNOTATED AGENDA

Tuesday, March 27, 1990 - 9:30 AM
Multnomah County Courthouse, Room 602

PLANNING ITEMS

Chair Gladys McCoy convened the meeting at 9:30 a.m., with Commissioners Pauline Anderson and Sharron Kelley present.

Decisions of the Planning Commission of March 5, 1990, are reported to the Multnomah County Board of Commissioners for acceptance and implementation by Board Order:

1. PR 2-90 DENY requested change in the Centennial Community Plan re-designing the subject property from Urban Low Density Residential to Light Industrial;
ZC 2-90 DENY amendment of Sectional Zoning Map #523, changing the described property from LR-5, low density residential to LM, light industrial, all for property located at 4805 SE 174th Avenue.
2. RPD 2-90 APPROVE, SUBJECT TO CONDITIONS, requested RPD, changing the described property from RR, rural residential, FF, flood fringe to RR/FF/RPD, rural residential, flood fringe, rural planned-development district, for property located at 29095 SE Stark Street.
3. CU 2-90 APPROVE, SUBJECT TO CONDITIONS, requested conditional use request for development of the subject site with a non-resource related single family residence, for property located at 42000 SE Trout Creek Road.
4. LD 2-90 APPROVE, SUBJECT TO CONDITIONS, Tentative Plan for a Type I land division and a Future Street Plan, as a guide for future development within the area shown on the Future Street Plan Map, dated December 28, 1989, all for property located at 5950 SE 141st Avenue.

***UPON MOTION OF COMMISSIONER ANDERSON,
SECONDED BY COMMISSIONER KELLEY,
PLANNING DECISIONS 1 THROUGH 4 WERE
UNANIMOUSLY ACCEPTED.***

Vice-Chair Gretchen Kafoury and Commissioner Rick Bauman arrived at 9:35 a.m.

5. C 1-88 PERIODIC REVIEW - CONTINUED HEARING
 - a. DECISION regarding completion of the County's Local Review Final Order to the Economic, Social, Environmental and Energy (ESEE) analysis designations for Mineral and Aggregate Sites #4 (Angell Brothers Quarry and #8 (Howard Canyon). (Continued from March 6, 1990)
 - b. DECISION regarding completion of the County's Local Review Final Order to the Economic, Social, Environmental and Energy (ESEE) analysis relating to a proposed alternate site designation for Howard Canyon. (Continued from March 6, 1990)

PLANNER LORNA STICKEL PRESENTED STAFF REPORT AND EXPLANATION OF PROCESS FOR HOWARD CANYON SITE. UPON REQUEST FOR EX PARTE DISCLOSURE, COMMISSIONERS BAUMAN, ANDERSON AND KELLEY SUBMITTED LETTERS THEY RECEIVED AND CHAIR McCOY ADVISED SHE VISITED BOTH QUARRY SITES WITH STAFF. MS. STICKEL ADVISED ATTORNEY ED SULLIVAN PREPARED FINDINGS WITH A 3B DESIGNATION FOR SITE 8, ATTORNEY PAUL HRIBERNICK SUBMITTED FINDINGS WITH A 3C DESIGNATION FOR SITE 8, AND STAFF PREPARED FINDINGS WITH A 3C DESIGNATION FOR SITE 8 AS MODIFIED FROM MR. HRIBERNICK'S VERSION. PLANNER GARY CLIFFORD, MS. STICKEL AND JIM SITZMAN EXPLANATION AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION. UPON MOTION OF COMMISSIONER BAUMAN, SECONDED BY COMMISSIONER KELLEY, FINAL ORDER 90-44 WAS UNANIMOUSLY APPROVED, IDENTIFYING HOWARD CANYON SITE 8 AS A 3B DESIGNATION. MS. STICKEL PRESENTED STAFF REPORT AND SLIDES REGARDING THE ANGELL BROTHERS SITE, AND EXPLANATION OF PROCESS, ADVISING ONE OPTION IS TO APPROVE A 3C DESIGNATION FOR THE EXISTING 71.22 ACRE AGGREGATE MINING OPERATION AND THE 55 ACRE EXPANSION, SITE 4, OR TO APPROVE A 3C DESIGNATION FOR

THE EXISTING 71.22 ACRE AGGREGATE MINING OPERATION, SITE 4 ONLY. MS. STICKEL RESPONSE TO BOARD QUESTIONS AND DISCUSSION. COMMISSIONER ANDERSON MOVED AND COMMISSIONER BAUMAN SECONDED, APPROVAL OF A 3C DESIGNATION FOR THE EXISTING 71.22 ACRE AGGREGATE MINING OPERATION, SITE 4. ANDREW JORDON TESTIMONY IN SUPPORT OF APPROVAL OF 3C DESIGNATION ON 71.22 ACRE AND 55 ACRE EXPANSION. MOLLY O'REILLY AND CAROL CANNING TESTIMONY IN SUPPORT OF COMPLETION OF A WILDLIFE STUDY PRIOR TO APPROVAL OF A 3C DESIGNATION, AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION. ROBERT PRICE AND SKIP ANDERSON RESPONSE TO BOARD QUESTIONS AND DISCUSSION REGARDING AMOUNT OF AGGREGATE LEFT IN PRESENT MINING OPERATION. MS. O'REILLY, MR. SITZMAN AND MR. JORDON RESPONSE TO BOARD QUESTIONS AND DISCUSSION REGARDING DOGAMI AND WILDLIFE STUDIES. FOLLOWING DISCUSSION, BOARD CONSENSUS DIRECTING THE PARTIES TO CONTINUE WORKING TOWARDS A MUTUALLY ACCEPTABLE COMPROMISE, PUT THEIR CONCERNS IN WRITING, AND TO CONTINUE HEARING AND DECISION ON ANGELL BROTHERS QUARRY SITE 4 TO 8:30 AM, TUESDAY, APRIL 17, 1990

There being no further business, the meeting was adjourned at 11:40

a.m.

Tuesday, March 27, 1990 - 1:30 PM
Multnomah County Courthouse, Room 602

INFORMAL BRIEFINGS

1. Briefing on status of Encampment Removal Sweeps. Presented by Dr. Gary Oxman, Dan Steffey and Jean DeMasters.

2. Update on the status of the Minority and Women-Owned Business Enterprise Utilization Study. Presented by Lillie M. Walker.
3. Briefing regarding the proposed establishment of a Teen Health Center at Vocational Village. Presented by students from Vocational Village and Healthy Options for Teens Board Members.

BRIEFING 3 CANCELLED.

4. Informal Review of Formal Agenda of March 29, 1990

SUBSTITUTE ORDER SUBMITTED FOR R-8 DESIGNATING POSITION TITLE RATHER THAN INDIVIDUAL NAME.

Wednesday, March 28, 1990 - 9:00 - 11:45 AM
Standard Plaza Building - Conference Rooms A & B
1100 Southwest Sixth Avenue

POLICY DEVELOPMENT COMMITTEE

Special Follow-up Meeting to Consider CIP Committee Recommendations on Justice Service and Other Building Issues

Thursday, March 29, 1990 - 9:00 AM
Multnomah County Courthouse, Room 602

EXECUTIVE SESSION

Executive Session scheduled pursuant to ORS 192.660(1)(e) for the purpose of discussing certain real property transactions

EXECUTIVE SESSION HELD, NO DECISIONS MADE.

Thursday, March 29, 1990 - 9:30 AM
Multnomah County Courthouse, Room 602

FORMAL AGENDA

Chair Gladys McCoy convened the meeting at 9:40 a.m., with Vice-Chair Gretchen Kafoury and Commissioners Pauline Anderson, Rick Bauman and Sharron Kelley present.

NON-DEPARTMENTAL

Students, representing Youth Today, will report on various projects they have sponsored during the year

STUDENTS MASHINDA HEDGMON, KALI SCOLNICK, DANIEL DORN, HEATHER PATSIS, EMILY BJORNSTAD AND CORTLANDT CUFFEE REPORTED ON THEIR VARIOUS PROJECTS. BOARD COMMENTS IN APPRECIATION OF STUDENTS, PROGRAM AND SPONSORS, AND ACKNOWLEDGEMENT ACCOMPANYING OF PARENTS AND TEACHERS.

R-1 Resolution in the Matter of Establishing a Policy for Evaluation of Multnomah County Programs

COMMISSIONER ANDERSON EXPLANATION AND MOTION TO APPROVE R-1, SECONDED BY COMMISSIONER KELLEY. MAURA HANLON OF BURNSIDE PROJECTS TESTIMONY IN SUPPORT. RESOLUTION 90-45 UNANIMOUSLY APPROVED.

R-2 Resolution in the Matter of Defining the Role of Metropolitan Community Action

COMMISSIONER BAUMAN EXPLANATION AND MOTION TO APPROVE R-2, SECONDED BY COMMISSIONER ANDERSON. CAROL MURDOCH TESTIMONY IN SUPPORT. RESOLUTION 90-46 UNANIMOUSLY APPROVED.

DEPARTMENT OF ENVIRONMENTAL SERVICES

R-3 In the matter of approval to enter into an Earnest Money Agreement with two purchasers for 9.8 acres to include Edgefield Manor and 128.45 acres of residential and open space zoned property. (Time Certain for 10:00 AM)

COMMISSIONER ANDERSON APPROVED, SECONDED BY COMMISSIONER BAUMAN, APPROVAL OF EARNEST MONEY AGREEMENT FOR THE 9.8 ACRE PARCEL. WAYNE GEORGE EXPLANATION. PURCHASER MIKE McMENAMIM TESTIMONY IN SUPPORT AND RESPONSE TO BOARD QUESTIONS. TROUTDALE MAYOR SAM COX TESTIMONY IN SUPPORT. MOTION TO ENTER INTO EARNEST MONEY AGREEMENT WITH PURCHASER FOR 9.8 ACRES TO INCLUDE EDGEFIELD MANOR UNANIMOUSLY APPROVED. COUNTY COUNSEL JOHN DuBAY EXPLANATION OF ZONING AND STATE STATUTES REGARDING SALE OF THE 128.45 ACRE PARCEL, ADVISING STAFF HAS A PROPOSAL IT WILL BRING BEFORE THE BOARD NEXT WEEK. MR. DuBAY RESPONSE TO COMMISSIONER KELLEY REQUEST FOR WRITTEN OPINION REGARDING LEGAL REQUIREMENTS OF HOME RULE VERSUS STATE STATUTES FOR SALE OF COUNTY PROPERTY. MAYOR COX, RON BURGIN, GENE BUI, WALT POSTLEWAIT AND PAM CHRISTIAN TESTIMONY IN SUPPORT. FOLLOWING DISCUSSION WITH MR. DuBAY AND UPON MOTION OF COMMISSIONER BAUMAN, SECONDED BY COMMISSIONER KELLEY, IT WAS UNANIMOUSLY APPROVED THAT CONSIDERATION OF AN EARNEST MONEY AGREEMENT FOR THE 128.45 ACRE PORTION OF EDGEFIELD PROPERTY BE CONTINUED UNTIL THURSDAY, APRIL 5, 1990, AND THAT THE BOARD AND STAFF PREPARE AND SUBMIT PROPOSED LANGUAGE REGARDING CONDITIONS OF SALE PRIOR TO THE CONTINUANCE.

R-4

Order in the Matter of Conveying Deed for Certain Real Property to the Public for Road Purposes (SE 127th Avenue, Item No. 90-44) and Authorizing Chair to Execute Deed of Dedication

UPON MOTION OF COMMISSIONER ANDERSON, SECONDED BY COMMISSIONER KELLEY, ORDER 90-47 WAS UNANIMOUSLY APPROVED.

- R-5 Budget Modification No. DES-13 Authorizing Appropriation of a \$750,000 Grant from the Library Association of Portland for Repairs and Replacement of a Roof and Skylights at the Central (Downtown) Library

***UPON MOTION OF COMMISSIONER ANDERSON,
SECONDED BY COMMISSIONER KELLEY, R-5
WAS UNANIMOUSLY APPROVED.***

PUBLIC CONTRACT REVIEW BOARD

(Recess as the Board of County Commissioners and convene as the Public Contract Review Board)

- R-6 Order in the Matter of an Exemption from Formal Public Bidding of a Contract for Printing of Voters' Pamphlets

***UPON MOTION OF COMMISSIONER KAFOURY,
SECONDED BY COMMISSIONER KELLEY, ORDER
90-48 WAS UNANIMOUSLY APPROVED.***

(Recess as the Public Contract Review Board and reconvene as the Board of County Commissioners)

DEPARTMENT OF GENERAL SERVICES

- R-7 Ratification of an Intergovernmental Service Agreement between Multnomah County and the State of Oregon, Executive Department, Information Systems Division, for the purpose of providing PC Training Classes to Multnomah County, Information Services Division

***UPON MOTION OF COMMISSIONER ANDERSON,
SECONDED BY COMMISSIONER KELLEY, R-7
WAS UNANIMOUSLY APPROVED.***

DEPARTMENT OF HUMAN SERVICES

- R-8 Order in the Matter of Delegating Authority to Environmental Health Manager to File Nuisance Abatement Lien

***COMMISSIONER BAUMAN EXPLANATION OF
SUBSTITUTE ORDER REPLACING EMPLOYEE***

NAME WITH POSITION TITLE. UPON MOTION OF COMMISSIONER BAUMAN, SECONDED BY COMMISSIONER KAFOURY, ORDER 90-49 WAS UNANIMOUSLY APPROVED, AS SUBSTITUTED.

R-9 Approval of Amendment to Oregon State Community Services Contract #905087-3 for the Addition of \$70,000 in State Homeless Assistance Program Pass Through Funds for the Period July 1, 1989 to June 30, 1990

UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER ANDERSON, R-9 WAS UNANIMOUSLY APPROVED.

R-10 Approval of Amendment to Oregon State Community Services Contract #905087-2 for the Addition of \$175,468 in Community Services Block Grant Pass Through Funds for the Period July 1, 1989 to June 30, 1990

UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER ANDERSON, R-10 WAS UNANIMOUSLY APPROVED.

R-11 Budget Modification DHS #41 Authorizing Reduction of the Youth Program Office Budget by \$489,943 to Reflect the Allocation of Great Start Planning Funds of \$19,997; the Reduction of Great Start Contract Funds (\$500,000) and JSC Contract Funds (\$7,766) Which Adjusts to the Actual Award for FY 89-90

UPON MOTION OF COMMISSIONER BAUMAN, SECONDED BY COMMISSIONER KAFOURY, R-11 WAS UNANIMOUSLY APPROVED.

DEPARTMENT OF JUSTICE SERVICES

R-12 Ratification of Intergovernmental Agreement between Multnomah County Department of Justice Service, Community Corrections Division and Mt. Hood National Forest and Gifford Pinchot National Forest, USDA Forest Service and The Columbia River Gorge National Scenic Area, by Which USDA Forest Service Provides Work and Training Programs for Multnomah County Probationers from the Community Service Forest Project

COMMISSIONER KAFOURY MOVED AND COMMISSIONER ANDERSON SECONDED, APPROVAL OF R-12. KEN UPTON AND SUSAN KAESER EXPLANATION AND RESPONSE TO BOARD QUESTIONS. R-12 UNANIMOUSLY APPROVED.

ORDINANCE - NON-DEPARTMENTAL

R-13 First Reading of an Ordinance Extending the Legal Restrictions on Cruising of the City of Portland to the Unincorporated Areas of Multnomah County

ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER KELLEY MOVED AND COMMISSIONER KAFOURY SECONDED, APPROVAL OF FIRST READING. COMMISSIONER KELLEY AND ROBERT TRACHTENBERG EXPLANATION. SGT. TERRY JONES TESTIMONY IN SUPPORT AND RESPONSE TO BOARD QUESTIONS. JOHN LARKIN, MAVIS HOLT, MAX BENNETT, WC GILBERT AND DAVID STALEY TESTIMONY IN SUPPORT. MR. STALEY TESTIMONY ON BEHALF OF BARRY DESBIENS IN SUPPORT. HENRY PRITCHETT, DENNIS RICHEY, PAM GIFFEY AND MARY MILDENBERGER TESTIMONY IN SUPPORT. FIRST READING UNANIMOUSLY APPROVED. SECOND READING SCHEDULED FOR THURSDAY, APRIL 5, 1990.

BOARD COMMENTS IN APPRECIATION FOR SUCCESSFUL VOTER TURNOUT REGARDING THE LIBRARY ISSUE.

The formal meeting was adjourned at 11:05 a.m. and the work session convened at 11:20 a.m.

Thursday, March 29, 1990 - Following Formal Meeting
Multnomah County Courthouse, Room 602

WORK SESSION

Work Session to Discuss Close Street Supervision Proposal

**BOARD DISCUSSION WITH GRANT NELSON,
JUDGE PHILIP ABRAHAM, SHERIFF ROBERT
SKIPPER, DENISE FIELDS, BILL WOOD, ARLENE
COLLINS, STAN GARGILL, DOUG BRAY AND KEN
UPTON. BOARD CONSENSUS TO CONTINUE
DISCUSSION TO 1:30 PM, WEDNESDAY, APRIL 4,
1990.**

*There being no further business, the meeting was adjourned at 11:25
a.m.*

Thursday, March 29, 1990 - 1:30 PM
Multnomah County Courthouse, Room 602

WORK SESSION

Work Session to Discuss Proposals for Change to Current County
Organizational Structure - Continued from March 15, 1990

CANCELLED.

OFFICE OF THE BOARD CLERK
FOR MULTNOMAH COUNTY, OREGON

Deborah L. Bogstad

Deborah L. Bogstad



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 605, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

GLADYS McCOY • CHAIR • 248-3308
PAULINE ANDERSON • DISTRICT 1 • 248-5220
GRETCHEN KAFOURY • DISTRICT 2 • 248-5219
RICK BAUMAN • DISTRICT 3 • 248-5217
SHARRON KELLEY • DISTRICT 4 • 248-5213
JANE McGARVIN • Clerk • 248-3277

AGENDA OF
MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS
FOR THE WEEK OF
MARCH 26 - 30, 1990

- Tuesday, March 27, 1990 - 9:30 AM - Planning Items Page 2
- Tuesday, March 27, 1990 - 1:30 PM - Informal Briefings . . Page 3
- Wednesday, March 28, 1990 - 9:00 AM - Policy Development
Committee Page 3
- Thursday, March 29, 1990 - 9:30 AM - Formal Meeting . . . Page 4
Work Session to Follow . Page 5
- Thursday, March 29, 1990 - 1:30 PM - Work Session Page 6

Thursday Meetings of the Multnomah County Board of Commissioners are recorded and can be seen at the following times:

- Thursday, 10:00 PM, Channel 11 for East and West side subscribers
- Friday, 6:00 PM, Channel 27 for Paragon Cable (Multnomah East) subscribers
- Saturday 12:00 PM, Channel 21 for East Portland and East County subscribers

Tuesday, March 27, 1990 - 9:30 AM

Multnomah County Courthouse, Room 602

PLANNING ITEMS

Decisions of the Planning Commission of March 5, 1990, are reported to the Multnomah County Board of Commissioners for acceptance and implementation by Board Order:

1. PR 2-90 DENY requested change in the Centennial Community Plan redesignating the subject property from Urban Low Density Residential to Light Industrial;
ZC 2-90 DENY amendment of Sectional Zoning Map #523, changing the described property from LR-5, low density residential to LM, light industrial, all for property located at 4805 SE 174th Avenue.
2. RPD 2-90 APPROVE, SUBJECT TO CONDITIONS, requested RPD, changing the described property from RR, rural residential, FF, flood fringe to RR/FF/RPD, rural residential, flood fringe, rural planned-development district, for property located at 29095 SE Stark Street.
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4. LD 2-90 APPROVE, SUBJECT TO CONDITIONS, Tentative Plan for a Type I land division and a Future Street Plan, as a guide for future development within the area shown on the Future Street Plan Map, dated December 28, 1989, all for property located at 5950 SE 141st Avenue.
5. C 1-88 PERIODIC REVIEW - CONTINUED HEARING
 - a. DECISION regarding completion of the County's Local Review Final Order to the Economic, Social, Environmental and Energy (ESEE) analysis designations for Mineral and Aggregate Sites #4 (Angell Brothers Quarry and #8 (Howard Canyon). (Continued from March 6, 1990)
 - b. DECISION regarding completion of the County's Local Review Final Order to the Economic, Social, Environmental and Energy (ESEE) analysis relating to a proposed alternate site designation for Howard Canyon. (Continued from March 6, 1990)

Tuesday, March 27, 1990 - 1:30 PM

Multnomah County Courthouse, Room 602

INFORMAL BRIEFINGS

1. Briefing on status of Encampment Removal Sweeps. Presented by Dr. Gary Oxman, Dan Steffey and Jean DeMasters.
2. Update on the status of the Minority and Women-Owned Business Enterprise Utilization Study. Presented by Lillie M. Walker.
3. Briefing regarding the proposed establishment of a Teen Health Center at Vocational Village. Presented by students from Vocational Village and Healthy Options for Teens Board Members.
4. Informal Review of Formal Agenda of March 29, 1990

PUBLIC TESTIMONY WILL NOT BE TAKEN AT INFORMAL MEETINGS

* * * * *

Wednesday, March 28, 1990

9:00 - 11:45 AM

Standard Plaza Building - Conference Rooms A & B
1100 Southwest Sixth Avenue

POLICY DEVELOPMENT COMMITTEE

Special Follow-up Meeting to Consider CIP Committee
Recomendations on Justice Service and Other Building Issues

Thursday, March 29, 1990, 9:30 AM

Multnomah County Courthouse, Room 602

FORMAL AGENDA

NON-DEPARTMENTAL

Students, representing Youth Today, will report on various projects they have sponsored during the year

- R-1 Resolution in the Matter of Establishing a Policy for Evaluation of Multnomah County Programs
- R-2 Resolution in the Matter of Defining the Role of Metropolitan Community Action

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-3 In the matter of approval to enter into an Earnest Money Agreement with two purchasers for 9.8 acres to include Edgefield Manor and 128.45 acres of residential and open space zoned property. (Time Certain for 10:00 AM)
- R-4 Order in the Matter of Conveying Deed for Certain Real Property to the Public for Road Purposes (S.E. 127th Avenue, Item No. 90-44) and Authorizing Chair to Execute Deed of Dedication
- R-5 Budget Modification No. DES-13 Authorizing Appropriation of a \$750,000 Grant from the Library Association of Portland for Repairs and Replacement of a Roof and Skylights at the Central (Downtown) Library

PUBLIC CONTRACT REVIEW BOARD

(Recess as the Board of County Commissioners and convene as the Public Contract Review Board)

- R-6 Order in the Matter of an Exemption from Formal Public Bidding of a Contract for Printing of Voters' Pamphlets

(Recess as the Public Contract Review Board and reconvene as the Board of County Commissioners)

DEPARTMENT OF GENERAL SERVICES

- R-7 Ratification of an Intergovernmental Service Agreement between Multnomah County and the State of Oregon, Executive Department, Information Systems Division, for the purpose of providing PC Training Classes to Multnomah County, Information Services Division

DEPARTMENT OF HUMAN SERVICES

- R-8 Order in the Matter of Delegating Authority to Art Bloom to File Nuisance Abatement Lien
- R-9 Approval of Amendment to Oregon State Community Services Contract #905087-3 for the Addition of \$70,000 in State Homeless Assistance Program Pass Through Funds for the Period July 1, 1989 to June 30, 1990
- R-10 Approval of Amendment to Oregon State Community Services Contract #905087-2 for the Addition of \$175,468 in Community Services Block Grant Pass Through Funds for the Period July 1, 1989 to June 30, 1990
- R-11 Budget Modification DHS #41 Authorizing Reduction of the Youth Program Office Budget by \$489,943 to Reflect the Allocation of Great Start Planning Funds of \$19,997; the Reduction of Great Start Contract Funds (\$500,000) and JSC Contract Funds (\$7,766) Which Adjusts to the Actual Award for FY 89-90

DEPARTMENT OF JUSTICE SERVICES

- R-12 Ratification of Intergovernmental Agreement between Multnomah County Department of Justice Service, Community Corrections Division and Mt. Hood National Forest and Gifford Pinchot National Forest, USDA Forest Service and The Columbia River Gorge National Scenic Area, by Which USDA Forest Service Provides Work and Training Programs for Multnomah County Probationers from the Community Service Forest Project

ORDINANCE - NON-DEPARTMENTAL

- R-13 First Reading of an Ordinance Extending the Legal Restrictions on Cruising of the City of Portland to the Unincorporated Areas of Multnomah County

* * * * *

Thursday, March 29, 1990 - Following Formal Meeting

Multnomah County Courthouse, Room 602

WORK SESSION

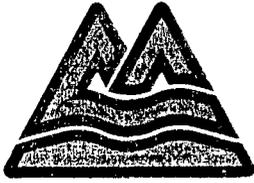
Work Session to Discuss Close Street Supervision Proposal

Thursday, March 29, 1990 - 1:30 PM
Multnomah County Courthouse, Room 602

WORK SESSION

Work Session to Discuss Proposals for Change to Current
County Organizational Structure - Continued from March 15,
1990

0700C/77-82/dr
3/22/90



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 605, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

GLADYS McCOY • CHAIR • 248-3308
PAULINE ANDERSON • DISTRICT 1 • 248-5220
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RICK BAUMAN • DISTRICT 3 • 248-5217
SHARRON KELLEY • DISTRICT 4 • 248-5213
JANE McGARVIN • Clerk • 248-3277

SUPPLEMENTAL AGENDA

Tuesday, March 27, 1990 - 1:30 PM

Multnomah County Courthouse, Room 602

INFORMAL BRIEFINGS

3. Briefing regarding the proposed establishment of a Teen Health Center at Vocational Village. Presented by students from Vocational Village and Healthy Options for Teens Board Members.

CANCELLED.

0700C/83/dr
3/26/90



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 605, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

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SUPPLEMENTAL AGENDA

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Multnomah County Courthouse, Room 602

WORK SESSION

Work Session to Discuss Proposals for Change to Current
County Organizational Structure - Continued from March 15,
1990

CANCELLED

0700C/84/dr
3/26/90



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 605, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

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SUPPLEMENTAL AGENDA

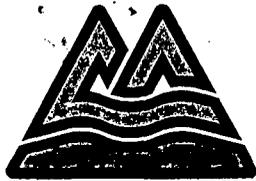
Thursday, March 29, 1990 - 9:00 AM

Multnomah County Courthouse, Room 602

EXECUTIVE SESSION

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0700C/85/dr
3/27/90



MAR 27 1990

MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 605, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

GLADYS McCOY • CHAIR • 248-3308
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SHARRON KELLEY • DISTRICT 4 • 248-5213
JANE McGARVIN • Clerk • 248-3277

BOARD OF COUNTY COMMISSIONERS

Tuesday, March 27, 1990

9:30 a.m., Room 602

A G E N D A

MULTNOMAH COUNTY
OREGON
1990 MAR 18 PM 1:59
BOARD OF
COUNTY COMMISSIONERS

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Continued

Other Item for Board Action:

C 1-88 Periodic Review

Continued hearing for the purpose of discussing mineral and aggregate issues relating to
Periodic Review



**Department of Environmental Services
Division of Planning and Development
2115 S.E. Morrison Street
Portland, Oregon 97214 (503) 248-3043**

Decision

This Report consists of Recommended Decisions and Findings and Conclusions.
March 5, 1990

**PR 2-90, #523
ZC 3-90, #523**

Comprehensive Plan Amendment Zone Change Request (LR-5 to LM)

Applicant requests a Comprehensive Plan amendment and change in zone designation from the current Urban Low Density Residential and LR-5 to Light Industrial and LM to allow construction of a metal shop/custom metal fabrication facility.

Location: 4805 SE 174th Avenue

Legal: Tax Lot '27', Section 18, T1S, R3E (1989 Assessor's Map)

Site Size: 2.06 Acres

Size Requested: Same

Property Owner: Wallace H. and Betty L. Blom
1545 Arroyo Manor Drive, Redding, CA. 96003

Applicant: The Benkendorf Associates Corporation
522 SW Fifth Avenue, Suite 1406, Portland, 97204

Comprehensive Plan: Low Density Residential

Current Zoning: LR-5, Urban Low Density Residential District

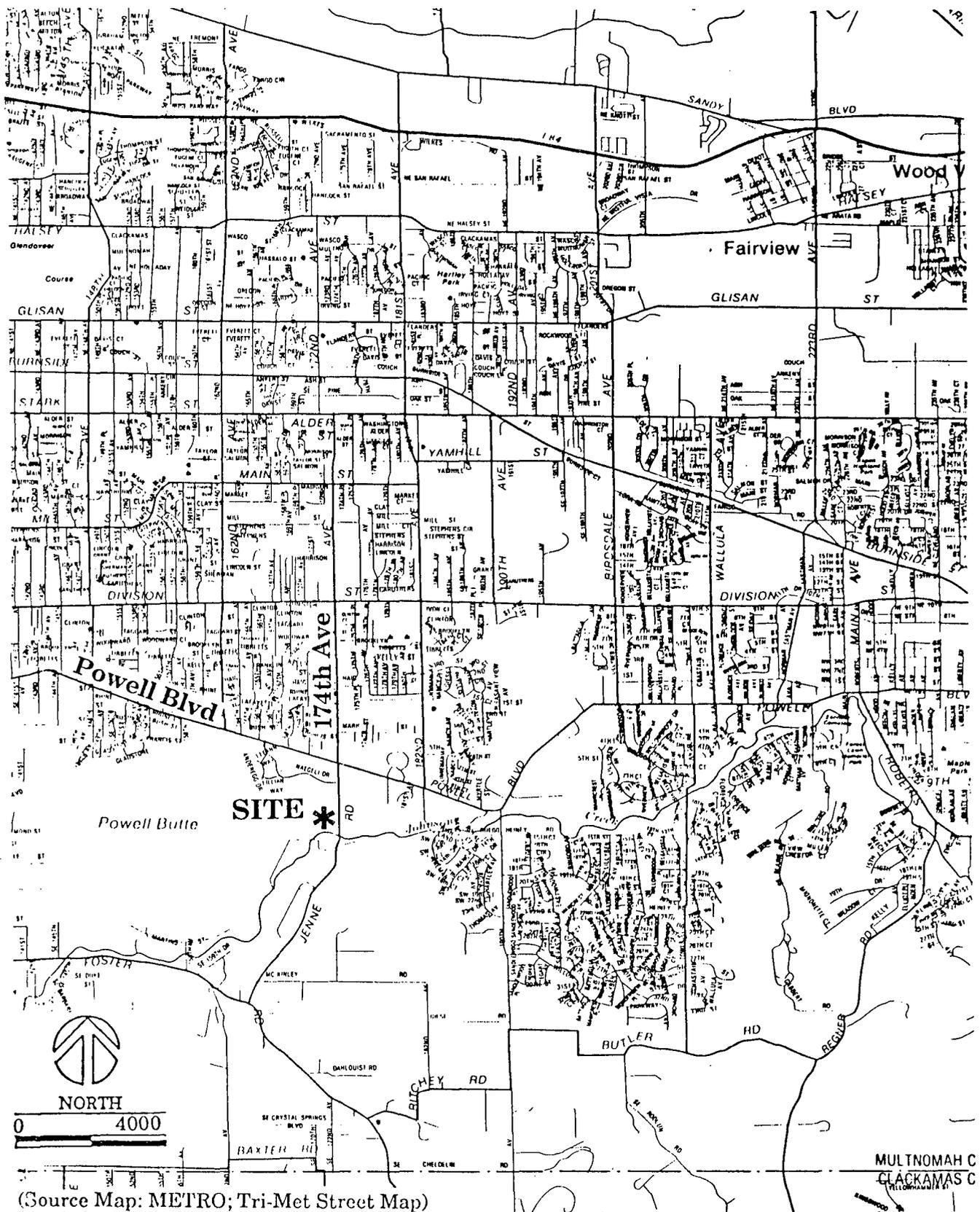
Proposed Zoning: LM—Light Manufacturing District

Planning Commission

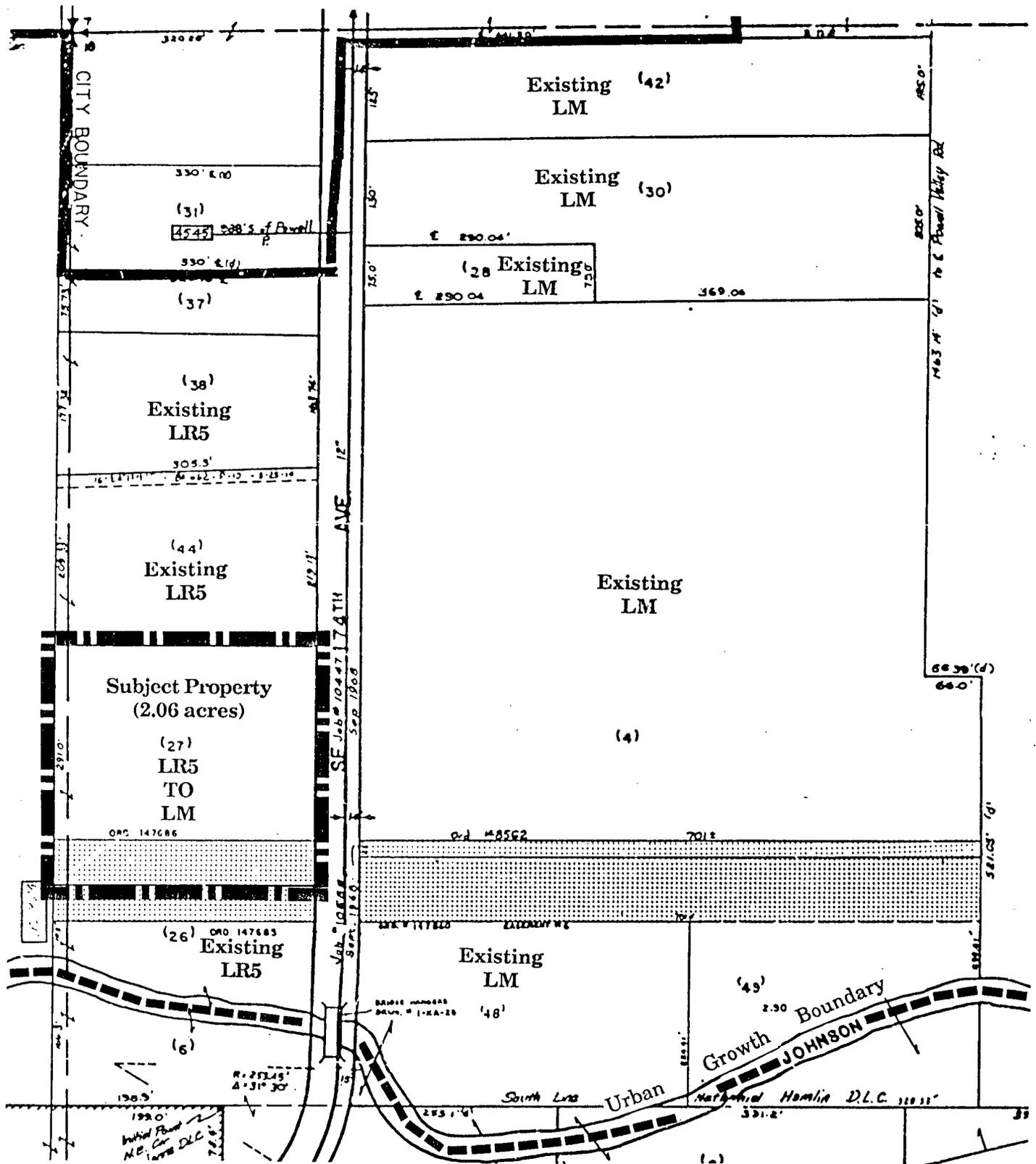
Decisions #1. DENY the requested change in the Centennial Community Plan redesignating this property from Urban Low Density Residential to Light Industrial, and;

Decision #2. Deny the amendment of Sectional Zoning Map #523, changing the described property from LR-5 to LM, based upon the following Findings and Conclusions.

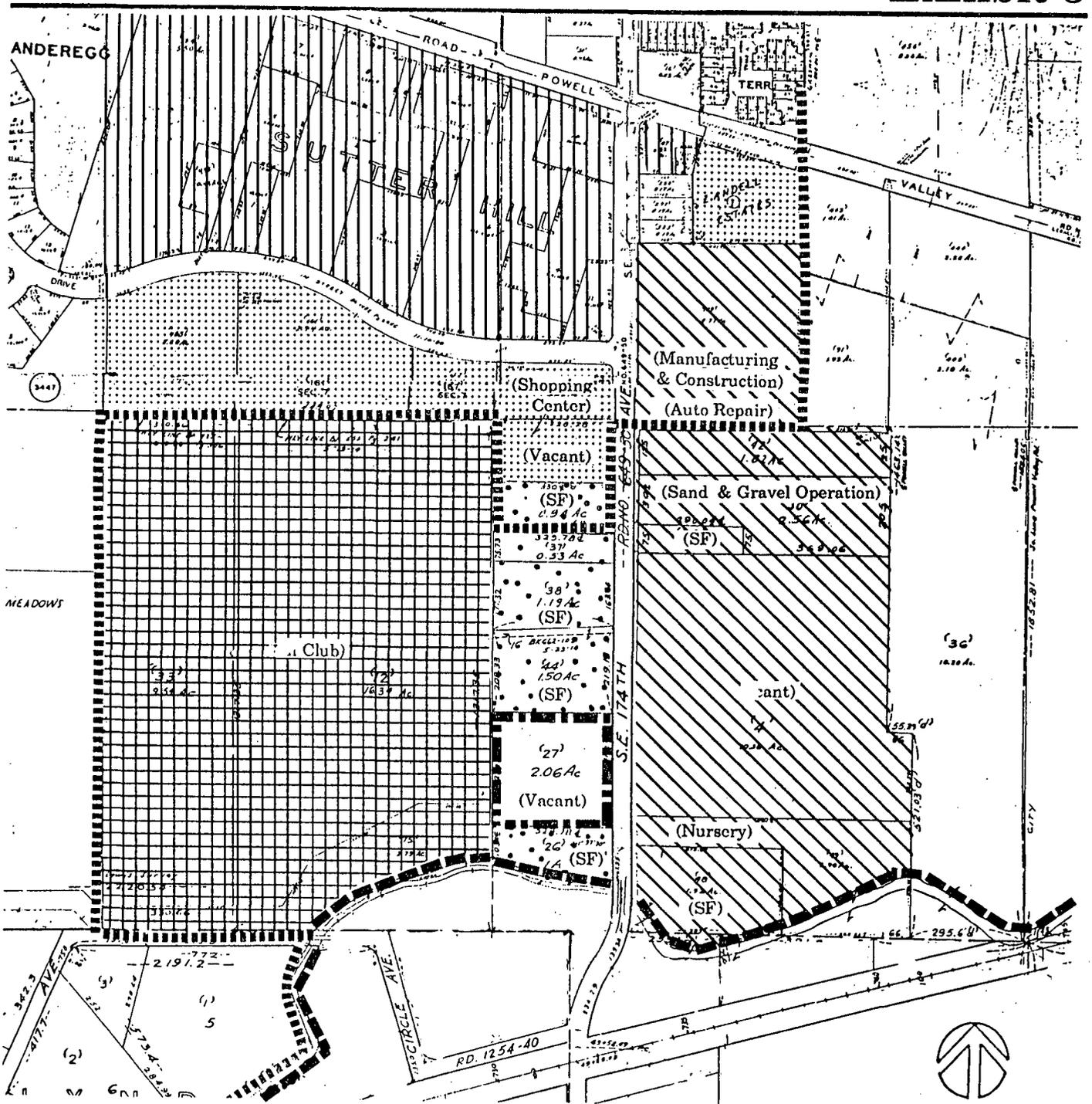
PR 2-90/ZC 3-90



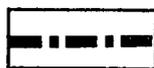
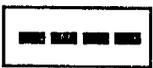
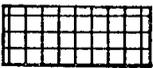
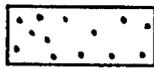
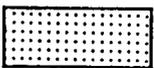
Site Location



Proposed Comprehensive Plan and Zone Change



Legend

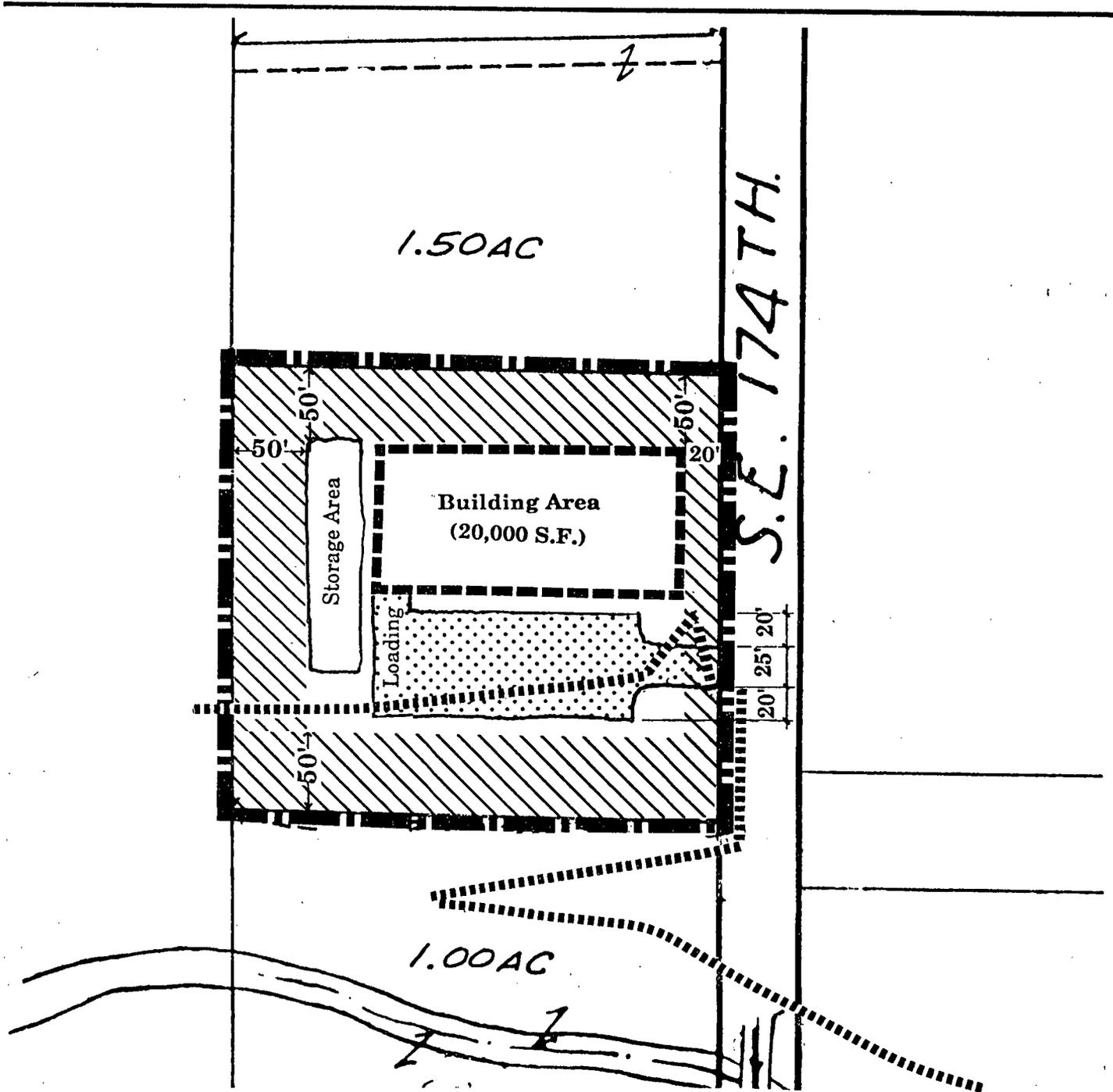
- | | | | |
|---|----------------------|---|-------------------------------------|
|  | Subject Property |  | Urban Growth Boundary |
|  | City Limits Boundary |  | Conditional Use (Portland Gun Club) |
|  | LR5 |  | C2 |
|  | R2 |  | LM |



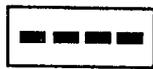
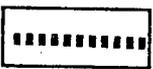
NORTH

0 500

Existing Uses and Land Use Designations



Legend

-  Subject Property
-  Building Area Boundary
-  Landscape Buffer Setbacks
-  100 Year Floodplain
-  Parking Area (25 Spaces)



NORTH

0 100

Tentative Conceptual Site Plan

Findings of Fact:

1. Applicant's Proposal:

The Benkendorf Associates Corporation, on behalf of L&L Fabricators, Inc., 19951 N.E. Burnside Street, Portland, Oregon requests a change of the Multnomah County Comprehensive Plan from Low Density Single Family Residential to Light Industrial, and a Zone Change from LR-5 to LM to allow for the construction of a metal shop/custom metal fabrication facility of 20,000 square feet on a 2.06 acre parcel. The property is located on the west side of S.E. 174th Avenue approximately 1/8 mile south of Powell Valley Road in unincorporated Multnomah county. The legal description is Township 1S, Range 3 E, Section 18, Tax Lot 27. L & L Fabricators is the option holder on the subject 2.06 acres. The owners of the subject property are Wallace and Betty Blom, 1545 Arroyo Manor Drive, Redding, California 96003.

2. Ordinance Considerations:

A. The burden is on the applicant for a **comprehensive plan amendment** to demonstrate that the revision is:

- (1) In the public interest; and
- (2) In compliance with the applicable elements of the comprehensive plan.

[Reference MCC 11.05.290(A)]

B. The burden is on the applicant for a **zone change** to persuade the Planning Commission that:

- (1) Granting the request is in the public interest;
- (2) There is a public need for the requested change and that need will be best served by changing the classification of the property in question as compared with other available property;
- (3) The proposed action fully accords with the applicable elements of the Comprehensive Plan.
- (4) Proof of change in a neighborhood or community or mistake in the planning or zoning for the property under consideration are additional relevant factors to be considered...

[Reference 11.15.8230(D&E)]

3. Site and Vicinity Characteristics:

The site proposed for development totals 2.06 acres. The site slopes gently to its southeast corner with the south third of the parcel within the Johnson Creek Floodplain. The parcel is currently vacant. Trees on the site border 174th Avenue; the majority of the site is an open field. The Portland Gun Club lies immediately west; it occupies a 25-acre site. A single family house is located on a one-acre parcel immediately south of the site. The three parcels north (on the west side of 174th) to the Portland city limits are occupied by single family residences. All these properties west of 174th have sufficient area to subdivide under the LR-5 zone.

Property directly to the east, across S. E. 174th Avenue is vacant. A small landscape nursery operates on a site to the southeast (across S.E. 174th). Land uses on the east side of 174th farther north, include a sand, rock, and gravel operation, an auto repair facility, a construction firm, and a manufacturing firm.

Public Utilities and Services

a. Water

Portland City Water can serve the site. A 12 inch main, 14' west of the east line of S. E. 174th was recently extended to serve the parcel immediately south of the subject parcel. The applicant indicates the City holds a fifty foot easement for water conduit, along the south side of the property .

b. Sewer

The Mid County Sewer District has no immediate plans to serve this area. Applicant indicates extension of sanitary sewer may be possible, according to their discussions with City of Portland engineering staff. The nearest feasible sewer service is north of Circle Avenue approximately 1,100 feet away. A portion of the site may not be suitable for gravity flow sewage disposal. The applicant indicates another possible sewer extension could use Portland Railroad right-of-way. This route would require an extension of approximately 2,700 feet. Applicant notes that a septic tank and drain field may be feasible alternative; a Land Feasibility Study through the County's Environmental Soils Specialist has not yet been sought.

c. Police Protection

Multnomah County Division of Public Safety provides police protection. Applicant indicates the average response time is five minutes.

d. Fire Protection

Fire protection is provided by the Multnomah County Fire District 10, Engine 1927, which is located less than one mile away at 174th and Stephens Street. Average response time is

about three minutes, according to the Centennial Community Plan. The Centennial area has a Fire Rating of 2.

e. Streets

Access to the proposed industrial use would be from S.E. 174th Avenue. It is designated a *Major Collector* on the Multnomah County Transportation Plan.

f. Other Services

Northwest Natural Gas provides gas from its line on the west side of 174th. Portland General Electric provides electric service. General Telephone and Paragon Cable TV also serve the site. The applicant indicates school and park facilities would not be affected by the proposed change to an industrial designation.

4. Compliance with Ordinance Criteria:

The following section presents findings regarding the proposed Plan Amendment and Zone Change; the applicable criteria is in *bold italics*. Excerpts from applicant's responses are presented first (*in italics*), followed by staff comments.

A. PLAN AMENDMENT ANALYSIS

A(1). Demonstrate that the revision is in the public interest;

- *The firm L & L Fabricators needs additional land area to expand operations and continue to grow.*
- *The location of L~L Fabricators at this site will add to the county's assessed valuation, and provide additional jobs.*
- *adjacent and surrounding uses as well as the Light Industrial designation across S. E. 174th preclude and detract from use as residential. Unless the Zoning designation is changed, it is unlikely that the property will develop.*
- *The proposed plan and zoning designation is appropriate for the area.*

Staff Comment: The application does not directly address how the Public Interest would be served by this proposed change to the Centennial Community Plan. The *Summary of Reasons for the Request* is quoted above as a partial applicant response to this plan amendment criteria. In addition, the zone change discussion below under Public Need speaks to some extent to the issue of Public Interest.

A(2). Demonstrate compliance with the applicable elements of the comprehensive plan:

Applicant Response:

"The Centennial Community Plan, a component of the Multnomah Comprehensive Framework Plan was adopted in May, 1979. All plan amendments are reviewed for consistency with the Goal and Policy Direction provided in the Centennial Community Plan and the Framework Plan.

The site is currently designated as Low Density Single Family Residential. Across S. E. 174th Avenue land is designated Light Industrial. To the west, the location of the Portland Gun Club, the land is designated Planned Development. To the North is a special study area and commercial development. To the south, across Johnson Creek, the land has been designated Low Density Residential.

Staff Comment: The Gun Club property west of the site is not designated "Planned Development". The former Meadowland Dairy properties west and north of the Gun Club site are identified as a PD. The Gun Club's 25-plus acres are designated "Low Density residential" on the Centennial Plan Map.

Nearby land south of Johnson Creek lies beyond the Urban Growth Boundary (UGB); it is designated Rural Residential by the County Framework Plan.

A "Special Study Area" at the southwest corner of 174th and Powell is identified in the 1979 Centennial Community Plan. This area has since been annexed to Portland and developed into a retail center. An Albertson's grocery and a Bi-Mart discount store are the principal tenants.

Applicable policies of the Comprehensive Plan as provided by Multnomah County Planning Staff are as follows:

1. Policy 13: Air and Water Quality and Noise Level Policy

The operation of this proposed use of a metal shop/custom metal fabrication facility will not significantly affect air or water quality or noise levels. Dust and odor problems are typically not a problem in this type of use. Some additional noise levels would be expected, but this would not exceed 110 decibels.

This is relatively insignificant given the Gun Club activities to the west. Only two major deliveries a day are expected and up to ten trips a day entering or leaving the facility for pick up and delivery of products would occur. Therefore, added traffic noise would be relatively insignificant on a major collector such as S.E. 174th.

Staff Comment: The County cannot assume that operational characteristics of L&L fabricators – whatever off-site effects that represents – are the only potential impacts which may result from approval of this plan and zone change. The LM zone permits a wide range of industrial activities.

2. Policy 14: Development Limitations

The only development limitation affecting the subject property is the 100 year flood plain of Johnson Creek. This affects about the southern one-third of the parcel. The size of the site affords the opportunity to avoid construction in the flood plain. According to Multnomah County Planning Staff personnel, flood plains can be used for parking and storage.

Staff Comment: The flood hazards sections of the zoning ordinance do not regulate the location of parking or storage areas relative to the 100-year flood elevation (Reference 11.15.6315)

3. *Policy 16: Natural Resources Policy*

The site has not been identified as a natural resource area. Use of the property for industrial purposes will not affect the long term availability of natural resources.

4. *Policy 22: Energy Conservation*

The proposed industrial designation and use are consistent with the county's energy policy because they will:

- 1. Channel growth into an area passed over by development because adjacent uses preclude residential development and encourage deterioration of existing residential uses, and*
- 2. Increase the intensity of development in an area developing both industrially and commercially.*

Staff Comment: It is not entirely accurate to characterize this area as one passed over by development. Several recent developments near the site suggest that planned urban development contemplated in the 1979 Centennial Community Plan is now approaching the site from the north and northwest. New apartments, retail developments, a mobile home park and a condominium project all represent recent urban development in the 174th Ave. and Powell Blvd. area.

5. *Policy 30: Industrial Location Policy*

The location of the subject parcel is across 174th from a large area already designated Light Industrial. The proposed sheet metal/metal fabrication use fits the permitted use classification under Urban Light Manufacturing LM (11.15.5105):

- K. 'Metal or sheet metal shop, ornamental iron works, welding, blacksmithing, electroplating, tool and hardware manufacture, machine shop not using a drop hammer or huge capacity punch press.'*

The site size of 2.06 acres fits the Light Industrial standard for sites which is from 1 - 6 acres. The use is manufacturing in nature and does not require rail or waterfront access.

Noise is limited to approximately 110 decibels and there is limited traffic as indicated in previous sections of this report. A tentative site plan as required for Comprehensive Plan and Zone Changes is included as Exhibit 4.

Staff Comment: The Framework Plan Policy 30 details two different area standards for Light Industrial sites. On pages 124–126 the policy states "...Classify Industrial Developments according to their characteristics, scale of their operations, and potential impacts.¹ As follows: ...Light Industry Characteristics ... Sites from 1–6 acres." The footnote above states that definitions of the type, scale and site standards are summarized in the table in on page 130. The table specifies site sizes for "Neighborhood Industrial" as between 5–20 acres. The Centennial Plan equates Neighborhood and Light Industrial designations on page 201. The proposed 2.06 acre site does not meet the 5–acre minimum noted in the table.

Policy 30 states that the County shall encourage industrial development at locations which will reinforce orderly and timely development and provision of public facilities and services. As noted below under Policy 37, the site is not now served by a public sewer system. Policy No. 2—Off-site Effects also appears relevant to this request. The proposed industrial use may create a need for public sewer service to the site. Sewer lines to serve the site are not now available nor are they programmed under the "Mid-County Sewer Project".

6. Policy 37 Utilities Policy

Services available to the site:

- *Public Water- City Or Portland*
- *Telephone - General Telephone*
- *Electricity- Portland General Electric*
- *Sewer- The mid-county sewer project presently has no plans to sewer this area. According to City of Portland Engineering Staff sewer can be extended approximately 1,100 feet from an existing line north of Circle Avenue. Sewer may also be obtained by extending a line from the south, using Portland Rail right-of-way. This would require an extension of approximately 2,700 feet. Septic tank and drain field facilities may also be possible. The sanitarian's knowledge of the area is inconclusive and therefore test holes would have to be made to determine the feasibility of a septic facility for this site.*

Staff Comment: Policy 37 requires a finding that the proposed use can be connected to a public sewer system which has adequate capacity; or that DEQ will approve a subsurface sewage disposal system on the site. There are not sufficient facts to make such a finding.

- *Storm Sewer - The Centennial Community Plan recommends use of dry wells to handle storm water runoff.*
- *Energy and Communication - Electric, gas and telephone companies have indicated they have the capacity to serve the site.*

7. Policy 38: Facilities

Approval of the request is to allow for industrial development. This will not affect the Centennial School District enrollment. It will however, increase the assessed valuation on which schools are dependent.

The site is less than one mile away from the Multnomah County Fire District 10 Engine 1927. The average response time is about three minutes.

The Multnomah County Division of Public Safety provides police protection with one patrol car servicing the approximate area from S. E. 162nd on the west to the county line and S.E. Stark on the north to the county line. The average response time is approximately five minutes."

B. ZONE CHANGE ANALYSIS

B(1). Demonstrate the request is in the Public Interest:

Staff Comment: Reference findings above under A(1).

B(2). There is a public need for the requested change and that need will be best served by changing the classification of the property in question as compared with other available property:

Applicant's Response:

Approval of the requested plan/zone change will provide the immediate opportunity for development of property that has been sitting vacant for years. The property has been on the market for sale for over four years. The location of the Gun Club to the west makes the property virtually unusable for residential purposes. The designation of Light Industrial across S. E. 174th Avenue and the industrial/commercial uses located there including the auto repair facility, the sand and gravel operation as well as the Portland Gun Club to the west further detract from the residential value of the subject property. Existing uses and land use designations are shown on Exhibit 3.

The County's economic develop policy is to "encourage the creation of new and continuous employment opportunities, and encourage a stable and diversified economy". The proposed plan and zone change will allow an existing and growing business to expand its operations. Expansion and retention of existing business is a recognized means of insuring economic growth both locally and statewide. The expansion of L&L Fabricators will not only increase the assessment base but will provide employment for 20 to 30 persons. As part of it's Economic Development Program, it is further indicated that the County will protect existing and planned industrial and commercial areas from encroachment by incompatible land uses. L&L Fabricators is basically a fledgling business just beginning to grow. It does not have a large margin or capital to finance expansion. It is in the interest of the County and Public to provide the opportunity to keep jobs and employment in the County. The proposed change will provide that opportunity while be consistent with development rends in the immediate area. As indicated earlier in this report, the proposed site is surrounded by

zoning and Comprehensive Plan designations and existing uses, both old and new, that are incompatible with residential use. Continuation of residential designations on property immediately west of S. E. 174th Avenue will continue to conflict not only with the existing residential uses but will also create conflict for future and existing industrial uses. Changing the land use designation on the property located west of S. E. 174th will provide a more consistent zoning pattern for the whole area. It will also have the effect of protecting future uses in those areas already zoned industrial from the typical complaints relating to noise, activity, and traffic from residential development.

Designation as Light Industrial is the most appropriate use for the property because of adjacent uses such as the manufacturing use, the auto repair, the sand and gravel operation and the Portland Gun Club. Because of these adjacent uses it is extremely unlikely that the property will be developed, unless the plan and zoning designations are changed.

Staff Comments: The proposed plan and zone change would allow an industrial use to intrude into an area designated LR-5 (low density residential; 5000 sq.ft. minimum lot size) This parcel and most other nearby parcels west of 174th Avenue possess residential development potential under LR-5 provisions. The Portland Gun Club site – with more than 25 acres – has the greatest development potential. The LR-5 zone allows detached homes on 5000 square foot lots. Duplexes and mobile home parks are also permitted as conditional uses. On February 4, 1990, the Oregonian reported that an 8.8 acre site at the corner of Naegeli Drive and 174th Ave.(just 600–feet north of the site) was recently purchased for development of a 168–unit apartment complex. The new apartment site is immediately north of the Gun Club property and south of the Albertson's/Bi–Mart retail center.

The applicant contends that the existing Gun Club use detracts from future residential use of the subject and other adjacent properties. The club was established in 1971. At that time the area was rural in character; it seems likely that urban land use conflicts were not then an issue. Now urban development is approaching from the northwest and northeast. In the next few years, Gun Club operators may determine that increasing conflicts with nearby urban developments and the appreciating value of their site for residential development make relocation of the club to a more rural setting attractive from both an operational and economic standpoint. The current use of the 25-acre Gun Club site should not form the basis for changing the plan and zone designations on the subject site. The club site is designated low density residential; its suitability for future residential development would diminish if this request gains approval.

Availability of Alternative Sites:

Multnomah County requires that the applicant evaluate the suitability of alternative sites within a one mile radius of the site which are zoned to accommodate the proposed use by the applicant.

Property zoned Light Industrial is located on the east side of 190th at Powell Valley road within the City of Gresham. Some ten to fifteen acres are vacant. This property is within a one mile radius but cost considerations, configurations of property, and the location in the City of Gresham make the site unacceptable to the applicant.

The City of Portland has a Light Manufacturing Zone just north of the County Light Manufacturing Zone on S. E. 174th. This is the site of the construction and manufacturing firm acknowledged earlier in this report in Section 11.13. Existing Land Use. The Owners' of L&L Fabricators has contacted the owner of the 10+ acre parcel which is zoned LM and located directly across S. E. 174th. The owner indicated that he was not interested in dividing the parcel.

Other property zoned Industrial is located more than a mile from the proposed site. This includes the area between S. E. Yamhill and S. E. Division along 190th which is approximately one and one half miles from the proposed site on S. E. 174th. Only one 5.83 acre site is available, which is too large for the applicant's purposes, needs and financing.

Staff Comments: Applicant notes that there are vacant sites nearby with the proper zoning for their intended use. Staff notes that redevelopable sites zoned LM are also in the area. In addition, no facts have been presented to demonstrate a shortage of industrially zoned properties in the metropolitan region or east County sub-region. Staff contends that an evaluation of available sites – say east of I-205 – would show a number of vacant or redevelopable industrially zoned properties suitable for the proposed use.

B(3) The proposed action fully accords with the applicable elements of the Comprehensive Plan.

Staff Comment: Reference the findings under A(2) above.

B(4) Proof of change in a neighborhood or community or mistake in the planning or zoning for the property under consideration are additional relevant factors to be considered...

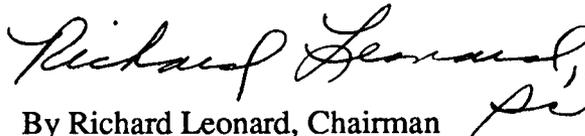
Staff Comments: The applicant has not asserted that changes in the neighborhood or community form a basis for the request. Staff observes that some changes from the original Centennial Community Plan are apparent in the area. The former Meadowland Dairy properties on the east and north slopes of Powell Butte have experienced significant urbanization. The site was annexed to Portland and portions were subsequently "up-zoned" to allow greater residential densities. The recently announced 168-unit apartment site barely 1/4 mile from the subject site is an area formerly designated "low density residential" in the Centennial Plan.

One thing that has not changed from the original plan is the demarcation which 174th Avenue provides between residential and industrial uses. Staff contends that extension of an industrial zone to the west side of 174th would conflict with the residential designation of the area between Powell Butte, 174th Avenue, south of the Albertson's/Bi-Mart center, and north of Johnson Creek.

Conclusions:

1. The plan amendment and zone change is not in the public interest nor has a public need for the change been adequately demonstrated.
2. The proposed plan and zone change does not comply with policies of the Centennial Community Plan and the Framework Plan.
3. Changes in the neighborhood or community do not support redesignation of land west of 174th Avenue for industrial use.

Signed March 5 1990


By Richard Leonard, Chairman

Filed With the Clerk of the Board on March 15, 1990

Appeal to the Board of County Commissioners

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or **before 4:30 p.m. on Monday, March 26, 1990** on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, March 27 1990 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.



DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF PLANNING AND DEVELOPMENT
2115 SE MORRISON STREET
PORTLAND, OREGON 97214 (503) 248-3043

Decision

This Report consists of recommended Findings of Fact and Conclusions.

March 5 1990

RPD 2-90 Rural Planned Development

Applicant requests change in zone designations from RR, FF, Rural Residential-Flood Fringe district to RR, FF, RPD, Rural Residential, Flood Fringe, Rural Planned Development District, to allow three building sites to be created.

Location: 29095 SE Stark Road.

Legal: Tax Lot '34', Section 6, 1S-4E, 1989 Assessor's Map

Site Size: 10.29 Acres

Size Requested: Same

Property Owner: Robert J. LaRocco
8418 North Portsmouth Avenue Portland, 97204

Applicant: Same

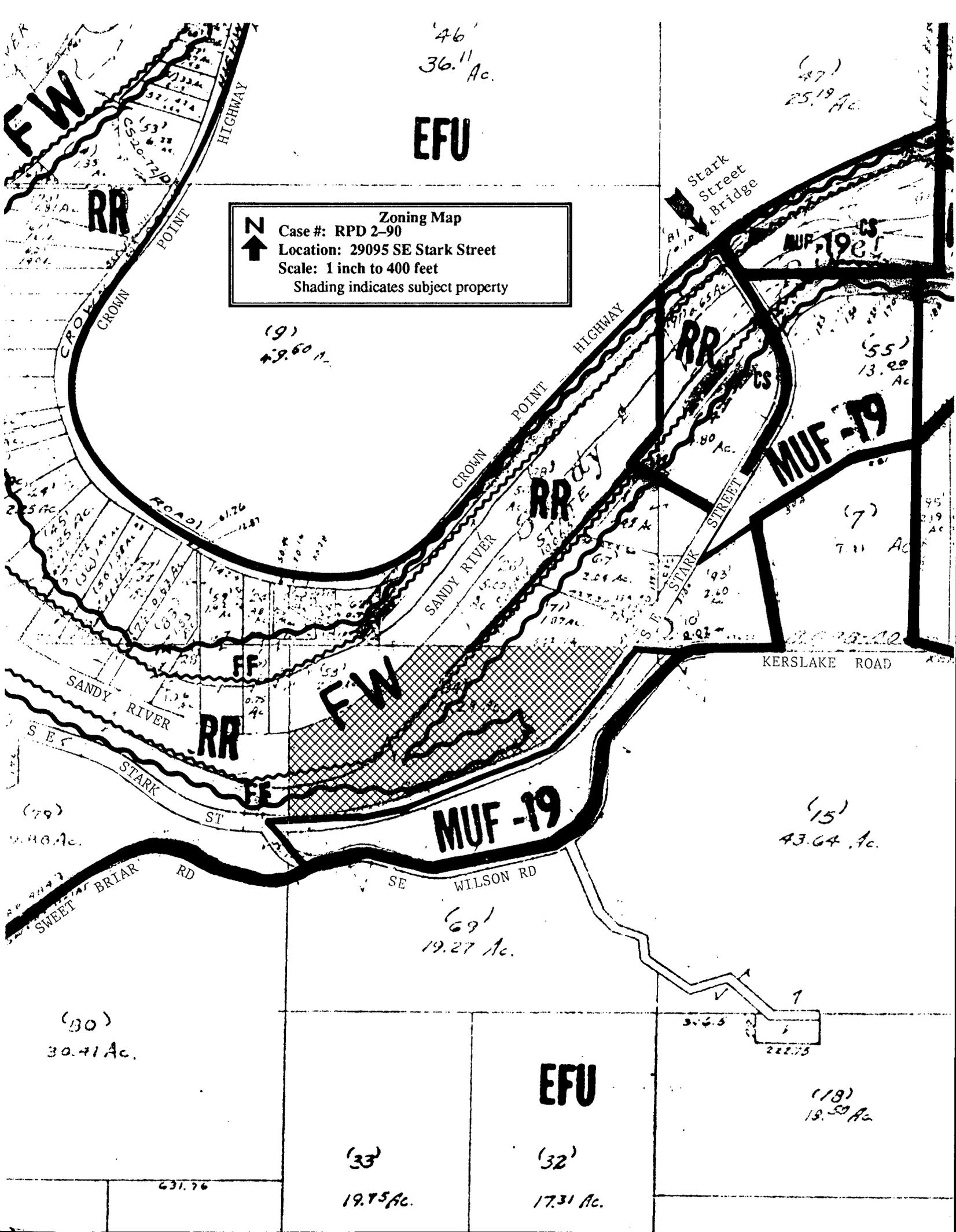
Comprehensive Plan: Rural Residential

Present Zoning: RR, FF, Rural Residential, Flood Fringe District
Minimum lot size of 5 acres

Sponsor's Proposal: RR, FF, RPD, Rural Residential, Flood Fringe,
Rural Planned-Development; Lot sizes vary, average 3.43 acres

PLANNING COMMISSION

DECISION: Approve, subject to conditions, the requested RPD designation of the site referenced above based on the following findings and conclusions.



'46'
36.11 Ac.

(47)
25.19 Ac.

EFU

Zoning Map
 Case #: RPD 2-90
 Location: 29095 SE Stark Street
 Scale: 1 inch to 400 feet
 Shading indicates subject property



Stark Street Bridge

MUF-19

(9)
49.60 Ac.

(55)
13.29 Ac.

MUF-19

(7)
7.11 Ac.

MUF-19

(15)
43.64 Ac.

(69)
19.27 Ac.

(30)
30.41 Ac.

EFU

(33)
19.75 Ac.

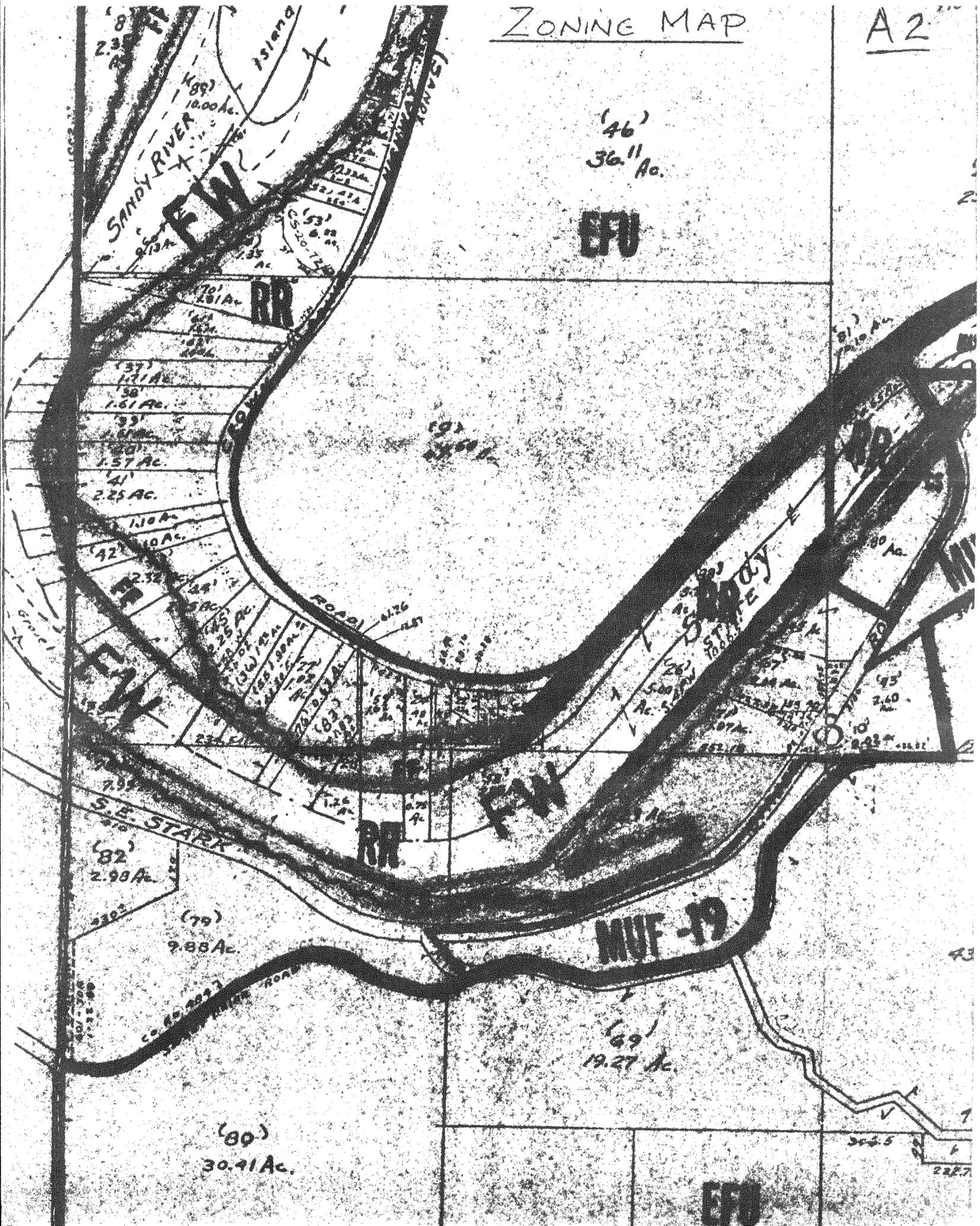
(32)
17.31 Ac.

(18)
18.59 Ac.

631.76

ZONING MAP

A 2

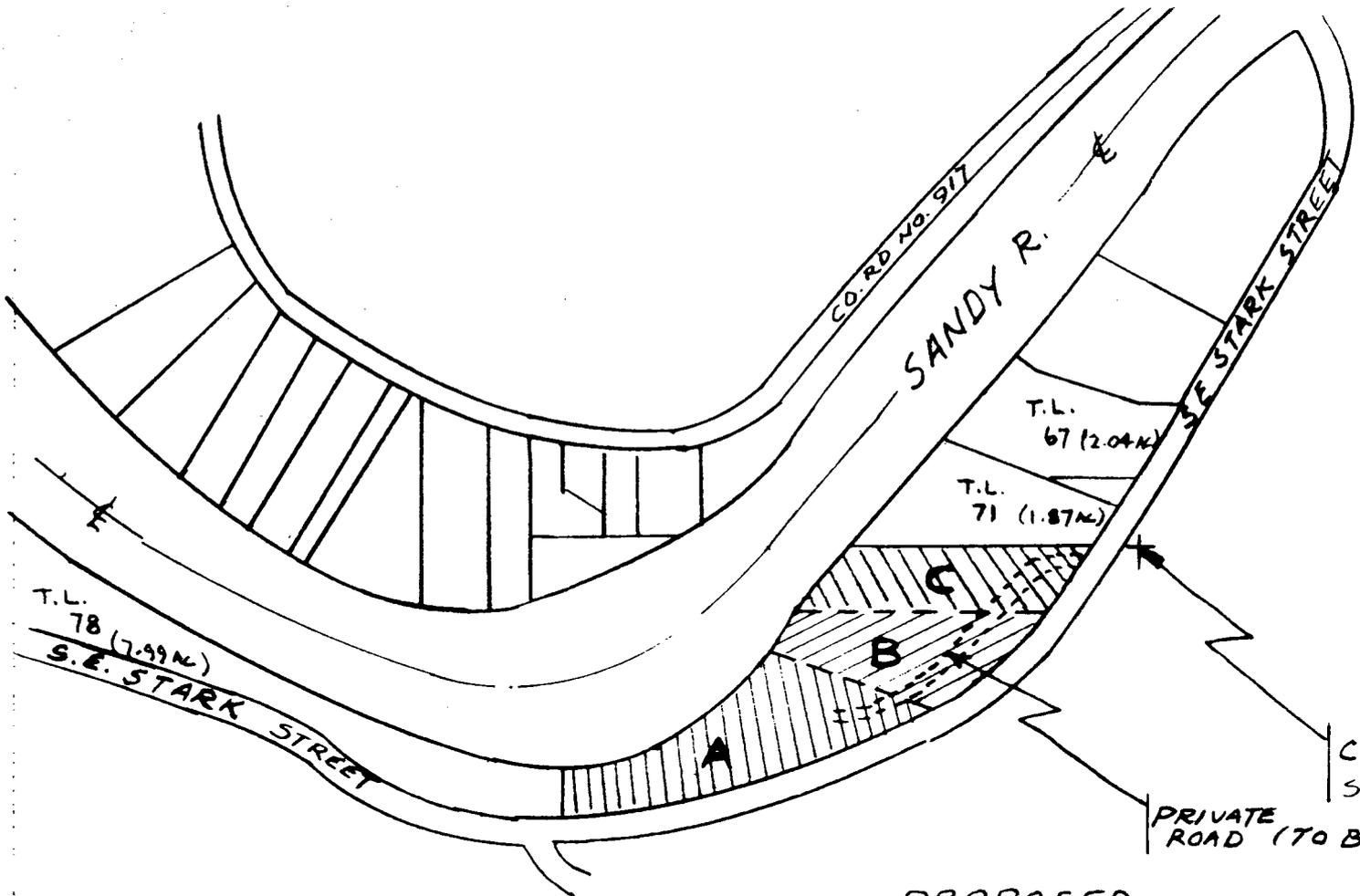


A 1

SHEET NO. OF
JOB NO.

SITE PLAN

BY
DATE
CHKD BY
DATE
SUBJECT



RPD 2-90

PROPOSED
DIVISION OF T.L. 34 (10.29 AC.)

<u>LOT</u>	<u>SIZE</u>
A	4.29 AC.
B	3.00 AC.
C	3.00 AC.

SCALE 1" = 400'

1
OP & CIVIL
62-8-90

Conditions of Approval:

1. Obtain Land Division approval of the three proposed parcels as required by the County Land Division Ordinance 11.05. Contact David Prescott at 248-3043 for application information.
2. Prior to issuance of building permits, meet requirements of the Engineering Services Division regarding access to S.E. Stark Street. Contact Dick Howard at 248-3599 for additional information.
3. Prior to issuance of building permits, complete County Design Review procedures. Design Review plans shall specify areas proposed for clearing, significant trees (6-inch or greater trunk diameter) to be removed or retained on the site, and specifications for the proposed private drive. The private drive shall be at least 20-feet wide for those portions serving two or more residences and 10-feet for the remainder. Plans should include details on driveway grade (slope) and any associated cut and/or fill. Contact Mark Hess at 248-3043 for additional information.
4. Prior to issuance of building permits, apply for and obtain a permits for subsurface sewage disposal systems on each lot. Contact Mike Ebeling at 796-7247 for additional information.

Findings of Fact:

1. Applicant's Summary of the Proposal:

"This proposed rural planned development, (RPD), of tax lot #34, Section 6, T1S, R4E will create three residential building sites from a 10.27 acre parcel of land which, without conditional use approval, can only be divided into two building sites. This parcel is located in an unincorporated part of East Multnomah County directly on the Sandy River. The south and east property boundaries border on S.E. Stark Street and the Viking Bridge is 1/3 of a mile upriver to the northeast. There is an old road, now overgrown, at the intersection of S.E. Stark Street and the parcel's north property line. These building sites will be accessed via a private road to be constructed with ingress and egress at this point (see site plan)."

2. **Zoning and Comprehensive Plan Designations.** The property is zoned RR/FF and has a Comprehensive Plan designation of Rural Residential.
3. **Access.** Access to the three lots is proposed through a private drive off of Stark Street.
4. **Terrain and Vegetation.** The 10.29-acre site is described by the applicant as

5. **Ordinance Considerations:** The Rural Residential District provides that Rural Planned Developments – a type of *Conditional Use* – may be permitted as follows:

A. Rural Planned Developments for single family residences shall satisfy provisions of MCC .7705 through .7760:

- (1) Substantially maintain or support the character and the stability of the overall land use pattern of the area;
- (2) Utilize as gross site acreage, land generally unsuited for agricultural or forest uses, considering the terrain, adverse soil conditions, drainage or flooding, vegetation or the location or size of the tract;
- (3) Be compatible with accepted farming or forestry practices on adjacent lands;
- (4) Be consistent with the Comprehensive Plan and the purposes described in MCC.7705.
- (5) Satisfy applicable standards of water supply, sewage disposal, and minimum access; and
- (6) Not require public services beyond those existing or programmed for the area.

The following section presents findings regarding the proposed Rural Planned Development; the applicable standard is in ***bold italics***. Excerpts from applicant's responses are presented first (*in italics*), followed by staff comments.

Findings Required to Approve an RPD (MCC .7750)

- (1) ***Substantially maintain or support the character and the stability of the overall land use pattern of the area;***

"This parcel of land is a long river terrace located along the lower Sandy River. The lower Sandy River had been fairly densely developed well before Rural Residential (RR) Zoning was established. Because of this, most homesites in this area, on land like this, are between 0.5 – 2.0 acres in size. If a proposed RPD is allowed, three lots between 3.0 – 4.29 acres will be created, considerably larger than those homesites already in existence. The density of the development will be lower than that of the surrounding area and the project would by all means maintain or support the character and the stability of the area's overall land use pattern.

The property, (Tax Lot #71), adjacent to the north property line of my parcel is occupied by a single family residence on 1.87 acres of land, not owned by the applicant. The undeveloped land (Tax Lot #78) adjacent to the west property line is unbuildable cliffside land. The property (Tax Lot #69) along

the south/east on the south side of Stark Street is zoned MUF-19 and undeveloped. The Sandy River forms the northwest boundary of my property and across the river are many single family homes on small building sites, some as small as 0.25 acres."

Staff Comment: We concur that lot sizes on the lower reach of the river – between the Troutdale city limits and the Stark Street Bridge – are generally 1–2 acres. The only exception to this pattern is just west of the subject site along the steep cliffs below Stark Street. The proposed RPD designation will substantially maintain the character of the area by developing three single family residences on an average lot size of 3.43 acres.

- (2) ***Utilize as gross site acreage, land generally unsuited for agricultural or forest uses, considering the terrain, adverse soil conditions, drainage or flooding, vegetation or the location or size of the tract;***

"The soil surveys extracted in order to research soil types are included in the appendix (pg.A3). The level land on the subject parcel is composed primarily of Dabney loamy sand and is poorly suited to farming. The cliffs, halumbrepts, along the south property line are equally unsuitable due to steepness. This parcel would generally be considered too small for realistic forest use."

Staff Comment: The site's steep terrain, adverse soil conditions, its location along the lower Sandy River, an area characterized by rural residential development on lots generally less than 2–acres in size, and the small size of this tract, render it generally unsuitable for farm or forest use. We concur with applicant's finding.

- (3) ***Be compatible with accepted farming or forestry practices on adjacent lands;***

" The proposed building sites will be developed in a manner which will not alter the rural nature of their surroundings. Structures will be set back far into the woods, nearly invisible from the road. Deed restrictions will govern the types of housing constructed, color of roof and siding to be used and future land clearing, if any."

Staff Comment: The topography of the site and area provides a natural buffer and separation from nearby farm and forest areas south of Stark Street. The three residences proposed are somewhat isolated down in a hollow adjacent to the river. The cliffs and Stark Street itself will buffer and screen the new residences from any nearby farm or forest activities.

- (4) ***Be consistent with the Comprehensive Plan and the purposes described in MCC .7705.***

"Applicable Comprehensive Framework Plan Policies: The following Comprehensive Framework Plan Policies apply to this proposal:

A. No. 8 – Rural Residential Land. *The proposed Rural Planned Development will not conflict with the current land uses already established in the area, Significant parcelization has already occurred along the banks of the lower Sandy River (down river from the Viking/Stark Street Bridge) with the resultant building lots predominantly sized between 0.5 and 2.0 acres with some homesites as small as 0.25 acres. This has occurred because virtually all of these residences have been developed prior to the creation of the Comprehensive Plan. If this Conditional Use is allowed, three residential, single-family homesites between 3.0 and 4.29 acres in size will be created, These sites will be significantly larger than the majority of those already established and separately owned in the area.*

The area in which the proposed RPD is located is not a cohesive commercial farm or forest resource area and this proposed use will not conflict with adjacent farm or forest uses already established, The land along the lower Sandy River is forest rather than agricultural in nature due to the soil types that predominate, The soil surveys extracted in order to research soil types are included in the appendix (pg,A3). The level land on subject parcel is composed primarily of Dabney loamy sand and is poorly suited to agricultural uses. The cliffs, known in geological terms as haplumbrepts, along the parcel's south property line are equally unsuitable due to their steepness, This parcel, 10.29 acres, is too small for commercial forest use.

This property has no known physical development limitations which would preclude use of the property as proposed. Many homesites have already been created on land topographically similar to that on subject parcel without any apparent hazards.

Adequate public services are already available in this area. Water supply and subsurface sewage disposal will be provided on-site. One site evaluation for septic approval has already been performed and approval granted (LFS 72-83, see appendix, pg.A4). Additional land feasibility studies will be conducted on the other homesites when Conditional Use approval has been given.

The only off-site utilities required, electricity and telephone, are already located along the north property line of this parcel. The property has more than 1000 ft, of road frontage along S,E. Stark Street providing easy ingress and egress,

B. No. 13 – Air and Water Quality and Noise Level: *Air and water quality should be unaffected by this proposed use. All run-off generated by this use will be disposed of onsite in accordance and in compliance with the standards set forth in OAR 340-71-220 of the On-Site Sewage Disposal Rules adopted on March 11, 1982.*

C. No. 14 – Development Limitations. *This property has no known development limitations which would preclude use of the property as proposed. Building construction on the canyon walls along the parcel's south property line is infeasible due to the steepness on the slopes and will not be considered. All buildings related to this proposal will be constructed on level land which comprises 80 - 90% of the gross site acreage. No construction will occur close enough to the river banks to create a potential for severe abnormal soil erosion. All possible vegetation will be retained during the site development stage in order to mitigate natural hazards and minimize the visual impact of subsequent residential construction.*

D. No. 16 - Natural Resources. *The purpose of the natural resource policy is to protect areas which are necessary to the long-term health of the economy or a community. Although this portion of the Sandy River is not designated as an area of "significant environmental concern", it still is an ecologically significant natural area with important fish and wildlife habitats. Site development and the location of buildings will be handled in such a way as to minimize adverse environmental and aesthetic impacts.*

E. No. 20 – Arrangement of Land Uses. *This proposal would create three buildable homesites on a parcel of land that, without Conditional Use approval, allows only two building sites. The higher density that will be achieved by reducing the required minimum lot size, if this proposal is accepted, will still be substantially lower than the density that already exists in the area. Higher densities do support public services necessary to daily human activities and needs and are allowed within the framework of the Comprehensive Plan.*

F. No. 21 – Housing Choice *Decreasing lot sizes will, in most cases, lower the resultant construction cost of a residence built upon a particular homesite. These savings can be passed on to the housing consumer. Although the impact of higher densities affects attached housing more substantially, the price of land still is a major component in the development and pricing of unattached single-family residences. This proposal, as mentioned before, will allow three single-family residences to be built instead of two, thereby lowering the price per lot.*

G. No. 23 – Redevelopment: *This proposal will efficiently utilize land that has remained vacant after being logged-off by the previous owners. They bought this parcel in 1951 and subsequently removed the merchantable timber during the 1950's and the salable pulp-wood during the 1970's. All trees and vegetation were left untouched along the riverbank while berry bushes and clusters of alder proliferated in the cleared areas where the timber was harvested. This proposal will allow the property to be redeveloped and more fully utilized without changing the rural residential character of the area.*

Community stability will be both maintained and enhanced by this redevelopment.

H. No. 37 – Utilities. *The County Sanitarian has approved sewage disposal by means of a septic tank/drain field system for one building site to date (LFS 72 - 83, see Appendix, pg.A4). Upon approval of this Conditional Use proposal, land feasibility studies for septic approval will be conducted on the other two building sites.*

Water supply will be provided by private wells.

Portland General Electric and G.T.E. have indicated that their services are in place and can adequately serve the proposed project.

I. No.38 – Facilities *Powell Valley Grade School and Barlow High School are the applicable public educational facilities.*

Fire protection is provided by Multnomah County Fire District No.10.

Police protection is also provided by Multnomah County."

Staff Comment: We concur with the above findings relative to the Comprehensive Plan and the purposes of the Rural Residential District.

(5) Satisfy applicable standards of water supply, sewage disposal, and minimum access; and

"This proposal will satisfy applicable standards of water supply, sewage disposal, and minimum access. All sites will have private wells and approved on-site sewage disposal systems. One site evaluation for septic approval has already been performed with approval given ... This property has more than 1000 feet of road frontage along S.E. Stark Street.

Staff Comment: A private drive is proposed to serve the three homes. The County Engineering Division will review the proposed access point with Stark Street to assure adequate site distances are maintained. Conditions of approval require such review and specify a 20-foot minimum width for those portions of the drive shared by two or more homes.

(6) Not require public services beyond those existing or programmed for the area.

"This proposal will not require public services beyond those already existing in the area. The only utilities required, electricity and telephone, are already situated along the north property line."

Conclusions Regarding the RPD Request:

1. The application, as conditioned, satisfies applicable standards for an RPD.
2. Conditions of approval are necessary to assure the site is developed with sensitivity to significant natural features and that required land division and engineering division approvals are secured for the project. Conditions are necessary to assure the private access drive can adequately serve the three proposed homesites

Signed March 5, 1990



By Richard Leonard, Chairman

Filed With the Clerk of the Board on March 15 1990

Appeal to the Board of County Commissioners

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or **before 4:30 PM. on Monday, March 26, 1990** on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday March 27, 1990 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development Division at 248-3043.



DEPARTMENT OF ENVIRONMENTAL SERVICES
Division of Planning and Development
2115 S.E. Morrison Street
Portland, Oregon 97214 (503) 248-3043

Decision

This Decision consists of Conditions, Findings of Fact and Conclusions.
March 5, 1990

CU 2-90

Conditional Use Request

Non-Resource Related Single Family Residence

Applicant requests conditional use approval of a non-resource related single family residence on a 4.22 acre Lot of Record in the MUF-19 zoning district

Location: 42000 SE Trout Creek Road

Legal: Tax Lot '17', Section 17, T1S, R5E

Site Size: 4.22 acres

Size Requested: Same

Property Owner: Ben & A. Jean Bergen
1750 NE 169th Avenue, 97230

Applicant: Same

Comprehensive Plan: Multiple Use Forest

Present Zoning: MUF-19

Planning Commission

Decision: **APPROVE**, subject to conditions, development of this property with a non-resource related single family residence, based on the following Findings and Conclusions.

CU 2-90

(1)
40.00 Ac.

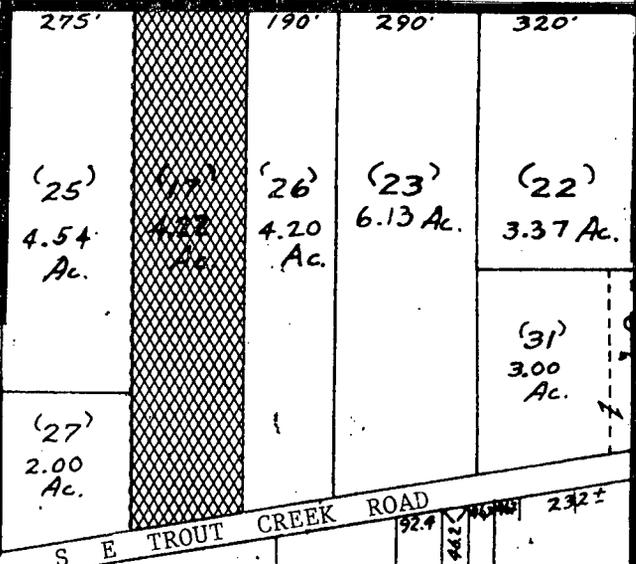
(10)
40.00 Ac.

N
↑
Case #: CU 2-90
Location: 42000 SE Trout Creek Road
Scale: 1 inch to 400 feet
Shading indicates subject property

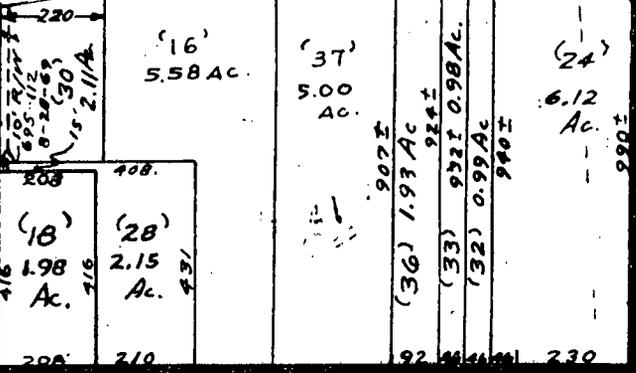
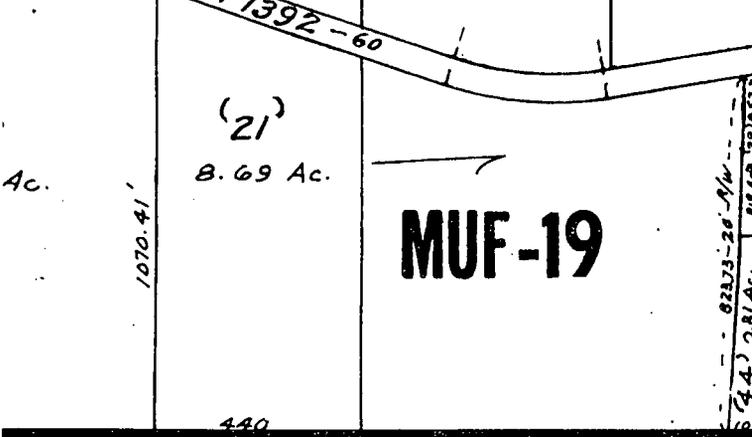
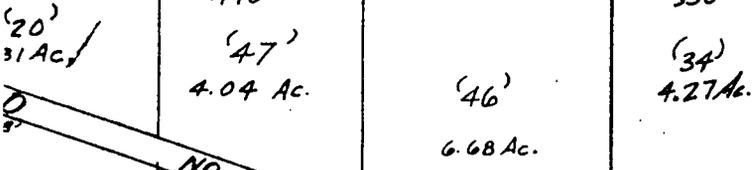
(11)
40.00 Ac.

MUF-38 (15)
20 Ac.

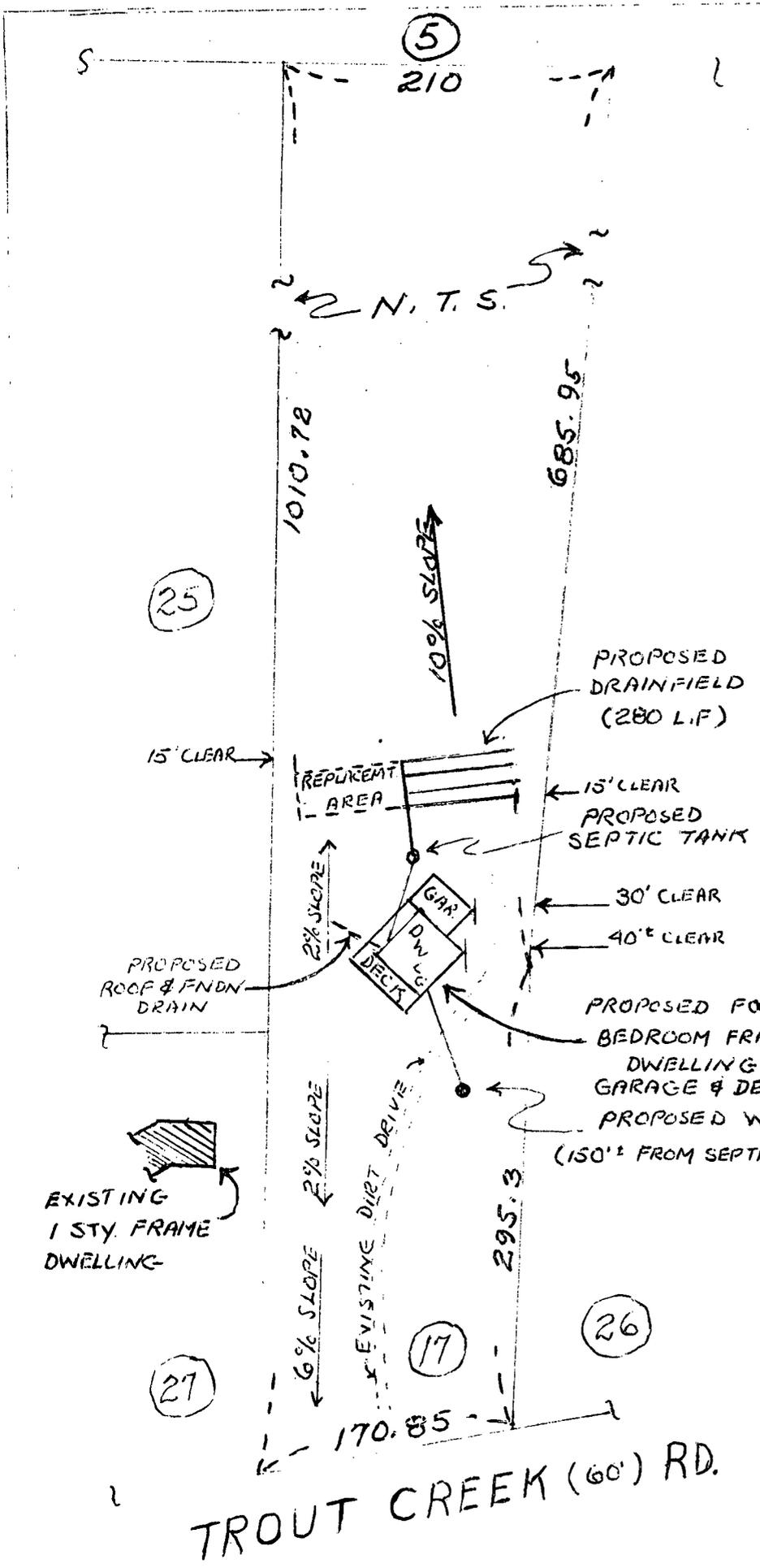
MUF-38



16



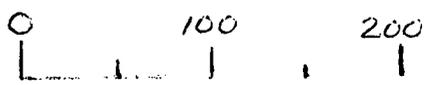
MUF-38 (9)
20 Ac.
(41)
40.00 Ac.



NOTES:

- 1) DIMENSIONS OF PROPERTY FROM R.O.S # 37980
- 2) THERE ARE NO EXISTING OR PROP. RETAINING WALLS, DRAINAGE CHANNELS OR FENCES.
- 3) IMPROVEMENTS TO BE LOCATED WITH REGARD TO EXISTING MATURE TREES
- 4) TELEPHONE & ELECTRIC SERVICES CURRENTLY AVAILABLE ON NORTH SIDE OF TROUT CREEK ROAD.

SCALE = 1" = 100'
EXCEPT AS NOTED



SITE PLAN

SHOWING PROPOSED IMPROVEMENTS ON
TAX LOT 17
IN
SECTION 17, 15-5E

DRAWN BY J. WADLOW 11/25/85

CONDITIONS OF APPROVAL:

1. Prior to the issuance of building permits, the property owner shall provide the Land Development Section with a copy of the recorded restrictions required under MCC 11.15.2172(A)(5). A prepared blank copy of this deed restriction is available at the Land Development Offices.
2. Satisfy the requirements of Engineering Services regarding any further improvements of S.E. Trout Creek Road.

FINDINGS OF FACT:

1. Applicant's Proposal:

The applicant requests Planning Commission approval to develop the above described 4.22 acre Lot of Record with a non-resource related single family dwelling.

2. Ordinance Considerations:

- A. A non-resource related single family dwelling is permitted in the MUF zoning district as a Conditional Use where it is demonstrated that:
 - (1) The lot size shall meet the standard of MCC 11.15.2178(A) or .2182(A) to (C).
 - (2) The land is incapable of sustaining a farm or forest use, based upon one of the following:
 - a) A Soil Conservation Service Agriculture Capability Class of IV or greater for at least 75% of the lot area, and physical conditions insufficient to produce 50 cubic feet/acre/year or any commercial trees species for at least 75% of the area;
 - b) Certification by the Oregon State University Extension Service, the Oregon Department of Forestry, or a person or group having similar agricultural and forestry expertise, that the land is inadequate for farm and forest uses and stating the basis for the conclusions; or
 - c) The lot is a Lot of Record under MCC 11.15.2192(A) through (C) and is ten acres or less in size.
 - (3) A dwelling, as proposed, is compatible with the primary uses as listed in MCC 11.15.2168 on nearby property and will not interfere with the resources or the resource management practices or materially alter the stability of the overall land use pattern of the area.
 - (4) The dwelling will not require public services beyond those existing or programmed for the area.

- (5) The owner shall record with the Division of Records and Elections a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct accepted forestry or farming practices.
 - (6) The dwelling will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife, or that agency has certified that the impacts are acceptable.
- B. A residential use located in the MUF district after August 14, 1980 shall comply with the following:
- (1) The fire safety measures outlined in the "Fire Safety Considerations for Development in Forested Areas", published by the Northwest Inter-Agency Fire Prevention Group, including at least the following:
 - a) Fire lanes at least 30 feet wide shall be maintained between a residential structure and an adjacent forested area;
 - (2) An access drive at least 16 feet wide shall be maintained from the property access road to any perennial water source on the lot or an adjacent lot;
 - (3) The dwelling shall be located in as close proximity to a publicly maintained street as possible, considering the requirements of MCC 11.15.2058(B). The physical limitations of the site which require a driveway in excess of 500 feet shall be stated in writing as part of the application for approval;
 - (4) The dwelling shall be located on that portion of the lot having the lowest productivity characteristics for the proposed primary use, subject to the limitations of subpart #3 above;
 - (5) Building setbacks of at least 200 feet shall be maintained from all property lines, wherever possible, except:
 - a) a setback of 30 feet or more may be provided for a public road, or
 - b) the location of dwelling(s) of adjacent lots at a lesser distance which allows for clustering of dwellings or sharing of access;
 - (6) The dwelling shall comply with the standards of the Uniform Building Code or as prescribed in ORS 446.002 through 446.200, relating to mobile homes;
 - (7) The dwelling shall be attached to a foundation for which a building permit has been obtained;
 - (8) The dwelling shall have a minimum floor area of 600 square feet; and
 - (9) The dwelling will be located outside a big game winter habitat area as defined by the

Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable.

3. Site and Vicinity Characteristics:

The subject property is a Lot of Record of 4.22 acres located on the north side of SE Trout Creek Road one-eighth of a mile from its easterly terminus. It is vegetated with a mixture of conifer and deciduous trees. The property is not within a designated big game winter habitat area.

Properties in the surrounding area range in size from two acres to over 40 acres in size. Many of the smaller lots are developed with rural residences, while most of the larger parcels are undeveloped.

The applicant proposes to locate the residence on the property in compliance with the Residential Location Standards of the MUF zone. Water will be provided by Corbett Water District and the property has been determined suitable for subsurface sewage disposal. Telephone and power facilities are available along the Trout Creek Road frontage.

CONCLUSIONS:

1. The property is a Lot of Record of less than ten acres in size; thereby, incapable of sustaining a farm or forest use.
2. Conditions are necessary to insure compliance with all Code provisions.
3. The applicant has carried the burden necessary for the approval of a non-resource related single family dwelling in the MUF-19 zoning District.

Signed March 5, 1990


Richard Leonard, Chairperson 

Filed with Clerk of the Board on March 15, 1990

Appeal to the Board of County Commissioners

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended decision, may file a Notice of Review with the Planning Director on or before 4:30 p.m. on Monday, March 26, 1990 on the required Notice of Review Form which is available at the Planning and Development Office at 2115 SE Morrison Street.

The Decision in this item will be reported to the Board of County Commissioners for review at 9:30 a.m. on Tuesday, March 27, 1990 in Room 602 of the Multnomah County Courthouse. For further information call the Multnomah County Planning and Development at 248-3043.



**Department of Environmental Services
Division of Planning and Development
2115 S.E. Morrison Street
Portland, Oregon 97214 (503) 248-3043**

Decision

This Decision consists of Conditions of Approval, Findings of Fact and Conclusions.

March 5, 1990

**LD 2-90, #427 Type I Land Division With Future Street Plan
(Two-Lot Land Division with Future Street Plan)**

Applicant requests a Type I land division approval to permit the division of the subject property into two parcels with the required future street plan.

Location: 5950 SE 141st Avenue

Legal: Tax Lots '2', Section 13, 1S-2E and
Tax Lot '540', Section 14, 1S-2E, 1989 Assessor's Map

Site Size: 6.14 Acres

Size Requested: Same

Property Owner: Dorman S. Blazer
5950 SE 141st Avenue, 97236

Applicant: Same

Comprehensive Plan: Low Density Residential

Present Zoning: LR-5, Urban Low Density Residential District
Minimum lot size of 5,000 square feet per single family residence

DECISION #1: **Approve**, subject to conditions, the Tentative Plan for the Type I Land Division requested, a major partition resulting in two lots and the extension of a street, based on the following findings and conclusions.

DECISION #2: **Approve**, subject to conditions, the Future Street Plan as a guide for future development within the area shown on the Future Street Plan Map dated December 28, 1989, based on the following findings and conclusions:

S.E. ELLIS ST

S E ELLIS STREET



Zoning Map

Case #: LD 2-90

Location: 5950 SE 141st Avenue

Scale: 1 inch to 200 feet

Shading indicates subject property

CITY OF PORTLAND

LR-20

PORTLAND TRACTION COMPANY

CITY OF PORTLAND

S E KNIGHT STREET

S E 140th AVENUE

S E 141st AVENUE

S E 145th AVE

S E FOSTER ROAD

CEDAR

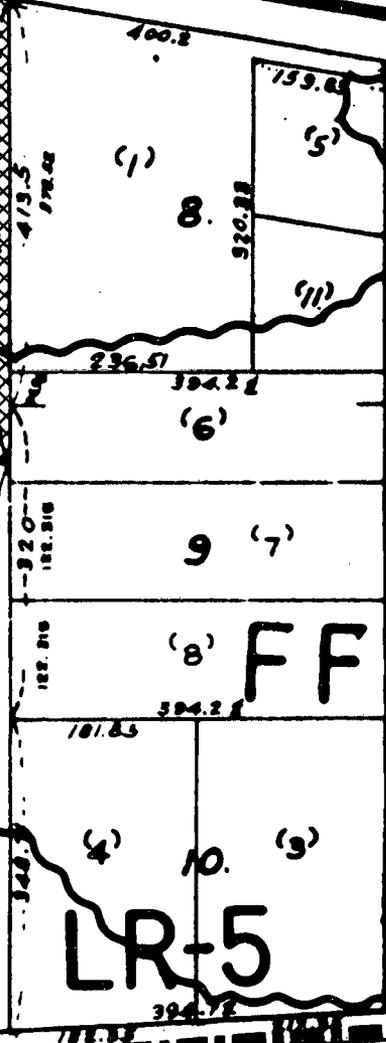
CITY OF PORTLAND

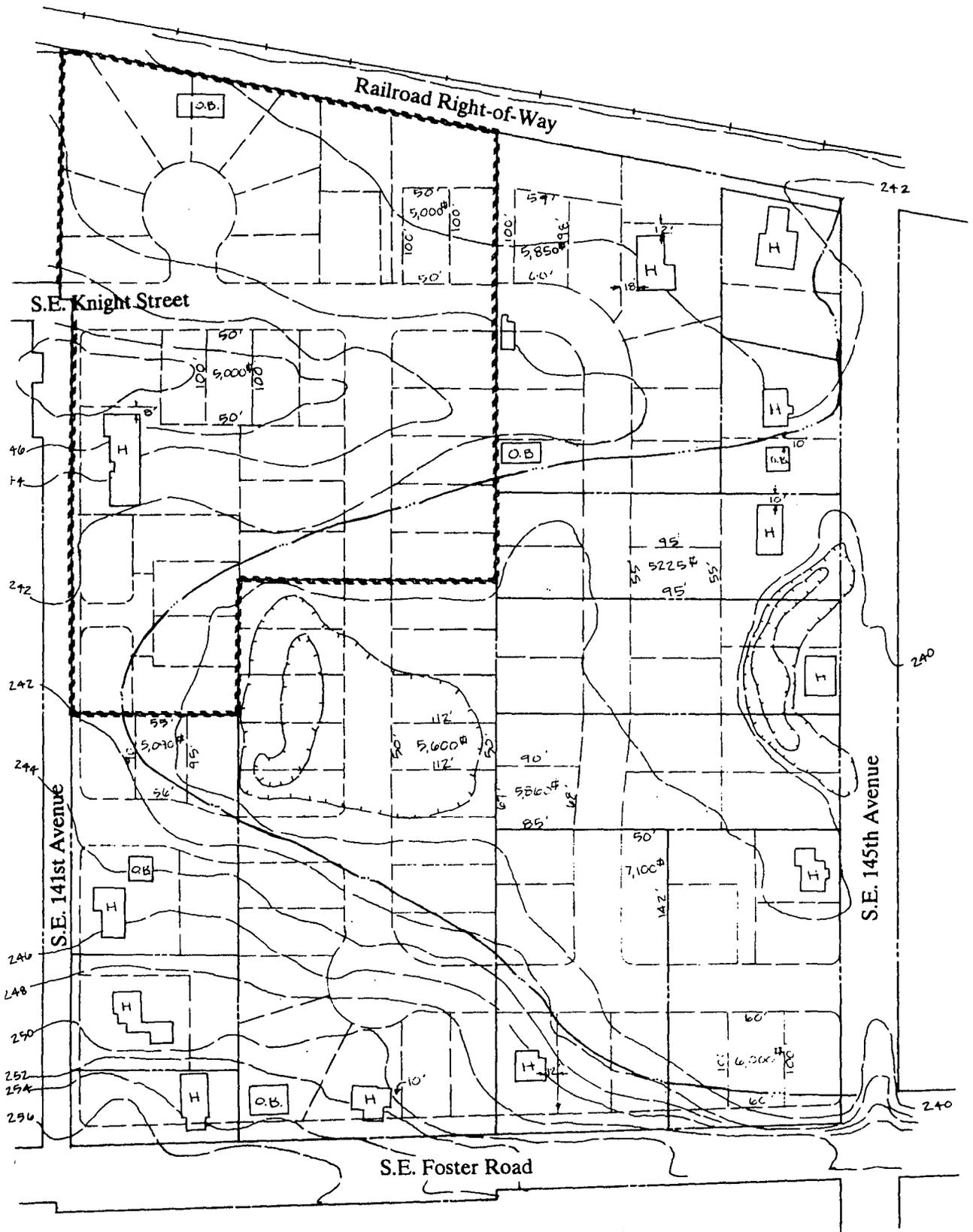
LR-5

LR-5

FF

FF





FUTURE STREETS PLAN

Existing Lot Lines: _____

Proposed Lot Lines: _____

Flood Fringe Boundary: _____

DECEMBER 28, 1989

H --- HOUSE O.B. --- OUTBUILDING



Scale: 1" = 100'

**PLANNING
RESOURCES, INC.**

Land Use &
Site Planning
Services

3681 SW Carman Drive
Lake Oswego, Oregon 97035
(503) 636 5422

Conditions of Approval (Land Division):

1. Within one year of the date of this decision, deliver the final partition plat and other required attachments to the Planning and Development Division of the Department of Environmental Services in accordance with ORS Chapter 92 as amended. **Please obtain Instructions for Finishing a Type I Land Division from the Planning and Development office.**
2. Prior to recording the final partition plat, comply with the following Engineering Services Division requirements:
 - A. Dedicate 10 feet of additional right-of-way along S.E. 141st Avenue to provide a total of 25 feet from centerline where the subject property abuts S.E. 141st Avenue.
 - B. Dedicate 50 feet of right-of-way for the easterly extension of S.E. Knight Street over the width of the subject property between Parcels 1 and 2
 - C. Dedicate a 20-foot radius at the intersection of S.E. Knight Street and S.E. 141st Avenue at the northwesterly corner of Parcel 1.
 - D. Commit to participate in future improvements in S.E. 141st Avenue and Knight Street through deed restrictions prepared by the Engineering Services Division.
3. In conjunction with issuance of building permits for either parcel, construct on-site water retention and/or control facilities adequate to insure that surface runoff volume after development is no greater than that before development per MCC 11.45.600. Plans for the retention and/or control facilities shall be subject to approval by the County Engineer with respect to potential surface runoff on the adjoining public right-of-way.
4. Prior to issuance of building permits for Parcel 2, apply for and obtain a Land Feasibility Study confirming the ability to use an on-site sewage disposal system on Parcel 2.

Conditions of Approval (Future Street Plan):

1. When recording the final plat, also record the approved Future Street Plan.
2. Prior to recording, submit the Future Street Plan to the Planning and Development Division for final review and endorsement.
3. On the face of the Future Street Plan map allow a blank area 2" x 3" for County endorsement.
4. As requested by the owners of the tract of land described as Tax Lot 539, Section 14, Township 1 South, Range 2 East and Tax Lot 3, Section 13 Township 1 South, Range 2 East, revise the Future Street Plan by extending the north-south street (also known as S.E. 142nd Avenue) shown on the Future Street Plan map for their property south so that it intersects with S.E Foster Road when they apply to divide that tract. The design of the extension and intersection shall be subject to review by the County Engineer in conjunction with such a future land division.
5. Delete the east-west street that runs from S.E. 141st Avenue to future S.E. 142nd Avenue across Tax Lot 558, Section 14, T 1S, R2E.
6. Delete from the Future Street Plan the area between S,E, 145th Avenmue and the easterly lines of Tax Lots 2 and 3, Sction 13, T1S R2E

7. Except for Parcels 1 and 2 as shown on the Tentative Plan Map for Land Division Case LD 2-90, no lots shown by dashed lines on the Future Street Plan Map shall be created by approval of LD 2-90 and this Future Street Plan. Such lots may be created only after the owners of the parcels of land on which those lots are shown apply to divide their parcels either separately or jointly in accordance with the Multnomah County Land Division Ordinance.
6. Except for those portions of S.E. Knight Street and S.E. 141st Avenue shown on the Tentative Plan Map for Land Division Case LD 2-90, dedication of streets shown on the Future Street Plan Map shall occur only when the owners of the parcels of land on which those future streets are shown apply to divide their parcels either separately nor jointly in accordance with the Multnomah County Land Division Ordinance..

Findings Of Fact

NOTE: Unless otherwise indicated, findings refer to both the Land Division and the Future Street Plan. Quoted material from the applicant's submittal appears in *Italic* type. Ordinance language appears in ***Bold Italic*** type

1. **Applicant's Proposal:**

- A. **Land Division:** The applicant proposes to divide a 6.14-acre tract of land into two parcels, as shown on the attached Tentative Plan Map. The applicant also proposes to dedicate ten feet of additional right-of-way along S.E. 141st Avenue in order to provide for an eventual 50-foot right-of-way width on that street. The applicant also proposes to dedicate a 50 foot right-of-way between the two parcels for the future easterly extension of SE Knight Street under the proposed Future Street Plan. No street improvements are proposed at this time.
- B. **Future Street Plan:** As required by the Land Division Ordinance (see Findings 4.B and 4.C) the applicant has proposed a Future Street Plan to serve as a general guide for how the various properties in the plan area **might** be subdivided into single-family lots at some time in the future under the present LR-5 zoning. The map titled "Future Street Plan" uses solid lines to show existing property lines and streets. Broken lines show future streets and also lots that might result from subdivision of the present large parcels. The heavy striped lines on the Future Street Plan map shows the outline of the subject site. The Future Street Plan area includes December 28, 1989 parcels and contains about 20.5 acres, including the subject site.

2. **Site and Vicinity Information:** The site is on the east side of S.E. 141st Avenue north of S.E. Foster Road. The right-of-way for the Portland Traction Co. borders the north edge of the site. Southeast Knight Street presently intersects S.E. 141st Avenue across from the site. The Future Street Plan area lies between S.E. 141st and 145th Avenues, S.E. Foster Road and the Portland Traction right-of-way. The Comprehensive Plan designates the site and surrounding area as Low Density Residential. Zoning is LR-5, Urban Low Density Residential District

- A. **Land Division Street Dedication (S.E. 141st Avenue):** The site abuts S.E. 141st Avenue, which has a present right-of-way width that varies from 30 to 40 feet. The Street Standards Ordinance (MCC 11.60) classifies S.E. 141st Avenue as a Local Residential Street. The County Engineer has determined that in order to comply with the provisions of the Street Standards Ordinance it will be necessary for the owner to dedicate 10 feet of additional right-of-way in S.E. 141st Avenue abutting the site as a condition of approval. The dedication will help achieve the 50-foot right-of-way width needed for a Local Residential Street.

- B. **Land Division Street Dedication (S.E. Knight Street):** The site is opposite the present east end of S.E. Knight Street. The Street Standards Ordinance (MCC 11.60) classifies S.E. Knight Street as a Local Residential Street. In order to help carry out the purpose of the Future Street Plan and comply with the provisions of the Street Standards Ordinance it will be necessary for the owner to dedicate 50 feet of additional right-of-way to extend S.E. Knight Street to the east edge of the site as a condition of approval.
- C. **Land Division Street Improvements (S.E. 141st Avenue and Knight Street):** Southeast 141st Avenue and Knight Street are not fully improved to county standards at this time. The County Engineer has determined that improvements are not needed at this time due to the fact that the proposed land division contains only two large parcels. However, additional future development will eventually require improvement of these streets. Therefore, in order to comply with the provisions of the Street Standards Ordinance it will be necessary for the owner to commit to participate in future improvements to S.E. 141st Avenue and Knight Street through deed restrictions as a condition of approval.

3. **Land Division Ordinance Considerations (MCC 11.45)**

- A. The proposed land division is classified as a Type I because it is a land division which *“will have a substantial impact on the use or development of nearby property such that determination at a public hearing is required, considering . . . plans or programs for the extension of the street or utility systems on or near the proposed division”* [MCC 11.45 .080(E)(2)]. The proposal includes both a land division and a Future Street Plan. The Future Street Plan area contains parcels large enough to be subdivided into as many as 99 smaller lots under the present LR-5 zoning. The Future Street Plan shows a way to provide needed street access to potential future lots in the plan area. A public hearing on the Future Street Plan is appropriate because the number of potential future lots in the plan, area creation of street systems to support those lots, represent a substantial impact on that area.
- B. MCC 11.45.130 requires that a future street plan be filed with a Type I Land Division application showing the *“pattern of future streets from the boundaries of the [subject site] to the boundaries of those other tracts within a 40-acre area surrounding or adjacent to the Type I land division which are capable of subsequent Type II Land Divisions . . .”* The Future Street Plan area parcels capable of being divided into anywhere from 5 to 20 lots depending on availability of services. As such, those parcels are capable of Type II Land Divisions. The Future Street Plan Area does not contain a full 40 acres because it is bordered by existing streets on 3 sides. Future street access to land north of the Portland Traction right-of-way is available from existing streets to the north
- C. MCC 11.45.150 requires that the Future Street Plan *“show the proposed continuation of streets in the Type I Land Division in sufficient detail to demonstrate that future divisions of the adjacent area in compliance with the provisions of [the Land Division Ordinance] is reasonably possible.”* The
- D. MCC 11.45.230 lists the approval criteria for a Type I Land Division, Tentative Plan and Future Street Plan. The approval authority must find that:
 - (1) *The Tentative Plan or Future Street Plan is in accordance with:*
 - a) *the applicable elements of the Comprehensive Plan;*
 - b) *the applicable Statewide Planning Goals adopted by the Land*

Conservation and Development Commission, until the Comprehensive Plan is acknowledged to be in compliance with said Goals under ORS Chapter 197; and

- c) *the applicable elements of the Regional Plan adopted under ORS Chapter 197. [MCC 11.45.230(A)]*
- (2) *Approval will permit development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances; [MCC 11.45.230(B)]*
- (3) *The Tentative Plan or Future Street Plan complies with the applicable provisions, including the purposes and intent of [the Land Division Ordinance]; [MCC 11.45.230(C)]*
- (4) *The Tentative Plan or Future Street Plan complies with the Zoning Ordinance or a proposed change thereto associated with the Tentative Plan proposal; [MCC 11.45.230(D)]*
- (5) *If a subdivision, the proposed name has been approved by the Division of Assessment and Taxation and does not use a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in Multnomah County, except for the words "Town", "City", "Place", "Court", "Addition" or similar words, unless the land platted is contiguous to and platted by the same applicant that platted the subdivision bearing that name and the block numbers continue those of the plat of the same name last filed; [MCC 11 11.45.230(E)]*
- (6) *The streets are laid out so as to conform, within the limits of the Street Standards Ordinance, to the plats of subdivisions and maps of major partitions already approved for adjoining property unless the approval authority determines it is in the public interest to modify the street pattern; [MCC 11.45.230(F)] and*
- (7) *Streets held for private use are clearly indicated on the Tentative Plan and all reservations or restrictions relating to such private streets are set forth thereon. [MCC 11.45.230(G)]*

5. **Response to Type I Land Division Approval Criteria:**

A. **Applicable Elements of the Comprehensive Plan**

Statewide Goals and Regional Plan: For the reasons stated below, the proposal satisfies the applicable policies of the Comprehensive Plan. The Multnomah County Comprehensive Plan has been found to be in compliance with Statewide Goals and the Regional Plan by the State Land Conservation and Development Commission.

Policy No. 13. Air, Water, and Noise Quality:

Applicant's Response: *The proposed partition will have no significant impact upon air, water or noise quality within Multnomah County. The addition of one single family dwelling will generate only about ten vehicle trips per day. This volume is insignificant in terms of impact on the quality of the regional air shed and in terms of noise generated. The proposed building site will comply with DEQ standards for construction of the sub-surface sewage disposal system. Thus, there will be no impact upon water quality associated*

with this proposal.

Staff Comment: Obtaining a Land Feasibility Study from the County Sanitarian for Parcel 1 is a condition of approval. Development of the site or any of the Future Street Plan area to the maximum density allowed under the LR-5 zoning will depend upon the availability of public sewer to the area. This area is not currently scheduled for sewer construction. According to the Mid-County Sewer Project staff, the earliest date that sewer might be available to the area would be between 1997 and 2005.. Storm drainage systems will need to be provided in conjunction with development at LR-5 densities. For these reasons, the proposed land division meets Policy 13, and the Future Street Plan meets that policy subject to future availability of sewer service and provision of storm drainage.

Policy No. 14. Development Limitations:

Applicant's Response: *The subject property is a relatively level tract containing no slopes in excess of twenty percent (see contours shown on site plan). The Building Limitations Map and the Depth to Water Table Map contained in the Powellhurst Community Plan show the subject property as being free of these development limitations. The only development limitation present upon the subject site is a small area within the Flood Fringe of the 100 Year Flood Plain of Johnson Creek.*

The Flood Fringe area is located in the southern portion of Parcel 1. Parcel 1 is currently developed with a single family dwelling which is located outside of the Flood Fringe area. Parcel 2, which is the new building site, is located entirely outside of the 100 Year Flood Plain and, therefore, is not subject to this building limitation.

Staff Comment: The Proposed land division will result in creation of one additional building site, Parcel 2, which is outside the 100-year flood plain. For the reasons stated by the applicant, the proposed **Land Division** satisfies Policy 14. With respect to the **Future Street Plan**, compliance with Policy 14 would have to be addressed at the time of a future subdivision request for a parcel in the plan area. Flood zone maps from the Federal Emergency Management Administration (FEMA) indicate the 100-year flood level in the area to be 242 feet. The finished floor of the living area of any residence in the area would need to be at an elevation of 243 feet. Some portions of the Future Street Plan area have elevations as low as 234 feet based on information shown on the Future Street Plan Map. Some future lots in the area could require as much as 8 feet of fill to be buildable. However, split-level design with living areas on upper levels of houses could reduce the amount of needed fill.

The Planning Commission finds that the area between S.E.145th Avenue and the easterly lines of Tax Lots 2 and 3, Section 13, T1S, R2E has experienced considerable flooding in the past. For that reason, the Planning Commission finds that this area should be deleted from the proposed Future Street Plan. Consideration of a Future Street Plan for the deleted area will occur whenever the owner of one of the lots in that area proposed to divide their property.

Policy No. 15. Significant Environmental Concerns:

Applicant's Response: *"The only area within the Powellhurst Community Plan which is designated as an Area of Significant Environmental Concern is*

the stream corridor of Johnson Creek. Since the subject property is not located within 100 feet of the centerline of Johnson Creek, this policy is not applicable to this site."

Staff Comment: Staff concurs with the applicant's information.

Policy No. 16. Natural Resources:

Applicant's Response: *Natural resources protected by this policy include: mineral and aggregate sources; energy resource areas; domestic water supply watersheds; fish habitat areas; wildlife habitat areas; and ecologically and scientifically significant natural areas. The Powellhurst Community Plan discusses these resources on pages 37 to 38 of the Plan.*

According to the Community Plan, there are no mineral or aggregate resources or energy resources within the Powellhurst area. The Powellhurst neighborhood lies predominantly within the Johnson Creek watershed. The subject property is within this watershed, but is approximately 1/4 mile away from the creek. Approval of this partition, therefore, will have no impact upon this resource. There is no fish or wildlife habitat present on, or within close proximity of, the subject property. The Community Plan does not identify any areas of Significant Environmental Concern in the area of the subject property.

Staff Comment: *Staff concurs with the applicant's information. Further, there are no wetlands indicated in the area on the U.S. Fish and Wildlife Wetlands Inventory maps*

Policy No. 19. Community Design:

Applicant's Response: *Design Review is not required for single family dwellings and, since this project will only provide a building site for one such dwelling, Design Review is not required for this application. The only design issue relating to this application is its impact upon the future street system which will serve this area. A Future Street Plan is included with this application and demonstrates that the proposed land division will not preclude the logical development of the surrounding area. The proposed right-of-way dedication shown on the site plan promotes the implementation of the Future Streets Plan.*

Staff Comment: Staff concurs with the applicant's information.

Policy No. 21 Housing Choice

Applicant's Response: *The Housing Choice Policy promotes the provision of a variety of types of housing at price ranges which are affordable to the region's households. The County has implemented this policy by providing adequate supplies of vacant land zoned for a variety of housing types. The proposed land division will comply with the provisions of the LR-S Zone and, therefore, is compatible with this policy.*

Staff Comment: Staff concurs with the applicant's information.

Policy No. 22. Energy Conservation:

Applicant's Response: *The only issue associated with this land division*

which relates to this policy is the layout of streets and lots within the land division in a manner which is energy efficient. Parcel 2, the new building site, is a two acre site which is large enough to allow construction of a home with solar access. The proposed new street dedication is oriented east-west and, therefore, will afford opportunity for redivision of the land with building sites which have a long axis in a north/south direction.

Staff Comment: Staff concurs with the applicant's information. As stated below, the proposed land division complies with the solar access provisions of the Zoning Ordinance.

Policy No. 35. Public Transportation

Applicant's Response: Public transit is available on S.E. Foster Road at S.E. 136th Avenue, six blocks from the subject property. Policy No. 35 encourages higher density development near transit services. The low density residential use proposed for the subject site is compatible with the level of transit service available.

Staff Comment: Proximity of public transit service to the Future Street Plan area is appropriate considering the number of potential number of lots that could result if the plan is fully implemented when necessary public services become available.

Policy No. 36. Transportation System Development Requirements:

Applicant's Response: *This policy requires the dedication of additional right-of-way needed for the function of the County's street system. The Tentative Plan shows the dedication of an additional 10 feet of right-of-way along S.E. 141st Avenue, which is consistent with an eventual 50 foot street width for local streets. A 50-foot right-of-way dedication across the subject property is also shown, consistent with the proposed Future Street Plan to serve adjoining properties.*

Staff Comment: The dedications proposed by the applicant are conditions of approval for the proposed land division. Also, the County Engineer will require deed restrictions to secure future improvements in S.E. Knight and 141st Avenue. Actual improvement of Knight Street would occur when further subdivision of either parcel of the subject site occurs. In the case of the Future Street Plan, the timing of street improvements will be tied to actual subdivision of parcels within the plan area.

In conversations with staff, the owner of Tax Lots 3 and 539 located southeasterly of Parcel 1 has requested that the proposed north-south street (also known as S.E. 142nd Avenue) that enters her property from Parcel 1 be extended all the way to intersect with S.E. Foster Road so that future development of her property would be dependent on prior subdivision of Parcel 1 for street access. A recommended condition of approval for the Future Street Plan provides that such an extension may occur provided that design of the street and intersection are approved by the County Engineer in conjunction with a land division application for those tax lots. The Planning Commission has ratified that condition.

The owner of property at 6210 S.E. 141st Avenue just south of Parcel 1 (Tax Lot 558, Section 14, Township 1 South, Range 2 East) has communicated to staff his desire that the Future Street Plan not show an east-west street running

across his lot. He has stated that his only plans for future division of his land involve dividing into two parcels. As of February 5, 1990, however, the County Engineer had advised staff that the proposed east-west street shown crossing Tax Lot 558 on the Future Street Plan should be retained because it would help provide improved circulation in the Future Street Plan area. Although keeping the street in the Future Street Plan at this time would maximize future development options for both the current owner of Tax Lot 558 and any subsequent owner of the lot, the Planning Commission finds that deleting the east-west street in question would not adversely affect traffic circulation considering the continuation of future SE 142nd Avenue to Foster Road as discussed above.

Policy No. 37. Utilities:

Applicant's Response: *Public water is available to service the subject property, as required by this policy. Subsurface sewage disposal can be provided to serve the site in accordance with DEQ standards. (See attached comment sheets.) Only one new home is proposed and the development will require no new street construction, therefore, on-site disposal of storm water will be adequate. P.G.E. power and U.S. West Communications telephone service are available in S.E. 141st Avenue.*

Staff Comment: Staff concurs with the applicant's statements with respect to the proposed land division. As stated previously, development of the surrounding area in accordance with the Future Street Plan will be contingent on public sewer availability.

Policy No. 38. Facilities:

Applicant's Response: *In accordance with this policy, the County will provide opportunity for comment from the school district, fire district and County Sheriff's office prior to approval of this land division. It is the applicant's understanding that adequate levels of service are available to meet the needs of one additional home site.*

Staff Comment: The area is within the David Douglas School District, which can accommodate potential enrollment that might result from the proposed land division. The district has informed staff that there are presently two school campuses in the school district (Earl Boyle and North Powellhurst) that the district is not using for instruction of district pupils. The school district anticipates that these two campuses would be able to accommodate potential enrollment from development in the Future Street Plan area. Multnomah County Fire District No. 10 provides fire protection to the area, with the nearest station located about eight blocks west of the site at S.E. 134th Avenue and Foster Road. The Multnomah County Sheriff's Office provides police protection.

Policy No. 39. Open Space and Recreation Planning

Applicant's Response: *The closest open space facility is located at Gilbert Park School at S.E. 134th Avenue and Foster Road. The Community Plan does not identify any need for additional parks in the vicinity of the subject property.*

Staff Comment: For reasons stated by the applicant, the proposed land division and Future Street Plan satisfy this policy.

B. Development of Property [MCC 11.45.230(B)]

Applicant's Response: *The applicant does not own any other lands adjoining the subject property. Access to the redevelopable parcels to the east will be provided through the dedication of an unimproved right-of-way, as shown on the Tentative Plan.*

Staff Comment: The proposed right-of-way dedication for S.E. Knight Street across the subject site, plus the future north-south street running from Knight to the south line of Parcel 1, both assure that the proposed land division will allow development of adjacent property. In addition, the Future Street Plan provides a general guide for street extensions to serve potential subdivisions in the surrounding area. For these reasons, the proposed land division and Future Street Plan satisfy MCC 11.45.230(B).

C. Compliance with Applicable Provision, Including Purpose and Intent of Land Division Ordinance [MCC 11.45.230(C)]:

Applicant's Response: *The proposed land division provides two parcels, each of which exceed the minimum dimensional standards of the LR-5 zone. Each lot has more than 20 feet of frontage on a public street, as required by the Land Division Ordinance. As discussed previously, all necessary public facilities and services are available to service the two parcels and required right-of-way dedications have been provided. Therefore, the proposed land division complies with the requirements of the Land Division Ordinance. A Future Street Plan has been prepared for review by the County in conjunction with this application for a land division. The Future Street Plan complies with the Land Division Ordinance by providing for future access to County standard roads for all redevelopable parcels in the area and by showing lots which conform to the minimum dimensional standards of the LR-5 zone.*

Staff Comments: For the reasons stated by the applicant, the proposed land division and Future Street Plan satisfy MCC 11.45.230(C).

D. Zoning Ordinance Considerations: The applicable Zoning Ordinance criteria (MCC 11.15) are as follows:

- (1) The site is zoned LR-5, Urban Low Density Residential District.
- (2) The following minimum area and dimensional standards apply per MCC 11.15.2634:
 - (a) The minimum lot size for a single family dwelling shall be 5,000 square feet. As shown on the Tentative Plan Map, both parcels exceed this requirement.
 - (b) The minimum lot width at the building line shall be 45 feet. As shown on the Tentative Plan Map, both parcels exceed this requirement.
 - (c) The minimum yard setbacks shall be 20 feet front, 5 feet side, and 15 feet rear. As shown on the Tentative Plan Map, the house on Parcel 1 satisfies this requirement.

- (3) The proposed land division complies with the solar access provisions of the Zoning Ordinance. Parcels 1 and 2 meet the basic design standard of MCC 11.15.6815(A) because they each have a north-south dimension greater than 90 feet and a front lot line within 30 degrees of a true east-west orientation.

E. Subdivision Name [MCC 11.45.230(E)]:

Staff Comment: Since it has only two parcels, the proposed land division is not a subdivision and MCC 11.45.230(E) does not apply.

F. Street Layout [MCC 11.45.230(F)]:

Staff Comment: The applicant did not submit a specific written response to this criterion but has addressed it in the Future Street Plan map and the Tentative Plan Map by showing street systems that meet the requirements of the Street Standards Ordinance. For the reasons stated above, the proposed private street system complies with the provisions of the Street Standards Ordinance. Therefore, the proposed land division satisfies MCC 11.45.230(F)

G. Private Streets [MCC 11.45.230(G)]:

Staff Comments: No private streets are proposed in the land division but the Future Street Plan does indicate some existing parcels where private accessways or flag lot driveways might be used in future land divisions. Specific evaluation of those private streets would occur at the time of land division applications on the affected parcels.

Conclusions:

1. The proposed Land Division and Future Street Plan satisfy the applicable policies of the Comprehensive Plan.
2. The proposed Land Division and Future Street Plan satisfy the approval criteria for Type I Land Divisions.
3. The proposed Land Division and Future Street Plan satisfy the requirements of the Zoning Ordinance.

IN THE MATTER OF LD 2-90:

Signed March 5, 1990

Richard Leonard,
By Richard Leonard, Chairman *RL*

Filed with the Clerk of the Board on March 15, 1990

Appeal to the Board of County Commissioners:

Any person who appears and testifies at the Planning Commission hearing, or who submits written testimony in accord with the requirements on the prior Notice, and objects to their recommended Decision, may file a Notice of Review with the Planning Director on or before 4:30 p.m. on Monday, March 26, 1990 on the required Notice of Review form which is available at the Planning and Development Office at 2115 SE Morrison Street.

The Decision on this item will be reported to the Board of County Commissioners for review at 9:30 a.m., Tuesday, March 27, 1990 in Room 602 of the Multnomah County Courthouse. For further information, call the Multnomah County Planning and Development Office at 248-3043.

CLERK'S COPY

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March 13, 1990

HAND DELIVERED

The Honorable Gladys McCoy, Chair
c/o Multnomah County Planning
2115 S.E. Morrison Street
Portland, Oregon 97214

Reference: Multnomah County Goal 5 Periodic Review
Howard Canyon Quarry

OUR FILE NUMBER
S152
1990 MAR 11 PM 3:38
MULTNOMAH COUNTY
OREGON
COUNTY COMMISSIONER
AND DE
1989

Dear Chair McCoy and Members of the Commission:

As directed by the Board of Commissioners ("Board") on March 6, 1990, I have enclosed seven copies of draft findings and additional material which support the application of a "3C" designation for the Howard Canyon Quarry site. While we contend that the Board should grant the site a "3A" designation, we have prepared the findings as requested. I will be happy to work with Staff on any requested modifications to these findings in an effort to reduce the secretarial and staff time required for any revisions.

With regard to the procedure adopted by the county in its March 6, 1990 meeting, I make the following objection. The Board has created an untenable process by requesting findings be prepared when additional information which may affect the findings can still be submitted into the record. This violates Mr. Smith's right to substantive and procedural due process and I request that the procedure adopted by the Board be corrected.

Finally, I request that the Board ask Staff to provide me with a copy of the final draft Periodic Review Order, including the ESEE analysis and procedural changes to the Multnomah County Code, when the documents are sent to the Land Conservation and Development Commission. This will allow me to

The Honorable Gladys McCoy, Chair
Multnomah County Board of Commissioners
March 13, 1990 - Page 2

timely meet the obligations imposed by ORS 197.643. Thank you
for your consideration.

Very truly yours,

Paul R. Hibernick
Paul R. Hibernick *by mmd*

PRH:mmd
Enclosure
prh638

cc: Mr. Raymond Smith (w/encls.)
Ms. Lorna Stickel (w/encls. for inclusion in record)
Edward Sullivan, Esq. (w/encls.)

**Multnomah County
GOAL 5 INVENTORY
March 13, 1990
"3C" Designation**

**Type of Resource: Mineral and Aggregate
Multnomah Co. Inv. Site #8
Howard Canyon**

Location:

The Goal 5 resource is located along the section line between Section 36, T. 1 N., R. 4 E. and Section 1, T. 1 S., R. 4 E. The general resource boundaries are drawn on an Assessment and Taxation map contained in the file. A portion of the resource site is identified by the Oregon Department of Geology and Mineral Industries as I.D. #26-0065.

Description:

This aggregate resource site is a cleared ridgetop approximately 700 feet in width, which runs in an east-west orientation just north of Howard Canyon. The site is connected by existing private roads to Knierem Road and Howard Canyon Road, both paved county roads. As confirmed in a study by H. G. Schlicker & Associates in which 31 testpits were dug, the basalt lava resource occupies the upper 50 feet or more of the ridgecrest and is more than 4,200 feet long and more than 350 feet wide for most of its length. The amount of aggregate material exceeds 2.7 million cubic yards. The ground surface of the resource area ranges in elevation from 780 feet to 860 feet. Laboratory test results indicate that the rock resource at the site is suitable for road construction purposes.

- A. Available information indicates site is important (ability to yield more than 25,000 cubic yards of mineral and aggregate material in less than 5 years):**

NO--Designate "1A": Do not include in plan inventory.

X YES--Go to B.

B. Is availability information sufficient to determine the location, quantity and quality of resource at the site?

NO--Designate "1B": Address the site in future when information becomes available.

X YES--Include in plan inventory and go to C.

We find that sufficient information, including geologic evaluation and laboratory test results, has been presented to the county regarding the quality, quantity and location of the resource. Based on this information, we find and conclude that the site is a significant Goal 5 resource and we hereby designate it as such in the Multnomah County Comprehensive Plan and include it in Multnomah County's inventory of significant natural resource sites.

C. Zoning:

Multiple Use Forest-38 ("MUF-38"), Multiple Use Forest-19 ("MUF-19"), and Exclusive Farm Use ("EFU"). These zones are resource zones in Multnomah County.

Based on zoning, are there conflicting uses?

NO--Designate "2A": Preserve resource.

X YES--Define the impact area and describe conflicting uses.

D. Impact area:

We have reviewed the record, including the adverse effects alleged by, and information provided by, the opponents as well as the preliminary mining plan and information provided by the property owner. Two primary considerations underlie our designation of the impact area: (1) all the existing homes which could present a potential conflict at the site are located within 2,000 feet of the site; and (2) the portion of Howard Canyon Road which the opponents contend is unsafe is located approximately 1,850 feet from the access road to the quarry. We note that in delineating an impact area, we must realistically assess potential impacts because the provisions of an impact area are reciprocal. If we designate a large impact area and allow the

mining to go forward, a large variety of uses would be prohibited over a large area in order to protect the resource. If we allow the mining to go forward but select a small impact area, not all the potential impacts would be adequately addressed in the economic, social, environmental and energy ("ESEE") analysis and a significant Goal 5 resource might not be adequately protected when a conflicting use is later located near the resource site. We find that the opponents have raised potential disturbances to existing residences and the safety of a portion of Howard Canyon Road as their primary issues. We find that an impact area of 2,000 feet encompasses both of these concerns. We find that the noise study provided by Registered Professional Engineer (acoustical) Standlee indicates that sound level at a distance of 2,300 feet from the resource site, without the use of any berms, will be well within Department of Environmental Quality ("DEQ") standards. We find that DEQ noise standards are an appropriate basis for identifying impacts and further find that potential noise disturbances will not occur beyond approximately 2,000 feet from the site. We further find that the primary road issue raised by the opponents (a sharp curve) is approximately 2,000 feet from the site. Accordingly, we conclude that the impact area of 2,000 feet will allow us to adequately address the concerns of persons opposed to the application through the ESEE process and adequately protect the resource by discouraging noise sensitive uses within the impact area.

E. Describe existing or potential conflicting uses:

Under the existing Multnomah County Code ("MCC"), single-family residences are allowed in the MUF-19 zone in the following circumstances: (1) as a primary use on a lot of 38 acres; (2) as a use under prescribed conditions on a new lot of between 19 and 38 acres with a forest or farm management plan; (3) as a use under prescribed conditions on a lot of record of between 10 and 38 acres with a forest or farm management plan; or (4) as a conditional use on a lot of record of less than 10 acres. The MUF-38 zone requirements are identical to the MUF-19 zone requirements except that new lots must be at least 38 acres in area. Comparable standards exist for new dwellings in the EFU zone. The county recognizes that recent case law developments have increasingly called into question the propriety of placing dwellings on resource land. 1,000 Friends of Oregon v. LCDC (Lane County) (1988) suggests that non-forest uses, such as dwellings, are not favored on resource lands. 1,000 Friends of Oregon v. LCDC (Curry County) (1986) suggests that conversion of

rural land to urban uses (e.g., allowing a dwelling on resource land) may require a Goal 14 exception. We interpret these cases to mean that dwellings on resource lands are discouraged and disfavored. Accordingly, when assessing future single-family residences as a conflicting use, we choose to place less importance on the significance of the future residential use. We find this is consistent with recent case law, consistent with the county's comprehensive plan and zoning designations, and consistent with Goal 5 which defines conflicting uses as those which, if allowed, could adversely affect a Goal 5 resource. We further find that this interpretation will promote the protection of natural resources as required by Goal 5. We recognize that existing dwellings on resource land, while they may be disfavored under recent case law, are different than dwellings that would be constructed in the future. However, we also recognize that existing dwellings are located on lands designated as resource lands by the Multnomah County Comprehensive Plan. Our analysis of the ESEE consequences will bear these factors in mind.

A range of potential conditional uses and community service uses are listed in the MUF zoning districts. However, for such a use to be approved, the county must find that the proposed use "will not adversely affect natural resources" (MCC 11.15.7120(B)). In the MUF zones, such uses include churches, schools, cottage industries, service commercial, and tourist commercial establishments. Under the provisions of MCC, these uses are not possible conflicting uses because their development would adversely affect natural resources including mineral and aggregate resources.

F. Describe consequences of allowing conflicting uses:

OAR 660-16-006: "A conflicting use is one which, if allowed, could negatively impact a Goal 5 resource site."

OAR 669-16-006(2): ". . . Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites."

ECONOMIC:

1. Impacts on the resource:

If a conflicting use, such as the identified conflicting use in this case (residential dwellings), was allowed on the resource site or in close proximity to the site, we find it would have a devastating effect on the resource. At best, the cost of mining and, therefore, cost of the final product, would be increased because of additional efforts necessary to reduce effects on a conflicting use. Compliance with applicable environmental regulations may also be rendered more difficult. However, we find that the more probable consequence on the resource from allowing conflicting dwellings on or near the site would be the complete loss of the resource. We find that it would be extremely difficult if not impossible to design an extraction plan which would allow aggregate operations to proceed if conflicting uses were allowed to locate on the resource site or in close proximity to the resource site. As set forth in our discussion of Goal 9 below, we find that these impacts on the Howard Canyon resource will have a significant adverse economic effect.

2. Impacts on the conflicting use:

We find that the Goal 5 opponents have expressed their opinion that the value of their homes would be affected due to operation of the quarry in the vicinity. We find that no expert evidence on this point was presented, but that the property owners in the area expressed a sincere feeling that their resale values would be affected. We find that, as set forth in our discussion of the impact area, persuasive expert testimony demonstrates that noise levels at any nearby existing residence will be significantly below the DEQ noise standards. We further find that construction of acoustic berms, which we find can be easily accomplished at the site, will reduce sound levels at existing homes in the area to less than 37 dBA. We find that DEQ standards are appropriate standards by which to judge noise impacts on adjoining properties, and that under DEQ standards, there will not be a significant impact for existing dwellings in the area. We find that lack of noise effects mitigates against attributing large reductions in resale value to noise considerations. We find that a rock crusher to be used at the site has an existing DEQ Minimal Source Air Contaminant Discharge Permit which requires control of dust from crushing activities. We find that the county roads in

the area are paved which will further reduce dust. We further find that the proposed extraction plan indicates stockpiling and revegetation of overburden and the development of small areas of the resource at any one time. We find that these factors reduce dust considerations and are not consistent with a large loss of value in existing homes in the area due to dust from activities at the quarry. We find that the evidence before us demonstrates that the Howard Canyon Goal 5 resource site can be developed without significant adverse economic effects on the resale value of homes in the area.

3. Requirements of other applicable state goals:

Goal 9: "To diversify and improve the economy of the state."

Goal 9 has a major impact on our analysis of the Howard Canyon Quarry. We find that production of mineral and aggregate materials in Multnomah County falls significantly short of consumption within the county. We further find that mineral and aggregate materials are critical primary materials for the construction of residences, buildings, roads, overpasses, sewers and other infrastructures using the asphalt, concrete or rock products. We find that the scarcity of material in Multnomah County, particularly in the east county area to be served by the Howard Canyon site, has a negative effect on the price of aggregate materials, causing both an increase in raw material costs and an increase in transportation costs due to distance from available sites. Because we find that the absence of mineral and aggregate sites in the county increases the cost of anything which would be constructed from those raw materials, we conclude that location of a source of supply would reduce or stabilize the cost of construction which incorporates mineral and aggregate materials and, therefore, improve the economy of the state. We further find Multnomah County has jurisdiction over only one permitted mineral and aggregate quarry, the Angel Bros. Quarry in the extreme western portion of the county. We find that the eastern portion of the county does not have a source of supply and that the Howard Canyon Quarry would diversify available sources of supply in the county and, therefore, diversify and improve the economy. We find that the Goal 5 opponents have argued that the resale value of their homes would be adversely affected. Assuming for the purposes of argument that hard evidence of adverse economic effects on the value of residences in the area is demonstrated by the record, we find

that only a few residences would be affected, that these residences are located on resource land in Multnomah County, and that any perceived loss of value does not prevent continued use of the residences. We find and conclude that this potential economic effect is outweighed by the positive economic effects of the quarry. We find and conclude that the economic prong of the ESEE analysis strongly supports the designation of the Howard Canyon Quarry which will allow mining. It is important to explain that any adverse impact on the Howard Canyon Quarry Goal 5 resource is of special significance in Multnomah County. We find that Multnomah County is a large consumer of mineral and aggregate products, but has not safeguarded adequate sources of supply for these materials. As a result, Multnomah County is dependent on imported material to meet the county's needs for mineral and aggregate resources. We find these materials are the fundamental building blocks for our roads, streets and buildings. The consequences of this importation of materials are particularly severe in the East Multnomah County area. Although the Goal 5 opponents have offered evidence that there are alternative sources of supply (e.g., the Scott report), we find persuasive conflicting evidence in the record. We find that the sources of alternative supply listed in the Scott report do not present rational alternatives upon which the county wishes to rely. The Smith Bros. Quarry produces no crushed rock. Brightwood Quarry and Pacific Rock Products can deliver material, but at an extremely expensive price. The relationship between Gresham Sand & Gravel Company and Cascade Sand & Gravel (now Lone Star) exemplifies why the sources listed by Mr. Scott do not provide a rational alternative source. Lone Star exports material from Scappoose (in Columbia County approximately 50 miles distant) to Gresham Sand & Gravel Company, who then transships the material to other locations in the county. We find that the net effect of this transshipment is extremely high product cost, even before the material is transported to its place of use. We find that the reason for this importing and transshipment procedure is that Gresham Sand & Gravel Company is nearly out of its own raw material. We find that other sources of supply as set out in the Scott report as alternatives suffer from similar difficulties. Damascus Quarry, Construction Aggregates and Mt. Hood Rock can provide mineral and aggregate materials, but only at a price significantly in excess of materials produced at Howard Canyon Quarry. We find that the major reason for this transportation cost is dictated by an excessive distance between the sites of the market. We find the same analysis applies to Deep Creek Quarry and we find that Deep Creek Quarry is close to closing, according to Clackamas County

authorities. We find the same analysis applies to American Sand & Gravel and is exacerbated by the fact that American Sand & Gravel does not own delivery trucks, and anyone relying on that source for supply would need to provide their own private transportation. We find that such transportation would cost at least \$40.00 per hour and it is estimated that between two and three hours would be necessary to deliver the material. We find that Rogers Construction and Oregon Asphaltic Paving are the same company and do not provide mineral and aggregate materials to the general public. We find that they use their materials on their own value-added products (such as asphalt) and, therefore, are not an alternative source of supply. The Goal 5 opponents argue that mineral and aggregate materials can be economically transported up to 25 miles. We find this to be contrary to persuasive evidence in the record which establishes that the 25-mile distance, in fact, greatly increases prices. We find that the 25-mile distance was calculated on larger truck loads and freeway miles, that most loads in the area are smaller, and that freeways do not exist. We find that much of the material from the Howard Canyon Quarry would be delivered to the Larch Mountain Road area which is significantly further than Springdale, the end point for the Goal 5 opponents' mileage figures. We find that the costs associated with using distant sources of mineral and aggregate materials affect all persons in the county. The county itself must pay more for road materials and this is reflected in the taxes that are paid by persons living in the county. In addition, consumers must pay higher prices for raw material or for homes, roads and other products that incorporate the raw material. We find that county roads also suffer in that material brought from farther distances generally creates greater overall truck usage on county roads as compared to aggregates which are mined closer to the source of ultimate consumption. Based on all these factors, we find and conclude that Goal 9 strongly supports protection and use of the Howard Canyon Quarry.

Goal 10: "To provide for the housing needs of citizens in the state."

We find that mineral and aggregate resources are a critical component of housing (e.g., concrete for the foundations) and accessory structures for housing (e.g., concrete for sidewalks and sewers and asphalt for streets) in the county. We find that the Goal 5 opponents have stated that their housing values will decrease. Assuming for the purposes of argument that this is true, we find that there are few houses involved, the houses are

located in the resource land, and the location of the quarry will not prevent the use of the houses. In addition, as set forth above, we do not find that there will be any significant adverse effects from noise and dust as alleged by the Goal 5 opponents. On the other hand, we find that material to be produced at the quarry will benefit a large portion of the east county population by making mineral and aggregate resources available for housing, road construction and other uses at a favorable price. We find that the greater good is served by the provision of aggregate materials at an economic price which will help meet housing needs of persons at all income levels in the county. We find and conclude, on balance, that Goal 10 weighs in favor of a site designation of the Howard Canyon Quarry which allows mining.

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

We find the Goal 5 opponents have indicated that an increase of truck traffic on local roads, particularly Howard Canyon Road, may have adverse safety impacts. We find, however, that simple measures may be taken which will provide and encourage safe use of the local roads. For example, we find that a four-way stop sign will eliminate problems at an intersection the neighbors feel is unsafe, although we note that intersection is outside the defined impact area. We find that a posted speed limit on Howard Canyon Road would also reduce the safety concerns of the Goal 5 opponents. In addition, we find that the owner of the resource site has agreed to make improvements to the first 1,850 feet of Howard Canyon Road running west from the quarry access road. We find that this will allow an improved road surface and provide additional width and vision at a curve the opponents describe as unsafe. We find that these improvements will provide and encourage safety in the transportation system. We also find that Goal 12 requires us to give consideration to the entire county road system and, in this regard, directs us to provide and encourage an economic transportation system. As discussed above, we find that mineral and aggregate materials are primary building materials for all aspects of the county's transportation system. We further find that prices for these materials are artificially high in the east county area due to long-haul distances and a lack of native supply. We find that the Howard Canyon Quarry provides an economic alternative for raw materials which, in turn, provides and encourages an economic transportation system. We find that the economic considerations under Goal 12 are similar to the considerations we must address under Goal 9, and we incorporate our discussion of Goal 9 herein by reference.

Based on all of these factors and because we find that safety concerns can be mitigated and because the quarry will contribute to an economic transportation system, we conclude that, on balance, Goal 12 weighs in favor of a site designation for the Howard Canyon Quarry which will allow mineral and aggregate extraction.

Goal 13: "To conserve energy."

We find our analysis of the economic factor of the ESEE analysis would not be complete without a discussion of the increased cost in terms of energy related to delivering mineral and aggregate material from sources outside the county and from the more distant source inside the county. We find that the use of distant sources greatly increases the cost of raw material and, more importantly, for our discussion under Goal 13, increases the amount of energy used for delivery of the material because of increased truck transportation. We find that the closest alternative source of supply, Gresham Sand & Gravel Company, states that additional fuel is required to deliver material from its site to the Corbett area because of the long distance involved and because of the uphill nature of the trip. We find that allowing the Howard Canyon Quarry to become a source of supply for mineral and aggregate materials would reduce the length of truck trips and would also reduce the fuel-consuming uphill transportation of material. For all these reasons, we conclude that the designation to allow mining at Howard Canyon Quarry will conserve energy, and we conclude that Goal 13, on balance, weighs heavily in favor of a designation at the site which allows mining.

The Goal 5 opponents have made the argument that the Howard Canyon Quarry is not "needed" and, therefore, it must be given a designation which prevents mineral and aggregate mining. We find that Goal 5 does not require us to consider whether or not a significant natural resource, such as mineral and aggregate resources, is "needed." Based on the Goal 5 process, we find that we have adequate information as to the quality, quantity and location of the resource, and we have found that the Howard Canyon site is significant. We have been able to identify only one conflicting use (existing residential uses on resource land), and we have analyzed the ESEE conflicts of that conflicting use. We find this process does not require us to consider "need" for the resource. Goal 5 assumes that the resource is valuable and is needed if it is significant. We have reviewed case authority cited to us by the Goal 5 opponents (Mobil Crushing Co. v. Lane

County (1984)). We do not find this case to be authority of the proposition that "need" is a mandatory consideration of Goal 5. We find that if the county were to wait until a site was "needed," it might be impossible to develop that site because of the intervening development of conflicting uses in the area. We find that Goal 5 requires us to engage in "upfront" comprehensive planning whereby we designate the sites which will be protected before conflicting uses eliminate the possibility of protecting the resource. We further find that mineral and aggregate material is but one of the natural resources listed in Goal 5. We find that it would be inappropriate to use the "need" standard for evaluating wetland areas or historic sites, which are other Goal 5 natural resources. The same analysis must apply to mineral and aggregate materials.

In the event "need" would be deemed a consideration under Goal 5, we make the following findings and conclusions. We find that Multnomah County has a serious shortfall of mineral and aggregate production capacity and is heavily dependent on imported material from adjacent jurisdictions. We find that this situation is particularly evident in East Multnomah County where local sources of supply either import materials for transshipment or do not sell to the general public. We find that Multnomah County consumes large amounts of mineral and aggregate materials, but at present has only one source of supply operating within its jurisdiction. We find that this situation increases the cost which the county and consumers must pay for mineral and aggregate materials. We find that lack of established supply, increased cost of mineral and aggregate materials, and lack of designated sites in the county comprehensive plan for future extraction demonstrate that there is a need for mineral and aggregate material in Multnomah County and particularly in East Multnomah County. Based on these factors, we conclude that there is a need for the Howard Canyon Quarry and that need may be best addressed under Goal 5 by providing a designation for Howard Canyon Quarry which protects the resource and allows extraction of mineral and aggregate materials.

SOCIAL:

1. Impacts on resource:

Extraction operations will be subject to limitations on hours and days of operation as proposed in the amended Mineral Extraction

Code section of MCC. Buffering will be desirable to provide noise reduction for residences in the area and for visual screening. Speed limits would increase the delivery time from the site. These modifications in the operation might be appropriate to protect conflicting uses in the area from social impacts. These modifications would impact the resource in that they would marginally increase the cost of operation. However, we find that the most probable outcome of fully allowing the conflicting residential use on or near the resource site will be social impacts sufficient to prevent the use of the resource. If conflicting uses are allowed on the resource site or within the impact area, it is probable that the resource could not be protected and used because DEQ standards controlling the operation of the quarry, particularly noise standards, could not be met at the site. Therefore, we find that the most probable social impact of the conflicting use on the resource would be to prevent the quarry's use. As set forth in our analysis below, impacts from the resource on the existing conflicting use can be largely avoided and we chose not to make a Goal 5 designation which would fail to protect the quarry and prevent its use.

2. Impacts on the conflicting use:

We find that there are several existing residences within the impact area. The closest four residences from the resource area are: one at 400 feet, one at 500 feet and two at 700 feet. We find that Mr. Smith owns or controls the residence at 400 feet and one of the residences at 700 feet. We find that the opponents have alleged that operations at the quarry will interfere with the residence uses of nearby properties based on noise considerations. We have reviewed the materials prepared by Registered Professional Engineer (acoustical) Standlee. We find that Mr. Standlee has determined that noise from blasting, machinery and rock crushing will be well within DEQ standards as measured at existing dwellings in the area, and we specifically accept Mr. Standlee's report as credible and persuasive expert testimony. We find that DEQ standards provide an appropriate basis for determining whether or not noise is an adverse social impact. DEQ has established noise standards which are measured at the point of reception and, therefore, we conclude they are designed to protect adjacent properties. We find that DEQ standards are designed to meet the legislative policy to protect the health, safety and welfare of Oregon citizens. Because we find that DEQ standards will be easily met by the proposed use at the quarry, we find and conclude that social impacts of the

resource, if any, are minimal on the conflicting use. The Goal 5 opponents have also indicated that they believe there will be dust problems at the site related to crushing. We find that the crushing equipment previously used at the site has a DEQ air contaminant discharge permit which requires the crushing machinery to control dust. We find that DEQ permit limits are designed to protect the health, safety and welfare of the citizens of Oregon and, therefore, find and conclude that DEQ standards present an appropriate basis for determining whether the impact would have an adverse effect on the conflicting use. We also find that the applicant has agreed to control any road-generated dust produced at the site by imposing a strict speed limit on the private access roads to the quarry. Because we find that DEQ standards will be met and that road generated dust will be controlled through the imposition of a speed limit, we find and conclude that the impacts on the conflicting use from dust, if any, would be minimal.

The Goal 5 opponents also indicate that road safety presents a conflict at the site because it has an impact on the residential uses. This issue will be addressed more fully below when we discuss the application of Goal 12 under the social problem with the ESEE analysis. However, we note that in identifying conflicting uses, roads are not a conflict, per se, because they are not a use that is proposed for the resource site. More importantly, they are not an identified use in the county zoning ordinance for the designations that exist at the resource site. In the event the roads would be deemed a "conflicting use," we incorporate our discussion of Goal 12, below.

3. Requirements of other applicable statewide planning goals:

Goal 9: "To diversify and improve the economy of the state."

We find that there will be adverse social costs to the economy of the state if the Howard Canyon Quarry is not given a designation which allows its mining and use. We incorporate herein by reference our discussion of Goal 9 under the economic prong of the ESEE analysis, above. We find that if the economy is not diversified and improved, there will be fewer job opportunities available to the citizens of the county. We find that the proposed quarry contributes to that diversification in East Multnomah County. More importantly, we find that the adverse economic effects of higher costs for mineral and aggregate

materials affects the cost of roads, the affordability of homes, and the amount of tax revenue that must be used to purchase road construction and repair materials. We find that the Goal 5 opponents have stated that the resale value of their homes may be reduced if the site is protected by Goal 5. We incorporate by reference our discussion of the economic prong of the ESEE analysis, above. Based on all these factors, we find and conclude that, on balance, the economy of the state component of the social impact analysis favors protection of the quarry and that the greater good is served by designating the Howard Canyon Quarry for protection and use.

Goal 10: "To provide for the housing needs of citizens of the state."

We incorporate by reference our findings under the economic prong of the ESEE analysis. We find that mineral and aggregate materials are an important component of housing construction. Such materials are necessary both for actual construction of residences and for infrastructure to serve residences. We find that there is an adverse effect on the affordability of housing when these raw materials increase in price. Based on all these factors, we find and conclude that, on balance, the housing component of the social impact analysis favors protection of the quarry.

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

The Goal 5 opponents have raised road safety issues as social impacts on existing residential uses in the area. We find that the Goal 5 opponents' primary concern is directed to the safety of a curve in Howard Canyon Road, the safety of school bus travel, and the safety of children riding bicycles on county roads. We find that the traffic engineer's report relied on by the Goal 5 opponents indicates that site distances on Howard Canyon Road are adequate. We further find that there is existing heavy truck traffic on roads in the area, including Howard Canyon Road, related to the delivery of heavy equipment, the delivery of mineral and aggregate materials, and timber harvesting. We find that Howard Canyon Road and the other roads in the area serve lands which are primarily designated as resource lands in the county comprehensive plan and are zoned for resource uses by the MCC. We find that roads in these areas serve resource lands and, therefore, truck traffic is expected and appropriate. We find that for the eight-tenths of a mile of Howard Canyon Road which

is affected by the quarry use, a speed limit can be imposed which will reduce safety concerns. We find that the applicant has offered to upgrade Howard Canyon Road through the curves which provide the primary safety concern of the opponents. We further find that Goal 12 is directed at the county's transportation plan as a whole rather than individual road segments. We further find that Goal 12 not only has a safety component, but also an economic component which is relevant to the balancing of social impacts. Under Goal 12, we find that it is appropriate to consider negative economic effects on the county's transportation system if Howard Canyon Quarry is not protected. We incorporate by reference our discussion of the economic prong of the ESEE analysis, above. Based on the record, we find that our analysis of the social impacts presents the possibility that a significant Goal 5 mineral and aggregate resource site would be lost due to minimal social conflicts related to noise, dust and traffic safety. We find and conclude that the social cost to the county as a whole related to loss of the resource outweighs the minimal social impacts to the Goal 5 opponents of allowing the quarry to operate. We find and conclude based on our analysis of social impacts that the resource should be protected.

ENVIRONMENTAL:

1. Impacts on resource:

The identified conflicting use (residential dwellings) would not have an adverse environmental impact on the resource unless the conflicting use was allowed on the resource site or in close proximity to the resource site. In the latter event, the impact on the resource would be devastating in that the resource could not be used. We incorporate by reference our discussions under the economic and social prongs of our ESEE analysis.

2. Impacts on conflicting use:

Opponents have suggested that there would be adverse environmental impacts on the conflicting use related to noise and dust which would affect existing residences. We find that DEQ noise standards will be easily met at the site. We find that dust will be controlled through a DEQ air quality permit and speed limits on access roads. We incorporate herein our

discussion of these impacts which is contained in the economic and social prongs of our ESEE analysis.

3. Requirements of other applicable statewide planning goals:

Goal 4: "To preserve forest lands for forest uses."

The site, impact area and surrounding areas are designated in the Multnomah County Comprehensive Plan as resource lands and are primarily zoned to allow forest uses. We find that the new Goal 4 regulations provide that locationally dependent uses, such as mineral and aggregate resources, are uses authorized in forest zones. We find, therefore, that there is no conflict between Goal 4 and the designation of the Howard Canyon Quarry site which will allow mineral and aggregate extraction. In the event that a conflict would be deemed to exist between Goal 4 and the proposed quarry, we make the following findings. We find that these forest uses will not be able to continue without significant change or increase in cost because the proposed extraction plan will not disturb the entire resource area at one time and that reclamation will be ongoing. We find that cattle may continue to graze on portions of the site that are not disturbed and that forest uses may occur in the future after the land has been reclaimed. We find that the quarry operation will not increase fire danger and that quarry roads will assist fire suppression in the general area. Based on all these factors, we find that Goal 4 mitigates in favor of protecting the quarry site for use.

Goal 5: "To conserve open space and protect natural and scenic resources."

We find that the Goal 5 opponents have suggested that deer and elk habitat, fish habitat, and wetlands may be affected by the proposed use. We note that Goal 2 requires a factual basis for decisions. We have reviewed the facts in the record with respect to fish and wildlife habitat and wetlands. We find that the quarry site does not have adequate thermal protection and, therefore, does not serve as critical winter range for wildlife. We find that the closest winter range area is approximately one mile to the southwest and is separated from the resource site by canyons. As stated in the report of Dr. Robert Ellis, such report we specifically adopt, we find that there will be no adverse impact on winter range through operations at the resource site. We find that the stream to the north of the resource site will be protected by leaving an undisturbed buffer along the

northern edge of the plateau in which the resource is located. We find that streams to the south will be similarly protected. We further find that sedimentation in the stream to the south is not a danger, given that ample room exists for sedimentation control mechanisms to be installed at the site to prevent adverse effects on the stream. In addition, we find that the stream to the south is on the opposite side of Howard Canyon Road from the resource site. We find that wetlands have not been identified with specificity in the immediate area, nor has information on the quality and quantity of wetlands been developed. The record indicates only that there is the potential for wetlands along the streams to the north and south of the proposed resource site. We find that there will be no extraction activity in these wetland areas as extraction will occur on the bench area which is between 250 and 1,000 feet from the streams. We further find as set forth in the report of Dr. Robert Ellis, such report we specifically adopt as correct, that there will be no adverse effect on stream quality due to sedimentation and, for the same reason there will be no adverse effects on wetlands. The Goal 5 opponents also point to a Forest Practices Act assessment which demonstrates they believe that there will be environmental problems associated with the Goal 5 resource operation at the site. We find that the Forest Practices Act assessment has little relevancy in the ESEE analysis. We find that the assessment occurred for activities approximately one and one-quarter mile away that were not related to quarry uses. We further find that the opponents' suggestion that the Forest Practices Act assessment is relevant, and is dubious given that there is no applicant in this matter and, therefore, no reason to assess "blame" to any individual. In this process, the county is evaluating the significance of a resource and the impacts of conflicting uses on that resource and the impacts of the resource on conflicting uses. This is not a development application and an assessment against one individual is of little relevance because there is no restriction in the Goal 5 process as to who might own the land or be the ultimate applicant for land use approval after a site is designated for protection under Goal 5. We further find that the Goal 5 opponents' arguments regarding conflicts with other Goal 5 resources are not carefully thought out. We find that if the Howard Canyon site was dedicated to the identified conflicting use, conflicts with Goal 5 resources would be possible. Access roads and site preparation for the identified conflicting could contribute to slope instability, stream sedimentation or wetland interference. Dwelling location could interfere with wildlife habitat and domestic animals, such as dogs, could conflict with wildlife. Based on all the

information in the record, we find and conclude that there will be no conflicts with other Goal 5 resources at the site including wildlife habitat, fish habitat and wetlands and, therefore, conclude that the resource site should be protected.

Goal 6: "To maintain and improve the quality of the air, water and land resources in the state."

The Goal 5 opponents have indicated that the rock crusher presents the "potential" for pollution and that there may be a conflict with the water quality from activities on the site. We find that Goal 6 is related to waste and process discharges from future development. We find that the only process discharge at the site is related to the crusher and that a DEQ permit is in place for the crusher that has been previously used at the site. We find that this will eliminate any potential pollution problems with the site. We also find that sedimentation impacts on water quality will not occur and incorporate our discussion of Goal 5, above. In addition, we find that reclamation is planned for the site. Based on all the factors, we find and conclude that quality of air, water and land resources will be maintained and approved at the proposed resource site.

Goal 7: "To protect life and property from natural disaster and hazards."

The Goal 5 opponents have indicated that there may be geologic hazards associated with overburden storage or with the stability of the geologic structure in which the rock resource is located. We find that the overburden will be stockpiled for reclamation purposes and will be revegetated to prevent erosion. We further find that there is plenty of room on the relatively flat bench for storing overburden in a nonhazardous manner. We find that the rock resource is a basalt structure which is not unstable. We find that the Troutdale formation, which the opponents contend is unstable, will be largely untouched by the mining operation because the Goal 5 basalt formation is located above the Troutdale formation. We further find, as set forth in the report of Registered Professional Engineer Schlicker, that a road or any other structures which cross the Troutdale formation can be adequately designed to ensure that there is no hazard to life or property. We chose to rely on the Schlicker report because it is consistent with the factual information produced by the Oregon Department of Geology and Mineral Industries and it specifically addresses the geology of the site, whereas the Goal 5 opponents' geologist, Mr. Scott, addresses geologic generalities that can

apply to any site at any location. Based on all of these factors, we find and conclude that there are no conflicts with Goal 7 which prevent the protection of the Goal 5 resource site.

Goal 13: "To conserve energy."

We find that the resolution of the ESEE analysis requested by the Goal 5 opponents would require that mineral and aggregate material be delivered to the Corbett area via long truck trips from sources in Clark County, Washington and Clackamas County, Oregon. Alternatively, the Goal 5 opponents would require material to be shipped from Columbia County, Oregon to Gresham Sand & Gravel Company, and then transshipped by truck to the Corbett area. We find that each of these importation proposals requires considerably more energy use and consumption of more fossil fuel than would be required if the Howard Canyon Quarry is designated for use. We find that fuel consumption means increased pollution and, therefore, considerations under Goal 13 to conserve energy tie in with considerations under Goal 6 (to maintain clean air) to work in favor of the designation of the Howard Canyon Quarry as a protected resource site.

Based on all these factors, we find and conclude that any adverse environmental impacts associated with our designation for the Howard Canyon Quarry for resource protection are minimal. We further find that were we to allow the identified conflicting use at the site, many of the same impacts attributed to the proposed use by its opponents would occur. We find that the report of Dr. Ellis is persuasive and we find that the resource site can be developed without adverse effects on fish and wildlife. We find the report of Mr. Schlicker to be persuasive and find that the site can be developed without geologic hazard. We find that the proposed quarry site can be operated in compliance with DEQ environmental standards. Therefore, we find and conclude that the environmental prong of the ESEE analysis favors the designation of the Howard Canyon Quarry site which will allow quarry operations to proceed.

ENERGY:

1. Impacts on resource:

Allowing noise and dust sensitive uses too close to the resource will alter the manner, location and extent of extraction activities and result in a greater use of energy by the operator. As stated above, the more probable result of allowing the identified conflicting use on or near the site would be to prevent use of the resource altogether.

2. Impact on conflicting use:

We find that operation of the Goal 5 resource on the site by the identified conflicting use would not increase or decrease energy consumption for the identified conflicting use and conclude that there are no identified energy impacts on the conflicting use.

3. Requirements of other statewide planning goals:

Goal 13: "To conserve energy."

As discussed throughout this ESEE analysis, we find that if the Howard Canyon Quarry is not protected for resource use, mineral and aggregate material in the Corbett area will be supplied by out-of-state quarries, out-of-county quarries or locations in the county where material is transshipped from outside the county. We find that these long distance delivery mechanisms use additional energy that would not be consumed if the Howard Canyon resource was protected under Goal 5. Based on all these facts, we conclude that the energy prong of the ESEE analysis strongly favors designating the resource site for protection and use.

CONCLUSION:

The Resource of this Site Should be:

Be fully protected--Designate "3A"

Not be protected due to overriding benefits from allowing conflicting uses--Designate "3B"

- X Partially protected by conditions which minimize the impact of conflicting uses--
Designate "3C"

We find that the Howard Canyon Quarry is a significant Goal 5 natural resource site. We find that a large quantity of high-quality mineral and aggregate material exists at the site. We find that this material is a scarce resource in Multnomah County as the county presently only has one producing quarry, the Angel Bros. Quarry, located within its jurisdiction. We have identified a single use which conflicts with the protection of the site for mineral and aggregate extraction. We find that the conflicting use, residential dwellings, has two components: future residential uses and existing residential uses. We find that future residential uses are discouraged in the impact area surrounding the Goal 5 resource because that land is planned and zoned for resource uses and future residential dwellings are discouraged in resource zones. We find that there are a small number of existing residential uses within the defined impact area. We find the citizens who live within the impact area oppose a Goal 5 designation which protects the Howard Canyon Quarry site and allows its use. We find that the basis for their opposition rests primarily on noise and dust impacts and traffic safety issues. In our ESEE analysis, we have studied the noise, dust and traffic safety issues, and have concluded that they present minimal conflicts. With regard to the noise and dust conflicts, we find that DEQ standards are designed to protect the health, safety and welfare of the citizens of Oregon and conclude that, as such, they are appropriate reference points for determining when a serious conflict will arise. We find that noise from the quarry operation will be substantially below the DEQ noise standards. We find that the major dust source identified by the opponents, the rock crusher, has a DEQ air permit which requires dust to be controlled. We find that meeting DEQ environmental standards minimizes any conflicts which might exist between the quarry and the identified conflict use. We find that the traffic safety issue, as discussed under the economic and social prongs of our ESEE analysis, above, should be resolved in favor of protecting the Howard Canyon Quarry. We find that the owner of the Goal 5 resource property has committed to upgrading Howard Canyon Road through the curve which opponents describe as a safety problem. We find that this improvement, together with stop signs and speed limits on Howard Canyon Road, reduces traffic safety considerations to a minimal conflict. Even if the traffic safety conflict was to be deemed a significant conflict, we find that our ESEE analysis convinces us

that the protection of the mineral and aggregate resource is of such importance in Multnomah County that it must be protected even if there is a conflict. We find that the energy and economic prongs of our ESEE analysis weigh heavily in favor of protecting the Goal 5 resource. Under both the economic and energy portions of our ESEE analysis, we find that there would be severe effects on the resource if the conflicting use was allowed, whereas the conflicting use would not be affected significantly if the Goal 5 resource was allowed. We also find that the social prong of our ESEE analysis mitigates in favor of protection of the Goal 5 resource. As described in our analysis, we find that identified potential social impacts on the conflicting use are mitigated or eliminated in that DEQ noise and dust standards are met. We further find that the traffic safety issues identified by the Goal 5 opponents are largely eliminated by road improvement work proposed by the resource site owner. In addition, the social portion of our ESEE analysis convinces us that if the traffic conflict alleged by opponents was to predominate, a significant resource would be lost. However, we find that if the resource is allowed, the traffic conflict can be minimized. We choose to minimize a traffic conflict rather than eliminate an extremely significant Goal 5 resource. The environmental prong of our ESEE analysis weighs in favor of protecting the Goal 5 resource for use. We find no conflict with fish, wildlife or wetland values as alleged by the Goal 5 opponents. We further find that the preliminary mining extraction plan and the location of the resource provides ample space for protective measures to prevent stream sedimentation or other environmental problems. We further find that the proposed use of the Goal 5 resource will meet DEQ noise and dust standards. We, therefore, choose to adopt a designation which protects the Goal 5 resource and allows its use. We find and conclude that the results of our ESEE analysis indicate that all four ESEE factors weigh in favor of protecting the resource and allowing its use. Accordingly, the Howard Canyon resource site is designated "3C" in the Multnomah County Comprehensive Plan.

PROGRAM:

The Howard Canyon resource site is designated "3C" in the Multnomah County Comprehensive Plan. MCC amendments for mineral and aggregate extraction, previously adopted by the county (MCC 11.15.7305-.7335), provide standards for a permit application to the county to develop the quarry. The Howard Canyon resource site shall be protected from adverse conflicting

uses, including noise and dust sensitive uses, by prohibiting those uses within the defined impact area which surrounds the site.

prh633



Daly • Standlee & Associates, Inc.
11855 SW Ridgecrest Drive
Suite 201
Eugene, Oregon 97005-0321
(503) 646-4420

March 13, 1990

Rappleyea, Beck, Helterline & Roekie
1200 The Bank of California Tower
707 SW Washington Street
Portland, Oregon 97205

Attn: Mr. Paul Hribernick

Re: Howard Canyon Quarry Noise Assessment

This letter should be considered an addendum to our report of February 19, 1990 concerning the Howard Canyon Quarry Noise Assessment. We inadvertently left out a discussion of an assessment of blasting noise in that report and this letter is intended to address that subject.

Blasting would occur at the site at times to break raw material away from the rock formation within the resource area. Before any blasting would occur, overburden material on top of the rock formation would be pushed aside to expose the top of the formation. A rock drill would then be used to bore holes from the top down into the rock formation. Charges are placed within the holes and detonators are used to set off the explosives.

As far as reducing sound from the operation, overburden material or simple structures can be used to effectively reduce blasting associated sound from residences around the quarry so that DEC standards will be met.

With the type of quarry operation expected at the site, the blast generated noise is usually greatest along the vertical face of the rock formation because the rock falls away from the explosive forces and allows the sound to radiate. The amount of sound that will be generated by the blasting will depend upon the charge size, the depth of the charges and the timing of charges that are

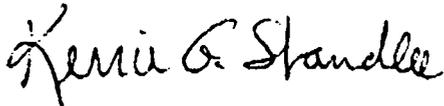
detonated.

We have found at other quarry sites similar in layout to that at Howard Canyon that blasting related sound can be reduced effectively by using berms. If a berm were located around the initial start-up area to barrier residences to the south, blasting noise would be reduced to meet DEQ standards at all residences. Once the quarry operation is moved into the mountain, the natural barrier provided by the rock formation will be adequate to insure DEQ standards are met at all residences without the need for a man-made barrier.

If you have any questions concerning this information, please feel free to call.

Sincerely,

Daly-Standlee & Associates, Inc.



Kerrie G. Standlee, P.E.

KGS/kgs

AFFIDAVIT OF RAYMOND SMITH

STATE OF OREGON)
) ss.
County of Multnomah)

I, Raymond Smith, being first duly sworn upon oath do
depose and say:

1. I make this affidavit in support of comprehensive
plan designation through the Goal 5 ESEE process which will allow
the Howard Canyon Quarry site to be protected and developed.

2. I have personal knowledge of significant heavy
truck traffic on all the roads in close proximity to the Howard
Canyon Quarry site, including Howard Canyon Road, Knierem Road
and Little Page Road. Traffic includes heavy equipment
deliveries, log truck traffic and dump truck traffic. When the
area at the head of Howard Canyon Quarry was logged, log trucks
and equipment trucks regularly used Howard Canyon Road without
incident. Logging in other areas near the quarry has also
resulted in regular log truck and heavy equipment traffic on the
road in the area. In addition, gravel deliveries by truck occur
in the area without incident. Full size school buses also travel
the local roads.

3. Howard Canyon Road is essentially flat. There are
no vertical bumps or rises which prevent or impair vision at any
point on the road. The road only gets less than 20 feet in width
farther up the stream from the Howard Canyon Quarry access road.

4. Most rock deliveries in the Corbett area would not
be large commercial deliveries requiring 20 tons of rock. My
experience from talking to rock providers in the area is that
most deliveries are 10 yards or less.

5. Blasting at the site will occur very infrequently. Because of the small size of the operation, blasting at the site will occur more than one week apart because the highest activity in the area is in the summer, blasting would generally not occur in the winter. No blasting at the site would occur in the night, evening or morning hours. All blasting would occur around mid-day and certainly within the DEQ's daylight blasting hours of 7 a.m. to 10 p.m.

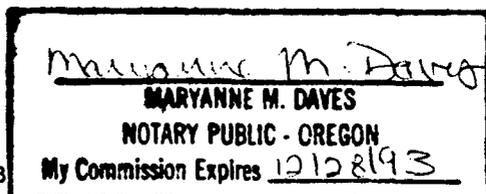
6. The private access roads to the quarry are not paved. In order to control dust which might be generated by trucks traveling on those roads, I will enforce a strict speed limit which is not in excess of 15 miles per hour to private access roads.

7. In my experience in the Corbett area, I have found that houses and domestic animals, particularly dogs, have an adverse effect on wildlife. Houses located in forest areas generally cause deer and other wildlife to move away. This is particularly true when dogs are present at the house because dogs chase and harass wildlife.

DATED this 19th day of March 1990.

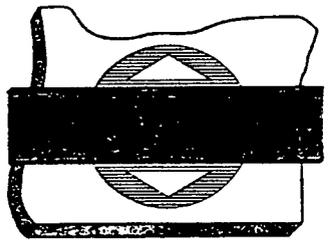
Raymond Smith
Raymond Smith

SUBSCRIBED AND SWORN to before me this 12th day of March 1990.



Maryanne M. Daves
Notary Public for Oregon
My Commission Expires: 12/28/93

JAN 25 1990



OREGON CONCRETE & AGGREGATE PRODUCERS ASSOCIATION, INC.

1500 Liberty Street SE, #130
Salem, Oregon 97301
(503) 588-2430

January 23, 1990

1989-90 OFFICERS

- Jim Records, President**
Baker Rock Crushing/Beaverton
- Greg Morse, Vice President**
Morse Brothers/Sweet Home
- Skip Anderson, Treasurer**
Angell Brothers, Inc./Portland

Mr. Don Anderson
David Evans & Associates
2828 SW Corbett Ave.
Portland OR 97201-4830

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- Tom Miller**
CC Meisel Company
- Ron Schwarz**
Lone Star Northwest

Dear Don:

As you are reviewing the Multnomah County Comprehensive Plan, it is important to keep in mind that Multnomah County is a significant net importer of aggregate resources. Because of the nature of the industry, nobody knows the exact requirements of Multnomah/the Tri County area, but it probably exceeds 20 million tons per year. Of this amount, Multnomah County probably produces less than a third of its needed aggregate.

On an every increasing basis, more aggregate is being brought from Columbia, Marion and Clackamas Counties. The amount of this imported material will increase significantly over the next ten years as the remaining aggregate resources in Multnomah County are depleted. It is also important to note that Clark County, Washington is shipping more and more aggregate for Multnomah County.

In discussing the cost of importing aggregate with various operators, I would estimate that the transportation cost into the county probably averages \$1.75 to \$2.00 per ton. This is based on weighting actual cost estimates of the major importers. They all acknowledge that they are making very little profit on imported gravel. Their profit comes from the sale of asphalt or ready mix. Competition from the other county operators is holding imported gravel to a very small profit level. As the availability of gravel within the county further decreases, the cost to Multnomah County will become significantly higher. The total cost to the county of imported aggregates could be estimated simply by multiplying \$2.00 per ton times 14 million tons for an estimated cost to the county of \$20-30 million annually.

It is important that the county do as much as possible to protect its few remaining aggregate sites. The benefits from having their own aggregate production results in significant savings to the county because it is a

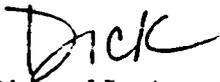
- Managing Director**
Richard L. Angstrom
- Administrative Assistant**
Rebecca Cozart, CAE
- Legal Counsel**
Charles R. Schrader

Don Anderson
January 23, 1990
Page two

lower cost material. In addition to having cheaper aggregates available local aggregate resources also hold down the competitive costs of imported aggregates. If Multnomah County were to not protect known significant aggregate sites, the county would become totally dependent on outside sources for all of its aggregate resources. Ultimately the cost to the county would be staggering. Its impacts on home construction, building construction and highway construction would result in a real deterrent to new construction as well as less road maintenance.

We will be happy to work with you and representatives of Multnomah County to provide information and support for protecting significant aggregate resource sites. One last point I would like to make is that other county officials are becoming more concerned about having to protect aggregate resources for Multnomah County. Land use only requires that a county provide for its own resources and does not mandate protection of aggregate resources for other counties.

Sincerely,



Richard L. Angstrom
Managing Director

LAW OFFICES OF
RAPPLEYEA, BECK, HELTERLINE & ROSKIE

1200 THE BANK OF CALIFORNIA TOWER
707 S. W. WASHINGTON STREET
PORTLAND, OREGON 97205

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OF COUNSEL

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KERRY M. SMITH
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HARVEY N. BLACK (1986)
BORDEN F. BECK, JR. (1989)
JOHN D. PICCO
COUNSEL

March 14, 1990

OUR FILE NUMBER
S152-1

HAND DELIVERED

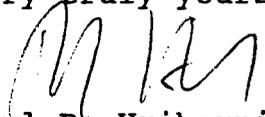
Mr. Lorna Stickel
Planning Director
Multnomah County Department of
Environmental Services
Division of Planning and Development
2115 S. E. Morrison Street
Portland, Oregon 97214

Reference: Multnomah County Goal 5 Periodic Review
Howard Canyon Quarry

Dear Lorna:

Enclosed is a letter from state highway engineer dated February 22, 1990 which was inadvertently omitted from the packets which were delivered to the Planning Department. I have provided seven copies so that each of the packets will have a copy of the document. Please call if you have any questions.

Very truly yours,


Paul R. Hribernick

PRH:mmd
Enclosure
prh643

cc: Mr. Raymond Smith (w/enclosure)
Edward J. Sullivan, Esq. (w/enclosure)



Department of Transportation

HIGHWAY DIVISION

TRANSPORTATION BUILDING, SALEM, OREGON 97310

In Reply Refer to
File No.:

DATE: February 22, 1990

INT

TO: Susan Brody, Director
Department of Land Conservation and Development

FROM: Donald E. Forbes, P.E.
State Highway Engineer

SUBJECT: Oregon Land Use Planning Goal
Resource Planning

The Highway Division requires quality mineral aggregates for road and bridge construction. If Oregon's Highway System is to continue to be maintained and expanded, the State's mineral aggregate resources must be inventoried and protected for future use.

Aggregates which do not meet our requirements for quality cannot be used for construction of bridges and highways. Collectively, Oregon has a lot of rock but it is poorly distributed. For example, quality rock from which to make aggregates is extremely scarce in Multnomah, Clatsop, Tillamook and Lincoln counties. In some locations the importing of aggregates requires a 75-mile round trip.

During the 1988-1989 fiscal period the Division used approximately 6,000,000 tons of aggregates in various forms in its Construction and Maintenance Programs. This represents an expenditure of some \$45,600,000.

Many more miles of highway are scheduled to be improved or repaved in the future through our Access Oregon Highways and Surface Preservation Programs. Repaving projects require between 4,000 and 5,000 tons of quality aggregate per mile of two-lane highway.

Cities and counties also depend on a steady supply of quality aggregates for their road construction and maintenance programs. The recent increases in gasoline tax revenues have allowed these agencies to begin to expand their programs to stay abreast of their roadway transportation needs.

Susan Brody
February 22, 1990
Page Two

Some of the criteria for mineral aggregates to be used in road construction and maintenance are:

Quality - The aggregates must be of a sufficiently high quality to provide the necessary strength and durability for highway and bridge construction.

Quantity - To make an aggregate source economically feasible there must be a sufficient quantity of materials available for use over a period of several years.

Availability - The materials must be as close as possible to the construction site to reduce transportation costs.

This third criterion is especially important. The cost of hauling aggregates by truck is currently \$46 per hour, so any haul distance requiring an extra hour per trip would add \$4.60 per ton to the cost.

The hauling costs start to add up in Multnomah County, where half of the high quality aggregate must be imported from sources outside the county. Even with the economics of barge and freeway transport we pay an extra \$1.50 to \$2.75 to haul each ton of aggregate. Last year, projects in Multnomah County used some 375,000 tons of aggregate for which we paid \$796,875 in added transportation costs.

The Highway Division feels the need to help protect sources of quality aggregates to assure that we are able to get the most value from our gasoline tax revenues. If you feel we can be of assistance in this endeavor, please do not hesitate to call on us.

bc Robert N. Bothman
Bill Anhorn
Duane Christensen
Bill Penhollow

Ken Husby
Jack Bryan
Don Hull
Dick Angstrom ✓

JB:sl

BOARD OF
COUNTY COMMISSIONERS

MR REUBEN LENSKE
7315 SE 82ND
PORTLAND OR 97266



CLERK'S FILE
COPY

1990 MAR 13 PM 4:58

MULTNOMAH COUNTY
OREGON

Re: Multnomah County Periodic Review -
Goal 5 Mineral and Aggregate Resources
Howard Canyon Quarry.

March 13, 1990

Gladys McCoy, Chairwoman,
Multnomah County Board of Commissioners.
Portland, Oregon 97204.

Dear Executive Commissioner Gladys McCoy.

My name is Reuben Lenske and I am a resident of Portland. Raymond Smith is a resident of the Corbett area and engaged a firm of attorneys, including Russell Helterline, to classify a rock quarry designated as Howard Canyon Quarry as either 3A or 3C, which would authorize the sale of rock from that particular quarry.

Yesterday, March 12, Raymond Smith presented me with a copy of the 50+ pages of a memorandum dated March 6, 1990 prepared and filed by his attorney on the subject. Since I am actual and record owner of a half interest in the land that covers approximately 100 acres that include most of the quarry involved I wish to put in my oar on this quarry matter.

But before I became a part owner of the quarry land I was a citizen of the county and I am writing you as such citizen without regard to whether or not I am owner of part of the land Please accept what I say in that light.

First should be considered - the convenience and expense of the present and future residents of the area. Gravel is in demand occasionally by every resident. More gravel is needed when new residents build. The nearest gravel business in the area is Gresham Sand & Gravel and they affirmatively have placed in the record that in the public interest that gravel pit should be available for residents in the Corbett-Springfield area. The expense of delivery from Howard Canyon Quarry is minimal. Gresham Sand & Gravel sells only a limited size of gravel and some species that the Howard Canyon Quarry can supply must be trucked from such distances as Brightwood and St. Helens. The public saving in gasoline, tires, road wear etc. will be substantial if the residents of the area could buy their gravel that sits in their back yard - isolated though it be.

Next, regarding proximity to residents. This gravel pit is so isolated from residences that one has to seek it to find it.

On part of the land in that area that is owned by Raymond Smith and myself is an extensive daffodil field and every Spring I invite friends and neighbors there for a daffodil picnic. The road we take passes the rock quarry. There is no residence nearby that one can see. One would have to travel to Alaska or the John Day area to find gravel pits that have so few residences near the gravel pit. Moreover, the convenience and cost to all other residents of Corbett-Springfield and the savings in gasoline, trucking, etc. far outweigh the convenience of the few scattered residents that might be slightly affected by the trucking of gravel from that isolated spot to the existing and future homes in that area.

The long memorandum by Mr. Hribernick covers satisfactorily all the other pertinent issues such as Wild Life or Fish Habitat conflicts, Noise Conflicts, Air Quality Conflicts, Alternative Sources, Geologic Hazard etc.

I realize that the tendency of executives is to ratify the recommendations of staff and employees of the County. The democratic procedure that leads to ultimate decisions by the Board of Commissioners makes available to private citizens the means of occasionally correcting the views or mistakes of the human element amongst the staff and employees.

I believe that this is an instance where the public interest will best be served by following the recommendation and desire of the private interests that seek 3A or 3C designation and it is almost a certainty that LCDC would follow the law and other precedents and grant the 3C ruling. The County Commissioners should do no less.

Respectfully,



cc: Craig Greenleaf
Greg Wolf
Jim Sitzman
Raymond Smith
Paul Hribernick

Quarry Application

✓ *BCC*
1/23/90

1/21/90

Multnomah County Board of Commissioners
1021 SW 4th
Portland, OR 97204

Dear Commissioners,

I am writing to you to urge that the Angel Brothers quarry application be put on hold until studies on the Forest Park wildlife corridor be completed. The mud and gravel which the Angel brothers propose to dig is not going to go anywhere. The wildlife so unique to a park in a major city might. Forest Park and its wilderness is one of the features of Portland and Multnomah County that make it a special place to live, and consequently attract businesses to locate here and attract visitors from all over the world.

There is a tremendous danger that the Angel Brothers new quarry will forever sever Forest Park's link to the Coast Range. I personally have seen deer, elk, coyote, racoon and signs of bear in Forest Park within several miles of the fashionable restaurants and boutiques on Portland's NW 23rd Street. This is something no other city in the world can boast. Please deny the Angle Brothers application until we can be assured that their quarry will not alter the wildlife in Forest Park.

Respectfully,



Dr. John Sherman
1912 NW Aspen
Portland, OR 97210

BOARD OF
COUNTY COMMISSIONERS
1990 JAN 23 AM 10:35
MULTNOMAH COUNTY
OREGON

SHERMAN
1912 N.W. Aspen Ave.
Portland, Oregon 97210



Multnomah County Board of Commissioners
1021 SW 4th
Portland, OR 97204

PTO

COPY

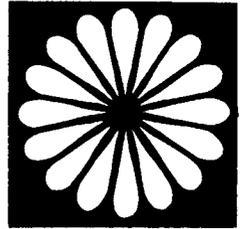
BOARD OF
COUNTY COMMISSIONERS

1990 MAR 26 AM 10:51

MULTNOMAH COUNTY
OREGON

**NORTHWEST
DISTRICT ASSOCIATION**

1819 N.W. EVERETT STREET #205
PORTLAND, OREGON 97209
(503) 223-3331



NWDA

March 26, 1990

Lorna Stickel
Planning Director Multnomah County
2115 SE Morrison
Portland, Oregon 97214

Dear Ms. Stickel:

The proposed mining extension into the Wildlife Corridor before studies of the Corridor are done is tragic and unthinkable. The stream that Angell Brothers plans in their "compromise" to mine is said to be seasonal only- and therefore losing it doesn't matter. BUT ANIMAL MOVEMENT IS ALSO SEASONAL. Whole populations of animals who change their range with the seasons have known where that water is. When it is gone, their traditional migratory routes no longer work. Just the loss of that water in itself poses unimaginable threat to the continued functioning of the Wildlife Corridor.

Angell Brothers offers their "compromise" on the basis that the 50 acres they propose to carve out of the Corridor is south of the present operation and therefore not a threat. But animals do not move through a corridor the way humans walk down a hallway. A migratory route may be narrow and crowded - and therefore there is all the more need for space to rest up from the stress of that crowding. Crowding pushes predator and prey close to each other; the need to escape that contact means need for lateral space to escape the contact as soon as possible. The loss of the 52 acres may mean stress on a particular population that eliminates it from the park. I'm thinking for example of ruffed grouse. I saw one recently on Holman Lane above Balch Creek. They do not fly any great distance, but move in short bursts of travelling through heavily wooded areas. They do not tolerate the presence of humans in their breeding range. The activity of mining may well turn them back from proceeding south into Forest Park.

We do not know what the patterns of migration are. We do not know the watering behavior of the various species. We do not know what OTHER water besides the creek that would be lost would be available to serve the migratory routes. How CAN the County countenance irrevocable loss of this resource before we even know the impact of the loss?

Loss of one bird species as compared with making a mining company comfortable and happy puts the matter in the same perspective as the struggle between the spotted owl and the timber industry. How much anguish and upheaval has been caused by attention to the survival of the spotted owl? Plenty. Why are these marginal considerations so important? Because they are indicators of wider concerns - and wildlife survival is a measure of our humanity.

Thank you for your attention.

Sincerely,

Chris Wrench, Chair, Health & Environment Committee NWDA

Site #8, Howard Canyon
“3 B” Designation for Site

Submittal from Edward J. Sullivan

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

In the Matter of Adopting an Economic,)
Social, Environmental, and Energy (ESEE)) **FINAL ORDER #90-**
Analysis for Mineral and Aggregate)
Inventory Site #8, Howard Canyon.)

Oregon Revised Statute 197.640 requires counties to review their comprehensive plans and land use regulations periodically and make changes necessary to keep plans and regulations up to date and in compliance with the statewide planning goals. A Proposed Local Review Order intended to bring the County into compliance was presented to the Department of Land Conservation and Development (DLCD) on February 28, 1989. DLCD recommended changes to selected items in the Proposed Local Order which included revising the Statewide Planning Goal 5 Economic, Social, Environmental, and Energy Analysis of the mineral and aggregate sites. The Oregon Administrative Rule guiding this analysis is found in Chapter 660, Division 16.

During the process of revising this mineral and aggregate ESEE Analysis public hearings were held before the Board of County Commissioners on December 19, 1989, January 9, 1990, February 20, 1990, and March 6, 1990. On each of those dates written and oral testimony was taken and heard regarding this site.

Based upon that testimony the Board adopts the following:

1. An ESEE Analysis for Site #8, Howard Canyon, which concludes that the appropriate classification of the site is "3B, Allow Conflicting Uses".
2. A packet of Findings in support of the ESEE Analysis conclusion.

This order and the foregoing are to become attachments to the Local Review Order to be submitted to the Department of Land Conservation and Development.

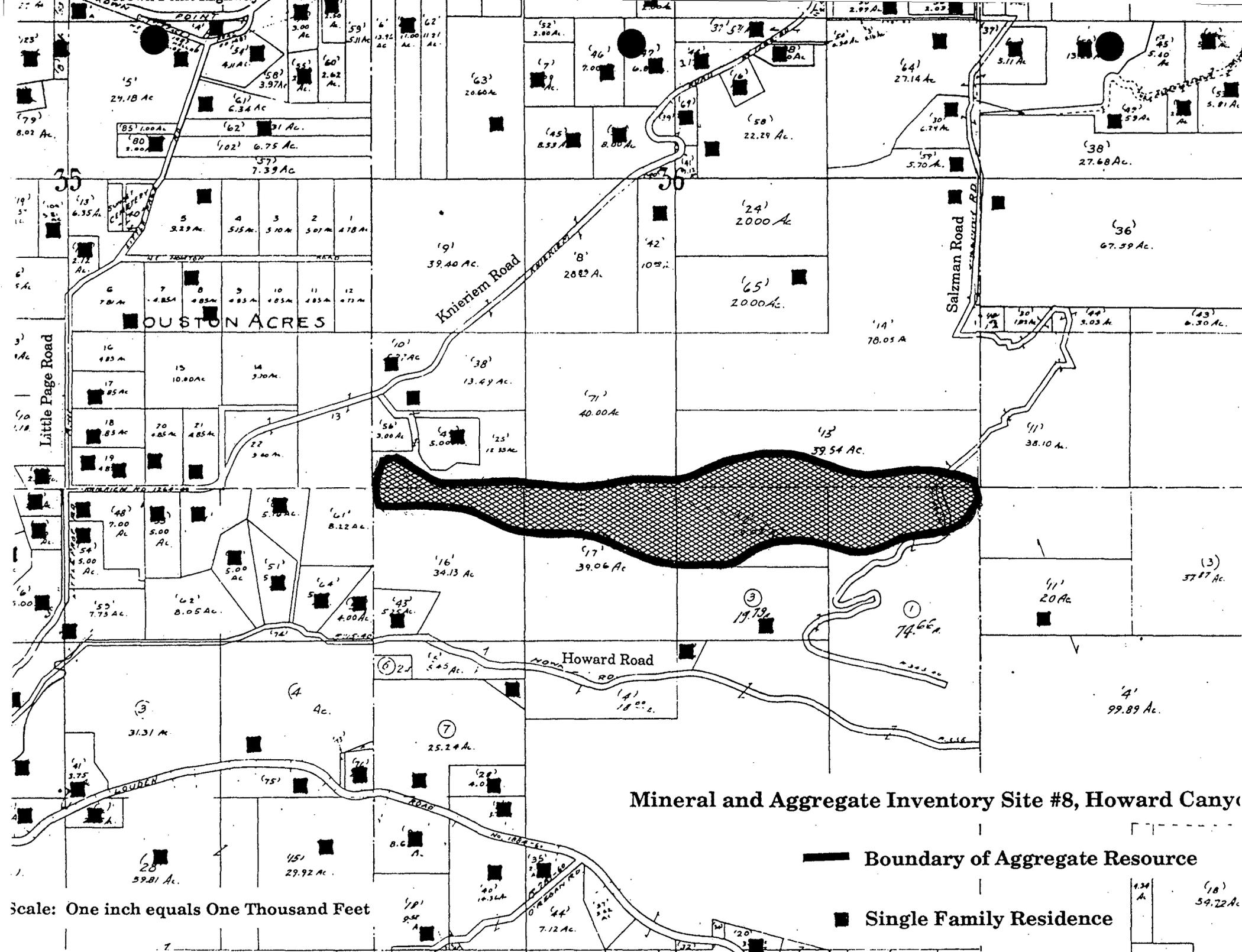
Approved the 27th day of March, 1990.

(Seal)

Gladys McCoy
Multnomah County Chair

Reviewed:
Lawrence Kressel, Multnomah County Counsel

By: _____
John DuBay
Chief Deputy County Counsel



Mineral and Aggregate Inventory Site #8, Howard Canyon

— Boundary of Aggregate Resource

■ Single Family Residence

Scale: One inch equals One Thousand Feet

HOUSTON ACRES

Knieriem Road

Howard Road

Salzman Road

Little Page Road

8.02 Ac.

24.18 Ac.

3.97 Ac.

6.34 Ac.

6.75 Ac.

7.39 Ac.

20.60 Ac.

8.53 Ac.

8.00 Ac.

22.29 Ac.

27.14 Ac.

5.11 Ac.

5.40 Ac.

5.81 Ac.

27.68 Ac.

20.00 Ac.

28.82 Ac.

20.00 Ac.

67.59 Ac.

27.7 Ac.

13.64 Ac.

40.00 Ac.

3.00 Ac.

5.00 Ac.

12.33 Ac.

39.54 Ac.

38.10 Ac.

34.13 Ac.

39.06 Ac.

19.19 Ac.

74.66 Ac.

20 Ac.

37.87 Ac.

99.89 Ac.

59.81 Ac.

29.92 Ac.

8.6 Ac.

4.0 Ac.

10.36 Ac.

7.12 Ac.

1.34 Ac.

54.72 Ac.

Multnomah County

Goal 5 Inventory

2/06/90

Type of Resource: Mineral and Aggregate
Multnomah County Inventory Site #8
Howard Canyon

Location: Along the section line between Section 36, T. 1 N, R. 4 E. and Section 1, T. 1 S., R. 4 E. See map with resource boundaries overlayed on Assessment and Taxation property line base map in inventory file.

Description: DOGAMI I.D. #26-0065

This aggregate resource site is a cleared ridge top which runs in an east-west orientation just north of Howard Canyon. As confirmed in a study by H.G. Schlicker & Associates in which 31 testpits were dug, the basalt lava resource occupies the upper 50 feet or more of the ridgecrest and is more than 4200 feet long and more than 350 feet wide for most of its length. The amount of aggregate material ranges from 150,000 to 2.7 million cubic yards. The ground surface of the resource area ranges in elevation from 780 feet to 860 feet.

1. Mr. Smith notes that the relatively flat bench on which the basalt lava resource is located is approximately 700 feet in width, with substantial area to serve as a buffer.¹

1. Mr. Smith, the owner of the Howard Canyon site, has submitted "Objections, Comments, and Criticisms" of the County's alternative ESEE consequence analysis. That document is duplicated and contained as the last document in this folder. This document is submitted by neighbors of the Howard Canyon site in response to those objections, comments, and criticisms.

We have no objection to inclusion of this supplemental information; however, related activities and impacts from the operation do extend beyond the ridgetop location of the resource.

Moreover, it will take time to excavate into the basalt flow far enough so that the mining operation is enclosed by pit walls 40 to 50 feet in height. It will take much longer to enlarge this pit floor sufficiently so that crushing as well as mining can be protected by the pit walls. Until then, mining and crushing will not be shielded and will require buffering. Additionally, the landowner has not shown how the soils will be stabilized.

The side slopes on the site vary from 50 to 90% (Schnitzer, DOGAMI, 1986). The ridge is bordered by forested ravines to the north with a small creek and to the south by Howard Canyon and Big Creek. Big Creek and its local tributaries have been mapped as Class I Streams by ODF.

2. Mr. Smith also notes that the top of the ridge where the mineral resource is located has average slopes of 5%.

Although the mineral resource is located on top of the ridge, the extraction process impacts surrounding side slopes. The crusher site (at least in the early stages), stock pile site, haul road, and at least part of the plant site will be on the side slope.

A. Available information indicates that the site is important (site has the ability to yield more than 25,000 cubic yards of mineral and aggregate material in less than 5 years):

No - Designate 1A: Do not include in plan inventory

XXX Yes - Go to B.

B. Is available information sufficient to determine the location, quantity, and quality of resource at the site?

No - Designate 1B: Address the site in future when
information becomes available

XXX Yes - Include in plan inventory and go to C.

C. Zoning: Multiple Use Forest-38; Multiple Use Forest-19; and
Exclusive Farm Use

Based on zoning, are there conflicting uses?

No - Designated 2A: Preserve the resource

XXX Yes - Go to D.

D. Describe existing and potential conflicting uses:

Single family residences: In the MUF-19 zone, single family residences are permitted as a primary use on a lot of 38 acres, as a use under prescribed conditions on a new lot between 19 and 38 acres with a forest or farm management plan, as a use under prescribed conditions on a lot of record of between 10 and 38 acres with a forest or farm management plan, or as a conditional use on a lot of record of less than 10 acres. The MUF-38 zone requirements are identical to the MUF-19 zone except that new lots must be at least 38 acres in area. Comparable standards are in the EFU zone for new dwellings. Single family residences constitute a significant conflicting use.

2. Mr. Smith asserts that the County failed to consider 1000 Friends of Oregon vs. LCDC (Lane County, 305 Or 384, 752 P2d 271 (1988)) because that case discourages single-family residences on resource land. He also notes that 1000 Friends of Oregon vs. LCDC (Curry County), 301 Or 447, 724 P2d 268 (1986) requires exceptions to Goals 3, 4, and 14 for the conversion of rural land to urban use. Mr. Smith states that "[i]f single-family uses are not allowed in MUF resource zones, there is no conflict. The county has not adequately justified when a single-family residence could be constructed on the site and, therefore, has failed to justify that the identified conflict (single-family residences) is, in fact an actual conflict."

First, 1000 Friends vs. LCDC (Lane County), dealt with establishment of new non-forest dwellings on forest lands. Here, we are dealing with existing dwellings and the establishment of a new commercial quarry operation. In addition, single-family residences are a permitted, and existing, use in this zone. One of the purposes of the Multiple Use Forest District is "to provide standards for residential and other uses, including local and tourist commercial services which are compatible with forest and agricultural uses;" MCC 11.15.2162. The existing dwellings are compatible with forest and agricultural uses and do, indeed, constitute a conflicting use with extraction of the aggregate material.

Second, there has been no conversion of rural land to urban use and no reason to go through the exceptions process to continue an existing use. Residential use is an outright permitted use on parcels of 19 or 38 acres in the Multiple Use Forest District and a conditional use on smaller parcels. This is not an application for new construction of an urban residential use, the Goal 5 process requires an analysis of the impacts on existing conflicting uses. The only urban use is the commercial quarry proposal, and its associated uses which has public service facility impacts and is far beyond the needs of the rural community in which it is located, thus violating statewide Planning Goals 11 and 14. Therefore, 1000 Friends vs. LCDC (Curry County) is not applicable.

Finally, because single-family dwellings are allowed in the Multiple Use Forest District and do constitute a conflict, they must, therefore, be considered in the Goal 5 ESEE process.

A range of potential conditional uses and community service uses are listed in the MUF zoning districts but to be approved the approval authority shall find that the proposed use "[w]ill not adversely affect natural resources" (MCC 11.15.7120 (B)). In the MUF zone such uses include churches, schools, cottage industries, service commercial, and tourist commercial establishments.

4. Mr. Smith alleges that the county fails to state

that conditional uses and community service uses cannot be located in resource lands if they will adversely affect natural resources.

There is no objection to the inclusion of this statement and, in fact, it had already been included above.

Describe the consequences of allowing conflicting uses:

OAR 660-16-005 (2) provides:

If conflicting uses are identified, the economic, social, environmental and energy consequences of the conflicting uses must be determined. Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites.

5. Mr. Smith contends that the county has failed to take its identified conflicting use and assess what impacts that use would have on the Goal 5 mineral and aggregate resource.

The fact of the matter is that allowance of single family residential use will have very little actual impact on the resource. If fully allowed, residences would generally be on 19 or 38 acre parcels; therefore, the resource site would largely be preserved for future mineral extraction.

If both uses, single family residences and quarry operations, were required to co-exist, the impacts on the resource would be primarily economic because of the cost involved in mitigating the impact on surrounding dwellings, including mitigation of social and environmental impacts. The operating costs would increase due to restrictions for the protection of the nearby dwellings. In addition, the operation would be subject to stricter noise and dust controls for the environmental protection of the surrounding uses.

Economic:

1. Impacts on Resource: The consequence could be the delay of development of a quarry site in the county east of the Sandy River and outside the Mt. Hood National Forest and Columbia River Gorge NSA available at the present time for commercial use. However, the County finds that, although not currently being considered for development, there are eight other sites within a 25 mile range of the subject site. (See February, 1989 ESEE worksheet at 13 and report of Lewis Scott, P.E., dated January 9, 1990). The County believes these reports and data.

6. Mr. Smith challenges the conclusion that there are other sites available for development and that Howard Canyon is not needed. He alleges that "need" is not a consideration for the Goal 5 analysis and that the existence of eight other sites within a 25-mile range is not relevant.

In Mobile Crushing Company vs. Lane County, 13 Or LUBA 97 (1985), written by Mr. Kressel, in determining that the conflicting residential use deserved full protection, LUBA looked to the County's finding:

"We agree there is an aggregate resource at the site. However, with the five nearby quarries available, non-use at this time would not outweigh a high degree of conflict with existing residences. Furthermore, denial at this time nearly preserves the resource for the future." Id. at 108.

As Mobile Crushing demonstrates, "need" is a relevant inquiry for the Goal 5 process and in this case there are alternative sites to meet the demands of the area. Further, the demand in the immediate area, which is the relevant market, will be relatively small based on the limited potential development in the MUF zone, especially in terms of Goal 10 and the provision of affordable housing in this rural area.

In addition, the land may be used for other economically viable uses which are permitted outright in the zone, i.e. farming or forestry.

7. Mr. Smith asserts that availability of other economically viable uses is not relevant to the Goal 5 inquiry. He indicates that the reclamation plan will ensure that farm or forestry uses will remain available on the site in the future.

The statement was made to show that the landowner has an economically viable alternative to immediate exploitation of the aggregate resource.

If designated 3B, the Howard Canyon site will not be available for commercial use; however, East Multnomah County is currently and adequately supplied by at least five different operations. (See January 9, 1990 Geologist Report at 3):

1. Smith Bros. Quarry
 2. Brightwood Quarry
 3. Gresham Sand and Gravel
 4. Cascade Sand and Gravel
 5. Pacific Rock Products
-
8. Mr. Smith again asserts that alternative sources are not relevant to the Goal 5 analysis. He goes on to a site by site explanation of why these alternative sources are inadequate.

The general implication is that other sources would be unwilling or unable to deliver the material due to the high price of delivery. By the time the Howard Canyon quarry has built the required buffers, sediment ponds, and has reconstructed 4.5 miles of county road, their price, too, will be high.

Mr. Smith's representative made several telephone inquiries as to the availability and cost of 3 inch minus rock. See affidavit of Paul Hribernick. However, few quarry operations have or sell rock that size. 80% to 90% of the rock sold is 3/4 inch minus. See affidavit of Lewis Scott. In follow-up telephone inquiries made by Ms. Peebles, additional information was obtained. For example, one of the companies Paul Hribernick reported as unable to deliver the rock disclosed that this was because the company had only one truck.

The Howard Canyon resource would not be available for immediate exploitation if designated 3B, but may increase in value if preserved for future use, given the relative scarcity of the resource and possible demand in this portion of the County. Such portion is not anticipated to grow rapidly before the next periodic review of the County's plan.

9. Mr. Smith contends that a 3B designation does not protect the resource or preserve it for future use. He claims that allowance of the conflicting use will ultimately prevent the use of the Howard Canyon site.

3B does sufficiently protect the resource. The site remains on the inventory and a subsequent ESEE consequence analysis may indicate the extraction is appropriate at a future date. The zoning of surrounding lands will prevent intensive residential development (MUF-19 and MUF-38) and no conditional uses will be allowed if they are found to conflict with this inventoried resource. Mobile Crushing, supra. found that the effect of prohibiting immediate exploitation is to "preserve the resource site for future mineral extraction." Id. at 108.

The existence of other resource sites in the area is relevant to the question of economic consequences. The site is not now

necessary to meet the demand for the resource. Transportation is considered to be economically viable up to 25 miles for a one way trip. (Gray, DOGAMI, 1988). There are at least eight other aggregate sites in operation within a 25 mile range of this site which can serve the local area:

1. Damascus Quarry is located one mile south of Damascus in Clackamas County. This site is located about 14 miles from Springdale and 18 miles from Howard Canyon.
2. Construction Aggregates is located one mile south of Barton in Clackamas County. This site covers 200 acres and is located 9 miles from Orient, 17 miles from Springdale, and 19 miles from Howard Canyon.
3. Deep Creek is located 1/2 mile from Barton in Clackamas County. It is 15 miles from Springdale and 19 miles from Howard Canyon.
4. American Sand and Gravel is located 2 miles from Barton in Clackamas County and is a large operation with considerable reserves. The site is 7 miles from Orient, 14 miles from Springdale, and 16 miles from Corbett.
5. Mt. Hood Rock is located in Brightwood in Clackamas County and East of the Sandy River. The site is about 18 miles from Orient and 24 miles from Howard Canyon.
6. Gresham Sand and Gravel is located within the city limits of Gresham and is 7 miles from Springdale and 13 miles from Latourelle.
7. Rogers Construction is located within the city limits of Gresham and is about 7 miles from Springdale and 11 miles from Howard Canyon.
8. Oregon Asphaltic Paving is located in Gresham and is 8 miles from Springdale and 12 miles from Howard Canyon.

Sites 6, 7, and 8 (the Gresham sites) may become depleted over the next 15 years. However, the Clackamas County sites are expected to remain available for at least another 25 years. The existing sites within a 25-mile radius are sufficient to meet the

needs of the county for the duration of the planning period. Such economic consequences may be analyzed once again during the next periodic review.

10. Mr. Smith again challenges the relevance of whether there is a need for additional aggregate sources. He also discusses the economics of hauling small amounts of aggregate and existing conditions at several alternative sites.

Ten cubic yards of rock (one load) is expensive anywhere and some producers will not deliver one load. This is a fact of economics and has little to do with the Howard Canyon quarry. In addition, the analysis is based upon delivery to the Corbett area, but the relevant area of large scale commercial use will be east Gresham.

Moreover, Mr. Smith based his inquiries and analysis on transporting 3 inch minus rock, which is used primarily for logging and construction roads. The general market demand is for 3/4 inch rock. See affidavit of Lewis E. Scott. The attached affidavit of Pam Peebles shows the various responses to an inquiry regarding availability and cost of 3/4 inch rock.

11. Mr. Smith notes that the Gresham site will be depleted before the expiration of the county's current 20-year planning period and claims that Clackamas County sites cannot deliver material in a cost effective manner. He states that alternative sites can deliver rock only at prices two to three times the price of Howard Canyon. He also claims that the county is delaying protection until the next periodic review by allowing the conflicting use and prohibiting immediate exploitation. He asserts that this may potentially eliminate the availability of the site prior to the next periodic review.

As indicated above, the site will remain on the Goal 5 inventory and be protected as a Goal 5 resource. The zoning for the area will guard against intensive development that would eliminate the availability of the site prior to the next periodic review. Moreover, there is no evidence to support the allegation that other sources would cost two to three times as much as Howard Canyon,

especially after development costs.

Additionally, there are two potential sites on forest service lands which may be made available to the local residents as a common-use area, community pits or under contract, according to Mt. Hood District Geologist. Sites located on USFS lands in the Mt. Hood National Forest can be operated in a variety of ways with prices starting as low as \$1 per cubic yard. Economically, Howard Canyon would be unable to compete with the extremely low costs associated with a community pit or common-use area. Community pits are considered by the county to be an economically viable option for the County at this location. In addition, the community pit or common-use area would lessen the demand on existing sites and prolong the productivity of those sites.

12. Mr. Smith alleges that the USFS does not have an active pit in the area and that the \$1 per cubic yard does not include crushing. He further contends that it is inconsistent to state that Howard Canyon cannot compete with community pits while elsewhere in the ESEE analysis "it rejects the idea that Howard Canyon has no economic value despite the inability of all of its 'alternative' sites to compete with Howard Canyon on the price point."

Mr. Smith does not contend that Howard Canyon can compete with the community pit even if crushing is done off site. Moreover, his supposed inconsistency is unclear. There is no evidence in the record on the price of Howard Canyon materials. In addition, the ESEE does not "reject the idea that Howard Canyon has no economic value despite the inability of all of its 'alternative' sites to compete with Howard Canyon on the price point." As stated above, once Howard Canyon quarry has built the required buffers, sediment ponds and has reconstructed 4.5 miles of county road, the price of the aggregate material will necessarily be high and it may be unable to

compete with existing operations.

The Howard Canyon site is on the inventory. The site has economic value and is significant. However, it does not necessarily follow that all significant resources must be available for immediate exploitation. Once inventoried, the county must determine whether to 1) fully protect the resource; 2) allow conflicting uses fully; or 3) limit conflicting uses. See OAR 660-16-010. Howard Canyon should be placed in the second category which allows conflicting uses fully and a 3B designation should be placed on the site.

13. Mr. Smith again contends that a 3B designation will not protect the resource. He notes that sites are becoming more scarce in East Multnomah County and that there will be greater conflicts in the future due to development.

These issues have already been addressed. See "Map of Rock Materials in Multnomah County," which is contained in this folder. The site will remain on the Goal 5 inventory and thus be protected as a valuable resource. There is an adequate supply of aggregate material in East Multnomah County and the MUF-19 and MUF-38 zoning will prevent significant development of additional conflicting uses.

2. Impacts on Conflicting Uses: Homes too near the noise and dust of extraction activities will have lessened resale value. Proportionally, there is a greater economic impact on the value of the nearby homes and other uses than there is on the resource. The value of the resource may indeed increase over time if left in place.

14. Mr. Smith asserts that there is no support for the allegation that homes too near the noise and dust will have less resale value. He contends that if

the quarry can operate within the DEQ standards, there will be no value-decreasing impact on the homes.

There is evidence in the record of increased noise, dust, truck traffic, road inadequacy, and resale value of a home near the quarry operation. Operation within a certain standard is not the equivalent of no impact. In addition, Mr. Smith notes several standards with which he allegedly does not have to comply due to various exemptions. If this is the case, the impacts on the surrounding uses will be greater and resale value may be decreased further.

Several of the surrounding property owners have written statements, copies of which are attached, regarding impacts of the existing quarry operation at the site. Mr. and Mrs. Stokes hear the noise from the rock crusher and blasting, particularly when the east wind blows. Ms. Faught hears the blasting and crushing. One day the blasting shook her house so badly that her china fell down. Ms. Hagen also hears the noise from the crusher, the blasting, and the gravel trucks. Moreover, she is concerned about traffic safety on the windy roads when the "loaded gravel trucks are vyeing [sic] for space on Howard with the school bus, horseback riders, joggers and kids on bicycles." These are the perceived impacts of the quarry operation and will cause a decrease in the resale value of nearby homes.

3. Requirements of other applicable Statewide Planning

Goals:

A. Transportation, Goal 12 - To provide and encourage a safe, convenient and economic transportation system:

In testimony from the County Engineer and Opponents' traffic engineer during the Conditional Use 7-87 public hearings on the subject site, it was stated that neither SE Howard nor E Knieriem Roads, the only two options for travel to and from the property, are of sufficient construction to withstand the extra

load of gravel trucks on a constant basis without breaking up. In addition, the Scott Report of January 9, 1990 also finds these roads inadequate for commercial hauling of rock. The County believes this testimony and evidence.

15. Mr. Smith states that the ESEE fails to address both prongs of Transportation Goal 12 - economic and safety. He contends that the county is failing to protect the resource and is failing to encourage and provide an economic transportation system. He also contends that the county has ignored Goals 9, 10, and 13.

As previously stated, a 3B designation continues to protect the resource; the site remains on the inventory. In addition, there is no evidence that immediate exploitation of the resource at Howard Canyon would provide an economic source for road construction.

Goal 9 - Economics - The evidence in the record indicates that the current needs of the county are being met by existing quarry operations. Economic development is to be encouraged; however, the benefits derived from immediate development of this site do not outweigh the negative impacts on surrounding uses. See the Economic consequence section of the ESEE.

Goal 10 - Affordable Housing - There is no evidence that the operation Howard Canyon will impact the price of aggregate material generally. In addition, the zoning of the surrounding area does not allow intensive development and will not require great quantities of aggregate material for construction of affordable housing. The Howard Canyon rock, if 3 inch minus as indicated by Mr. Hribernick's comparisons, is not the type used for housing construction.

Goal 13 - Energy - This matter is discussed in the Energy section of the ESEE analysis.

The estimated number of truck trips per day for full operation is 10 round trips. In test cores done on SE Howard Road, it was found that the road consists of two inches of oil

matte over nine inches of rock, construction very similar to a residential street standard, and therefore, cannot withstand frequent heavy truck traffic. These determinations, made during the 1987 conditional use permit proceedings, were not contested during the periodic review proceedings. The County believes these facts.

Also, for the one mile of SE Howard Road that gravel trucks would use, there are several areas of narrow road widths and difficult sight distances that would need modifications in order to safely accommodate large truck traffic. The Multnomah County Engineer found that due to road width limitations, Howard Road would be very difficult to improve to sufficiently safe conditions. The sight distance is marginal on both Howard and E Knieriem Roads due to steep grades and sharp curves and the quarry use will create hazardous traffic conditions on local roads and intersections. These determinations, also made during the 1987 conditional use permit proceedings, were not contested during the periodic review proceedings. The County believes these facts.

On the northward travel route option using E Knieriem, the road width and sight distances are better than SE Howard, but there is still the need for road bed and surface improvements similar to those for SE Howard for a length of one-half mile. The County Construction Engineer estimated a cost between \$500,000 and \$1,000,000 to upgrade these roads to safely carry

the proposed commercial traffic.² (See January 9, 1990
eologist Report at 4).

The economic consequences of quarry development at this
site support a designation of 3B.

16. Mr. Smith asserts that the county is attempting to
establish a conflict between roads and the Goal 5
resource and that the county is concentrating on
the operational aspects of the quarry rather than
analyzing the Goal 5 resource.

Mr. Smith contends that the road impacts will
affect a finite number of people. (The "Let them
eat dust" school of conflict resolution.) He also
alleges that the opponent's traffic expert
confirmed that the sight distance is adequate on
Howard Canyon Road.

Mr. Smith estimates the cost of modifying Howard
Canyon Road to be \$60,000. Mr. Smith has also
agreed not to remonstrate against formation of a
local improvement district.

Mr. Smith states that E Knieriem Road offers two
full lanes of traffic, a double-striped center
lane and marked fog lines on the shoulders.

The operational aspects of the quarry, including
the impact on the roads, are relevant to the ESEE
consequence analysis required by the Goal 5
process. Traffic and road improvement issues
associated with the quarry operation will have
economic, social and environmental consequences
and must be considered in determining whether to
allow immediate exploitation of the resource at
this site.

Contrary to Mr. Smith's alleged finding of adequate
site distances on Howard Canyon road, the traffic
engineer's report stated possible sight distance
problems with several blind driveways and

2. This estimate pertains to the 4.5 miles of County roads
that must be brought to certain standards to handle commercial
hauling traffic at the Howard Canyon site.

potential problems with required stopping distance for trucks. There was no conclusion that Howard Canyon Road offers adequate site distance. See also statements of neighbors regarding traffic safety, blind driveways, loose gravel, required stopping distances.

Mr. Smith offers no support for his \$60,000 estimate regarding improvement of Howard Canyon Road. Nor does he address other areas that may require improvement as a result of this operation. Surrounding property owners are not willing to be part of a local improvement district to pay for improvements made necessary by operation of the quarry. No other response has been given to the County's estimate that road improvements will cost between \$500,000 and \$1 million. See attached statements.

Ms. Givens' statement indicates that the shoulders on E Knieriem Road are between six and twelve inches wide near her house and that the shoulders become virtually non-existent when the road narrows approximately one-third of a mile from the intersection of E Knieriem and Little Page Roads. She further states that there is a sharp curve about 100 feet from her driveway and oncoming traffic cannot be seen until it is through the curve. A copy of this statement is submitted herewith.

Social:

1. Impacts on Resource: An extraction operation would be subject to limitations on hours and days of operation (as proposed in the amended Mineral Extraction Code section). Because of the wind and funnel effect of the canyon topography, buffering will have to be extensive to protect nearby noise sensitive uses, if effective at all. The Scott Report at pp. 3-4, indicates that violations of DEQ noise rules is likely and there is no evidence that operation of the site would be able to comply with such regulations. The County finds that such violations are likely and chooses to avoid such negative environmental consequences by permitting other uses fully.

17. Mr. Smith claims that the county has ignored social impacts on the resource.

He also states that his registered acoustical engineer finds that there is no problem meeting DEQ or county noise standards at the site.

In addition, Mr. Smith contends that it is unclear whether the county considers noise a social consequence or an environmental consequence.

First, just as found in the Mobile Crushing case, no social consequences would be engendered by allowance of the conflicting use.

Mr. Smith's acoustical engineer has interpreted Multnomah County Ordinance No. 316 to allow quarry operation as an exception to the noise standards based upon an exception for "industrial or construction organizations or workers during normal operations." Mr. Smith's acoustical engineer is not qualified to make the legal determination of whether a particular quarry operation qualifies for an exception. He may be qualified to determine whether the anticipated

noise generated falls within acceptable levels, but this he has not done.

The acoustical engineer does not discuss the type of berming or buffering that would be required to protect the site. He merely makes a conclusionary statement that "[o]nce excavation has proceeded into the mountain, if a rock ridge is left at the perimeter of the resource area, all residences will be protected from sound levels in excess of that allowed at all hours of the day." No data exists on which such a view could be supported.

Noise is both a social consequence and an environmental consequence. Moreover, it may be considered an economic consequence, as its presence may decrease the value of surrounding properties and operation of the site may require additional berming and screening to protect surrounding residences.

2. Impacts on Conflicting Uses: The approximate distances from the closest existing residences to the mapped resource area are: one at 400 feet, one at 500 feet, and two at 700 feet. Between 1980 and 1988 a total of 5 new dwellings have been issued permits in Township 1 South, Range 4 East, Section 1. The total number of dwellings predating 1980 was 21 in this section. One section to the west has a much higher density and supports 55 homes, to the north are 40 homes, to the east are 11, and only 2 are located to the south. The local rural area growth rate is 1.1%. There are 96 dwellings within a 1 mile radius of the site.

18. Mr. Smith notes that he owns the closest house to the site and one of the houses 700 feet from the site. He also states that the house located 500 feet away is actually 1,600 feet from the existing quarry operation and alleges that the mining plan will prevent any noise impact.

Again, Mr. Smith challenges noise impact statements regarding the affect of the topography and wind on noise levels made by a geological

engineer as being contrary to the laws of physics and a scientific impossibility.

Mr. Smith may own two of the nearby dwellings, however, he does not live near the site. If the dwellings are occupied, DEQ noise regulations apply. In addition, there is no evidence that the operation will not impact the dwelling that is 500 feet from the site. Even if the noise level is within DEQ standards, it may still adversely affect nearby dwellings. Meeting the standard is not equivalent to "no impact." See Statements of Neighbors submitted herewith.

Perhaps "amplify" was a misfortunate choice of words, but Mr. Smith's acoustical engineer does not refute the fact that the canyon wall can "reflect and possibly focus sound toward one or more locations within a valley." As can be seen from the neighbors statements, the noise has a greater impact when the east wind blows.

Operation of the quarry will interfere with the use and enjoyment of property by nearby residents. The noise generated by blasting, machinery, and rock crushing is considerable. In the opinion of a certified engineering geologist, on-site crushing will constantly challenge DEQ and County noise and dust limits. (See January 9, 1990 Geologist Report at 4). Neighbors have complained about the blasting done in connection with the owner's personal use. The amount of necessary blasting will increase if commercial use is allowed. Proposed use of this site, based upon information provided by the owner, is expected for a period up to 35 years.

The impact of the noise is increased by the topography of the site. The noise is amplified through the wind and funnel effect of the canyon topography.

3. Requirements of other applicable Statewide Planning

Goals:

A. Transportation, Goal 12 - To provide and encourage a safe, convenient and economic transportation system:

The transportation impacts discussed under the economic portion of this analysis are equally applicable to consideration of the social consequences. Local residents will be subjected to the traffic and road problems discussed in the prior section.

The social consequences of the proposed operation justify a 3B designation at this time.

19. Mr. Smith makes the same challenges to the county's analysis of Goals 9, 10, 12, and 13 under this social consequence section as he did under the economic consequence section.

Therefore, we make the same responses we made to objection #15 and incorporate them herein by reference.

Environmental:

1. Impacts on Resource: The mineral and aggregate resource may be preserved for future use by a 3B designation. The 3B designation simply means that conflicting uses will be allowed and the resource will not be available for immediate exploitation.

A deer and elk wintering area (ODF&W, 1988) is located within one mile of the resource site to the southwest and poses a conflict in terms of proximity to weakened wintering herds. In addition, past operations at the site have resulted in violations of the Oregon Forest Practices Act due to disturbance of a Class I Stream. These constitute direct conflicts with other Goal 5 Resources.

20. Mr. Smith again contends that the county's view that a 3B designation preserves the resource for future use is invalid. He also claims that there is no support for the position that operation of the quarry will negatively impact a deer and elk wintering area.

In support of Mr. Smith's position that the quarry operation will have no impact on fish and wildlife, he offers the statement of Robert H. Ellis, a longtime family friend of Mr. Smith's, who notes that Dr. Paul Whitney agrees with his analysis.

Mr. Smith also contends that a previous forest practices act violation was not on the site and is therefore, irrelevant. He states that reclamation and revegetation will be an on-going process and will encourage grazing.

Mr. Smith states that there is no explanation of how noise and dust may conflict with nearby farm and forest use. He further notes that the only farm and forest land is on an adjacent site which he owns.

Mobile Crushing makes clear that a designation to fully allow the conflicting residential use, preserves the resource for future use.

As indicated in the Ellis report, there are deer present at the site and elk pass through occasionally. Residents in the area have also noted the presence of deer and elk which may be impacted by the quarry operation. Further, since Mr. Smith's gravel operation commenced, there has been a significant reduction in the number of coyotes in the area. See Statements of Mr. and Ms. Peebles and Ms. Faught.

Previous forest practices act violations have resulted in siltation of nearby streams. This is relevant because it shows the level of responsibility and lack of care demonstrated by Mr. Smith, to the same extent that commercial sales have occurred from this site.

Excessive noise can have adverse affects on farm animals; they can become frightened and less productive. Dust can adversely affect both plants and animals.

Removal of between 6 to 7 feet of overburden would be required for development. Soils for this site have been as Mershon Silt Loam series by SCS in 1983 which have a classification of III to IV, depending upon slope. The Forest Site Index for this resource site is 120-135 for Douglas Fir (SCS, 1983), this is the reason the area has been zoned MUF. Mershon soils on slopes over 15% are highly erodible and subject to severe potential slumping (SCS, 1983). Side slopes associated with this resource vary from 50 to 90% (Schnitzer, DOGAMI, 1986). Blasting vibration and increased trucking locally would create increased dust and noise conflicts with adjacent farm and forest land use.

2. Impacts on Conflicting Uses: Noise, dust particulates, and blasting are impacts on such sensitive land uses as homes, schools, and public parks if they are too close to the extraction operation. As indicated above, there are several homes located in close proximity to the site that would suffer negative environmental consequences from a quarry operation. Conditional uses such as schools, can be prohibited through the conditional use process due to conflict with an inventoried resource. A 3B designation does not remove the site from the inventory, the designation merely prohibits immediate exploitation.

21. Mr. Smith states that the county ignores that schools and public parks cannot be located in the MUF areas if they conflict with a natural resource operation. He also contends that the county's statements regarding noise impacts ignores compliance with DEQ requirements and that many of the homes are separated by canyons and streams.

Mr. Smith further contends, again, that 3B will allow conflicting uses to be located in a manner which would prevent the future use of the quarry.

The county has specifically noted that conditional uses, such as schools and parks cannot be located in MUF districts if they conflict with a natural resource. A 3B designation for this site would keep it on the inventory and protect it from such conditional uses being located nearby. Again, with respect to noise generated from the site, meeting DEQ standards is not equivalent to no impact on the nearby dwellings. The attached statements of surrounding residents provide evidence of the adverse affect of noise generated by the quarry operation.

As previously stated, the zoning for the area prohibits intensive development and the site may be used for a quarry if a subsequent ESEE consequence analysis justifies the use.

3. Requirements of other applicable Statewide Planning Goals:

A. Goal 4 provides for the following forest uses:

1. the production and processing of trees;
2. open space, buffers from noise and visual separation from conflicting uses;
3. watershed protection along with fisheries and wildlife habitat;
4. soil protection;
5. maintenance of clean air and water;
6. outdoor recreation; and
7. grazing land for livestock.

The site has been used for grazing (livestock habitat) which is a designated forest land use. Previously proposed reclamation plans have included replanting with Christmas trees. Use of the mineral aggregate resource with proper reclamation is not considered to be a permanent conflict. However, in the short term use of this site for mineral extraction has already conflicted with Goal 4 Resources (watershed protection) and may create more conflicts.

22. Mr. Smith implies that there are no conflicts with forest uses under Goal 4 because there are no trees on the site at the present time. He goes on to describe his site plan and states that the new forest practices rules allow extraction and processing of aggregate materials outright.

The fact that there are no trees on the site is irrelevant to the inquiry of whether there is a conflict with surrounding forest uses in the MUF zones. The area is planned and zoned for forest use, regardless of its present level of timber. Moreover, extraction and processing of aggregate materials is not an outright permitted use under the

new forest practices rules. The rules provide that mineral and aggregate resource use may be allowed subject to standards in the Goal and its implementing rule. OAR 660-06-025 (1) (c). The use must comply with review standards set forth in OAR 660-06-025 (5). The preliminary site plan submitted by the landowner is not binding.

B. Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources:

Fish and wildlife areas and habitat: There is a Class I stream immediately north of the resource ridge. The mapped resource area does not include the stream and it appears that actual extraction can occur without disturbance of the stream, however, road construction at the site has already resulted in disturbance of a Class I Stream.

Wetlands: The Class 1 stream noted above also is identified as a wetland on the U.S. Fish and Wildlife "National Wetland Inventory." Development of the site, including extraction and road construction may adversely affect the wetland area.

C. Goal 6 is to maintain and improve the quality of the air, water, and land resources of the state.

23. Mr. Smith states that road construction at the site has not caused a class I stream violation. He also contends that there is adequate space for sedimentation ponds to control erosion and runoff.

Although the class I stream violation may not have been at the site, Mr. Smith's nearby road construction did result in siltation of a class I stream in violation of the Forest Practices Act. This not only demonstrates the level of Mr. Smith's responsibility and lack of care, but also shows the sensitivity of the surrounding area.

Use of a rock crusher at this site requires a DEQ permit due

to potential pollution. Resource development has already conflicted with water quality (See 1987, Forest Practices Act violation above). Development of the site will create dust and off-site water quality impacts. Therefore, the site should retain its 3B designation.

D. Goal 7, Areas subject to Natural Disasters and Hazards:

Conflicting testimony was submitted in the CU 7-87 hearings regarding slope hazards at the site. The County believes testimony presented by the opponents during those proceedings and concludes that the consequences of slope hazards at this site outweighs beneficial consequences of the use of the site for mineral extraction and processing.

A letter was submitted from a soil scientist who conducted a preliminary investigation of the site in 1986. The letter stated that "due to the combination of site drainage, landscape position, and apparent stability, it does not appear that adverse geologic or natural effects to surrounding properties will occur as a result of the proposed operation." In that same year and Oregon DOGAMI reclamationist found no problem with the drainage, stability, or reclamation potential of the site.

A study submitted into the record by an engineering geologist indicated a slope hazard at the site due to the following:

1. Evidence of numerous landslides along the contact of the Boring Lava and Troutdale Formation;
2. The presence of numerous springs and seeps which occur along the contact of the Boring Lava and

Troutdale Formation; and

3. The Troutdale Formation at this site is subject to failure when overburden is removed.

Through an on-site inspection, a certified engineering geologist found steep slopes and indications of instability in the area below the rock bluff to be quarried. The area is underlain by the Troutdale Formation which can become unstable when exposed. At the very least, additional study is necessary to determine the geologic hazard potential. (See Lewis Scott January 9, 1990 Geologist Report at 4). Given the determination made above with respect to Goal 7, the County believes the engineering geologist's testimony and concludes that the consequences of slope hazards at this site outweighs beneficial consequences of the use of the site for mineral extraction and processing.

25. In reference to conflicting evidence regarding natural hazards submitted in a previous conditional use application proceeding, Mr. Smith notes that there was evidence indicating there was no problem with the stability of the site. Mr. Smith goes on to state that conditional use standards are not applicable during the Goal 5 process.

Mr. Smith claims that the County is relying on extremely general information and that Mr. Scott's report infers that mineral extraction will take place on steep side slopes. Mr. Smith's engineering geologist stated that "[t]here is no basis to assume that the Howard Canyon Quarry cannot be developed in a safe hazard-free manner.

The County does not contend that all conditional use standards are applicable. However, the information made available through the five previous conditional use denials is relevant to the ESEE consequence analysis portion of the Goal 5 process.

Mr. Scott's report did not state that extraction would occur on steep slopes. He did indicate, however, that parts of the plant site and the haul roads would likely occur on steep slopes. This area is a mapped hazard area and Mr. Scott agrees with Shannon & Wilson, the engineering geologists who previously evaluated the site, that the site should be studied in depth prior to making a determination that it is sufficiently stable to mine.

The resource site is associated with a known mapped hazard area (ODF, 1987 Geologist site review and Shannon and Wilson Study, 1978). A slump area, active in the last 20 to 30 years was identified. Erosion and subsequent sedimentation of the Class I Stream was documented during the development of an access road near the site by ODF in 1987. (See 1987 Forest Practices Act violation above). The use of this resource may create slope hazard conditions below the site and presents erosion and sedimentation problems off-site. Heavy truck use increases these risks. Conflict with Goal 7 has occurred in the past and is likely to occur again if the site is developed.

Due to the environmental consequences of development, the site should be designated 3B.

26. Mr. Smith raises his same objection with reference to the Forest Practices Act violation because it did not occur on the actual site and was not part of a mining operation.

Mr. Smith asserts that the county ignores testimony that roads can be constructed on the Troutdale formation.

With respect to the Forest Practices Act violation, see response to #23, above. The county does not claim that road construction cannot occur on the Troutdale formation. However, there must be some assurance that the potential adverse environmental impacts will be avoided.

Energy:

1. Impacts on Resource: Allowing noise and dust sensitive uses too close to the resource will alter the manner, location and extent of extraction activities, resulting in greater use of energy to the operator.

2. Impact on Conflicting Uses: N/A

3. Requirements of other applicable Statewide Planning

Goals: N/A

27. Mr. Smith contends that energy conservation has not been addressed as required by Goal 13. He states that rock will have to be hauled uphill from Gresham with a greater expenditure of energy.

If the quarry is not operated, the energy normally required for quarry operation will be conserved. In addition, Gresham Sand & Gravel is the only operation that indicated additional energy expense due to uphill hauling. This statement, however, assumes all transport will be to the Corbett area. The major market for commercial aggregate, however, is the East Gresham area.

CONCLUSION: The Resource at this site should:

Be fully protected - Designate 3A

XXX Not be protected due to overriding benefits from allowing conflicting uses - Designate 3B

Be partially protected by conditions which minimize the impact of conflicting uses - Designate 3C

Although there are few developable mineral resource sites available in Multnomah County east of the Sandy River, this site, as indicated above, is not the only site available for local use. A 3B classification would not result in the loss of a scarce resource to the immediate area, since other resources within 7 miles do exist and have been identified. Denial would not, therefore, locally create a hardship to future users of rock in the private and governmental sectors. Use of available resources in Mt. Hood National Forest, southwest of Larch Mountain (Mt. Hood National Forest, 1988) provides residents an economically viable and efficient alternative that has fewer impacts.

The overriding benefits of allowing conflicting uses fully include the prevention of the above-stated adverse consequences of fully protecting the resource for immediate exploitation. Due to the numerous existing conflicts and the potential for additional conflicts with statewide planning goals and the existence of other viable options, the County determines that Howard Canyon site should be classified 3B.

28. Mr. Smith claims that the finding of overriding benefits from allowing the conflicting uses is not supported by the record.

Mr. Smith also claims that the record shows that

adverse consequences to the single family dwellings are non-existent or can be easily remediated. He also asserts that the county failed to discuss the adverse consequences on the environment of allowing single-family dwellings to occur on the resource site.

Mr. Smith notes that Gresham Sand & Gravel, the only resource within 7 miles of the site, has an expected life of less than 20 years.

Mr. Smith claims that the county is viewing this as a land use application rather than an even handed analysis for Goal 5 classification. He further claims that there is a strong record rebutting allegations of conflict.

We submit that the record supports a finding that single-family dwellings deserve full protection in this case and that the effect of a 3B designation would be to preserve the resource site for future mineral extraction. This case is similar to Mobile Crushing, in which LUBA held that the conflicting single-family dwelling use could be found by the County deserve to be protected, while the resource site could be preserved for future mineral extraction.

There are several sites within the 25-mile range (25-mile transport was determined economical in the record) which are expected to be productive beyond the planning period. The site life expectancy of Gresham Sand & Gravel is not dispositive of the question of need. If relevant, the life span of that site may be considered in later periodic review proceedings.

The county has before it sufficient information regarding both sides of this issue to make an even-handed analysis for Goal 5 classification. The record speaks for itself regarding the existing conflicts. Moreover, it is precisely because the landowner is attempting to overcome five previous denials that these proceedings are important. It is regrettable that the landowner hid his information until the end of these proceedings, a tactic which belies his purported desire for "even-handedness."

Program: The site is designated 3B and is not appropriate for mineral and aggregate extraction at this time. The resource

will be protected for future use by the large lot forest zoning districts until a subsequent ESEE analysis might support exploitation of the resource. Only on lands owned by the same property owner as the aggregate resource could there be more homes or similar conflicting uses added that are closer to the resource than those already existing in the vicinity.

Site #8, Howard Canyon

“3 C” Designation for Site

Submittal from Paul R. Hribernick

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

In the Matter of Adopting an Economic,)
Social, Environmental, and Energy (ESEE)) **FINAL ORDER #90-**
Analysis for Mineral and Aggregate)
Inventory Site #8, Howard Canyon.)

Oregon Revised Statute 197.640 requires counties to review their comprehensive plans and land use regulations periodically and make changes necessary to keep plans and regulations up to date and in compliance with the statewide planning goals. A Proposed Local Review Order intended to bring the County into compliance was presented to the Department of Land Conservation and Development (DLCD) on February 28, 1989. DLCD recommended changes to selected items in the Proposed Local Order which included revising the Statewide Planning Goal 5 Economic, Social, Environmental, and Energy Analysis of the mineral and aggregate sites. The Oregon Administrative Rule guiding this analysis is found in Chapter 660, Division 16.

During the process of revising this mineral and aggregate ESEE Analysis public hearings were held before the Board of County Commissioners on December 19, 1989, January 9, 1990, February 20, 1990, and March 6, 1990. On each of those dates written and oral testimony was taken and heard regarding this site.

Based upon that testimony the Board adopts the following:

1. An ESEE Analysis for Site #8, Howard Canyon, which concludes that the appropriate classification of the site is "3C, Specifically Limit Conflicting Use".
2. A packet of Findings in support of the ESEE Analysis conclusion.

This order and the foregoing are to become attachments to the Local Review Order to be submitted to the Department of Land Conservation and Development.

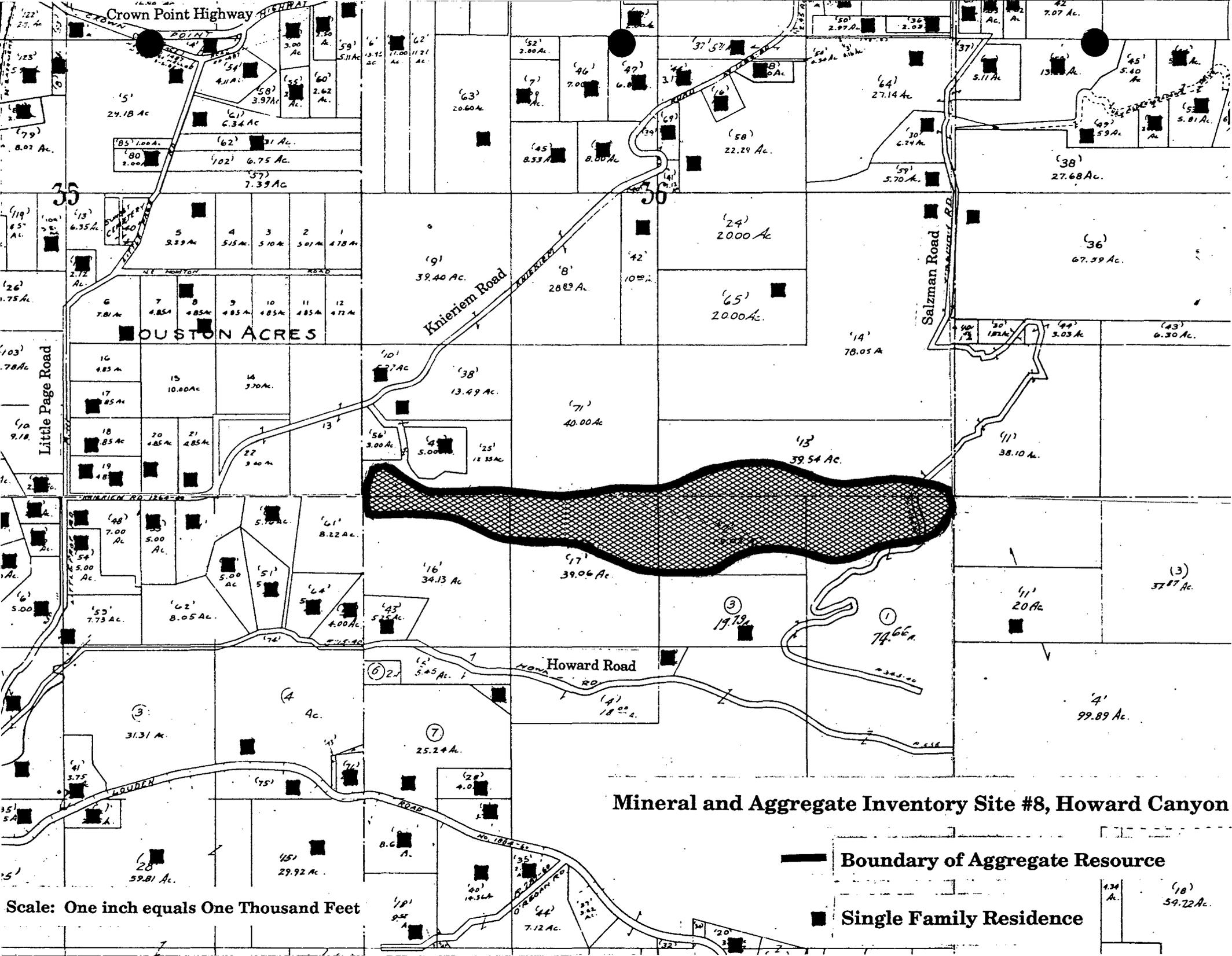
Approved the 27th day of March, 1990.

(Seal)

Gladys McCoy
Multnomah County Chair

Reviewed:
Lawrence Kressel, Multnomah County Counsel

By: _____
John DuBay
Chief Deputy County Counsel



Mineral and Aggregate Inventory Site #8, Howard Canyon

— Boundary of Aggregate Resource

■ Single Family Residence

Scale: One inch equals One Thousand Feet

**Multnomah County
GOAL 5 INVENTORY
March 13, 1990
"3C" Designation**

**Type of Resource: Mineral and Aggregate
Multnomah Co. Inv. Site #8
Howard Canyon**

Location:

The Goal 5 resource is located along the section line between Section 36, T. 1 N., R. 4 E. and Section 1, T. 1 S., R. 4 E. The general resource boundaries are drawn on an Assessment and Taxation map contained in the file. A portion of the resource site is identified by the Oregon Department of Geology and Mineral Industries as I.D. #26-0065.

Description:

This aggregate resource site is a cleared ridgetop approximately 700 feet in width, which runs in an east-west orientation just north of Howard Canyon. The site is connected by existing private roads to Knierem Road and Howard Canyon Road, both paved county roads. As confirmed in a study by H. G. Schlicker & Associates in which 31 testpits were dug, the basalt lava resource occupies the upper 50 feet or more of the ridgecrest and is more than 4,200 feet long and more than 350 feet wide for most of its length. The amount of aggregate material exceeds 2.7 million cubic yards. The ground surface of the resource area ranges in elevation from 780 feet to 860 feet. Laboratory test results indicate that the rock resource at the site is suitable for road construction purposes.

- A. Available information indicates site is important (ability to yield more than 25,000 cubic yards of mineral and aggregate material in less than 5 years):**

NO--Designate "1A": Do not include in plan inventory.

X YES--Go to B.

B. Is availability information sufficient to determine the location, quantity and quality of resource at the site?

NO--Designate "1B": Address the site in future when information becomes available.

X YES--Include in plan inventory and go to C.

We find that sufficient information, including geologic evaluation and laboratory test results, has been presented to the county regarding the quality, quantity and location of the resource. Based on this information, we find and conclude that the site is a significant Goal 5 resource and we hereby designate it as such in the Multnomah County Comprehensive Plan and include it in Multnomah County's inventory of significant natural resource sites.

C. Zoning:

Multiple Use Forest-38 ("MUF-38"), Multiple Use Forest-19 ("MUF-19"), and Exclusive Farm Use ("EFU"). These zones are resource zones in Multnomah County.

Based on zoning, are there conflicting uses?

NO--Designate "2A": Preserve resource.

X YES--Define the impact area and describe conflicting uses.

D. Impact area:

We have reviewed the record, including the adverse effects alleged by, and information provided by, the opponents as well as the preliminary mining plan and information provided by the property owner. Two primary considerations underlie our designation of the impact area: (1) all the existing homes which could present a potential conflict at the site are located within 2,000 feet of the site; and (2) the portion of Howard Canyon Road which the opponents contend is unsafe is located approximately 1,850 feet from the access road to the quarry. We note that in delineating an impact area, we must realistically assess potential impacts because the provisions of an impact area are reciprocal. If we designate a large impact area and allow the

mining to go forward, a large variety of uses would be prohibited over a large area in order to protect the resource. If we allow the mining to go forward but select a small impact area, not all the potential impacts would be adequately addressed in the economic, social, environmental and energy ("ESEE") analysis and a significant Goal 5 resource might not be adequately protected when a conflicting use is later located near the resource site. We find that the opponents have raised potential disturbances to existing residences and the safety of a portion of Howard Canyon Road as their primary issues. We find that an impact area of 2,000 feet encompasses both of these concerns. We find that the noise study provided by Registered Professional Engineer (acoustical) Standlee indicates that sound level at a distance of 2,300 feet from the resource site, without the use of any berms, will be well within Department of Environmental Quality ("DEQ") standards. We find that DEQ noise standards are an appropriate basis for identifying impacts and further find that potential noise disturbances will not occur beyond approximately 2,000 feet from the site. We further find that the primary road issue raised by the opponents (a sharp curve) is approximately 2,000 feet from the site. Accordingly, we conclude that the impact area of 2,000 feet will allow us to adequately address the concerns of persons opposed to the application through the ESEE process and adequately protect the resource by discouraging noise sensitive uses within the impact area.

E. Describe existing or potential conflicting uses:

Under the existing Multnomah County Code ("MCC"), single-family residences are allowed in the MUF-19 zone in the following circumstances: (1) as a primary use on a lot of 38 acres; (2) as a use under prescribed conditions on a new lot of between 19 and 38 acres with a forest or farm management plan; (3) as a use under prescribed conditions on a lot of record of between 10 and 38 acres with a forest or farm management plan; or (4) as a conditional use on a lot of record of less than 10 acres. The MUF-38 zone requirements are identical to the MUF-19 zone requirements except that new lots must be at least 38 acres in area. Comparable standards exist for new dwellings in the EFU zone. The county recognizes that recent case law developments have increasingly called into question the propriety of placing dwellings on resource land. 1,000 Friends of Oregon v. LCDC (Lane County) (1988) suggests that non-forest uses, such as dwellings, are not favored on resource lands. 1,000 Friends of Oregon v. LCDC (Curry County) (1986) suggests that conversion of

rural land to urban uses (e.g., allowing a dwelling on resource land) may require a Goal 14 exception. We interpret these cases to mean that dwellings on resource lands are discouraged and disfavored. Accordingly, when assessing future single-family residences as a conflicting use, we choose to place less importance on the significance of the future residential use. We find this is consistent with recent case law, consistent with the county's comprehensive plan and zoning designations, and consistent with Goal 5 which defines conflicting uses as those which, if allowed, could adversely affect a Goal 5 resource. We further find that this interpretation will promote the protection of natural resources as required by Goal 5. We recognize that existing dwellings on resource land, while they may be disfavored under recent case law, are different than dwellings that would be constructed in the future. However, we also recognize that existing dwellings are located on lands designated as resource lands by the Multnomah County Comprehensive Plan. Our analysis of the ESEE consequences will bear these factors in mind.

A range of potential conditional uses and community service uses are listed in the MUF zoning districts. However, for such a use to be approved, the county must find that the proposed use "will not adversely affect natural resources" (MCC 11.15.7120(B)). In the MUF zones, such uses include churches, schools, cottage industries, service commercial, and tourist commercial establishments. Under the provisions of MCC, these uses are not possible conflicting uses because their development would adversely affect natural resources including mineral and aggregate resources.

F. Describe consequences of allowing conflicting uses:

OAR 660-16-006: "A conflicting use is one which, if allowed, could negatively impact a Goal 5 resource site."

OAR 669-16-006(2): ". . . Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites."

ECONOMIC:

1. Impacts on the resource:

If a conflicting use, such as the identified conflicting use in this case (residential dwellings), was allowed on the resource site or in close proximity to the site, we find it would have a devastating effect on the resource. At best, the cost of mining and, therefore, cost of the final product, would be increased because of additional efforts necessary to reduce effects on a conflicting use. Compliance with applicable environmental regulations may also be rendered more difficult. However, we find that the more probable consequence on the resource from allowing conflicting dwellings on or near the site would be the complete loss of the resource. We find that it would be extremely difficult if not impossible to design an extraction plan which would allow aggregate operations to proceed if conflicting uses were allowed to locate on the resource site or in close proximity to the resource site. As set forth in our discussion of Goal 9 below, we find that these impacts on the Howard Canyon resource will have a significant adverse economic effect.

2. Impacts on the conflicting use:

We find that the Goal 5 opponents have expressed their opinion that the value of their homes would be affected due to operation of the quarry in the vicinity. We find that no expert evidence on this point was presented, but that the property owners in the area expressed a sincere feeling that their resale values would be affected. We find that, as set forth in our discussion of the impact area, persuasive expert testimony demonstrates that noise levels at any nearby existing residence will be significantly below the DEQ noise standards. We further find that construction of acoustic berms, which we find can be easily accomplished at the site, will reduce sound levels at existing homes in the area to less than 37 dBA. We find that DEQ standards are appropriate standards by which to judge noise impacts on adjoining properties, and that under DEQ standards, there will not be a significant impact for existing dwellings in the area. We find that lack of noise effects mitigates against attributing large reductions in resale value to noise considerations. We find that a rock crusher to be used at the site has an existing DEQ Minimal Source Air Contaminant Discharge Permit which requires control of dust from crushing activities. We find that the county roads in

the area are paved which will further reduce dust. We further find that the proposed extraction plan indicates stockpiling and revegetation of overburden and the development of small areas of the resource at any one time. We find that these factors reduce dust considerations and are not consistent with a large loss of value in existing homes in the area due to dust from activities at the quarry. We find that the evidence before us demonstrates that the Howard Canyon Goal 5 resource site can be developed without significant adverse economic effects on the resale value of homes in the area.

3. Requirements of other applicable state goals:

Goal 9: "To diversify and improve the economy of the state."

Goal 9 has a major impact on our analysis of the Howard Canyon Quarry. We find that production of mineral and aggregate materials in Multnomah County falls significantly short of consumption within the county. We further find that mineral and aggregate materials are critical primary materials for the construction of residences, buildings, roads, overpasses, sewers and other infrastructures using the asphalt, concrete or rock products. We find that the scarcity of material in Multnomah County, particularly in the east county area to be served by the Howard Canyon site, has a negative effect on the price of aggregate materials, causing both an increase in raw material costs and an increase in transportation costs due to distance from available sites. Because we find that the absence of mineral and aggregate sites in the county increases the cost of anything which would be constructed from those raw materials, we conclude that location of a source of supply would reduce or stabilize the cost of construction which incorporates mineral and aggregate materials and, therefore, improve the economy of the state. We further find Multnomah County has jurisdiction over only one permitted mineral and aggregate quarry, the Angel Bros. Quarry in the extreme western portion of the county. We find that the eastern portion of the county does not have a source of supply and that the Howard Canyon Quarry would diversify available sources of supply in the county and, therefore, diversify and improve the economy. We find that the Goal 5 opponents have argued that the resale value of their homes would be adversely affected. Assuming for the purposes of argument that hard evidence of adverse economic effects on the value of residences in the area is demonstrated by the record, we find

that only a few residences would be affected, that these residences are located on resource land in Multnomah County, and that any perceived loss of value does not prevent continued use of the residences. We find and conclude that this potential economic effect is outweighed by the positive economic effects of the quarry. We find and conclude that the economic prong of the ESEE analysis strongly supports the designation of the Howard Canyon Quarry which will allow mining. It is important to explain that any adverse impact on the Howard Canyon Quarry Goal 5 resource is of special significance in Multnomah County. We find that Multnomah County is a large consumer of mineral and aggregate products, but has not safeguarded adequate sources of supply for these materials. As a result, Multnomah County is dependent on imported material to meet the county's needs for mineral and aggregate resources. We find these materials are the fundamental building blocks for our roads, streets and buildings. The consequences of this importation of materials are particularly severe in the East Multnomah County area. Although the Goal 5 opponents have offered evidence that there are alternative sources of supply (e.g., the Scott report), we find persuasive conflicting evidence in the record. We find that the sources of alternative supply listed in the Scott report do not present rational alternatives upon which the county wishes to rely. The Smith Bros. Quarry produces no crushed rock. Brightwood Quarry and Pacific Rock Products can deliver material, but at an extremely expensive price. The relationship between Gresham Sand & Gravel Company and Cascade Sand & Gravel (now Lone Star) exemplifies why the sources listed by Mr. Scott do not provide a rational alternative source. Lone Star exports material from Scappoose (in Columbia County approximately 50 miles distant) to Gresham Sand & Gravel Company, who then transships the material to other locations in the county. We find that the net effect of this transshipment is extremely high product cost, even before the material is transported to its place of use. We find that the reason for this importing and transshipment procedure is that Gresham Sand & Gravel Company is nearly out of its own raw material. We find that other sources of supply as set out in the Scott report as alternatives suffer from similar difficulties. Damascus Quarry, Construction Aggregates and Mt. Hood Rock can provide mineral and aggregate materials, but only at a price significantly in excess of materials produced at Howard Canyon Quarry. We find that the major reason for this transportation cost is dictated by an excessive distance between the sites of the market. We find the same analysis applies to Deep Creek Quarry and we find that Deep Creek Quarry is close to closing, according to Clackamas County

authorities. We find the same analysis applies to American Sand & Gravel and is exacerbated by the fact that American Sand & Gravel does not own delivery trucks, and anyone relying on that source for supply would need to provide their own private transportation. We find that such transportation would cost at least \$40.00 per hour and it is estimated that between two and three hours would be necessary to deliver the material. We find that Rogers Construction and Oregon Asphaltic Paving are the same company and do not provide mineral and aggregate materials to the general public. We find that they use their materials on their own value-added products (such as asphalt) and, therefore, are not an alternative source of supply. The Goal 5 opponents argue that mineral and aggregate materials can be economically transported up to 25 miles. We find this to be contrary to persuasive evidence in the record which establishes that the 25-mile distance, in fact, greatly increases prices. We find that the 25-mile distance was calculated on larger truck loads and freeway miles, that most loads in the area are smaller, and that freeways do not exist. We find that much of the material from the Howard Canyon Quarry would be delivered to the Larch Mountain Road area which is significantly further than Springdale, the end point for the Goal 5 opponents' mileage figures. We find that the costs associated with using distant sources of mineral and aggregate materials affect all persons in the county. The county itself must pay more for road materials and this is reflected in the taxes that are paid by persons living in the county. In addition, consumers must pay higher prices for raw material or for homes, roads and other products that incorporate the raw material. We find that county roads also suffer in that material brought from farther distances generally creates greater overall truck usage on county roads as compared to aggregates which are mined closer to the source of ultimate consumption. Based on all these factors, we find and conclude that Goal 9 strongly supports protection and use of the Howard Canyon Quarry.

Goal 10: "To provide for the housing needs of citizens in the state."

We find that mineral and aggregate resources are a critical component of housing (e.g., concrete for the foundations) and accessory structures for housing (e.g., concrete for sidewalks and sewers and asphalt for streets) in the county. We find that the Goal 5 opponents have stated that their housing values will decrease. Assuming for the purposes of argument that this is true, we find that there are few houses involved, the houses are

located in the resource land, and the location of the quarry will not prevent the use of the houses. In addition, as set forth above, we do not find that there will be any significant adverse effects from noise and dust as alleged by the Goal 5 opponents. On the other hand, we find that material to be produced at the quarry will benefit a large portion of the east county population by making mineral and aggregate resources available for housing, road construction and other uses at a favorable price. We find that the greater good is served by the provision of aggregate materials at an economic price which will help meet housing needs of persons at all income levels in the county. We find and conclude, on balance, that Goal 10 weighs in favor of a site designation of the Howard Canyon Quarry which allows mining.

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

We find the Goal 5 opponents have indicated that an increase of truck traffic on local roads, particularly Howard Canyon Road, may have adverse safety impacts. We find, however, that simple measures may be taken which will provide and encourage safe use of the local roads. For example, we find that a four-way stop sign will eliminate problems at an intersection the neighbors feel is unsafe, although we note that intersection is outside the defined impact area. We find that a posted speed limit on Howard Canyon Road would also reduce the safety concerns of the Goal 5 opponents. In addition, we find that the owner of the resource site has agreed to make improvements to the first 1,850 feet of Howard Canyon Road running west from the quarry access road. We find that this will allow an improved road surface and provide additional width and vision at a curve the opponents describe as unsafe. We find that these improvements will provide and encourage safety in the transportation system. We also find that Goal 12 requires us to give consideration to the entire county road system and, in this regard, directs us to provide and encourage an economic transportation system. As discussed above, we find that mineral and aggregate materials are primary building materials for all aspects of the county's transportation system. We further find that prices for these materials are artificially high in the east county area due to long-haul distances and a lack of native supply. We find that the Howard Canyon Quarry provides an economic alternative for raw materials which, in turn, provides and encourages an economic transportation system. We find that the economic considerations under Goal 12 are similar to the considerations we must address under Goal 9, and we incorporate our discussion of Goal 9 herein by reference.

Based on all of these factors and because we find that safety concerns can be mitigated and because the quarry will contribute to an economic transportation system, we conclude that, on balance, Goal 12 weighs in favor of a site designation for the Howard Canyon Quarry which will allow mineral and aggregate extraction.

Goal 13: "To conserve energy."

We find our analysis of the economic factor of the ESEE analysis would not be complete without a discussion of the increased cost in terms of energy related to delivering mineral and aggregate material from sources outside the county and from the more distant source inside the county. We find that the use of distant sources greatly increases the cost of raw material and, more importantly, for our discussion under Goal 13, increases the amount of energy used for delivery of the material because of increased truck transportation. We find that the closest alternative source of supply, Gresham Sand & Gravel Company, states that additional fuel is required to deliver material from its site to the Corbett area because of the long distance involved and because of the uphill nature of the trip. We find that allowing the Howard Canyon Quarry to become a source of supply for mineral and aggregate materials would reduce the length of truck trips and would also reduce the fuel-consuming uphill transportation of material. For all these reasons, we conclude that the designation to allow mining at Howard Canyon Quarry will conserve energy, and we conclude that Goal 13, on balance, weighs heavily in favor of a designation at the site which allows mining.

The Goal 5 opponents have made the argument that the Howard Canyon Quarry is not "needed" and, therefore, it must be given a designation which prevents mineral and aggregate mining. We find that Goal 5 does not require us to consider whether or not a significant natural resource, such as mineral and aggregate resources, is "needed." Based on the Goal 5 process, we find that we have adequate information as to the quality, quantity and location of the resource, and we have found that the Howard Canyon site is significant. We have been able to identify only one conflicting use (existing residential uses on resource land), and we have analyzed the ESEE conflicts of that conflicting use. We find this process does not require us to consider "need" for the resource. Goal 5 assumes that the resource is valuable and is needed if it is significant. We have reviewed case authority cited to us by the Goal 5 opponents (Mobil Crushing Co. v. Lane

County (1984)). We do not find this case to be authority of the proposition that "need" is a mandatory consideration of Goal 5. We find that if the county were to wait until a site was "needed," it might be impossible to develop that site because of the intervening development of conflicting uses in the area. We find that Goal 5 requires us to engage in "upfront" comprehensive planning whereby we designate the sites which will be protected before conflicting uses eliminate the possibility of protecting the resource. We further find that mineral and aggregate material is but one of the natural resources listed in Goal 5. We find that it would be inappropriate to use the "need" standard for evaluating wetland areas or historic sites, which are other Goal 5 natural resources. The same analysis must apply to mineral and aggregate materials.

In the event "need" would be deemed a consideration under Goal 5, we make the following findings and conclusions. We find that Multnomah County has a serious shortfall of mineral and aggregate production capacity and is heavily dependent on imported material from adjacent jurisdictions. We find that this situation is particularly evident in East Multnomah County where local sources of supply either import materials for transshipment or do not sell to the general public. We find that Multnomah County consumes large amounts of mineral and aggregate materials, but at present has only one source of supply operating within its jurisdiction. We find that this situation increases the cost which the county and consumers must pay for mineral and aggregate materials. We find that lack of established supply, increased cost of mineral and aggregate materials, and lack of designated sites in the county comprehensive plan for future extraction demonstrate that there is a need for mineral and aggregate material in Multnomah County and particularly in East Multnomah County. Based on these factors, we conclude that there is a need for the Howard Canyon Quarry and that need may be best addressed under Goal 5 by providing a designation for Howard Canyon Quarry which protects the resource and allows extraction of mineral and aggregate materials.

SOCIAL:

1. Impacts on resource:

Extraction operations will be subject to limitations on hours and days of operation as proposed in the amended Mineral Extraction

Code section of MCC. Buffering will be desirable to provide noise reduction for residences in the area and for visual screening. Speed limits would increase the delivery time from the site. These modifications in the operation might be appropriate to protect conflicting uses in the area from social impacts. These modifications would impact the resource in that they would marginally increase the cost of operation. However, we find that the most probable outcome of fully allowing the conflicting residential use on or near the resource site will be social impacts sufficient to prevent the use of the resource. If conflicting uses are allowed on the resource site or within the impact area, it is probable that the resource could not be protected and used because DEQ standards controlling the operation of the quarry, particularly noise standards, could not be met at the site. Therefore, we find that the most probable social impact of the conflicting use on the resource would be to prevent the quarry's use. As set forth in our analysis below, impacts from the resource on the existing conflicting use can be largely avoided and we chose not to make a Goal 5 designation which would fail to protect the quarry and prevent its use.

2. Impacts on the conflicting use:

We find that there are several existing residences within the impact area. The closest four residences from the resource area are: one at 400 feet, one at 500 feet and two at 700 feet. We find that Mr. Smith owns or controls the residence at 400 feet and one of the residences at 700 feet. We find that the opponents have alleged that operations at the quarry will interfere with the residence uses of nearby properties based on noise considerations. We have reviewed the materials prepared by Registered Professional Engineer (acoustical) Standlee. We find that Mr. Standlee has determined that noise from blasting, machinery and rock crushing will be well within DEQ standards as measured at existing dwellings in the area, and we specifically accept Mr. Standlee's report as credible and persuasive expert testimony. We find that DEQ standards provide an appropriate basis for determining whether or not noise is an adverse social impact. DEQ has established noise standards which are measured at the point of reception and, therefore, we conclude they are designed to protect adjacent properties. We find that DEQ standards are designed to meet the legislative policy to protect the health, safety and welfare of Oregon citizens. Because we find that DEQ standards will be easily met by the proposed use at the quarry, we find and conclude that social impacts of the

resource, if any, are minimal on the conflicting use. The Goal 5 opponents have also indicated that they believe there will be dust problems at the site related to crushing. We find that the crushing equipment previously used at the site has a DEQ air contaminant discharge permit which requires the crushing machinery to control dust. We find that DEQ permit limits are designed to protect the health, safety and welfare of the citizens of Oregon and, therefore, find and conclude that DEQ standards present an appropriate basis for determining whether the impact would have an adverse effect on the conflicting use. We also find that the applicant has agreed to control any road-generated dust produced at the site by imposing a strict speed limit on the private access roads to the quarry. Because we find that DEQ standards will be met and that road generated dust will be controlled through the imposition of a speed limit, we find and conclude that the impacts on the conflicting use from dust, if any, would be minimal.

The Goal 5 opponents also indicate that road safety presents a conflict at the site because it has an impact on the residential uses. This issue will be addressed more fully below when we discuss the application of Goal 12 under the social problem with the ESEE analysis. However, we note that in identifying conflicting uses, roads are not a conflict, per se, because they are not a use that is proposed for the resource site. More importantly, they are not an identified use in the county zoning ordinance for the designations that exist at the resource site. In the event the roads would be deemed a "conflicting use," we incorporate our discussion of Goal 12, below.

3. Requirements of other applicable statewide planning goals:

Goal 9: "To diversify and improve the economy of the state."

We find that there will be adverse social costs to the economy of the state if the Howard Canyon Quarry is not given a designation which allows its mining and use. We incorporate herein by reference our discussion of Goal 9 under the economic prong of the ESEE analysis, above. We find that if the economy is not diversified and improved, there will be fewer job opportunities available to the citizens of the county. We find that the proposed quarry contributes to that diversification in East Multnomah County. More importantly, we find that the adverse economic effects of higher costs for mineral and aggregate

materials affects the cost of roads, the affordability of homes, and the amount of tax revenue that must be used to purchase road construction and repair materials. We find that the Goal 5 opponents have stated that the resale value of their homes may be reduced if the site is protected by Goal 5. We incorporate by reference our discussion of the economic prong of the ESEE analysis, above. Based on all these factors, we find and conclude that, on balance, the economy of the state component of the social impact analysis favors protection of the quarry and that the greater good is served by designating the Howard Canyon Quarry for protection and use.

Goal 10: "To provide for the housing needs of citizens of the state."

We incorporate by reference our findings under the economic prong of the ESEE analysis. We find that mineral and aggregate materials are an important component of housing construction. Such materials are necessary both for actual construction of residences and for infrastructure to serve residences. We find that there is an adverse effect on the affordability of housing when these raw materials increase in price. Based on all these factors, we find and conclude that, on balance, the housing component of the social impact analysis favors protection of the quarry.

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

The Goal 5 opponents have raised road safety issues as social impacts on existing residential uses in the area. We find that the Goal 5 opponents' primary concern is directed to the safety of a curve in Howard Canyon Road, the safety of school bus travel, and the safety of children riding bicycles on county roads. We find that the traffic engineer's report relied on by the Goal 5 opponents indicates that site distances on Howard Canyon Road are adequate. We further find that there is existing heavy truck traffic on roads in the area, including Howard Canyon Road, related to the delivery of heavy equipment, the delivery of mineral and aggregate materials, and timber harvesting. We find that Howard Canyon Road and the other roads in the area serve lands which are primarily designated as resource lands in the county comprehensive plan and are zoned for resource uses by the MCC. We find that roads in these areas serve resource lands and, therefore, truck traffic is expected and appropriate. We find that for the eight-tenths of a mile of Howard Canyon Road which

is affected by the quarry use, a speed limit can be imposed which will reduce safety concerns. We find that the applicant has offered to upgrade Howard Canyon Road through the curves which provide the primary safety concern of the opponents. We further find that Goal 12 is directed at the county's transportation plan as a whole rather than individual road segments. We further find that Goal 12 not only has a safety component, but also an economic component which is relevant to the balancing of social impacts. Under Goal 12, we find that it is appropriate to consider negative economic effects on the county's transportation system if Howard Canyon Quarry is not protected. We incorporate by reference our discussion of the economic prong of the ESEE analysis, above. Based on the record, we find that our analysis of the social impacts presents the possibility that a significant Goal 5 mineral and aggregate resource site would be lost due to minimal social conflicts related to noise, dust and traffic safety. We find and conclude that the social cost to the county as a whole related to loss of the resource outweighs the minimal social impacts to the Goal 5 opponents of allowing the quarry to operate. We find and conclude based on our analysis of social impacts that the resource should be protected.

ENVIRONMENTAL:

1. Impacts on resource:

The identified conflicting use (residential dwellings) would not have an adverse environmental impact on the resource unless the conflicting use was allowed on the resource site or in close proximity to the resource site. In the latter event, the impact on the resource would be devastating in that the resource could not be used. We incorporate by reference our discussions under the economic and social prongs of our ESEE analysis.

2. Impacts on conflicting use:

Opponents have suggested that there would be adverse environmental impacts on the conflicting use related to noise and dust which would affect existing residences. We find that DEQ noise standards will be easily met at the site. We find that dust will be controlled through a DEQ air quality permit and speed limits on access roads. We incorporate herein our

discussion of these impacts which is contained in the economic and social prongs of our ESEE analysis.

3. Requirements of other applicable statewide planning goals:

Goal 4: "To preserve forest lands for forest uses."

The site, impact area and surrounding areas are designated in the Multnomah County Comprehensive Plan as resource lands and are primarily zoned to allow forest uses. We find that the new Goal 4 regulations provide that locationally dependent uses, such as mineral and aggregate resources, are uses authorized in forest zones. We find, therefore, that there is no conflict between Goal 4 and the designation of the Howard Canyon Quarry site which will allow mineral and aggregate extraction. In the event that a conflict would be deemed to exist between Goal 4 and the proposed quarry, we make the following findings. We find that these forest uses will not be able to continue without significant change or increase in cost because the proposed extraction plan will not disturb the entire resource area at one time and that reclamation will be ongoing. We find that cattle may continue to graze on portions of the site that are not disturbed and that forest uses may occur in the future after the land has been reclaimed. We find that the quarry operation will not increase fire danger and that quarry roads will assist fire suppression in the general area. Based on all these factors, we find that Goal 4 mitigates in favor of protecting the quarry site for use.

Goal 5: "To conserve open space and protect natural and scenic resources."

We find that the Goal 5 opponents have suggested that deer and elk habitat, fish habitat, and wetlands may be affected by the proposed use. We note that Goal 2 requires a factual basis for decisions. We have reviewed the facts in the record with respect to fish and wildlife habitat and wetlands. We find that the quarry site does not have adequate thermal protection and, therefore, does not serve as critical winter range for wildlife. We find that the closest winter range area is approximately one mile to the southwest and is separated from the resource site by canyons. As stated in the report of Dr. Robert Ellis, such report we specifically adopt, we find that there will be no adverse impact on winter range through operations at the resource site. We find that the stream to the north of the resource site will be protected by leaving an undisturbed buffer along the

northern edge of the plateau in which the resource is located. We find that streams to the south will be similarly protected. We further find that sedimentation in the stream to the south is not a danger, given that ample room exists for sedimentation control mechanisms to be installed at the site to prevent adverse effects on the stream. In addition, we find that the stream to the south is on the opposite side of Howard Canyon Road from the resource site. We find that wetlands have not been identified with specificity in the immediate area, nor has information on the quality and quantity of wetlands been developed. The record indicates only that there is the potential for wetlands along the streams to the north and south of the proposed resource site. We find that there will be no extraction activity in these wetland areas as extraction will occur on the bench area which is between 250 and 1,000 feet from the streams. We further find as set forth in the report of Dr. Robert Ellis, such report we specifically adopt as correct, that there will be no adverse effect on stream quality due to sedimentation and, for the same reason there will be no adverse effects on wetlands. The Goal 5 opponents also point to a Forest Practices Act assessment which demonstrates they believe that there will be environmental problems associated with the Goal 5 resource operation at the site. We find that the Forest Practices Act assessment has little relevancy in the ESEE analysis. We find that the assessment occurred for activities approximately one and one-quarter mile away that were not related to quarry uses. We further find that the opponents' suggestion that the Forest Practices Act assessment is relevant, and is dubious given that there is no applicant in this matter and, therefore, no reason to assess "blame" to any individual. In this process, the county is evaluating the significance of a resource and the impacts of conflicting uses on that resource and the impacts of the resource on conflicting uses. This is not a development application and an assessment against one individual is of little relevance because there is no restriction in the Goal 5 process as to who might own the land or be the ultimate applicant for land use approval after a site is designated for protection under Goal 5. We further find that the Goal 5 opponents' arguments regarding conflicts with other Goal 5 resources are not carefully thought out. We find that if the Howard Canyon site was dedicated to the identified conflicting use, conflicts with Goal 5 resources would be possible. Access roads and site preparation for the identified conflicting could contribute to slope instability, stream sedimentation or wetland interference. Dwelling location could interfere with wildlife habitat and domestic animals, such as dogs, could conflict with wildlife. Based on all the

information in the record, we find and conclude that there will be no conflicts with other Goal 5 resources at the site including wildlife habitat, fish habitat and wetlands and, therefore, conclude that the resource site should be protected.

Goal 6: "To maintain and improve the quality of the air, water and land resources in the state."

The Goal 5 opponents have indicated that the rock crusher presents the "potential" for pollution and that there may be a conflict with the water quality from activities on the site. We find that Goal 6 is related to waste and process discharges from future development. We find that the only process discharge at the site is related to the crusher and that a DEQ permit is in place for the crusher that has been previously used at the site. We find that this will eliminate any potential pollution problems with the site. We also find that sedimentation impacts on water quality will not occur and incorporate our discussion of Goal 5, above. In addition, we find that reclamation is planned for the site. Based on all the factors, we find and conclude that quality of air, water and land resources will be maintained and approved at the proposed resource site.

Goal 7: "To protect life and property from natural disaster and hazards."

The Goal 5 opponents have indicated that there may be geologic hazards associated with overburden storage or with the stability of the geologic structure in which the rock resource is located. We find that the overburden will be stockpiled for reclamation purposes and will be revegetated to prevent erosion. We further find that there is plenty of room on the relatively flat bench for storing overburden in a nonhazardous manner. We find that the rock resource is a basalt structure which is not unstable. We find that the Troutdale formation, which the opponents contend is unstable, will be largely untouched by the mining operation because the Goal 5 basalt formation is located above the Troutdale formation. We further find, as set forth in the report of Registered Professional Engineer Schlicker, that a road or any other structures which cross the Troutdale formation can be adequately designed to ensure that there is no hazard to life or property. We chose to rely on the Schlicker report because it is consistent with the factual information produced by the Oregon Department of Geology and Mineral Industries and it specifically addresses the geology of the site, whereas the Goal 5 opponents' geologist, Mr. Scott, addresses geologic generalities that can

apply to any site at any location. Based on all of these factors, we find and conclude that there are no conflicts with Goal 7 which prevent the protection of the Goal 5 resource site.

Goal 13: "To conserve energy."

We find that the resolution of the ESEE analysis requested by the Goal 5 opponents would require that mineral and aggregate material be delivered to the Corbett area via long truck trips from sources in Clark County, Washington and Clackamas County, Oregon. Alternatively, the Goal 5 opponents would require material to be shipped from Columbia County, Oregon to Gresham Sand & Gravel Company, and then transshipped by truck to the Corbett area. We find that each of these importation proposals requires considerably more energy use and consumption of more fossil fuel than would be required if the Howard Canyon Quarry is designated for use. We find that fuel consumption means increased pollution and, therefore, considerations under Goal 13 to conserve energy tie in with considerations under Goal 6 (to maintain clean air) to work in favor of the designation of the Howard Canyon Quarry as a protected resource site.

Based on all these factors, we find and conclude that any adverse environmental impacts associated with our designation for the Howard Canyon Quarry for resource protection are minimal. We further find that were we to allow the identified conflicting use at the site, many of the same impacts attributed to the proposed use by its opponents would occur. We find that the report of Dr. Ellis is persuasive and we find that the resource site can be developed without adverse effects on fish and wildlife. We find the report of Mr. Schlicker to be persuasive and find that the site can be developed without geologic hazard. We find that the proposed quarry site can be operated in compliance with DEQ environmental standards. Therefore, we find and conclude that the environmental prong of the ESEE analysis favors the designation of the Howard Canyon Quarry site which will allow quarry operations to proceed.

ENERGY:

1. Impacts on resource:

Allowing noise and dust sensitive uses too close to the resource will alter the manner, location and extent of extraction activities and result in a greater use of energy by the operator. As stated above, the more probable result of allowing the identified conflicting use on or near the site would be to prevent use of the resource altogether.

2. Impact on conflicting use:

We find that operation of the Goal 5 resource on the site by the identified conflicting use would not increase or decrease energy consumption for the identified conflicting use and conclude that there are no identified energy impacts on the conflicting use.

3. Requirements of other statewide planning goals:

Goal 13: "To conserve energy."

As discussed throughout this ESEE analysis, we find that if the Howard Canyon Quarry is not protected for resource use, mineral and aggregate material in the Corbett area will be supplied by out-of-state quarries, out-of-county quarries or locations in the county where material is transshipped from outside the county. We find that these long distance delivery mechanisms use additional energy that would not be consumed if the Howard Canyon resource was protected under Goal 5. Based on all these facts, we conclude that the energy prong of the ESEE analysis strongly favors designating the resource site for protection and use.

CONCLUSION:

The Resource of this Site Should be:

Be fully protected--Designate "3A"

Not be protected due to overriding benefits
from allowing conflicting uses--Designate
"3B"

- X Partially protected by conditions which minimize the impact of conflicting uses--
Designate "3C"

We find that the Howard Canyon Quarry is a significant Goal 5 natural resource site. We find that a large quantity of high-quality mineral and aggregate material exists at the site. We find that this material is a scarce resource in Multnomah County as the county presently only has one producing quarry, the Angel Bros. Quarry, located within its jurisdiction. We have identified a single use which conflicts with the protection of the site for mineral and aggregate extraction. We find that the conflicting use, residential dwellings, has two components: future residential uses and existing residential uses. We find that future residential uses are discouraged in the impact area surrounding the Goal 5 resource because that land is planned and zoned for resource uses and future residential dwellings are discouraged in resource zones. We find that there are a small number of existing residential uses within the defined impact area. We find the citizens who live within the impact area oppose a Goal 5 designation which protects the Howard Canyon Quarry site and allows its use. We find that the basis for their opposition rests primarily on noise and dust impacts and traffic safety issues. In our ESEE analysis, we have studied the noise, dust and traffic safety issues, and have concluded that they present minimal conflicts. With regard to the noise and dust conflicts, we find that DEQ standards are designed to protect the health, safety and welfare of the citizens of Oregon and conclude that, as such, they are appropriate reference points for determining when a serious conflict will arise. We find that noise from the quarry operation will be substantially below the DEQ noise standards. We find that the major dust source identified by the opponents, the rock crusher, has a DEQ air permit which requires dust to be controlled. We find that meeting DEQ environmental standards minimizes any conflicts which might exist between the quarry and the identified conflict use. We find that the traffic safety issue, as discussed under the economic and social prongs of our ESEE analysis, above, should be resolved in favor of protecting the Howard Canyon Quarry. We find that the owner of the Goal 5 resource property has committed to upgrading Howard Canyon Road through the curve which opponents describe as a safety problem. We find that this improvement, together with stop signs and speed limits on Howard Canyon Road, reduces traffic safety considerations to a minimal conflict. Even if the traffic safety conflict was to be deemed a significant conflict, we find that our ESEE analysis convinces us

that the protection of the mineral and aggregate resource is of such importance in Multnomah County that it must be protected even if there is a conflict. We find that the energy and economic prongs of our ESEE analysis weigh heavily in favor of protecting the Goal 5 resource. Under both the economic and energy portions of our ESEE analysis, we find that there would be severe effects on the resource if the conflicting use was allowed, whereas the conflicting use would not be affected significantly if the Goal 5 resource was allowed. We also find that the social prong of our ESEE analysis mitigates in favor of protection of the Goal 5 resource. As described in our analysis, we find that identified potential social impacts on the conflicting use are mitigated or eliminated in that DEQ noise and dust standards are met. We further find that the traffic safety issues identified by the Goal 5 opponents are largely eliminated by road improvement work proposed by the resource site owner. In addition, the social portion of our ESEE analysis convinces us that if the traffic conflict alleged by opponents was to predominate, a significant resource would be lost. However, we find that if the resource is allowed, the traffic conflict can be minimized. We choose to minimize a traffic conflict rather than eliminate an extremely significant Goal 5 resource. The environmental prong of our ESEE analysis weighs in favor of protecting the Goal 5 resource for use. We find no conflict with fish, wildlife or wetland values as alleged by the Goal 5 opponents. We further find that the preliminary mining extraction plan and the location of the resource provides ample space for protective measures to prevent stream sedimentation or other environmental problems. We further find that the proposed use of the Goal 5 resource will meet DEQ noise and dust standards. We, therefore, choose to adopt a designation which protects the Goal 5 resource and allows its use. We find and conclude that the results of our ESEE analysis indicate that all four ESEE factors weigh in favor of protecting the resource and allowing its use. Accordingly, the Howard Canyon resource site is designated "3C" in the Multnomah County Comprehensive Plan.

PROGRAM:

The Howard Canyon resource site is designated "3C" in the Multnomah County Comprehensive Plan. MCC amendments for mineral and aggregate extraction, previously adopted by the county (MCC 11.15.7305-.7335), provide standards for a permit application to the county to develop the quarry. The Howard Canyon resource site shall be protected from adverse conflicting

uses, including noise and dust sensitive uses, by prohibiting those uses within the defined impact area which surrounds the site.

prh633

Site #8, Howard Canyon
“3 C” Designation for Site

Staff Modified Version of
Submittal from Paul R. Hribernick

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

In the Matter of Adopting an Economic,)
Social, Environmental, and Energy (ESEE)) **FINAL ORDER #90-**
Analysis for Mineral and Aggregate)
Inventory Site #8, Howard Canyon.)

Oregon Revised Statute 197.640 requires counties to review their comprehensive plans and land use regulations periodically and make changes necessary to keep plans and regulations up to date and in compliance with the statewide planning goals. A Proposed Local Review Order intended to bring the County into compliance was presented to the Department of Land Conservation and Development (DLCD) on February 28, 1989. DLCD recommended changes to selected items in the Proposed Local Order which included revising the Statewide Planning Goal 5 Economic, Social, Environmental, and Energy Analysis of the mineral and aggregate sites. The Oregon Administrative Rule guiding this analysis is found in Chapter 660, Division 16.

During the process of revising this mineral and aggregate ESEE Analysis public hearings were held before the Board of County Commissioners on December 19, 1989, January 9, 1990, February 20, 1990, and March 6, 1990. On each of those dates written and oral testimony was taken and heard regarding this site.

Based upon that testimony the Board adopts the following:

1. An ESEE Analysis for Site #8, Howard Canyon, which concludes that the appropriate classification of the site is "3C, Specifically Limit Conflicting Use".
2. A packet of Findings in support of the ESEE Analysis conclusion.

This order and the foregoing are to become attachments to the Local Review Order to be submitted to the Department of Land Conservation and Development.

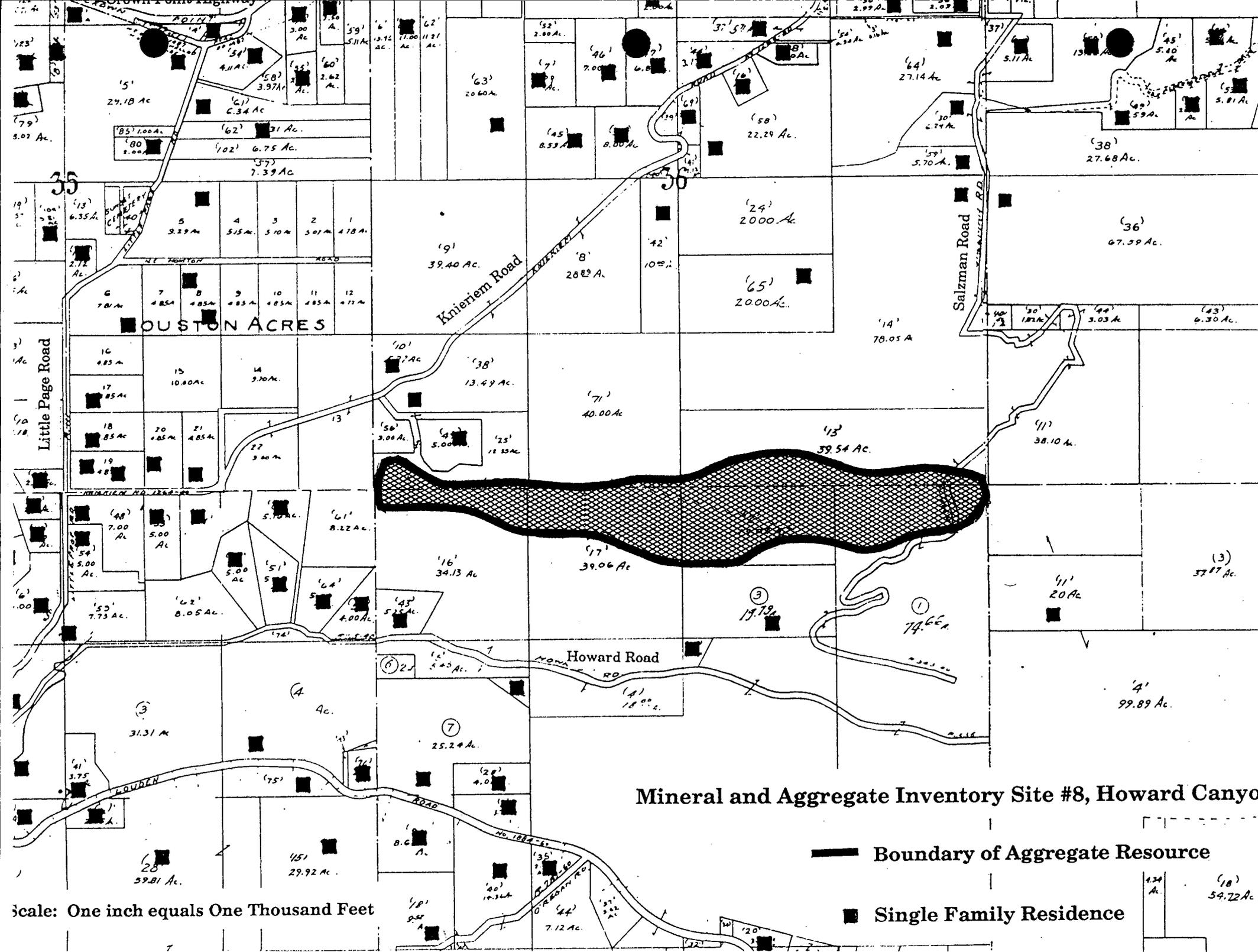
Approved the 27th day of March, 1990.

(Seal)

Gladys McCoy
Multnomah County Chair

Reviewed:
Lawrence Kressel, Multnomah County Counsel

By: _____
John DuBay
Chief Deputy County Counsel



Multnomah County
GOAL 5 INVENTORY
(3/27/90)
(Staff Modified "3C" Designation)

Type of Resource: Mineral and Aggregate
Mult. Co. Inv. Site #8
Howard Canyon

Location:

Along the section line between Section 36, T. 1 N., R. 4 E. and Section 1, T. 1 S. R. 4 E. See map with resource boundaries overlaid on Assessment and Taxation property line base map in inventory file.

Description:

DOGAMI I.D. #26-0065

This aggregate resource site is a cleared ridge top which runs in an east-west orientation just north of Howard Canyon. As confirmed in a study by H. G. Schlicker & Associates in which 31 testpits were dug, the basalt lava resource occupies the upper 50 feet or more of the ridgecrest and is more than 4200 feet long and more than 350 feet wide for most of its length. The amount of aggregate material exceeds 2.7 million cubic yards. The ground surface of the resource area ranges in elevation from 780 feet to 860 feet.

A. Available information indicates site is important (ability to yield more than 25,000 cubic yards of mineral and aggregate material in less than 5 years):

NO—Designate 1A: Do not include in plan inventory.

YES – Go to B

B. Is available information sufficient to determine the location, quantity and quality of resource at the site ?

NO – Designate 1B : Address the site in future when information becomes available.

YES – Include in plan inventory and go to C.

We find that sufficient information, including geologic evaluation and laboratory test results, has been presented to the county regarding the quality, quantity and location of the resource. Based on this information, we find and conclude that the site is an important Goal 5 resource.

C. Zoning:

Multiple Use Forest -38, Multiple Use Forest - 19, and Exclusive Farm Use

Based on zoning, are there conflicting uses ?

NO – Designate 2A: Preserve resource.

YES – Go to D.

D. Describe existing or potential conflicting uses:

Single family residences: In the MUF-19 zone as a primary use on a lot of 38 acres, as a use under prescribed conditions on a new lot of between 19 and 38 acres with a forest or farm management plan, as a use under prescribed conditions on a lot of record of between 10 and 38 acres with a forest or farm management plan, or as a conditional use on a lot of record of less than 10 acres. The MUF-38 zone requirements are identical to the MUF-19 zone except that new lots must be at least 38 acres in area. Comparable standards are in the EFU zone for new dwellings.

A range of potential conditional uses and community service uses are listed in the MUF zoning districts but to be approved the approval authority shall find that the proposed use "Will not adversely affect natural resources" (MCC 11.15.7120(B)). In the MUF zone such uses include churches, schools, cottage industries, service commercial, and tourist commercial establishments.

Describe consequences of allowing conflicting uses:

OAR 660-16-005 (2): "...Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process.

A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites."

ECONOMIC:

1. Impacts on resource:

If a conflicting use, such as the identified conflicting use in this case (residential dwellings), was allowed on the resource site or in close proximity to the site, we find it would have a devastating effect on the resource. At best, the cost of mining and, therefore, cost of the final product, would be increased because of additional efforts necessary to reduce effects on a conflicting use. Compliance with applicable environmental regulations may also be rendered more difficult. However, we find that the more probable consequence on the resource from allowing conflicting dwellings on or near the site would be the complete loss of the resource. We find that it would be extremely difficult if not impossible to design an extraction plan which would allow aggregate operations to proceed if conflicting uses were allowed to locate on the resource site or in close proximity to the resource site. As set forth in our discussion of Goal 9 below, we find that these impacts on the Howard Canyon resource will have a significant adverse economic effect.

2. Impacts on conflicting uses:

We find that the Goal 5 opponents have expressed their opinion that the value of their homes would be affected due to operation of the quarry in the vicinity. We find that no expert evidence on this point was presented, but that the property owners in the area expressed a sincere feeling that their resale values would be affected.

We find that expert testimony demonstrates that noise levels at any nearby existing residence will be significantly below the DEQ noise standards. We further find that construction of acoustic berms, which we find can be easily accomplished at the site, will reduce sound levels at existing homes in the area to less than 37 dBA. We find that DEQ standards are appropriate standards by which to judge noise impacts on adjoining properties, and that under DEQ standards, there will not be a significant impact for existing dwellings in the area. We find that lack of noise effects mitigates against attributing large reductions in resale value to noise considerations.

We find that a rock crusher to be used at the site has an existing DEQ Minimal Source Air Contaminant Discharge Permit which requires control of dust from

crushing activities. We find that the county roads in the area are paved which will further reduce dust. We find that the evidence before us demonstrates that the Howard Canyon Goal 5 resource site can be developed without significant adverse economic effects on the resale value of homes in the area.

3. Requirements of other applicable State Goals:

A. Goal 9: "To diversify and improve the economy of the state."

Goal 9 has a major impact on our analysis of the Howard Canyon Quarry. We find that production of mineral and aggregate materials in Multnomah County falls significantly short of consumption within the county. We further find that mineral and aggregate materials are critical primary materials for the construction of residences, buildings, roads, overpasses, sewers and other infrastructures using the asphalt, concrete or rock products. We find that the scarcity of material in Multnomah County, particularly in the east county area to be served by the Howard Canyon site, has a negative effect on the price of aggregate materials, causing both an increase in raw material costs and an increase in transportation costs due to distance from available sites. Because we find that the absence of mineral and aggregate sites in the county increases the cost of anything which would be constructed from those raw materials, we conclude that location of a source of supply would reduce or stabilize the cost of construction which incorporates mineral and aggregate materials and, therefore, improve the economy of the state. We further find Multnomah County has jurisdiction over only one permitted mineral and aggregate quarry, the Angel Bros. Quarry in the extreme western portion of the county. We find that the eastern portion of the county does not have a source of supply and that the Howard Canyon Quarry would diversify available sources of supply in the county and, therefore, diversify and improve the economy.

We find that the Goal 5 opponents have argued that the resale value of their homes would be adversely affected. Assuming for the purposes of argument that hard evidence of adverse economic effects on the value of residences in the area is demonstrated by the record, we find that only a few residences would be affected, that these residences are located on resource land in Multnomah County, and that any perceived loss of value does not prevent continued use of the residences. We find and conclude that this potential economic effect is outweighed by the positive economic effects of the quarry.

We find and conclude that the economic prong of the ESEE analysis strongly supports the designation of the Howard Canyon Quarry which

will allow mining. We find that Multnomah County is a large consumer of mineral and aggregate products and is dependent on imported material to meet the county's needs for mineral and aggregate resources. We find these materials are the fundamental building blocks for our roads, streets and buildings. The consequences of this importation of materials are particularly severe in the East Multnomah County area.

Although the Goal 5 opponents have offered evidence that there are alternative sources of supply (e.g., the Scott report), we find persuasive conflicting evidence in the record. We find that the sources of alternative supply listed in the Scott report do not present rational alternatives upon which the county wishes to rely. The Smith Bros. Quarry produces no crushed rock. Brightwood Quarry and Pacific Rock Products can deliver material, but at an extremely expensive price. The relationship between Gresham Sand & Gravel Company and Cascade Sand & Gravel (now Lone Star) exemplifies why the sources listed by Mr. Scott do not provide a rational alternative source. Lone Star exports material from Scappoose (in Columbia County approximately 50 miles distant) to Gresham Sand & Gravel Company, who then transships the material to other locations in the county. We find that the net effect of this transshipment is extremely high product cost, even before the material is transported to its place of use. We find that the reason for this importing and transshipment procedure is that Gresham Sand & Gravel Company is nearly out of its own raw material.

We find that other sources of supply as set out in the Scott report as alternatives suffer from similar difficulties. Damascus Quarry, Construction Aggregates and Mt. Hood Rock can provide mineral and aggregate materials, but only at a price significantly in excess of materials produced at Howard Canyon Quarry. We find that the major reason for this transportation cost is dictated by an excessive distance between the sites of the market. We find the same analysis applies to Deep Creek Quarry and we find that Deep Creek Quarry is close to closing, according to Clackamas County authorities. We find the same analysis applies to American Sand & Gravel and is exacerbated by the fact that American Sand & Gravel does not own delivery trucks, and anyone relying on that source for supply would need to provide their own private transportation. We find that such transportation would cost at least \$40.00 per hour and it is estimated that between two and three hours would be necessary to deliver the material. We find that Rogers Construction and Oregon Asphaltic Paving are the same company and do not provide mineral and aggregate materials to the general public. We find that they use their materials on their own value-added products (such as asphalt) and, therefore, are not an alternative source of supply.

The Goal 5 opponents argue that mineral and aggregate materials can be economically transported up to 25 miles. We find this to be contrary to persuasive evidence in the record which establishes that the 25-mile distance, in fact, greatly increases prices. We find that the 25-mile distance was calculated on larger truck loads and freeway miles, that most loads in the area are smaller, and that freeways do not exist. We find that much of the material from the Howard Canyon Quarry would be delivered to the Larch Mountain Road area which is significantly further than Springdale, the end point for the Goal 5 opponents' mileage figures. We find that the costs associated with using distant sources of mineral and aggregate materials affect all persons in the county. The county itself must pay more for road materials and this is reflected in the taxes that are paid by persons living in the county. In addition, consumers must pay higher prices for raw material or for homes, roads and other products that incorporate the raw material. We find that county roads also suffer in that material brought from farther distances generally creates greater overall truck usage on county roads as compared to aggregates which are mined closer to the source of ultimate consumption. Based on all these factors, we find and conclude that Goal 9 strongly supports protection and use of the Howard Canyon Quarry.

B. Goal 10: "To provide for the housing needs of citizens in the state."

We find that mineral and aggregate resources are a critical component of housing (e.g., concrete for the foundations) and accessory structures for housing (e.g., concrete for sidewalks and sewers and asphalt for streets) in the county. We find that the Goal 5 opponents have stated that their housing values will decrease. Assuming for the purposes of argument that this is true, we find that there are few houses involved, the houses are located in the resource land, and the location of the quarry will not prevent the use of the houses. In addition, as set forth above, we do not find that there will be any significant adverse effects from noise and dust as alleged by the Goal 5 opponents.

On the other hand, we find that material to be produced at the quarry will benefit a large portion of the east county population by making mineral and aggregate resources available for housing, road construction and other uses at a favorable price. We find that the greater good is served by the provision of aggregate materials at an economic price which will help meet housing needs of persons at all income levels in the county. We find and conclude, on balance, that Goal 10 weighs in favor of a site designation of the Howard Canyon Quarry which allows mining.

C. Transportation Goal 12, To provide and encourage a safe, convenient and economic transportation system:

In testimony from the County Engineer during the Conditional Use 7-87 public hearings on the subject site it was stated that neither SE Howard or SE Knieriem Roads, the only two options for travel to and from the property, are of sufficient construction to withstand the extra load of gravel trucks on a constant basis without breaking up.

In test cores done on SE Howard Road it was found that the road consists of two inches of oil matte over nine inches of rock, construction very similar to a residential street standard, and therefore cannot withstand frequent heavy truck traffic. Also, for the one mile of SE Howard Road that gravel trucks would use, there are several areas of narrow road widths and difficult sight distances that would need modifications in order to safely accommodate large truck traffic.

On the northward travel route option using SE Knieriem, the road width and sight distances are better than SE Howard but there is still the need for road bed and surface improvements similar to those for SE Howard for a length of one-half mile.

Newly adopted amendments to the zoning code (MCC 11.15.7325(C)(1)(d)) require the following:

“(d) The applicant shall identify the most commonly used routes of travel from the site and the County Engineer shall certify that those roads:

- (i) Are adequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, or
- (ii) Are inadequate to safely accommodate any additional traffic created by the extraction operation for the duration of the activity, but the applicant has committed to finance installation of the necessary improvements under the provisions of 02.200(a) or (b) of the *Multnomah County Rules for Street Standards*.”

Therefore, the problems with transportation must be addressed and resolved at the Conditional Use application stage and the proposed extraction activity will still not be able to begin operation until the needed road improvements are in place.

We also find that Goal 12 requires us to give consideration to the entire county road system and, in this regard, directs us to provide and encourage an economic transportation system. As discussed above, we find that mineral and aggregate materials are primary building materials for all aspects of the county's transportation system. We find that the Howard Canyon Quarry provides an economic alternative for raw materials which, in turn, provides and encourages an economic transportation system. We find that the economic considerations under Goal 12 are similar to the considerations we must address under Goal 9, and we incorporate our discussion of Goal 9 herein by reference.

D. Goal 13: "To conserve energy."

We find our analysis of the economic factor of the ESEE analysis would not be complete without a discussion of the increased cost in terms of energy related to delivering mineral and aggregate material from sources outside the county and from the more distant source inside the county. We find that the use of distant sources greatly increases the cost of raw material and, more importantly, for our discussion under Goal 13, increases the amount of energy used for delivery of the material because of increased truck transportation.

We find that the closest alternative source of supply, Gresham Sand & Gravel Company, states that additional fuel is required to deliver material from its site to the Corbett area because of the long distance involved and because of the uphill nature of the trip. We find that allowing the Howard Canyon Quarry to become a source of supply for mineral and aggregate materials would reduce the length of truck trips and would also reduce the fuel-consuming uphill transportation of material. For all these reasons, we conclude that the designation to allow mining at Howard Canyon Quarry will conserve energy, and we conclude that Goal 13, on balance, weighs heavily in favor of a designation at the site which allows mining.

The Goal 5 opponents have made the argument that the Howard Canyon Quarry is not "needed" and, therefore, it must be given a designation which prevents mineral and aggregate mining. We find that Goal 5 does not require us to consider whether or not a significant natural resource, such as mineral and aggregate resources, is "needed." Based on the Goal 5 process, we find that we have adequate information as to the quality, quantity and location of the resource, and we have found that the Howard Canyon site is significant. We have been able to identify only one conflicting use (existing residential uses on resource land), and we have analyzed the ESEE conflicts of that conflicting use. We find this process does not require us to consider "need" for the resource. Goal 5 assumes that the

resource is valuable and is needed if it is significant. We have reviewed case authority cited to us by the Goal 5 opponents (*Mobil Crushing Co. v. Lane County* (1984)). We do not find this case to be authority of the proposition that "need" is a mandatory consideration of Goal 5. We find that if the county were to wait until a site was "needed," it might be impossible to develop that site because of the intervening development of conflicting uses in the area. We find that Goal 5 requires us to engage in "upfront" comprehensive planning whereby we designate the sites which will be protected before conflicting uses eliminate the possibility of protecting the resource. We further find that mineral and aggregate material is but one of the natural resources listed in Goal 5. We find that it would be inappropriate to use the "need" standard for evaluating wetland areas or historic sites, which are other Goal 5 natural resources. The same analysis must apply to mineral and aggregate materials.

In the event "need" would be deemed a consideration under Goal 5, we make the following findings and conclusions. We find that Multnomah County has a shortfall of mineral and aggregate production capacity and is heavily dependent on imported material from adjacent jurisdictions. We find that this situation is particularly evident in East Multnomah County where local sources of supply either import materials for transshipment or do not sell to the general public. We find that Multnomah County consumes large amounts of mineral and aggregate materials, but at present has only one source of supply operating within its jurisdiction (outside of city limits). We find that this situation increases the cost which the county and consumers must pay for mineral and aggregate materials. We find that lack of established supply, increased cost of mineral and aggregate materials, and lack of designated sites in the county comprehensive plan for future extraction demonstrate that there is a need for mineral and aggregate material in Multnomah County and particularly in East Multnomah County. Based on these factors, we conclude that there is a need for the Howard Canyon Quarry and that need may be best addressed under Goal 5 by providing a designation for Howard Canyon Quarry which protects the resource and allows extraction of mineral and aggregate materials.

SOCIAL:

1. Impacts on resource:

Extraction operations will be subject to limitations on hours and days of operation as given in the amended Mineral Extraction Code section of MCC. Buffering will be desirable to provide noise reduction for residences in the area and for visual screening. These modifications in the operation might be appro-

appropriate to protect conflicting uses in the area from social impacts. These modifications would impact the resource in that they would marginally increase the cost of operation. However, we find that the most probable outcome of fully allowing the conflicting residential use on or near the resource site will be social impacts sufficient to prevent the use of the resource. If conflicting uses are allowed on the resource site or within the impact area, it is probable that the resource could not be protected and used because DEQ standards controlling the operation of the quarry, particularly noise standards, could not be met at the site. Therefore, we find that the most probable social impact of the conflicting use on the resource would be to prevent the quarry's use. As set forth in our analysis below, impacts from the resource on the existing conflicting use can be largely avoided and we chose not to make a Goal 5 designation which would fail to protect the quarry and prevent its use.

2. Impacts on conflicting uses:

We find that there are several existing residences nearby. The closest four residences from the resource area are: one at 400 feet, one at 500 feet and two at 700 feet. We find that Mr. Smith owns or controls the residence at 400 feet and one of the residences at 700 feet. We find that the opponents have alleged that operations at the quarry will interfere with the residence uses of nearby properties based on noise considerations. We have reviewed the materials prepared by Registered Professional Engineer (acoustical) Standlee. We find that Mr. Standlee has determined that noise from blasting, machinery and rock crushing will be well within DEQ standards as measured at existing dwellings in the area, and we specifically accept Mr. Standlee's report as credible and persuasive expert testimony. We find that DEQ standards provide an appropriate basis for determining whether or not noise is an adverse social impact. DEQ has established noise standards which are measured at the point of reception and, therefore, we conclude they are designed to protect adjacent properties. We find that DEQ standards are designed to meet the legislative policy to protect the health, safety and welfare of Oregon citizens. Because we find that DEQ standards will be easily met by the proposed use at the quarry, we find and conclude that social impacts of the resource, if any, are minimal on the conflicting use.

The Goal 5 opponents have also indicated that they believe there will be dust problems at the site related to crushing. We find that the crushing equipment previously used at the site has a DEQ air contaminant discharge permit which requires the crushing machinery to control dust. We find that DEQ permit limits are designed to protect the health, safety and welfare of the citizens of Oregon and, therefore, find and conclude that DEQ standards present an appropriate basis for determining whether the impact would have an adverse effect on the conflicting use. We also find that the applicant has agreed to control any road generated dust produced at the site by imposing a strict speed limit on the

private access roads to the quarry. Because we find that DEQ standards will be met and that road generated dust will be controlled through the imposition of a speed limit, we find and conclude that the impacts on the conflicting use from dust, if any, would be minimal.

The Goal 5 opponents also indicate that road safety presents a conflict at the site because it has an impact on the residential uses. In the Department of Land Conservation and Development review of the County's submitted Proposed Periodic Review Order, dated June 9, 1989, on page 8 it reads:

"The concerns raised under Goal 5 regarding potential problems with traffic and road maintenance are issues outside of the Goal 5 analysis. The county can always invoke regulations under its 'police powers' to limit the quarry activities at this site to assure the health, safety and welfare of citizens living in the area."

In compliance with that direction, as given on the preceding page 7, the County has amended its zoning code to address road issues at the time of application for a specific extraction operation.

3. Requirements of other applicable State Goals:

A. Goal 9: "To diversify and improve the economy of the State."

We find that there will be adverse social costs to the economy of the state if the Howard Canyon Quarry is not given a designation which allows its mining and use. We incorporate herein by reference our discussion of Goal 9 under the economic prong of the ESEE analysis, above. We find that if the economy is not diversified and improved, there will be fewer job opportunities available to the citizens of the county. We find that the proposed quarry contributes to that diversification in East Multnomah County. More importantly, we find that the adverse economic effects of higher costs for mineral and aggregate materials affects the cost of roads, the affordability of homes, and the amount of tax revenue that must be used to purchase road construction and repair materials. We find that the Goal 5 opponents have stated that the resale value of their homes may be reduced if the site is protected by Goal 5. We incorporate by reference our discussion of the economic prong of the ESEE analysis, above. Based on all these factors, we find and conclude that, on balance, the economy of the state component of the social impact analysis favors protection of the quarry and that the greater good is served by designating the Howard Canyon Quarry for protection and use.

B. Goal 10: "To provide for the housing needs of citizens of the state."

We incorporate by reference our findings under the economic prong of the ESEE analysis. We find that mineral and aggregate materials are an important component of housing construction. Such materials are necessary both for actual construction of residences and for infrastructure to serve residences. We find that there is an adverse effect on the affordability of housing when these raw materials increase in price. Based on all these factors, we find and conclude that, on balance, the housing component of the social impact analysis favors protection of the quarry.

C. Goal 12: "To provide and encourage a safe, convenient and economic transportation system."

The Goal 5 opponents have raised road safety issues as social impacts on existing residential uses in the area. We find that the Goal 5 opponents' primary concern is directed to the safety of a curve in Howard Canyon Road, the safety of school bus travel, and the safety of children riding bicycles on county roads.

As discussed on the preceding page, the County has followed DLCD direction in determining that the appropriate timing of when road safety issues should be addressed is through the zoning code and not during the Goal 5 ESEE analysis.

We further find that Goal 12 not only has a safety component, but also an economic component which is relevant to the balancing of social impacts. Under Goal 12, we find that it is appropriate to consider negative economic effects on the county's transportation system if Howard Canyon Quarry is not protected. We incorporate by reference our discussion of the economic prong of the ESEE analysis, above. Based on the record, we find that our analysis of the social impacts presents the possibility that an important Goal 5 mineral and aggregate resource site would be lost due to minimal social conflicts related to noise, dust and traffic safety. We find and conclude that the social cost to the county as a whole related to loss of the resource outweighs the minimal social impacts to the Goal 5 opponents of allowing the quarry to operate. We find and conclude based on our analysis of social impacts that the resource should be protected.

ENVIRONMENTAL:

1. Impacts on resource: N/A

The identified conflicting use (residential dwellings) would not have an adverse environmental impact on the resource unless the conflicting use was allowed in

close proximity to the resource site or on the resource site.

The amended zoning code provisions require a setback of 200 feet to the property line for new noise sensitive uses on adjacent properties. For noise sensitive uses on the same property, the setback required is 250 feet to the boundary of the known and mapped resource.

2. Impacts on conflicting uses:

Opponents have suggested that there would be adverse environmental impacts on the conflicting use related to noise, dust, and blasting which would affect existing residences. We find that DEQ noise standards will be easily met at the site. We find that dust will be controlled through a DEQ air quality permit. We incorporate herein our discussion of these impacts which is contained in the economic and social prongs of our ESEE analysis.

3. Requirements of other applicable State Goals:

A. Goal 4: "To preserve forest lands for forest uses."

The site and surrounding areas are designated in the Multnomah County Comprehensive Plan as forest resource lands and are primarily zoned to allow forest uses. We find that the new Goal 4 regulations provide that locationally dependent uses, such as mineral and aggregate resources, are uses authorized in forest zones. We find, therefore, that there is no conflict between Goal 4 and the designation of the Howard Canyon Quarry site which will allow mineral and aggregate extraction.

In the event that a conflict would be deemed to exist between Goal 4 and the proposed quarry, we make the following findings. We find that these forest uses will not be able to continue without significant change or increase in cost because the proposed extraction plan will not disturb the entire resource area at one time and that reclamation will be ongoing. We find that cattle may continue to graze on portions of the site that are not disturbed and that forest uses may occur in the future after the land has been reclaimed. We find that the quarry operation will not increase fire danger and that quarry roads will assist fire suppression in the general area. Based on all these factors, we find that Goal 4 mitigates in favor of protecting the quarry site for use.

B. Goal 5: "To conserve open space and protect natural and scenic resources."

We find that the Goal 5 opponents have suggested that deer and elk habitat, fish habitat, and wetlands may be affected by the proposed use. We note that Goal 2 requires a factual basis for decisions. We have reviewed the facts in the record with respect to fish and wildlife habitat and wetlands.

We find that the quarry site does not have adequate thermal protection and, therefore, does not serve as critical winter range for wildlife. We find that the closest winter range area is approximately one mile to the southwest and is separated from the resource site by canyons. As stated in the report of Dr. Robert Ellis, such report we specifically adopt, we find that there will be no adverse impact on winter range through operations at the resource site. We find that the stream to the north of the resource site will be protected by leaving an undisturbed buffer along the northern edge of the plateau in which the resource is located. We find that streams to the south will be similarly protected. We further find that sedimentation in the stream to the south is not a danger, given that ample room exists for sedimentation control mechanisms to be installed at the site to prevent adverse effects on the stream. In addition, we find that the stream to the south is on the opposite side of Howard Canyon Road from the resource site.

Recently adopted amendments to the Mineral Extraction Conditional Use provisions will protect any discovered significant wildlife habitat in the future prior to extraction operation. MCC 11.15.7325(C)(6) reads as follows:

"(6) Fish and wildlife protection.

- (a) Fish and wildlife habitat identified by the Comprehensive Plan, or recognized as significant by an ESEE analysis, or found to be significant during project review shall be protected to the maximum possible. Where appropriate, such habitat may be mitigated by such enhancement measures as the provision of additional feed and cover for wildlife or fish stream habitat.**
- (b) The extent of the operation's impact on and the importance of the fish and wildlife values present shall be determined in consultation with the State Department of Fish and Wildlife.**

- (c) Streamside riparian vegetation shall be retained for all streams not a part of direct extraction activities.'

We find that the stream to the north is identified as a wetland on the U.S. Fish and Wildlife "National Wetlands Inventory". No on-site evaluation of the wetland has been done. However, newly adopted amendments to the zoning code include a requirement for a Significant Environmental Concern Permit for most activities within 100 feet of a Class I stream not within the mapped aggregate resource boundary. The SEC zone permit requirements include protection of wetlands.

We find that there will be no extraction activity in these wetland areas as extraction will occur on the bench area, which is between 250 and 1,000 feet from the streams. We further find as set forth in the report of Dr. Robert Ellis, such report we specifically adopt as correct, that there will be no adverse effect on stream quality due to sedimentation and, for the same reason there will be no adverse effects on wetlands.

The Goal 5 opponents also point to a Forest Practices Act assessment which demonstrates they believe that there will be environmental problems associated with the Goal 5 resource operation at the site. We find that the Forest Practices Act assessment has little relevancy in the ESEE analysis. We find that the assessment occurred for activities approximately one and one quarter mile away that were not related to quarry uses. We further find that the opponents' suggestion that the Forest Practices Act assessment is relevant, and is dubious given that there is no applicant in this matter and, therefore, no reason to assess "blame" to any individual. In this process, the county is evaluating the significance of a resource and the impacts of conflicting uses on that resource and the impacts of the resource on conflicting uses. This is not a development application and an assessment against one individual is of little relevance because there is no restriction in the Goal 5 process as to who might own the land or be the ultimate applicant for land use approval after a site is designated for protection under Goal 5.

We find that if the Howard Canyon site was dedicated to the identified conflicting use, conflicts with Goal 5 resources would be possible. Access roads and site preparation for the identified conflicting use could contribute to slope instability, stream sedimentation or wetland interference. Dwelling location could interfere with wildlife habitat and domestic animals, such as dogs, could conflict with wildlife.

Based on all the information in the record, we find and conclude that there will be no conflicts with other Goal 5 resources at the site including wildlife habitat, fish habitat and wetlands and, therefore, conclude that

the resource site should be protected.

C. Goal 6: To maintain and improve the quality of the air, water and land resources in the state."

The Goal 5 opponents have indicated that the rock crusher presents the "potential" for pollution and that there may be a conflict with the water quality from activities on the site. We find that Goal 6 is related to waste and process discharges from future development. We find that the only process discharge at the site is related to the crusher and that a DEQ permit is in place for the crusher that has been previously used at the site. We find that this will eliminate any potential pollution problems with the site. We also find that sedimentation impacts on water quality will not occur and incorporate our discussion of Goal 5, above. In addition, we find that reclamation is planned for the site. Based on all the factors, we find and conclude that quality of air, water and land resources will be maintained and approved at the proposed resource site.

D. Goal 7, Areas Subject to Natural Disasters and Hazards:

The Goal 5 opponents have indicated that there may be geologic hazards associated with overburden storage or with the stability of the geologic structure in which the rock resource is located. We find that the overburden will be stockpiled for reclamation purposes and will be revegetated to prevent erosion. We further find that there is plenty of room on the relatively flat bench for storing overburden in a nonhazardous manner. We find that the rock resource is a basalt structure which is not unstable. We find that the Troutdale formation, which the opponents contend is unstable, will be largely untouched by the mining operation because the Goal 5 basalt formation is located above the Troutdale formation.

We further find, as set forth in the report of Registered Professional Engineer Schlicker, that a road or any other structures which cross the Troutdale formation can be adequately designed to ensure that there is no hazard to life or property. We chose to rely on the Schlicker report because it is consistent with the factual information produced by the Oregon Department of Geology and Mineral Industries and it specifically addresses the geology of the site, whereas the Goal 5 opponents' geologist, Mr. Scott, addresses geologic generalities that can apply to any site at any location. Based on all of these factors, we find and conclude that there are no conflicts with Goal 7 which prevent the protection of the Goal 5 resource site.

E. Goal 13: "To conserve energy"

We find that the resolution of the ESEE analysis requested by the Goal 5 opponents would require that mineral and aggregate material be delivered to the Corbett area via long truck trips from sources in Clark County, Washington and Clackamas County, Oregon. Alternatively, the Goal 5 opponents would require material to be shipped from Columbia County, Oregon to Gresham Sand & Gravel Company, and then transshipped by truck to the Corbett area. We find that each of these importation proposals requires considerably more energy use and consumption of more fossil fuel than would be required if the Howard Canyon Quarry is designated for use. We find that fuel consumption means increased pollution and, therefore, considerations under Goal 13 to conserve energy tie in with considerations under Goal 6 (to maintain clean air) to work in favor of the designation of the Howard Canyon Quarry as a protected resource site.

Based on all these factors, we find and conclude that any adverse environmental impacts associated with our designation for the Howard Canyon Quarry for resource protection are minimal. We further find that were we to allow the identified conflicting use at the site, many of the same impacts attributed to the proposed use by its opponents would occur. We find that the report of Dr. Ellis is persuasive and we find that the resource site can be developed without adverse effects on fish and wildlife. We find the report of Mr. Schlicker to be persuasive and find that the site can be developed without geologic hazard. We find that the proposed quarry site can be operated in compliance with DEQ environmental standards. Therefore, we find and conclude that the environmental prong of the ESEE analysis favors the designation of the Howard Canyon Quarry site which will allow quarry operations to proceed.

ENERGY:

1. Impacts on resource:

Allowing noise and dust sensitive uses too close to the resource will alter the manner, location and extent of extraction activities and result in a greater use of energy by the operator. As stated above, the more probable result of allowing the identified conflicting use on or near the site would be to prevent use of the resource altogether.

2. Impacts on conflicting uses:

We find that operation of the Goal 5 resource on the site by the identified conflicting use would not increase or decrease energy consumption for the identified conflicting use and conclude that there are no identified energy impacts on the conflicting use.

3. Requirements of other applicable State Goals:

Goal 13: "To conserve energy."

As discussed throughout this ESEE analysis, we find that if the Howard Canyon Quarry is not protected for resource use, mineral and aggregate material in the Corbett area will be supplied by out-of-state quarries, out-of-county quarries or locations in the county where material is transshipped from outside the county. We find that these long distance delivery mechanisms use additional energy that would not be consumed if the Howard Canyon resource was protected under Goal 5. Based on all these facts, we conclude that the energy prong of the ESEE analysis strongly favors designating the resource site for protection and use.

CONCLUSION:

The resource at this site should:

- Be fully protected – designate 3A.
- Not be protected due to overriding benefits from allowing conflicting uses – designate 3B.
- X** Be partially protected by conditions which minimize the impact of conflicting uses – designate 3C.

We find that the Howard Canyon Quarry is an important Goal 5 natural resource site. We find that a large quantity of high quality mineral and aggregate material exists at the site. We find that this material is a scarce resource in Multnomah County as the county presently only has one producing quarry, the Angel Bros. Quarry, located within its jurisdiction (outside of city limits).

We have identified a single use which conflicts with the protection of the site for mineral and aggregate extraction. We find that the conflicting use, residential dwellings, has two components: future residential uses and existing residential uses. We find that the resource would be protected from future residential uses

by the newly adopted setback requirements surrounding the Goal 5 resource. Also, because the site and surrounding lands are planned and zoned for forest resource uses, future residential dwellings will be few and on very large parcels.

We find that there are a small number of existing residential uses near the resource site. We find the citizens who live within this area oppose a Goal 5 designation which protects the Howard Canyon Quarry site and allows its use. We find that the basis for their opposition rests primarily on noise and dust impacts and traffic safety issues. In our ESEE analysis, we have studied the noise, dust and traffic safety issues, and have concluded that they present minimal conflicts or are more appropriately resolved outside the Goal 5 process.

With regard to the noise and dust conflicts, we find that DEQ standards are designed to protect the health, safety and welfare of the citizens of Oregon and conclude that, as such, they are appropriate reference points for determining when a serious conflict will arise. We find that noise from the quarry operation will be substantially below the DEQ noise standards. We find that the major dust source identified by the opponents, the rock crusher, has a DEQ air permit which requires dust to be controlled. We find that meeting DEQ environmental standards minimizes any conflicts which might exist between the quarry and the identified conflict use.

Road and traffic concerns will be addressed at the time of application for Conditional Use approval. This is in conformance with the directive of the Department of Land Conservation and Development review of the County's submitted Proposed Periodic Review Order, dated June 9, 1989. Page 8 of that review reads:

"The concerns raised under Goal 5 regarding potential problems with traffic and road maintenance are issues outside of the Goal 5 analysis. The county can always invoke regulations under its 'police powers' to limit the quarry activities at this site to assure the health, safety and welfare of citizens living in the area."

The County has subsequently amended its zoning code to address road issues at the time of application for a specific extraction operation.

We find that the energy and economic prongs of our ESEE analysis weigh heavily in favor of protecting the Goal 5 resource. Under both the economic and energy portions of our ESEE analysis, we find that there would be severe effects on the resource if the conflicting use was allowed, whereas the conflicting use would not be affected significantly if the Goal 5 resource was allowed. We also find that the social prong of our ESEE analysis mitigates in favor of protection of the Goal 5 resource. As described in our analysis, we find that identified potential social impacts on the conflicting use are mitigated or eliminated in

that DEQ noise and dust standards are met.

The environmental prong of our ESEE analysis weighs in favor of protecting the Goal 5 resource for use. We find no conflict with fish, wildlife or wetland values as alleged by the Goal 5 opponents. We further find that the preliminary mining extraction plan and the location of the resource provides ample space for protective measures to prevent stream sedimentation or other environmental problems. We further find that the proposed use of the Goal 5 resource will meet DEQ noise and dust standards.

We, therefore, choose to adopt a designation which protects the Goal 5 resource and allows its use. We find and conclude that the results of our ESEE analysis indicate that all four ESEE factors weigh in favor of protecting the resource and allowing its use. Accordingly, the Howard Canyon resource site is designated "3C" in the Multnomah County Comprehensive Plan.

PROGRAM:

The Howard Canyon resource site is designated "3C" in the Multnomah County Comprehensive Plan. MCC amendments for mineral and aggregate extraction, previously adopted by the county (MCC 11.15.7305-.7335), provide standards for a permit application to the county to develop the quarry. The Howard Canyon resource site shall be protected from adverse conflicting uses, including noise and dust sensitive uses, by the newly adopted setback requirements (contained within all zoning districts allowing such uses) to the mapped and designated "3C" Mineral and Aggregate Resource Boundary.

Site #4, Angell Bros., Inc.

**“3 C” Designation for Existing 71.22 Acre
Aggregate Mining Operation And
55 Acre Expansion Area**

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

In the Matter of Adopting an Economic,)
Social, Environmental, and Energy (ESEE)) FINAL ORDER #90-
Analysis for Mineral and Aggregate)
Inventory Site #4, Angell Brothers, Inc.)

Oregon Revised Statute 197.640 requires counties to review their comprehensive plans and land use regulations periodically and make changes necessary to keep plans and regulations up to date and in compliance with the statewide planning goals. A Proposed Local Review Order intended to bring the County into compliance was presented to the Department of Land Conservation and Development (DLCD) on February 28, 1989. DLCD recommended changes to selected items in the Proposed Local Order which included revising the Statewide Planning Goal 5 Economic, Social, Environmental, and Energy Analysis of the mineral and aggregate sites. The Oregon Administrative Rule guiding this analysis is found in Chapter 660, Division 16.

During the process of revising this mineral and aggregate ESEE Analysis public hearings were held before the Board of County Commissioners on December 19, 1989, January 9, 1990, February 20, 1990, and March 6, 1990. On each of those dates written and oral testimony was taken and heard regarding this site.

Based upon that testimony the Board adopts the following ESEE Analysis for Site #4, Angell Brothers, Inc. Quarry, which concludes the following:

- 1. The appropriate classification of the 126.22 acres in the easterly center of the site, as depicted on the attached map, is "3C, Specifically Limit Conflicting Use".
- 2. The ESEE Analysis for the remainder of the site, 270.37 acres, is at "Step 2, Identify Conflicting Uses" until on-going wildlife studies described in the analysis are completed at the time schedule specified.

This order and the foregoing are to become attachments to the Local Review Order to be submitted to the Department of Land Conservation and Development.

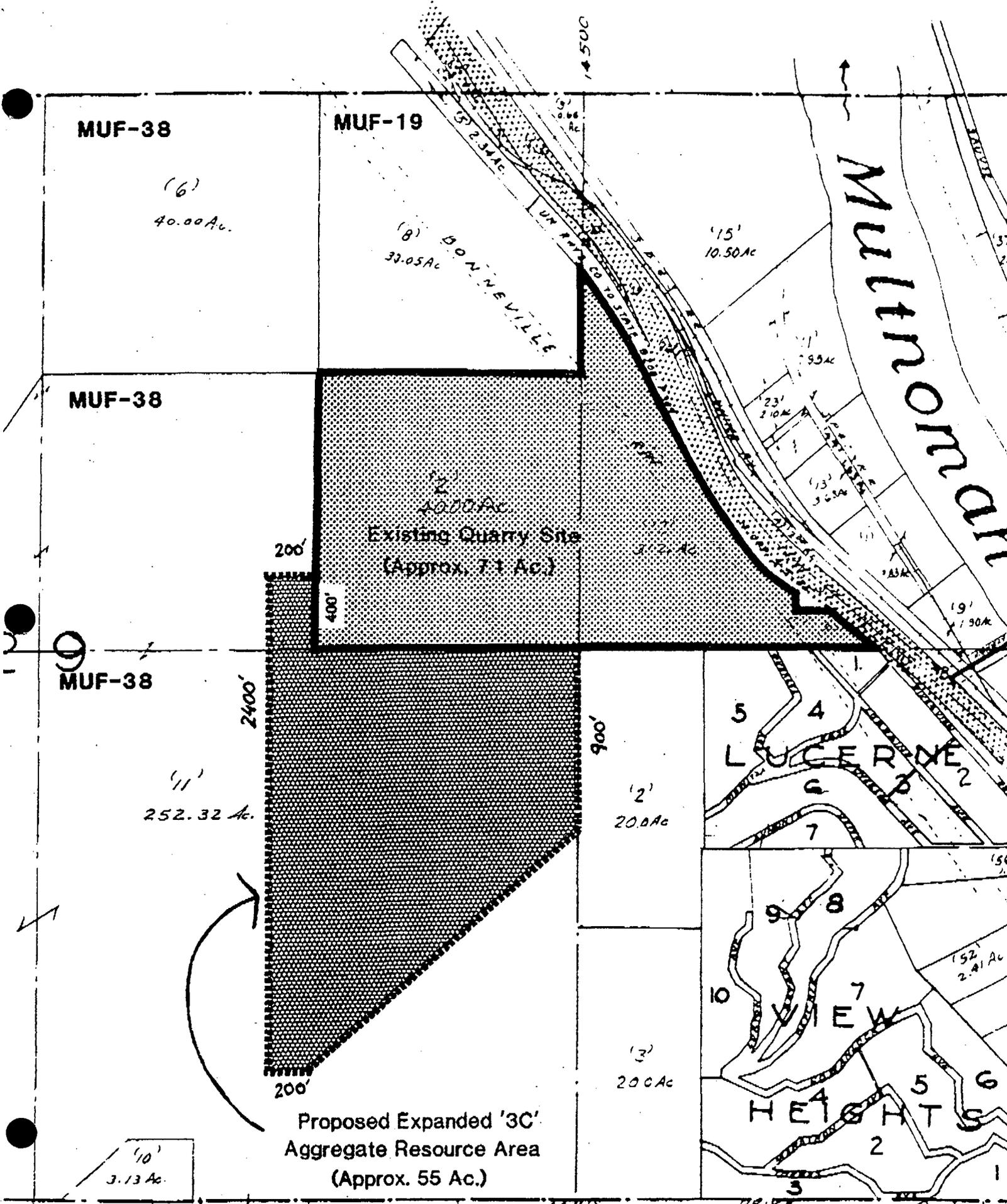
Approved the 27th day of March, 1990.

(Seal)

Gladys McCoy
Multnomah County Chair

Reviewed:
Lawrence Kressel, Multnomah County Counsel

By: _____
John DuBay
Chief Deputy County Counsel



**Multnomah County
GOAL 5 INVENTORY**

(3/27/90)

**("3C" for Existing Operation and Short Term Expansion Area)
(Staff Version)**

Type of Resource: Mineral and Aggregate
Mult. Co. Inv. Site #4
Angell Brothers, Inc.

Location:

Tax Lot '12 in the Northwest 1/4 of Sec. 28, T. 2 N., R. 1 W.; Tax Lots '2', '6', '8', and '11' in the eastern one-half of Sec. 29, T. 2 N., R. 1 W.

Description:

DOGAMI I.D. #26-0019

This operating rock quarry is located on the west side of State Highway 30, just north of the Sauvie Island Bridge. The present size of the approved extraction activities cover the majority of two tax lots totalling 71.22 acres in area. The easternmost parcel of 31.22 acres (TL '12', Sec. 28, T. 2 N. R. 1 W.) contains the processing equipment and stockpiles. The existing general mining and operations master plan calls for retaining the north and south knob type hills at the entrance for screening of the operation to viewing from the east.

A 1978 DOGAMI publication estimated that reserves of the mineral and aggregate resource were 7 million cubic yards of material. A study by H. G. Schlicker and associates was submitted in August, 1989 which covered an adjoining 325.37 acres. That report concluded that based upon their materials tests, borings, and seismic studies, the potential expansion area most likely contains approximately 220 million cubic yards of very good aggregate material.

A. Available information indicates site is important (ability to yield more than 25,000 cubic yards of material in less than 5 years):

NO—Designate 1A: Do not include in plan inventory.

YES – Go to B.

B. Is available information sufficient to determine the location, quality and quantity of resource at the site ?

NO – Designate 1B : Address the site in future when information becomes available.

YES – Include in plan inventory and go to C.

C. Zoning:

Multiple Use Forest - 19 and Multiple Use Forest - 38

OAR 660-16-005: *'It is the responsibility of local government to identify conflicts with inventoried Goal 5 Resource Sites.'*

Are there conflicting uses ?

NO – Designate 2A : Preserve resource.

YES – Go to D.

D. Describe existing or potential conflicting uses:

Single family residences: In the MUF-19 zone as a primary use on a lot of 38 acres, as a use under prescribed conditions on a new lot of between 19 and 38 acres with a forest or farm management plan, as a use under prescribed conditions on a lot of record of between 10 and 38 acres with a forest or farm management plan, or as a conditional use on a lot of record of less than 10 acres. The MUF-38 zone requirements are identical to the MUF-19 zone except that new lots must be at least 38 acres in area.

A range of potential conditional uses and community service uses are listed in the MUF zoning districts but to be approved the approval authority shall find that the proposed use "Will not adversely affect natural resources" (MCC 11.15.7120(B)). In the MUF zone such uses include churches, schools, cottage industries, service commercial, and tourist commercial establishments.

There is the possibility of a "Wildlife Corridor" in the West Hills that provides migrating routes and intermingling of species between Forest Park and the Coast Range. If such a corridor exists, the impact on this corridor by an expansion of the subject mineral and aggregate operation would be relevant. There are studies in progress that are investigating this potential conflict and until that research and field studies are completed during calendar year 1991, the County cannot adequately identify conflicting uses as required by OAR 660-16-005.

Although OAR 660-16-000 (5) (c) states that when a site is included on the inventory then it "...must proceed through the remainder of the Goal 5 process", it is the County's position that the gathering of information on potential conflicting uses based upon a committed expenditure of funds and a published timetable is "proceeding" through the process. The County is at step designation "2" on the OAR flow chart at this time. Also see 3.A.(1).(b).in the Environmental section below and the Wildlife Habitat Goal 5 Inventory.

Another potential conflict which is under study are the scenic views of the Tualatin Mountains from the Multnomah Channel and the State owned wildlife areas on Sauvie Island. See Scenic Views Goal 5 Inventory.

Describe consequences of allowing conflicting uses:

OAR 660-16-005 (2): "...Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites."

ECONOMIC:

1. Impacts on resource:

Potential loss of site which is the largest in operation in the County which also contains significant remaining reserves of the resource. The location, less than one mile outside the Urban Growth Boundary and with direct access to a State Highway, has many advantages in supplying this resource to the metropolitan area.

2. Impacts on conflicting uses:

Homes and tourist commercial uses too near the noise or dust of an extraction operation will have reduced value. This quarry has operated for many years, so reductions in value, if any, may have already occurred.

3. Requirements of other applicable State Goals:

A. Transportation Goal 12:

Direct access is onto State Highway 30 which is capable of handling all anticipated traffic.

B. Areas Subject to Natural Disasters and Hazards, Goal 7:

The majority of the entire site is located in a slope hazard area. This should not present a problem due to the requirement in MCC 11.15.7325 (D) that all proposed operations be certified by competent professionals (such as a registered mining engineer) to not result in the creation of a geologic hazard to surrounding properties.

SOCIAL:

1. Impacts on resource: N/A

2. Impacts on conflicting uses:

A. The nearest conflicting uses are two homes which are 700 feet away from the subject property. At 1000 feet away to the northeast are 29 houseboats. The impact on houseboats will decrease as the excavation area moves to the west or south. The closest house to the mapped 55 acre potential expansion area is approximately 1200 feet away to the south.

B. Residences near Multnomah Channel, houseboats on the channel, and residences on the southerly 2 miles of Sauvie Island which are east and northeast of the gap in the ridge at the entrance to the mining operation are able to view the slopes under excavation. Screening can mitigate part but not all of this potential impact.

3. Requirements of other applicable State Goals: N/A

ENVIRONMENTAL:

1. Impacts on resource: N/A

2. Impacts on conflicting uses:

Noise, dust particulates, and blasting are potential impacts on such sensitive land uses as homes, schools, and public parks. However, the site is in compliance with DEQ noise and particulate regulations.

3. Requirements of other applicable State Goals:

A. Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources:

(1).Fish and wildlife areas and habitat:

(a).Existing 71.22 acre approved extraction operation:

An intermittent stream flows northeasterly through the center of tax lot '12' (the 32 acre parcel fronting on the highway). In conjunction with the present operation most of the length of the stream near the mining has been enclosed in a culvert. The stream is classified Class II by the State Department of Forestry and the decision to allow piping through the site was made because "the stream is not considered a 'fishing' creek" and it dries up in late summer. The State Department of Environmental Quality has approved the water discharge system. The value of the mineral and aggregate resource in this location outweighs the value the stream may have for fish and wildlife habitat at this time, considering that at some time in the future the fish and wildlife potential may be restored. No significant wildlife area exists on the area currently approved for extraction activities.

(b).Adjoining 325.37 acres (potential expansion area):

Recent studies suggest that the wide variety of wildlife found in Forest Park may be directly attributable to the opportunity for species interaction with the Coast Range ecosystem. Such interaction may be possible due to the rural, relatively undeveloped character of the Tualatin Range (West Hills), which enables this area to function as a "corridor" for animal movement. Thus, the wildlife diversity of Forest Park may result from either migratory patterns or general long-term recruitment from more rural reservoirs. If this is the situation, the "wildlife corridor" should

be located and recognized for its role in maintaining the species diversity of Forest Park.

The County and City of Portland have budgeted and expect to spend up to \$25,000 on studies of this issue. Phase 1, the initial research, is currently underway. Phase 2, the field survey work and the application of research and field evaluation results to specific land use recommendations, will be completed by early 1991. Staff will then complete the ESEE Analysis and propose Plan amendments to complete the Goal 5 process for this factor by the end of 1991.

The property owner has requested a "3C" designation on the entire potential expansion area of 325.37 acres, but has agreed to an immediate "3C" designation of approximately 55 acres of the expansion area to permit operation during and after the corridor study. Following the study, the designation of the remaining expansion area of 270.37 acres would be determined.

The owner submitted a memorandum from Lawrence L. Devroy, Natural Resources Manager at David Evans & Associates, regarding a wildlife inspection on the proposed 55 acre expansion area performed on March 21, 1990. The report concludes that "... no well-defined wildlife corridor appears to exist in the (55 acre) area of the proposed expansion since no areas of heavy use were observed." In addition, the 55 acre area is located far to the eastern edge of the potential corridor area to minimize any impacts which the expansion may cause in the corridor.

(2). Outstanding scenic views and sites:

Testimony from several citizens at public hearings points to some concern over the potential adverse impacts on scenic views of the Tualatin Mountains at the subject property if the mining is extended into the adjoining lands. Considering the Sauvie Island Wildlife areas have the most public use of any other wildlife area in the Northwest, a great many people are exposed to those views. Therefore, a study of this potential conflicting Goal 5 resource has been started and the timetable should closely follow that of the Wildlife Corridor studies. A "3C" designation of the 55 acre expansion area will minimize view impacts until such time as a view study is prepared relating to the entire area.

ENERGY:

1. Impacts on resource:

Allowing noise and dust sensitive uses too close to the resource could alter the manner, location and extent of extraction activities, resulting in greater use of energy to the operator. This close-in site is energy efficient for transporting the materials to the largest market.

2. Impacts on conflicting uses: N/A

3. Requirements of other applicable State Goals: N/A

CONCLUSION:

The resource at this site should:

Be fully protected – Designate 3A.

Not be protected due to overriding benefits from allowing conflicting uses – Designate 3B.

X FOR THE MAPPED EASTERLY CENTER 126.22 ACRES CONTAINING THE EXISTING MINING OPERATION AND A FIVE YEAR EXPANSION AREA: Be partially protected by conditions which minimize the impact of conflicting uses - Designate 3C.

X FOR THE ADJOINING REMAINDER OF THE SITE, 270.37 ACRES: No ESEE designation assigned until more information is available from on-going studies of potential conflicting uses. At this time the ESEE analysis is at step "2" on the OAR flow chart.

PROGRAM:

The existing approved mining operation of 71.22 acres and a potential expansion area of 55 acres are designated "3C". This designation will allow the mining operator to apply for renewal of the Conditional Use approval for the existing mining operation area and apply for an expansion area that would meet their aggregate needs for at least the study period.

The expansion area is due south of the area to be worked next in the existing operation. This expansion direction appears to be the least intrusive into where a wildlife corridor would most likely be located. It is also in the direction of least visibility from Sauvie Island due to the ridgeline on the property to the east. This program will allow uninterrupted operation of the mine during the time needed to complete the wildlife studies and, if warranted, put appropriate protection measures in place.

Designation of the adjoining acreage of 270.37 acres will be completed when the needed information is obtained on potentially conflicting uses. Multnomah County and the City of Portland expect to spend up to \$25,000 during the time period 1989-1991 in the contracting of studies in an attempt to verify the existence of a "Wildlife Corridor" in the area of further potential aggregate extraction expansion. The Goal 5 ESEE process for this remainder area is expected to be completed during 1991.

MEMORANDUM

TO: ANGELL BROTHERS FILE-OUR #ABI004
FROM: LAWRENCE L. DEVROY, NATURAL RESOURCES MANAGER
DATE: MARCH 21, 1990
RE: FIELD REVIEW OF PROPOSED EXPANSION AREA



On the above date I hiked the area of the proposed quarry expansion. My objective was to specifically examine the 53 acre parcel for signs of wildlife activity which would indicate the presence of a wildlife corridor. For the purposes of this inspection, the following signs were sought:

1. An apparent disturbance to vegetation such as trampling or clearing of underbrush caused by repeated use of a pathway or resting area;
2. Tracks such as paw prints or hoof marks;
3. Feces or other remains such as undigested bones, feathers, and insect or crayfish exoskeletons;
4. Evidence of nesting activity including nests or amalgamations of debris.

The area inspected included the ridge and intermittent stream east of the site expansion, the ridges east and west of the on-site intermittent stream, and the intermittent stream course itself. Most of the area can be characterized as upland second growth forest with Douglas fir, Western redcedar, Hemlock, and Oregon white oak in the canopy and Swordfern in the understory as dominants. Riparian areas possess Currant, Willow, and Ash as dominants. The areas between the ridgetops and the riparian areas are very steeply sloped.

My findings are that no well-defined wildlife corridor appears to exist in the area of the proposed expansion since no areas of heavy use were observed. The area is used by birds such as Black-capped Chickadees and Pileated Woodpeckers, and by deer since the birds mentioned were observed and deer tracks were widespread. The only feces observed were apparently from deer and rabbit or other small mammals. No areas of heavy browse were found, in fact cropping of vegetation by foraging animals was rare. No other signs such as nests or undigested remains were found.

LLD:kpn

DAVID EVANS AND ASSOCIATES, INC.
ENGINEERS, SURVEYORS, PLANNERS, LANDSCAPE ARCHITECTS, SCIENTISTS
OFFICES IN OREGON, WASHINGTON AND CALIFORNIA
2828 S.W. CORBETT AVENUE
PORTLAND, OREGON 97201-4830
(503) 223-6663 FAX (503) 223-2701

March 22, 1970

To Whom It May Concern:

We have aboned property
very close to Angell Bros.
rock quarry since 1953

In regard to this propose
"Wildlife Corridor", what
mass amount of animals
are supposed to use this

We have seen 2 Elk on
our place and that was
15-18 yrs ago, the same we
It has been 25 years since
we've seen a Bobcat.

We have never seen a
bear, however people on
Skyline near the County
Shop & Legion hall saw
a bear & cub 8 or 9 yrs
ago.

We have seen deer from
time to time, but since
people on top of the hill
on the East side of the
Namee road, have fenced
their property, we see
one a year if we are
looking at the night
times.

I think if a survey of
people on the West
side of Skylene was taken
you would find they see
far more animals,
than we on the East
side see.

I would suggest you
check with the Game
Commission, to see

how many permits have been granted to people on this hill to kill deer that were eating nursery trees, straw-benches etc.

They killed them at night as well as in the day.

If you wanted a wild life safari, it should have been started 50 years ago.

Thank you

Mrs. N. C. Dorothy English
13100 N. W. Wadswell Rd
Portland, Ore, 97231

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

In the Matter of Adopting an Economic,)
Social, Environmental, and Energy (ESEE)) **FINAL ORDER #90-44**
Analysis for Mineral and Aggregate)
Inventory Site #8, Howard Canyon.)

Oregon Revised Statute 197.640 requires counties to review their comprehensive plans and land use regulations periodically and make changes necessary to keep plans and regulations up to date and in compliance with the statewide planning goals. A Proposed Local Review Order intended to bring the County into compliance was presented to the Department of Land Conservation and Development (DLCD) on February 28, 1989. DLCD recommended changes to selected items in the Proposed Local Order which included revising the Statewide Planning Goal 5 Economic, Social, Environmental, and Energy Analysis of the mineral and aggregate sites. The Oregon Administrative Rule guiding this analysis is found in Chapter 660, Division 16.

During the process of revising this mineral and aggregate ESEE Analysis public hearings were held before the Board of County Commissioners on December 19, 1989, January 9, 1990, February 20, 1990, and March 6, 1990. On each of those dates written and oral testimony was taken and heard regarding this site.

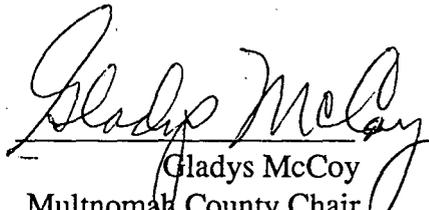
Based upon that testimony the Board adopts the following:

1. An ESEE Analysis for Site #8, Howard Canyon, which concludes that the appropriate classification of the site is "3B, Allow Conflicting Uses".
2. A packet of Findings in support of the ESEE Analysis conclusion.

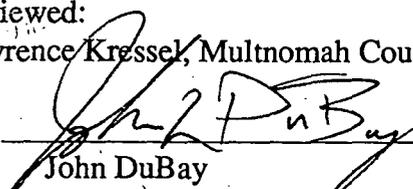
This order and the foregoing are to become attachments to the Local Review Order to be submitted to the Department of Land Conservation and Development.

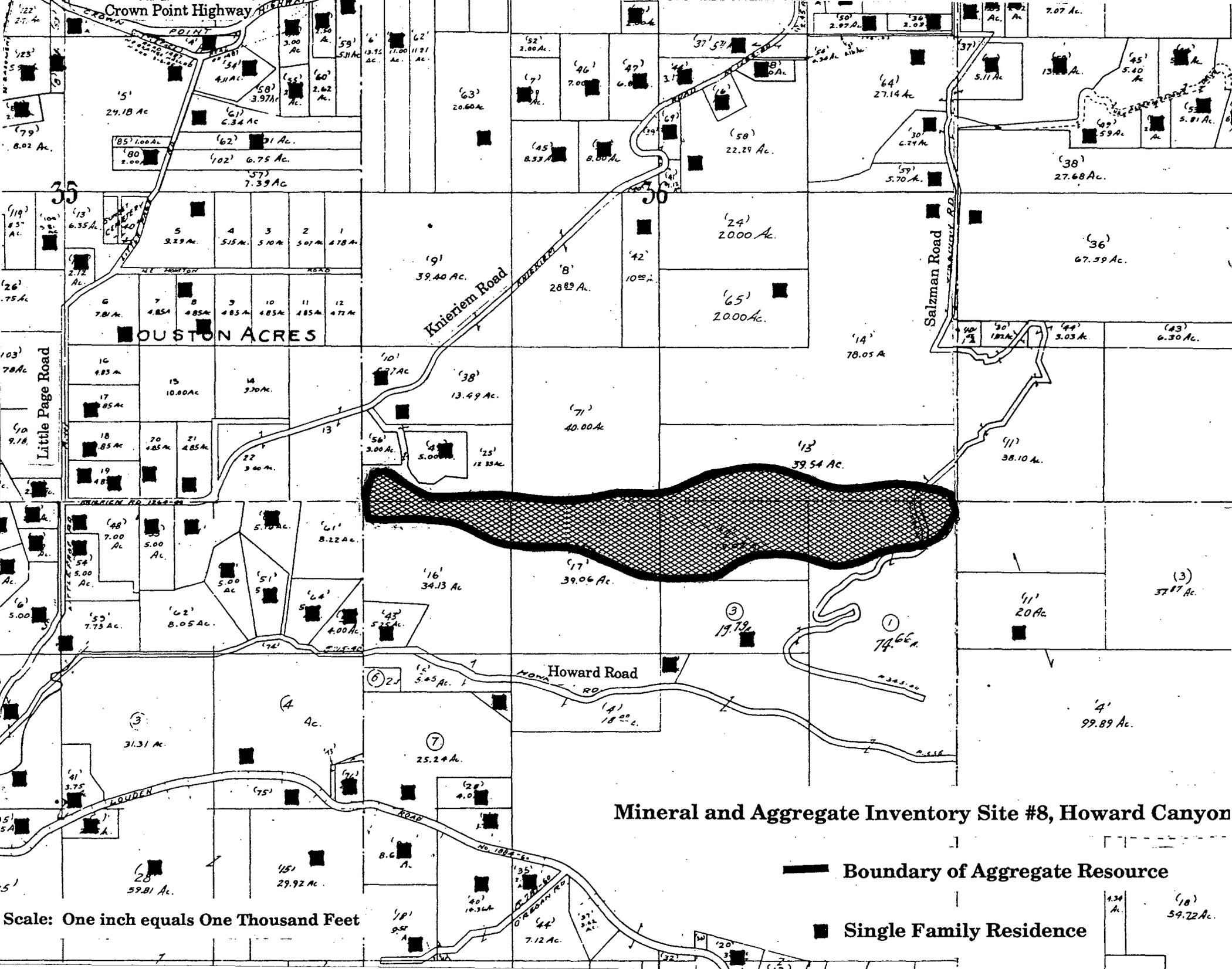
Approved the 27th day of March, 1990.

(Seal)


Gladys McCoy
Multnomah County Chair

Reviewed:
Lawrence Kressel, Multnomah County Counsel

By: 
John DuBay
Chief Deputy County Counsel



Mineral and Aggregate Inventory Site #8, Howard Canyon

Boundary of Aggregate Resource

Single Family Residence

Scale: One inch equals One Thousand Feet

FINDINGS

MITCHELL, LANG & SMITH

ATTORNEYS AT LAW

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PORTLAND, OREGON 97204

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PEGGY HENNESSY*
MARY KYLE MCCURDY§
WILLIAM H. CAFFEE
DANIEL H. KEARNS

*MEMBER OREGON AND
WASHINGTON BARS
†MEMBER OREGON AND
WASHINGTON, D.C. BARS
‡MEMBER WASHINGTON
BAR ONLY
§MEMBER OREGON AND
CALIFORNIA BARS

March 13, 1990

Board of County Commissioners
Multnomah County Courthouse
1021 SW Fourth
Portland, OR 97204

Re: Howard Canyon Site: Response to Objections, Comments
and Criticisms of the Landowner

Dear Commissioners:

In this folder you will find the response of the residents and property owners in the vicinity of the proposed Smith Quarry on Howard Canyon Road. We had only a week to respond to the sheaf of documents submitted by Mr. Smith and apologize for any imperfections in these materials caused by our haste to respond. Prior to this submission, we have provided an earlier draft to your planning staff to assure technical accuracy.

Immediately following this letter is a Table of Contents for this response. For the convenience of the Board, we have reprinted the previously prepared 3B ESEE analysis and summarized the "Objections, Comments, and Criticisms" submitted by Mr. Hribernack last week and inserted them, along with our response and references to the other materials in this folder, in bold print immediately following each numbered objection. Thus, the Board may evaluate the ESEE analysis supporting a "3B" designation (which would not allow surface mining of this site at this time), along with the objections and response to each contested point.

Much of this ground was covered in the last application, made in 1987 by Mr. Raymond Smith and Mr. Reuben Lenske, for a conditional use permit to mine this same site, which was denied that year for the fifth time. The staff has agreed to supply relevant requested parts of the record of that quasi-judicial proceeding to the Board and we specifically incorporate the same by this reference.

The Board should pay particular attention to the landowner's representations regarding the availability of other

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
1990 MAR 13 PM 4:45

Board of County Commissioners
March 13, 1990
Page 2

quarries to supply rock to the market. The question posed to other quarry owners was whether they would supply one load of "3 inch rock." Given the question, the answer was predictable. 3 inch rock, as indicated by Mr. Scott in his affidavit, is not the kind of rock normally sold by quarries. It is large rock used for logging or construction roads, rather than for asphalt or home construction. Moreover, most quarries do not wish to produce only one load of such specialized rock. More interesting and relevant, however, is the response of Gresham Sand and Gravel which, in answer to our question regarding delivery of rock to the Corbett area, referred the caller to Mr. Smith to supply that rock. That, plus other indications by neighbors in the file, indicates that Mr. Smith has been selling such rock commercially in violation of the Multnomah County Zoning Ordinance.

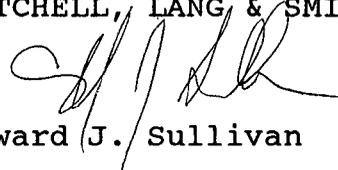
Mr. Scott, our engineering geologist whose credentials regarding surface mining and road construction are already in the record, assisted us in the preparation of the response and we are grateful for his assistance. He also requested that I emphasize once again that the cost of road improvements to facilitate this use is between \$500,000 and \$1 million, rather than the \$60,000 figure suggested by the landowner. He adds that he has double-checked this figure with Dick Howard, of the Multnomah County Engineer's Office.

Finally, we wish to point out that Mr. Smith and his counsel are just plain wrong in asserting that the Board must allow this site to be mined. We enclose a copy of Mobile Crushing Co. v. Lane County, 13 Or LUBA 97 (1985), which is directly on point. Your present County Counsel wrote that opinion.

We appreciate the Board's indulgence in allowing this response and hope that it assist you in deciding this case.

Very truly yours,

MITCHELL, LANG & SMITH



Edward J. Sullivan

EJS:cc
Enclosures

cc: Paul Hbernich, Esq.
Larry Kressel, Esq.
Lorna Stickel
Clients

TABLE OF CONTENTS

	Page
Introduction.....	1
Site Description.....	1
Conflicting Use.....	4
Economic Consequences.....	8
Social Consequences.....	20
Environmental Consequences.....	24
Energy Consequences.....	32
Conclusion.....	33
Affidavit of Pam Peebles.....	
Affidavit of Lewis E. Scott.....	
Statements from Residents of Surrounding Area.....	
Map of Surrounding Homes.....	
Map of Rock Materials in Multnomah County (one original and reduced duplicate copies submitted).....	
Aerial Photograph (one original submitted).....	
Mr. Smith's Objections, Comments and Criticisms dated March 6, 1990.....	

SITE DESCRIPTION

Multnomah County

Goal 5 Inventory

2/06/90

Type of Resource: Mineral and Aggregate
Multnomah County Inventory Site #8
Howard Canyon

Location: Along the section line between Section 36, T. 1 N, R. 4 E. and Section 1, T. 1 S., R. 4 E. See map with resource boundaries overlaid on Assessment and Taxation property line base map in inventory file.

Description: DOGAMI I.D. #26-0065

This aggregate resource site is a cleared ridge top which runs in an east-west orientation just north of Howard Canyon. As confirmed in a study by H.G. Schlicker & Associates in which 31 testpits were dug, the basalt lava resource occupies the upper 50 feet or more of the ridgecrest and is more than 4200 feet long and more than 350 feet wide for most of its length. The amount of aggregate material ranges from 150,000 to 2.7 million cubic yards. The ground surface of the resource area ranges in elevation from 780 feet to 860 feet.

1. Mr. Smith notes that the relatively flat bench on which the basalt lava resource is located is approximately 700 feet in width, with substantial area to serve as a buffer.¹

1. Mr. Smith, the owner of the Howard Canyon site, has submitted "Objections, Comments, and Criticisms" of the County's alternative ESEE consequence analysis. That document is duplicated and contained as the last document in this folder. This document is submitted by neighbors of the Howard Canyon site in response to those objections, comments, and criticisms.

We have no objection to inclusion of this supplemental information; however, related activities and impacts from the operation do extend beyond the ridgetop location of the resource.

Moreover, it will take time to excavate into the basalt flow far enough so that the mining operation is enclosed by pit walls 40 to 50 feet in height. It will take much longer to enlarge this pit floor sufficiently so that crushing as well as mining can be protected by the pit walls. Until then, mining and crushing will not be shielded and will require buffering. Additionally, the landowner has not shown how the soils will be stabilized.

The side slopes on the site vary from 50 to 90% (Schnitzer, DOGAMI, 1986). The ridge is bordered by forested ravines to the north with a small creek and to the south by Howard Canyon and Big Creek. Big Creek and its local tributaries have been mapped as Class I Streams by ODF.

2. Mr. Smith also notes that the top of the ridge where the mineral resource is located has average slopes of 5%.

Although the mineral resource is located on top of the ridge, the extraction process impacts surrounding side slopes. The crusher site (at least in the early stages), stock pile site, haul road, and at least part of the plant site will be on the side slope.

A. Available information indicates that the site is important (site has the ability to yield more than 25,000 cubic yards of mineral and aggregate material in less than 5 years):

No - Designate 1A: Do not include in plan inventory

XXX Yes - Go to B.

B. Is available information sufficient to determine the location, quantity, and quality of resource at the site?

No - Designate 1B: Address the site in future when
information becomes available

XXX Yes - Include in plan inventory and go to C.

CONFLICTING USE

C. Zoning: Multiple Use Forest-38; Multiple Use Forest-19; and
Exclusive Farm Use

Based on zoning, are there conflicting uses?

No - Designated 2A: Preserve the resource

XXX Yes - Go to D.

D. Describe existing and potential conflicting uses:

Single family residences: In the MUF-19 zone, single family residences are permitted as a primary use on a lot of 38 acres, as a use under prescribed conditions on a new lot between 19 and 38 acres with a forest or farm management plan, as a use under prescribed conditions on a lot of record of between 10 and 38 acres with a forest or farm management plan, or as a conditional use on a lot of record of less than 10 acres. The MUF-38 zone requirements are identical to the MUF-19 zone except that new lots must be at least 38 acres in area. Comparable standards are in the EFU zone for new dwellings. Single family residences constitute a significant conflicting use.

2. Mr. Smith asserts that the County failed to consider 1000 Friends of Oregon vs. LCDC (Lane County, 305 Or 384, 752 P2d 271 (1988)) because that case discourages single-family residences on resource land. He also notes that 1000 Friends of Oregon vs. LCDC (Curry County), 301 Or 447, 724 P2d 268 (1986) requires exceptions to Goals 3, 4, and 14 for the conversion of rural land to urban use. Mr. Smith states that "[i]f single-family uses are not allowed in MUF resource zones, there is no conflict. The county has not adequately justified when a single-family residence could be constructed on the site and, therefore, has failed to justify that the identified conflict (single-family residences) is, in fact an actual conflict."

First, 1000 Friends vs. LCDC (Lane County), dealt with establishment of new non-forest dwellings on forest lands. Here, we are dealing with existing dwellings and the establishment of a new commercial quarry operation. In addition, single-family residences are a permitted, and existing, use in this zone. One of the purposes of the Multiple Use Forest District is "to provide standards for residential and other uses, including local and tourist commercial services which are compatible with forest and agricultural uses;" MCC 11.15.2162. The existing dwellings are compatible with forest and agricultural uses and do, indeed, constitute a conflicting use with extraction of the aggregate material.

Second, there has been no conversion of rural land to urban use and no reason to go through the exceptions process to continue an existing use. Residential use is an outright permitted use on parcels of 19 or 38 acres in the Multiple Use Forest District and a conditional use on smaller parcels. This is not an application for new construction of an urban residential use, the Goal 5 process requires an analysis of the impacts on existing conflicting uses. The only urban use is the commercial quarry proposal, and its associated uses which has public service facility impacts and is far beyond the needs of the rural community in which it is located, thus violating statewide Planning Goals 11 and 14. Therefore, 1000 Friends vs. LCDC (Curry County) is not applicable.

Finally, because single-family dwellings are allowed in the Multiple Use Forest District and do constitute a conflict, they must, therefore, be considered in the Goal 5 ESEE process.

A range of potential conditional uses and community service uses are listed in the MUF zoning districts but to be approved the approval authority shall find that the proposed use "[w]ill not adversely affect natural resources" (MCC 11.15.7120 (B)). In the MUF zone such uses include churches, schools, cottage industries, service commercial, and tourist commercial establishments.

4. Mr. Smith alleges that the county fails to state

that conditional uses and community service uses cannot be located in resource lands if they will adversely affect natural resources.

There is no objection to the inclusion of this statement and, in fact, it had already been included above.

Describe the consequences of allowing conflicting uses:

OAR 660-16-005 (2) provides:

If conflicting uses are identified, the economic, social, environmental and energy consequences of the conflicting uses must be determined. Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites.

5. Mr. Smith contends that the county has failed to take its identified conflicting use and assess what impacts that use would have on the Goal 5 mineral and aggregate resource.

The fact of the matter is that allowance of single family residential use will have very little actual impact on the resource. If fully allowed, residences would generally be on 19 or 38 acre parcels; therefore, the resource site would largely be preserved for future mineral extraction.

If both uses, single family residences and quarry operations, were required to co-exist, the impacts on the resource would be primarily economic because of the cost involved in mitigating the impact on surrounding dwellings, including mitigation of social and environmental impacts. The operating costs would increase due to restrictions for the protection of the nearby dwellings. In addition, the operation would be subject to stricter noise and dust controls for the environmental protection of the surrounding uses.

Economic:

1. Impacts on Resource: The consequence could be the delay of development of a quarry site in the county east of the Sandy River and outside the Mt. Hood National Forest and Columbia River Gorge NSA available at the present time for commercial use. However, the County finds that, although not currently being considered for development, there are eight other sites within a 25 mile range of the subject site. (See February, 1989 ESEE worksheet at 13 and report of Lewis Scott, P.E., dated January 9, 1990). The County believes these reports and data.

6. Mr. Smith challenges the conclusion that there are other sites available for development and that Howard Canyon is not needed. He alleges that "need" is not a consideration for the Goal 5 analysis and that the existence of eight other sites within a 25-mile range is not relevant.

In Mobile Crushing Company vs. Lane County, 13 Or LUBA 97 (1985), written by Mr. Kressel, in determining that the conflicting residential use deserved full protection, LUBA looked to the County's finding:

"We agree there is an aggregate resource at the site. However, with the five nearby quarries available, non-use at this time would not outweigh a high degree of conflict with existing residences. Furthermore, denial at this time nearly preserves the resource for the future." Id. at 108.

As Mobile Crushing demonstrates, "need" is a relevant inquiry for the Goal 5 process and in this case there are alternative sites to meet the demands of the area. Further, the demand in the immediate area, which is the relevant market, will be relatively small based on the limited potential development in the MUF zone, especially in terms of Goal 10 and the provision of affordable housing in this rural area.

In addition, the land may be used for other economically viable uses which are permitted outright in the zone, i.e. farming or forestry.

7. Mr. Smith asserts that availability of other economically viable uses is not relevant to the Goal 5 inquiry. He indicates that the reclamation plan will ensure that farm or forestry uses will remain available on the site in the future.

The statement was made to show that the landowner has an economically viable alternative to immediate exploitation of the aggregate resource.

If designated 3B, the Howard Canyon site will not be available for commercial use; however, East Multnomah County is currently and adequately supplied by at least five different operations. (See January 9, 1990 Geologist Report at 3):

1. Smith Bros. Quarry
 2. Brightwood Quarry
 3. Gresham Sand and Gravel
 4. Cascade Sand and Gravel
 5. Pacific Rock Products
-
8. Mr. Smith again asserts that alternative sources are not relevant to the Goal 5 analysis. He goes on to a site by site explanation of why these alternative sources are inadequate.

The general implication is that other sources would be unwilling or unable to deliver the material due to the high price of delivery. By the time the Howard Canyon quarry has built the required buffers, sediment ponds, and has reconstructed 4.5 miles of county road, their price, too, will be high.

Mr. Smith's representative made several telephone inquiries as to the availability and cost of 3 inch minus rock. See affidavit of Paul Hribernick. However, few quarry operations have or sell rock that size. 80% to 90% of the rock sold is 3/4 inch minus. See affidavit of Lewis Scott. In follow-up telephone inquiries made by Ms. Peebles, additional information was obtained. For example, one of the companies Paul Hribernick reported as unable to deliver the rock disclosed that this was because the company had only one truck.

The Howard Canyon resource would not be available for immediate exploitation if designated 3B, but may increase in value if preserved for future use, given the relative scarcity of the resource and possible demand in this portion of the County. Such portion is not anticipated to grow rapidly before the next periodic review of the County's plan.

9. Mr. Smith contends that a 3B designation does not protect the resource or preserve it for future use. He claims that allowance of the conflicting use will ultimately prevent the use of the Howard Canyon site.

3B does sufficiently protect the resource. The site remains on the inventory and a subsequent ESEE consequence analysis may indicate the extraction is appropriate at a future date. The zoning of surrounding lands will prevent intensive residential development (MUF-19 and MUF-38) and no conditional uses will be allowed if they are found to conflict with this inventoried resource. Mobile Crushing, supra. found that the effect of prohibiting immediate exploitation is to "preserve the resource site for future mineral extraction." Id. at 108.

The existence of other resource sites in the area is relevant to the question of economic consequences. The site is not now

necessary to meet the demand for the resource. Transportation is considered to be economically viable up to 25 miles for a one way trip. (Gray, DOGAMI, 1988). There are at least eight other aggregate sites in operation within a 25 mile range of this site which can serve the local area:

1. Damascus Quarry is located one mile south of Damascus in Clackamas County. This site is located about 14 miles from Springdale and 18 miles from Howard Canyon.
2. Construction Aggregates is located one mile south of Barton in Clackamas County. This site covers 200 acres and is located 9 miles from Orient, 17 miles from Springdale, and 19 miles from Howard Canyon.
3. Deep Creek is located 1/2 mile from Barton in Clackamas County. It is 15 miles from Springdale and 19 miles from Howard Canyon.
4. American Sand and Gravel is located 2 miles from Barton in Clackamas County and is a large operation with considerable reserves. The site is 7 miles from Orient, 14 miles from Springdale, and 16 miles from Corbett.
5. Mt. Hood Rock is located in Brightwood in Clackamas County and East of the Sandy River. The site is about 18 miles from Orient and 24 miles from Howard Canyon.
6. Gresham Sand and Gravel is located within the city limits of Gresham and is 7 miles from Springdale and 13 miles from Latourelle.
7. Rogers Construction is located within the city limits of Gresham and is about 7 miles from Springdale and 11 miles from Howard Canyon.
8. Oregon Asphaltic Paving is located in Gresham and is 8 miles from Springdale and 12 miles from Howard Canyon.

Sites 6, 7, and 8 (the Gresham sites) may become depleted over the next 15 years. However, the Clackamas County sites are expected to remain available for at least another 25 years. The existing sites within a 25-mile radius are sufficient to meet the

needs of the county for the duration of the planning period. Such economic consequences may be analyzed once again during the next periodic review.

10. Mr. Smith again challenges the relevance of whether there is a need for additional aggregate sources. He also discusses the economics of hauling small amounts of aggregate and existing conditions at several alternative sites.

Ten cubic yards of rock (one load) is expensive anywhere and some producers will not deliver one load. This is a fact of economics and has little to do with the Howard Canyon quarry. In addition, the analysis is based upon delivery to the Corbett area, but the relevant area of large scale commercial use will be east Gresham.

Moreover, Mr. Smith based his inquiries and analysis on transporting 3 inch minus rock, which is used primarily for logging and construction roads. The general market demand is for 3/4 inch rock. See affidavit of Lewis E. Scott. The attached affidavit of Pam Peebles shows the various responses to an inquiry regarding availability and cost of 3/4 inch rock.

11. Mr. Smith notes that the Gresham site will be depleted before the expiration of the county's current 20-year planning period and claims that Clackamas County sites cannot deliver material in a cost effective manner. He states that alternative sites can deliver rock only at prices two to three times the price of Howard Canyon. He also claims that the county is delaying protection until the next periodic review by allowing the conflicting use and prohibiting immediate exploitation. He asserts that this may potentially eliminate the availability of the site prior to the next periodic review.

As indicated above, the site will remain on the Goal 5 inventory and be protected as a Goal 5 resource. The zoning for the area will guard against intensive development that would eliminate the availability of the site prior to the next periodic review. Moreover, there is no evidence to support the allegation that other sources would cost two to three times as much as Howard Canyon,

especially after development costs.

Additionally, there are two potential sites on forest service lands which may be made available to the local residents as a common-use area, community pits or under contract, according to Mt. Hood District Geologist. Sites located on USFS lands in the Mt. Hood National Forest can be operated in a variety of ways with prices starting as low as \$1 per cubic yard. Economically, Howard Canyon would be unable to compete with the extremely low costs associated with a community pit or common-use area. Community pits are considered by the county to be an economically viable option for the County at this location. In addition, the community pit or common-use area would lessen the demand on existing sites and prolong the productivity of those sites.

12. Mr. Smith alleges that the USFS does not have an active pit in the area and that the \$1 per cubic yard does not include crushing. He further contends that it is inconsistent to state that Howard Canyon cannot compete with community pits while elsewhere in the ESEE analysis "it rejects the idea that Howard Canyon has no economic value despite the inability of all of its 'alternative' sites to compete with Howard Canyon on the price point."

Mr. Smith does not contend that Howard Canyon can compete with the community pit even if crushing is done off site. Moreover, his supposed inconsistency is unclear. There is no evidence in the record on the price of Howard Canyon materials. In addition, the ESEE does not "reject the idea that Howard Canyon has no economic value despite the inability of all of its 'alternative' sites to compete with Howard Canyon on the price point." As stated above, once Howard Canyon quarry has built the required buffers, sediment ponds and has reconstructed 4.5 miles of county road, the price of the aggregate material will necessarily be high and it may be unable to

compete with existing operations.

The Howard Canyon site is on the inventory. The site has economic value and is significant. However, it does not necessarily follow that all significant resources must be available for immediate exploitation. Once inventoried, the county must determine whether to 1) fully protect the resource; 2) allow conflicting uses fully; or 3) limit conflicting uses. See OAR 660-16-010. Howard Canyon should be placed in the second category which allows conflicting uses fully and a 3B designation should be placed on the site.

13. Mr. Smith again contends that a 3B designation will not protect the resource. He notes that sites are becoming more scarce in East Multnomah County and that there will be greater conflicts in the future due to development.

These issues have already been addressed. See "Map of Rock Materials in Multnomah County," which is contained in this folder. The site will remain on the Goal 5 inventory and thus be protected as a valuable resource. There is an adequate supply of aggregate material in East Multnomah County and the MUF-19 and MUF-38 zoning will prevent significant development of additional conflicting uses.

2. Impacts on Conflicting Uses: Homes too near the noise and dust of extraction activities will have lessened resale value. Proportionally, there is a greater economic impact on the value of the nearby homes and other uses than there is on the resource. The value of the resource may indeed increase over time if left in place.

14. Mr. Smith asserts that there is no support for the allegation that homes too near the noise and dust will have less resale value. He contends that if

the quarry can operate within the DEQ standards, there will be no value-decreasing impact on the homes.

There is evidence in the record of increased noise, dust, truck traffic, road inadequacy, and resale value of a home near the quarry operation. Operation within a certain standard is not the equivalent of no impact. In addition, Mr. Smith notes several standards with which he allegedly does not have to comply due to various exemptions. If this is the case, the impacts on the surrounding uses will be greater and resale value may be decreased further.

Several of the surrounding property owners have written statements, copies of which are attached, regarding impacts of the existing quarry operation at the site. Mr. and Mrs. Stokes hear the noise from the rock crusher and blasting, particularly when the east wind blows. Ms. Faught hears the blasting and crushing. One day the blasting shook her house so badly that her china fell down. Ms. Hagen also hears the noise from the crusher, the blasting, and the gravel trucks. Moreover, she is concerned about traffic safety on the windy roads when the "loaded gravel trucks are vyeing [sic] for space on Howard with the school bus, horseback riders, joggers and kids on bicycles." These are the perceived impacts of the quarry operation and will cause a decrease in the resale value of nearby homes.

3. Requirements of other applicable Statewide Planning

Goals:

A. Transportation, Goal 12 - To provide and encourage a safe, convenient and economic transportation system:

In testimony from the County Engineer and Opponents' traffic engineer during the Conditional Use 7-87 public hearings on the subject site, it was stated that neither SE Howard nor E Knieriem Roads, the only two options for travel to and from the property, are of sufficient construction to withstand the extra

load of gravel trucks on a constant basis without breaking up. In addition, the Scott Report of January 9, 1990 also finds these roads inadequate for commercial hauling of rock. The County believes this testimony and evidence.

15. Mr. Smith states that the ESEE fails to address both prongs of Transportation Goal 12 - economic and safety. He contends that the county is failing to protect the resource and is failing to encourage and provide an economic transportation system. He also contends that the county has ignored Goals 9, 10, and 13.

As previously stated, a 3B designation continues to protect the resource; the site remains on the inventory. In addition, there is no evidence that immediate exploitation of the resource at Howard Canyon would provide an economic source for road construction.

Goal 9 - Economics - The evidence in the record indicates that the current needs of the county are being met by existing quarry operations. Economic development is to be encouraged; however, the benefits derived from immediate development of this site do not outweigh the negative impacts on surrounding uses. See the Economic consequence section of the ESEE.

Goal 10 - Affordable Housing - There is no evidence that the operation Howard Canyon will impact the price of aggregate material generally. In addition, the zoning of the surrounding area does not allow intensive development and will not require great quantities of aggregate material for construction of affordable housing. The Howard Canyon rock, if 3 inch minus as indicated by Mr. Hribernick's comparisons, is not the type used for housing construction.

Goal 13 - Energy - This matter is discussed in the Energy section of the ESEE analysis.

The estimated number of truck trips per day for full operation is 10 round trips. In test cores done on SE Howard Road, it was found that the road consists of two inches of oil

matte over nine inches of rock, construction very similar to a residential street standard, and therefore, cannot withstand frequent heavy truck traffic. These determinations, made during the 1987 conditional use permit proceedings, were not contested during the periodic review proceedings. The County believes these facts.

Also, for the one mile of SE Howard Road that gravel trucks would use, there are several areas of narrow road widths and difficult sight distances that would need modifications in order to safely accommodate large truck traffic. The Multnomah County Engineer found that due to road width limitations, Howard Road would be very difficult to improve to sufficiently safe conditions. The sight distance is marginal on both Howard and E Knieriem Roads due to steep grades and sharp curves and the quarry use will create hazardous traffic conditions on local roads and intersections. These determinations, also made during the 1987 conditional use permit proceedings, were not contested during the periodic review proceedings. The County believes these facts.

On the northward travel route option using E Knieriem, the road width and sight distances are better than SE Howard, but there is still the need for road bed and surface improvements similar to those for SE Howard for a length of one-half mile. The County Construction Engineer estimated a cost between \$500,000 and \$1,000,000 to upgrade these roads to safely carry

the proposed commercial traffic.² (See January 9, 1990
eologist Report at 4).

The economic consequences of quarry development at this
site support a designation of 3B.

16. Mr. Smith asserts that the county is attempting to
establish a conflict between roads and the Goal 5
resource and that the county is concentrating on
the operational aspects of the quarry rather than
analyzing the Goal 5 resource.

Mr. Smith contends that the road impacts will
affect a finite number of people. (The "Let them
eat dust" school of conflict resolution.) He also
alleges that the opponent's traffic expert
confirmed that the sight distance is adequate on
Howard Canyon Road.

Mr. Smith estimates the cost of modifying Howard
Canyon Road to be \$60,000. Mr. Smith has also
agreed not to remonstrate against formation of a
local improvement district.

Mr. Smith states that E Knieriem Road offers two
full lanes of traffic, a double-striped center
lane and marked fog lines on the shoulders.

The operational aspects of the quarry, including
the impact on the roads, are relevant to the ESEE
consequence analysis required by the Goal 5
process. Traffic and road improvement issues
associated with the quarry operation will have
economic, social and environmental consequences
and must be considered in determining whether to
allow immediate exploitation of the resource at
this site.

Contrary to Mr. Smith's alleged finding of adequate
site distances on Howard Canyon road, the traffic
engineer's report stated possible sight distance
problems with several blind driveways and

2. This estimate pertains to the 4.5 miles of County roads
that must be brought to certain standards to handle commercial
hauling traffic at the Howard Canyon site.

potential problems with required stopping distance for trucks. There was no conclusion that Howard Canyon Road offers adequate site distance. See also statements of neighbors regarding traffic safety, blind driveways, loose gravel, required stopping distances.

Mr. Smith offers no support for his \$60,000 estimate regarding improvement of Howard Canyon Road. Nor does he address other areas that may require improvement as a result of this operation. Surrounding property owners are not willing to be part of a local improvement district to pay for improvements made necessary by operation of the quarry. No other response has been given to the County's estimate that road improvements will cost between \$500,000 and \$1 million. See attached statements.

Ms. Givens' statement indicates that the shoulders on E Knieriem Road are between six and twelve inches wide near her house and that the shoulders become virtually non-existent when the road narrows approximately one-third of a mile from the intersection of E Knieriem and Little Page Roads. She further states that there is a sharp curve about 100 feet from her driveway and oncoming traffic cannot be seen until it is through the curve. A copy of this statement is submitted herewith.

Social:

1. Impacts on Resource: An extraction operation would be subject to limitations on hours and days of operation (as proposed in the amended Mineral Extraction Code section). Because of the wind and funnel effect of the canyon topography, buffering will have to be extensive to protect nearby noise sensitive uses, if effective at all. The Scott Report at pp. 3-4, indicates that violations of DEQ noise rules is likely and there is no evidence that operation of the site would be able to comply with such regulations. The County finds that such violations are likely and chooses to avoid such negative environmental consequences by permitting other uses fully.

17. Mr. Smith claims that the county has ignored social impacts on the resource.

He also states that his registered acoustical engineer finds that there is no problem meeting DEQ or county noise standards at the site.

In addition, Mr. Smith contends that it is unclear whether the county considers noise a social consequence or an environmental consequence.

First, just as found in the Mobile Crushing case, no social consequences would be engendered by allowance of the conflicting use.

Mr. Smith's acoustical engineer has interpreted Multnomah County Ordinance No. 316 to allow quarry operation as an exception to the noise standards based upon an exception for "industrial or construction organizations or workers during normal operations." Mr. Smith's acoustical engineer is not qualified to make the legal determination of whether a particular quarry operation qualifies for an exception. He may be qualified to determine whether the anticipated

noise generated falls within acceptable levels, but this he has not done.

The acoustical engineer does not discuss the type of berming or buffering that would be required to protect the site. He merely makes a conclusionary statement that "[o]nce excavation has proceeded into the mountain, if a rock ridge is left at the perimeter of the resource area, all residences will be protected from sound levels in excess of that allowed at all hours of the day." No data exists on which such a view could be supported.

Noise is both a social consequence and an environmental consequence. Moreover, it may be considered an economic consequence, as its presence may decrease the value of surrounding properties and operation of the site may require additional berming and screening to protect surrounding residences.

2. Impacts on Conflicting Uses: The approximate distances from the closest existing residences to the mapped resource area are: one at 400 feet, one at 500 feet, and two at 700 feet. Between 1980 and 1988 a total of 5 new dwellings have been issued permits in Township 1 South, Range 4 East, Section 1. The total number of dwellings predating 1980 was 21 in this section. One section to the west has a much higher density and supports 55 homes, to the north are 40 homes, to the east are 11, and only 2 are located to the south. The local rural area growth rate is 1.1%. There are 96 dwellings within a 1 mile radius of the site.

18. Mr. Smith notes that he owns the closest house to the site and one of the houses 700 feet from the site. He also states that the house located 500 feet away is actually 1,600 feet from the existing quarry operation and alleges that the mining plan will prevent any noise impact.

Again, Mr. Smith challenges noise impact statements regarding the affect of the topography and wind on noise levels made by a geological

engineer as being contrary to the laws of physics and a scientific impossibility.

Mr. Smith may own two of the nearby dwellings, however, he does not live near the site. If the dwellings are occupied, DEQ noise regulations apply. In addition, there is no evidence that the operation will not impact the dwelling that is 500 feet from the site. Even if the noise level is within DEQ standards, it may still adversely affect nearby dwellings. Meeting the standard is not equivalent to "no impact." See Statements of Neighbors submitted herewith.

Perhaps "amplify" was a misfortunate choice of words, but Mr. Smith's acoustical engineer does not refute the fact that the canyon wall can "reflect and possibly focus sound toward one or more locations within a valley." As can be seen from the neighbors statements, the noise has a greater impact when the east wind blows.

Operation of the quarry will interfere with the use and enjoyment of property by nearby residents. The noise generated by blasting, machinery, and rock crushing is considerable. In the opinion of a certified engineering geologist, on-site crushing will constantly challenge DEQ and County noise and dust limits. (See January 9, 1990 Geologist Report at 4). Neighbors have complained about the blasting done in connection with the owner's personal use. The amount of necessary blasting will increase if commercial use is allowed. Proposed use of this site, based upon information provided by the owner, is expected for a period up to 35 years.

The impact of the noise is increased by the topography of the site. The noise is amplified through the wind and funnel effect of the canyon topography.

3. Requirements of other applicable Statewide Planning Goals:

A. Transportation, Goal 12 - To provide and encourage a safe, convenient and economic transportation system:

The transportation impacts discussed under the economic portion of this analysis are equally applicable to consideration of the social consequences. Local residents will be subjected to the traffic and road problems discussed in the prior section.

The social consequences of the proposed operation justify a 3B designation at this time.

19. Mr. Smith makes the same challenges to the county's analysis of Goals 9, 10, 12, and 13 under this social consequence section as he did under the economic consequence section.

Therefore, we make the same responses we made to objection #15 and incorporate them herein by reference.

Environmental:

1. Impacts on Resource: The mineral and aggregate resource may be preserved for future use by a 3B designation. The 3B designation simply means that conflicting uses will be allowed and the resource will not be available for immediate exploitation.

A deer and elk wintering area (ODF&W, 1988) is located within one mile of the resource site to the southwest and poses a conflict in terms of proximity to weakened wintering herds. In addition, past operations at the site have resulted in violations of the Oregon Forest Practices Act due to disturbance of a Class I Stream. These constitute direct conflicts with other Goal 5 Resources.

20. Mr. Smith again contends that the county's view that a 3B designation preserves the resource for future use is invalid. He also claims that there is no support for the position that operation of the quarry will negatively impact a deer and elk wintering area.

In support of Mr. Smith's position that the quarry operation will have no impact on fish and wildlife, he offers the statement of Robert H. Ellis, a longtime family friend of Mr. Smith's, who notes that Dr. Paul Whitney agrees with his analysis.

Mr. Smith also contends that a previous forest practices act violation was not on the site and is therefore, irrelevant. He states that reclamation and revegetation will be an on-going process and will encourage grazing.

Mr. Smith states that there is no explanation of how noise and dust may conflict with nearby farm and forest use. He further notes that the only farm and forest land is on an adjacent site which he owns.

Mobile Crushing makes clear that a designation to fully allow the conflicting residential use, preserves the resource for future use.

As indicated in the Ellis report, there are deer present at the site and elk pass through occasionally. Residents in the area have also noted the presence of deer and elk which may be impacted by the quarry operation. Further, since Mr. Smith's gravel operation commenced, there has been a significant reduction in the number of coyotes in the area. See Statements of Mr. and Ms. Peebles and Ms. Faught.

Previous forest practices act violations have resulted in siltation of nearby streams. This is relevant because it shows the level of responsibility and lack of care demonstrated by Mr. Smith, to the same extent that commercial sales have occurred from this site.

Excessive noise can have adverse affects on farm animals; they can become frightened and less productive. Dust can adversely affect both plants and animals.

Removal of between 6 to 7 feet of overburden would be required for development. Soils for this site have been as Merston Silt Loam series by SCS in 1983 which have a classification of III to IV, depending upon slope. The Forest Site Index for this resource site is 120-135 for Douglas Fir (SCS, 1983), this is the reason the area has been zoned MUF. Merston soils on slopes over 15% are highly erodible and subject to severe potential slumping (SCS, 1983). Side slopes associated with this resource vary from 50 to 90% (Schnitzer, DOGAMI, 1986). Blasting vibration and increased trucking locally would create increased dust and noise conflicts with adjacent farm and forest land use.

2. Impacts on Conflicting Uses: Noise, dust particulates, and blasting are impacts on such sensitive land uses as homes, schools, and public parks if they are too close to the extraction operation. As indicated above, there are several homes located in close proximity to the site that would suffer negative environmental consequences from a quarry operation. Conditional uses such as schools, can be prohibited through the conditional use process due to conflict with an inventoried resource. A 3B designation does not remove the site from the inventory, the designation merely prohibits immediate exploitation.

21. Mr. Smith states that the county ignores that schools and public parks cannot be located in the MUF areas if they conflict with a natural resource operation. He also contends that the county's statements regarding noise impacts ignores compliance with DEQ requirements and that many of the homes are separated by canyons and streams.

Mr. Smith further contends, again, that 3B will allow conflicting uses to be located in a manner which would prevent the future use of the quarry.

The county has specifically noted that conditional uses, such as schools and parks cannot be located in MUF districts if they conflict with a natural resource. A 3B designation for this site would keep it on the inventory and protect it from such conditional uses being located nearby. Again, with respect to noise generated from the site, meeting DEQ standards is not equivalent to no impact on the nearby dwellings. The attached statements of surrounding residents provide evidence of the adverse affect of noise generated by the quarry operation.

As previously stated, the zoning for the area prohibits intensive development and the site may be used for a quarry if a subsequent ESEE consequence analysis justifies the use.

3. Requirements of other applicable Statewide Planning Goals:

A. Goal 4 provides for the following forest uses:

1. the production and processing of trees;
2. open space, buffers from noise and visual separation from conflicting uses;
3. watershed protection along with fisheries and wildlife habitat;
4. soil protection;
5. maintenance of clean air and water;
6. outdoor recreation; and
7. grazing land for livestock.

The site has been used for grazing (livestock habitat) which is a designated forest land use. Previously proposed reclamation plans have included replanting with Christmas trees. Use of the mineral aggregate resource with proper reclamation is not considered to be a permanent conflict. However, in the short term use of this site for mineral extraction has already conflicted with Goal 4 Resources (watershed protection) and may create more conflicts.

22. Mr. Smith implies that there are no conflicts with forest uses under Goal 4 because there are no trees on the site at the present time. He goes on to describe his site plan and states that the new forest practices rules allow extraction and processing of aggregate materials outright.

The fact that there are no trees on the site is irrelevant to the inquiry of whether there is a conflict with surrounding forest uses in the MUF zones. The area is planned and zoned for forest use, regardless of its present level of timber. Moreover, extraction and processing of aggregate materials is not an outright permitted use under the

new forest practices rules. The rules provide that mineral and aggregate resource use may be allowed subject to standards in the Goal and its implementing rule. OAR 660-06-025 (1) (c). The use must comply with review standards set forth in OAR 660-06-025 (5). The preliminary site plan submitted by the landowner is not binding.

B. Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources:

Fish and wildlife areas and habitat: There is a Class I stream immediately north of the resource ridge. The mapped resource area does not include the stream and it appears that actual extraction can occur without disturbance of the stream, however, road construction at the site has already resulted in disturbance of a Class I Stream.

Wetlands: The Class 1 stream noted above also is identified as a wetland on the U.S. Fish and Wildlife "National Wetland Inventory." Development of the site, including extraction and road construction may adversely affect the wetland area.

C. Goal 6 is to maintain and improve the quality of the air, water, and land resources of the state.

23. Mr. Smith states that road construction at the site has not caused a class I stream violation. He also contends that there is adequate space for sedimentation ponds to control erosion and runoff.

Although the class I stream violation may not have been at the site, Mr. Smith's nearby road construction did result in siltation of a class I stream in violation of the Forest Practices Act. This not only demonstrates the level of Mr. Smith's responsibility and lack of care, but also shows the sensitivity of the surrounding area.

Use of a rock crusher at this site requires a DEQ permit due

to potential pollution. Resource development has already conflicted with water quality (See 1987, Forest Practices Act violation above). Development of the site will create dust and off-site water quality impacts. Therefore, the site should retain its 3B designation.

D. Goal 7, Areas subject to Natural Disasters and Hazards:

Conflicting testimony was submitted in the CU 7-87 hearings regarding slope hazards at the site. The County believes testimony presented by the opponents during those proceedings and concludes that the consequences of slope hazards at this site outweighs beneficial consequences of the use of the site for mineral extraction and processing.

A letter was submitted from a soil scientist who conducted a preliminary investigation of the site in 1986. The letter stated that "due to the combination of site drainage, landscape position, and apparent stability, it does not appear that adverse geologic or natural effects to surrounding properties will occur as a result of the proposed operation." In that same year and Oregon DOGAMI reclamationist found no problem with the drainage, stability, or reclamation potential of the site.

A study submitted into the record by an engineering geologist indicated a slope hazard at the site due to the following:

1. Evidence of numerous landslides along the contact of the Boring Lava and Troutdale Formation;
2. The presence of numerous springs and seeps which occur along the contact of the Boring Lava and

Troutdale Formation; and

3. The Troutdale Formation at this site is subject to failure when overburden is removed.

Through an on-site inspection, a certified engineering geologist found steep slopes and indications of instability in the area below the rock bluff to be quarried. The area is underlain by the Troutdale Formation which can become unstable when exposed. At the very least, additional study is necessary to determine the geologic hazard potential. (See Lewis Scott January 9, 1990 Geologist Report at 4). Given the determination made above with respect to Goal 7, the County believes the engineering geologist's testimony and concludes that the consequences of slope hazards at this site outweighs beneficial consequences of the use of the site for mineral extraction and processing.

25. In reference to conflicting evidence regarding natural hazards submitted in a previous conditional use application proceeding, Mr. Smith notes that there was evidence indicating there was no problem with the stability of the site. Mr. Smith goes on to state that conditional use standards are not applicable during the Goal 5 process.

Mr. Smith claims that the County is relying on extremely general information and that Mr. Scott's report infers that mineral extraction will take place on steep side slopes. Mr. Smith's engineering geologist stated that "[t]here is no basis to assume that the Howard Canyon Quarry cannot be developed in a safe hazard-free manner.

The County does not contend that all conditional use standards are applicable. However, the information made available through the five previous conditional use denials is relevant to the ESEE consequence analysis portion of the Goal 5 process.

Mr. Scott's report did not state that extraction would occur on steep slopes. He did indicate, however, that parts of the plant site and the haul roads would likely occur on steep slopes. This area is a mapped hazard area and Mr. Scott agrees with Shannon & Wilson, the engineering geologists who previously evaluated the site, that the site should be studied in depth prior to making a determination that it is sufficiently stable to mine.

The resource site is associated with a known mapped hazard area (ODF, 1987 Geologist site review and Shannon and Wilson Study, 1978). A slump area, active in the last 20 to 30 years was identified. Erosion and subsequent sedimentation of the Class I Stream was documented during the development of an access road near the site by ODF in 1987. (See 1987 Forest Practices Act violation above). The use of this resource may create slope hazard conditions below the site and presents erosion and sedimentation problems off-site. Heavy truck use increases these risks. Conflict with Goal 7 has occurred in the past and is likely to occur again if the site is developed.

Due to the environmental consequences of development, the site should be designated 3B.

26. Mr. Smith raises his same objection with reference to the Forest Practices Act violation because it did not occur on the actual site and was not part of a mining operation.

Mr. Smith asserts that the county ignores testimony that roads can be constructed on the Troutdale formation.

With respect to the Forest Practices Act violation, see response to #23, above. The county does not claim that road construction cannot occur on the Troutdale formation. However, there must be some assurance that the potential adverse environmental impacts will be avoided.

ENERGY CONSEQUENCES

Energy:

1. Impacts on Resource: Allowing noise and dust sensitive uses too close to the resource will alter the manner, location and extent of extraction activities, resulting in greater use of energy to the operator.

2. Impact on Conflicting Uses: N/A

3. Requirements of other applicable Statewide Planning

Goals: N/A

27. Mr. Smith contends that energy conservation has not been addressed as required by Goal 13. He states that rock will have to be hauled uphill from Gresham with a greater expenditure of energy.

If the quarry is not operated, the energy normally required for quarry operation will be conserved. In addition, Gresham Sand & Gravel is the only operation that indicated additional energy expense due to uphill hauling. This statement, however, assumes all transport will be to the Corbett area. The major market for commercial aggregate, however, is the East Gresham area.

CONCLUSION: The Resource at this site should:

Be fully protected - Designate 3A

XXX Not be protected due to overriding benefits from allowing conflicting uses - Designate 3B

Be partially protected by conditions which minimize the impact of conflicting uses - Designate 3C

Although there are few developable mineral resource sites available in Multnomah County east of the Sandy River, this site, as indicated above, is not the only site available for local use. A 3B classification would not result in the loss of a scarce resource to the immediate area, since other resources within 7 miles do exist and have been identified. Denial would not, therefore, locally create a hardship to future users of rock in the private and governmental sectors. Use of available resources in Mt. Hood National Forest, southwest of Larch Mountain (Mt. Hood National Forest, 1988) provides residents an economically viable and efficient alternative that has fewer impacts.

The overriding benefits of allowing conflicting uses fully include the prevention of the above-stated adverse consequences of fully protecting the resource for immediate exploitation. Due to the numerous existing conflicts and the potential for additional conflicts with statewide planning goals and the existence of other viable options, the County determines that Howard Canyon site should be classified 3B.

28. Mr. Smith claims that the finding of overriding benefits from allowing the conflicting uses is not supported by the record.

Mr. Smith also claims that the record shows that

adverse consequences to the single family dwellings are non-existent or can be easily remediated. He also asserts that the county failed to discuss the adverse consequences on the environment of allowing single-family dwellings to occur on the resource site.

Mr. Smith notes that Gresham Sand & Gravel, the only resource within 7 miles of the site, has an expected life of less than 20 years.

Mr. Smith claims that the county is viewing this as a land use application rather than an even handed analysis for Goal 5 classification. He further claims that there is a strong record rebutting allegations of conflict.

We submit that the record supports a finding that single-family dwellings deserve full protection in this case and that the effect of a 3B designation would be to preserve the resource site for future mineral extraction. This case is similar to Mobile Crushing, in which LUBA held that the conflicting single-family dwelling use could be found by the County deserve to be protected, while the resource site could be preserved for future mineral extraction.

There are several sites within the 25-mile range (25-mile transport was determined economical in the record) which are expected to be productive beyond the planning period. The site life expectancy of Gresham Sand & Gravel is not dispositive of the question of need. If relevant, the life span of that site may be considered in later periodic review proceedings.

The county has before it sufficient information regarding both sides of this issue to make an even-handed analysis for Goal 5 classification. The record speaks for itself regarding the existing conflicts. Moreover, it is precisely because the landowner is attempting to overcome five previous denials that these proceedings are important. It is regrettable that the landowner hid his information until the end of these proceedings, a tactic which belies his purported desire for "even-handedness."

Program: The site is designated 3B and is not appropriate for mineral and aggregate extraction at this time. The resource

will be protected for future use by the large lot forest zoning districts until a subsequent ESEE analysis might support exploitation of the resource. Only on lands owned by the same property owner as the aggregate resource could there be more homes or similar conflicting uses added that are closer to the resource than those already existing in the vicinity.

AFFIDAVIT OF
PAM PEBBLES

STATE OF OREGON)
) ss. AFFIDAVIT OF PAM PEBBLES
County of Multnomah)

I, Pam Peebles, being first duly sworn upon oath, depose and say:

1. I reside at 37915 S.E. Howard Road, Corbett, Oregon 97019. My residence is near Howard Canyon.

2. In response to Mr. Hribernick's affidavit relating his conversations with the five quarries listed in the January 9, 1990 Scott Report, I made the following telephone calls.

3. On March 7, 1990, I called Smith Brothers Quarry ([206] 892-2071) spoke with the dispatcher. He stated that Smith Brothers did not serve East Multnomah County and that private contractors hauling out might serve that area, but they did not know. When I asked whether they would bid on a road being built in east Multnomah County, for example Fairview or Troutdale, requiring 10,000 cubic yards of 3/4 inch rock, he stated that they would not bid on the job because they only have one dump truck. He stated that they get their crushed rock out of Camas, Washington, and that it would not be economical, but that Pacific Rock is on the river and would be another story.

4. On March 7, 1990, when I called Pacific Rock Products ([206] 254-7770), John Shaffer, a salesperson, told me that they do serve east Multnomah County. He said that they could deliver 10 yards of 3/4 inch rock to East Gresham (Hogan Road

and Stark Street, for example) for \$130. He stated they would bid on a road being built which required 10,000 cubic yards and be competitive. Their price would be \$4.50 per ton pit price plus truck price, depending on how close the job was to the freeway and how long it takes to reach the job. The total per ton would be \$5.50 to \$6.25, probably under \$6.00. He said they deliver "lots of rock to east Multnomah County for under \$6.00 per ton." He said it would not be any trouble to bring the gravel out to Corbett and that that would add \$0.03 to \$0.04 per mile, based on a rough mileage estimate. He stated that Estacada Rock also covers east Multnomah County.

5. Cascade Sand & Gravel, Lone Star Northwest (222-4210) did not dispute the information in Mr. Hribernich's affidavit.

6. On March 7, 1990, I spoke with Mr. Ekstrom at Gresham Sand & Gravel (666-5577). He stated that the cost of 3/4 inch minus delivered on Howard Road would be \$120.25 for 9.25 tons or \$138.75 for 15 tons. He said the resource available at the Howard Canyon site is not economically suited for a large operation. At this time, Mr. Ekstrom feels the quantity available and capability cannot cover east Gresham, but that anything is possible with enough money. He said competition is good, but he refers Corbett customers to Mr. Smith or Mr. Muck because it is economically cheaper. He assumes if a Gresham person called Mr. Smith or Mr. Muck, that they would refer the person to Gresham Sand & Gravel.

///

7. I called Brightwood Quarry (252-2156) and was told they do serve Gresham, Corbett and Troutdale. Their price for 10 yards of 3/4 inch would be \$149.00, delivered to Corbett, but due to their location Brightwood, they do not come down to Gresham, Corbett, or Troutdale often.

DATED this 13th day of March, 1990.

Pam Peebles
Pam Peebles

SUBSCRIBED and SWORN to before me this 13th day of March, 1990.

Peggy Hennessy
Notary Public for Oregon
My Commission Expires: 6/22/92

AFFIDAVIT OF
LEWIS E. SCOTT

AFFIDAVIT OF LEWIS E. SCOTT

STATE OF OREGON)
) ss.
County of Multnomah)

I, Lewis E. Scott, being first duly sworn, do depose and say:

1. I am a Consulting Geologist and Geotechnical Engineer and am working with Edward J. Sullivan who has been retained as counsel in this case.

2. Also, I worked as a highway materials engineer, with experience in highway location and design from approximately 1960 to 1975 and have extensive experience with road construction matters.

3. Richard Howard, Multnomah County Construction Engineer, quoted an estimate of between \$500,000 to \$1,000,000 to upgrade the impacted roads (approximately 4.5 miles) to safely carry the proposed commercial traffic.

4. In my opinion, the existing width and curvature are inadequate for commercial aggregate hauling.

5. In addition, the "built up" structure of the roads reduces the design load by one-third to one-half because of contamination and unequal thickness.

6. Mr. Hribernick's inquiry regarding 3 inch minus aggregate does not present an accurate view of the market because rock this size has very limited use (e.g. logging or construction roads).

7. 80 to 90% of the rock sold is 3/4 inch minus, meaning that the largest rocks are no larger than 3/4 inch after crushing.

DATED this 13th day of March, 1990.

Lewis E. Scott
Lewis E. Scott

SUBSCRIBED AND SWORN to before me this 13th day of March, 1990.

Peggy Hammar
Notary public for Oregon
My commission expires: 6/22/92

March 9, 1990
Corbett, Ore.

To the County Commissioners
Multnomah County Ore.

To whom it may concern--

Regarding the rock quarry site on Howard Canyon Rd. at Corbett--
I live a little more than $\frac{1}{4}$ mile as the "crow flies" from the
quarry site. On occasion if I am in the yard and the wind is
right I hear noise from that direction. There have been blasts
and on at least two occasions they have been very heavy ones.
On one occasion the house shook and the dishes rattled in the
hutch.

Mr Smith states that the rock use is for the Corbett area and
East Gresham. It would seem to me that the cost and "wear and
tear" on the roads would be the same hauling it to Gresham
as it would be to bring our needs in from Gresham. I also
understand that Gresham is not aware that they will have
gravel delivered to them from this area.

The log hauling that goes on in this area is periodic, lasting
only a few weeks at a time and then no more for a long time.

The ~~gravel~~ trucks can be every day week in and week out.

I very definitely do not want any part of improving the roads
to accommodate quarry operations.

I understand that Mr. Smith has offered to use his "cat" to
widen Howard road. He does not own the land along Howard
and using the legal right of way land would still not make
it suitable for trucks.

On the end of Howard road where it joins Littlepage there
are cattle grazing in a meadow next to the creek. On Loudon

above the site there are several places raising nursery stock.

They are not compatible with rock crushing.

I have gone down Loudon behind gravel trucks and hit gravel spilled on the turns where it spilled over on some sharp turns. This causes a hazard to tires and might even throw a car out of control. I would also hate to meet this same truck if I was coming up the hill .

I also understand that he states that there are very few deer in the area. There is a "deer trail" where deer come out of Howard canyon and cross Loudon just above my house. I have deer in my yard all the time. In fact the last two years they have eat most of my garden. You could find them out there most any night. Friends report to me that they see deer all the time at the crossing trail as they go up and down Loudon. I am very opposed to a permit being given for a quarry in this area, but if it is I very strongly urge a Deq Compliance Bond be required for our protection

Very truly yours

Edith Faught

38406 S.E. Loudon Rd.

Corbett, Ore. 97019

Phone 695-5393.

Ronn Peebles
Pam Peebles
37915 SE Howard Rd.
Corbett, Or. 97019

March 9, 1990

Multnomah County
Board of County Commissioners
1021 SW Fourth Ave
Ptld. Ore. 97204

Re: Case C1-88
Periodic Review

Dear Commissioners:

I have some opening rhetoric and then I will address the pertinent issues of the Howard Canyon Pit. I was present at the March 6th hearing on Howard Canyon and I appreciated the commissioners attention and patience while both parties were presenting their cases. There were some frustrating moments. While the issue is boiling down to economics, I hope you will make a footnote that the residences around Howard Canyon are not wealthy. It is a financial Burdon to keep hiring professional experts and representation to protect us.

This is the third time We have been before the county arguing for the protection of Howard Canyon. I don't relish the thought of coming back again.

State Transportation Goal 12 refers to economic transportation system- This would include Littlepage Rd, Pounder Rd and Hurlbert Rd as these are the oil matte roads that gravel trucks use once they leave Howard and Knieriem. Many of those residences prefer to sit on the fence now, but would quickly jump off at the prospect of a L.I.D. to improve the pot holes that would be created by gravel trucks on a constant basis.

1.) Howard Road is an oil matte road measuring 18 ft. to 20 ft. edge to edge on pavement. The blind corner is 18 ft. wide with no shoulders. As I testified before, approaching the curves in the right lane, you are totally blind as to what is coming around the bend. We roll the windows down and come to a stop before turning into our driveway, at the peak of the curve. People coming the opposite way are equally as blind and tend to drive more in the center, to get away from the creek on their side. Two cars passing on the curves is startling, anything bigger is scary.

There is a school bus stop at the driveway in the blind curve. The school bus turns around in a double driveway about 700 ft. from the Pit's driveway. To make a 3 point turn the driver backs across howard road. Her vision is obstructed on one side by a barn and the other side by a bank and big holly berry bushes. There is a gentle incline on the road and the trucks are gearing up at that point.

There were some log trucks using the road awhile back, for about two months. They traveled mid day, 3 or 4 days aweek, about 4 trips a day. There has been some recent logging on Knieriem and some on Pounder Rds. The log trucks on both sites have been very sporadic and have not bothered anyone. Logging on any of these roads is over a very short period of time, due to the size of the timber stands.

The upgrading of the roads will only need to be done for one person and will only benefit his industry. The financial burdon to improve the roads, before they are destroyed, should be his too.

2.) There was a Forest Practice Act violation on Mr. Smiths property adjacent to the gravel property. The incident occurred part way up the unimproved portion of Howard Rd when he put in an illegal culvert on Big Creek while building a cattle road to his Loudon Road Property.

3.) Last Fall I noticed a considerable silt build up at the end of our culvert. The children play in the creek there and the creek bed used to be gravel, and it was mud.

4.) There are cranes that live year round on Big Creek, in Howard Canyon. There are deer all over. There was a deer on Howard Rd. last Tuesday evening around 9:00. Since the gravel operation started, the amount of coyotes in Howard Canyon has dwindled. I'm sorry to note.

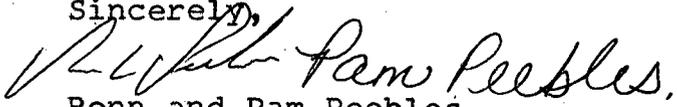
5.) Most of the residences on Howard Rd. raise cattle or sheep. The residences on Knieriem raise horses, cattle, hay or trees. Other surrounding residences are mainly livestock "gentlemen farmers".

6.) Winter is the only time that people really aren't bothered by the pit. The East Wind is blowing, it's raining, it's snowing and they aren't in operation. In the Spring, summer and fall when the east wind is a breeze and everything else is quiet, sounds carry like crazy. You can hear people talking two farms away. That is when the sound of the blasting and rock crushing can be heard.

7.) There is also no doubt, of the economical impact of the neighboring residences. Our homes represent a lifestyle, that people come out here to buy. The negative effects of the mining and the trucking will make it harder to sell our homes, even at a lower price.

We urge you to vote for a 3B designation.

Sincerely,


Ronn and Pam Peebles

March 10, 1990

Statement in regard to Howard Canyon Quarry

The purpose of this statement is to address the use of Knieriem road as an access road to and from the Howard Canyon Quarry, the possibility of participation in an LID to upgrade Howard and/or Knieriem road to a capacity which would accommodate the quarry operation, and to describe other farm operations on property surrounding the quarry.

The Affidavit of Raymond Smith dated February 19, 1990 which was submitted to the County Commissioners on March 6, 1990 states (P 5, pg. 4) "[Knieriem Road] has approximately three feet of paved and gravel shoulders which are adequate for all size of vehicles and logging trucks which frequently travel Knieriem Road." It is approximately $\frac{1}{3}$ of a mile from the intersection of Knieriem Road and Littlepage Road to my driveway. On that stretch of the road the shoulders are 12" wide AT THEIR WIDEST. On some places the shoulders are only 6" to 8" wide. Approximately 100 feet east of my driveway Knieriem Road curves sharply north. You cannot see traffic approaching from the east until it is through the curve. East of my

driveaway, through the curve north and back through another curve east, Knieriem Road narrows significantly. Shoulders are virtually non-existent in this stretch (approximately 0"-4").

The existing road surface on Knieriem Road is good. A tenfold increase in heavy truck traffic would, however, cause rapid deterioration of the road surface. I would NOT be willing to participate in an LID to improve the road to accommodate quarry traffic. It makes no sense to tax the individuals (families) living on Knieriem and/or Howard Roads to accommodate Mr. Smith.

Finally, I own 6.5 acres of pasture land. A stream runs through the pasture and provides excellent grazing for livestock. I am very concerned about the effect the noise from ~~the~~ blasting and crushing at the quarry site will have on livestock. Mr. Smith has not provided details about the steps he WILL TAKE to mitigate the noise impact. I am also concerned about the water quality in "our" stream, and have seen no details about the steps Smith WILL TAKE to ensure the quality of the water supply for livestock in the area.

PATRICIA GIVEN 37638 E. KNIERIEM RD.
Patricia J. Given COBBETT, OR

Michael & Carol Gama

37737 SE Corbett, OR 97019
(503) 695-5199

March 10, 1990

Dear Commissioners,

We would urge you to designate the Howard Canyon site 3-B. Doing so will insure that the many problems a 3-C designation would generate, will not occur. These include:

o undue stress on the traffic arterials surrounding not only Howard Rd, but also Hurlburt, Pounder, Littlepage, and even the Scenic Highway

o massive additional funding needs -- perhaps as much as \$1million or more to upgrade Howard Canyon, etc., to withstand heavy commercial use

o the certain silting and ruination of an existing class 1 stream, Big Creek, which now runs down Howard Canyon year 'round

o the effective loss of our water rights to Big Creek due to the above stated negative impacts on the same

o the disastrous effect this heavy industry would have upon the multitude of animals which come down the canyon off Larch Mountain on a regular basis (not even counting the unknown effect all the blasting and noise and airblown sand would have on our farm animals, including sheep, pigs, chickens and cattle)

o the sword of Democoles (in the form of massive and speeding gravel trucks) which would effectively be hung over all our heads (and most importantly), including the heads of our children as they play, ride bikes, horses, and school buses on our country roads.

It was for these and other key reasons that the County Planning Commission so strongly recommended against allowing aggregate and mineral extraction in Howard Canyon just two years ago, when the issue was most recently raised.

And it is for these same reason that we, the neighbors in the area, strongly urge you to assign a 3-B designation to Howard Canyon, thereby assuring the safety of our children, and the safety of another precious and increasingly limited commodity in Multnomah County -- open country area whose beauty and tranquility remains largely unscarred by the commercial concerns of growing urbanization.

Thank you so much for your careful consideration.

Sincerely,

Michael and Carol, Jordan, Jessica, *(That's David!)*


Michael and Carol Gama and kids

March 10, 1990

Dear Commissioners,

Please don't put a gravel pit on our road, because I won't be able to ride my bike if gravel trucks are on the road. Then I won't be able to visit my best friend Travis because I won't be allowed to ride my bike over to his house on Pounder Road. Thank you.

Sincerely,

Jordan Lama

March 9, 1990

Board of Commissioners,
Multnomah County
Portland, OR

Members of the Commission:

I wish to express my opposition to the gravel pit proposed by Raymond Smith in Howard Canyon, Corbett.

As a resident of Howard Road from 1982-1988, I have first hand knowledge of the hardship a commercial gravel pit would impose on the surrounding property owners.

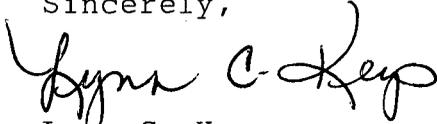
Mr. Smith operated a rock crusher and other large equipment at the site and the noise was clearly heard when inside or outside our home. The noise from the vehicles coming and going from the site were also heard and seen.

As the testimony and documents presented at the hearings have brought, Howard Road is not safely constructed enough to accomodate dump trucks and others with access to public roads. (i.e. school buses, passenger cars, pedestrians) Edwin O'Brist a dump truck operator with 41 years of experience in the trucking business states "It takes a loaded dump truck going 25 mph 100-150 feet to stop on a level grade." Much of Howard Road does not provide enough visibility for a truck to stop in time to prevent a tragedy.

In the fall of 1988 we moved to a new location in Corbett. Improvements were needed to our driveway $\frac{1}{4}$ of a mile in length. We purchased over 200 tons of gravel from Gresham Sand & Gravel and they never indicated a problem in serving our needs. Over the next 12 months we ordered several more loads of gravel with no mention of any difficulty supplying us with gravel. In Feb. 1990 we called for a gravel delivery and were told it would be less money if we called a local Corbett resident for rock since there was a pit "in our own backyard." I feel the timing on the extra expense story is more than coincidental.

I urge the board to deny the 3c designation to Mr. Smith. He has not provided the county with proof that the gravel mined is economically feasible to obtain or that it is needed in the area. The property owners have shown that the existence of the pit conflicts with other uses of the surrounding area.

Sincerely,

A handwritten signature in cursive script that reads "Lynn C. Keys". The signature is written in dark ink and is positioned above the typed name.

Lynn C. Keys
37746 SE Rickert Rd.
Corbett, OR 97019

Multnomah County Commission
1021 SW 4th
Portland, Oregon

Dear Commissioners:

As the Multnomah County Board of Commissioners reviews the LCDC proposal on aggregate resources, I would like to address my concerns about the Howard Road site owned by Raymond Smith and others.

For 12 1/2 years, I have lived in Howard Canyon. On many, many occasions during that time, I have been aware of activity due to the "resource"--the sound of rock crushing, the sound of blasting, the development of roads both the Howard and Knierim Roads. When hauling from the site takes place, it is difficult to ignore the dangerous traffic situation it creates on these winding country roads. I have seen fast moving, loaded gravel trucks vyeing for space on Howard with the school bus, horseback riders, joggers and kids on bicycles. The crushing and hauling seemed to take place without restriction in 1988 and early 1989 even though no permits were issued to my knowledge.

Other sites exist in Multnomah County where rock and gravel resource are available. At the Howard Canyon site, the noise of crushing, blasting and hauling affects about 100 homeowners within a one mile radius. The affect is too great in my opinion, for any amount of benefit that might be derived from siting a legal gravel operation there.

Sincerely,

Glenda Hagan

Glenda Hagan
37841 SE Howard Rd.
Corbett, Or. 97019

695-5450

March 10, 1990

March 10, 1990

Dear Commissioners,

My name is Karen Johnson and I live at 38137 SE Howard Rd in Corbett. I have been unable to attend any of the recent meetings concerning Mr Smith's application for permit to expand his current gravel operation into a full scale commercial quarry. However, I do have some strong opinions on the subject which I would like you to consider prior to your final vote.

I moved to Corbett from Corvallis in November of 1988 after graduating from veterinary school. I chose my current place of employment as well as my place of residence after much careful consideration and long term planning. My residence on Howard Rd is the first house I have ever owned and I have long term plans and goals for the future of my 4.0 acre plot of land. Mr Smith's gravel operation will significantly alter my plans, (which do not impact any other residents of the road) and cause financial hardship for myself and other residents. I cannot imagine why anyone would want to spend the amount of money that I spent for this house in order to live on a narrow country road where loaded trucks race back and forth all day long. Contrary to what any of Mr Smith's "experts" may report there is and will be significantly more pollution in the form of dust, noise and creek siltation. Gravel trucks travelled the road last summer - we could hear and see them from our windows. My chickens are housed next to the road and Big Creek runs back and forth along Howard Rd for most of its length. His plans involve the possibility of removing a whole ridgetop and I fail to see how that could not have significant livability as well as environmental impact on us all. There is also the argument concerning the safety of truck travel on the road. The road is adequate for cars passing on their own sides of the road but not for commercial type trucks. Most haulers are paid by the load meaning it is in their best interests to move quickly. It is only a matter of time before a serious accident involving a large truck and a car, bike, jogger or dog occurs. I walk my dogs daily on the road and many other people besides Howard Rd residents use the road for summer recreation.

I am also curious as to why Mr Smith chooses to live out of sight and sound of his "environmentally sound" operation. I have been through the existing quarry site and have seen the trailer house located on the premises. It is truly an eyesore and although I do not know

the family who lives there (the child catches the bus at our house) I have to believe that economic considerations play a role in their residence there.

Some logging activity has occurred near Howard Rd recently. It is also an eyesore as well as a safety hazard when the loaded trucks travel the road. I do not feel that most of the roads in the area are wide enough or straight enough for heavy load hauling of any type. At least on other roads, if necessary, it is possible to get off the road. On Howard Rd a cliff on one side of the road through the narrow turns makes it impossible to avoid a collision.

If Mr Smith is successful in getting his commercial license I will be forced to leave the area. If I am successful at being able to sell my house I'm sure I would experience a significant loss in value which in truth I cannot afford. Being forced to pay for widening the road if I chose to stay would I'm sure be a severe financial hardship if not impossibility. The Howard and Knieriem Rd residents have united together over this issue and I have experienced a sense of community and caring that is rare in neighborhoods today. Corbett is a good place to raise children and most of the Howard Rd residents have young children. Residents live here for a variety of reasons but I know that if Mr Smith expands his current operation it will affect us all and I cannot personally see that it has any positive effects. I live in Corbett for solitude, beauty and a safe place to raise a family. I hope we all are allowed to stay for a long time to come.

Sincerely,

Karen F Johnson, D.M.

March 9, 1990
KAREN THOMAS
38137 SE Howard Rd.
Corbett, Or.

Board of County Commissioners
Multnomah County Oregon

Dear Commissioners:

Because of your upcoming final vote on the Howard Canyon quarry issue I would like to make one last effort to implore you to deny Mr. Smith his request. I testified at the last meeting on this issue and so some of what I will say will be familiar, but I strongly feel that they are as important as Mr. Smith feels about reopening his pit.

● My home sets approximately $\frac{1}{8}$ of a mile from the pit. This is
● just year in this house and so I only have my experiences of last summer to tell you about. Mr. Smith's trucks rumbled up and down Howard Rd. (in front of my house) all summer. Not just once, or twice, but about one per hour (this is not a scientific survey and I didn't count them). I thought at this time, "Boy, Mr. Smith sure owns a lot of forest roads!" This was not a tranquil, peaceful place. I could hear the machinery at the quarry each day. I almost had a head-on collision with one of his trucks as we both rounded a curve. This was truly a Choc-call. I slowed my travel on the road since then. These trucks do not creep on Howard Road. They fly. They are in a hurry. As you have heard - it's not safe for car travel, or bike travel or walking travel. Mr. Smith would have full use of the road. We would be forced to not use the road except to come and leave our homes.

The value of this house would ~~decrease~~ fall significantly. I would have to tell any potential buyer of the pit (something that was not

Alan L. Stokes
 Shirley E. Stokes
 38025 S.E. Howard Rd.
 Corbett, Ore. 97019
 695-5883
 March 9, 1990

Multnomah County
 Board of County Commissioners
 1021 S.W. Fourth Ave.
 Portland, Ore. 97204

Re: Case #C1-88
 Periodic Review

Dear Commissioners,

We live in the Corbett area, on S.E. Howard Rd. and have our homesite (Tax Lot #64) bordering S.E. Howard Rd., and an additional Tax Lot #61 just behind our homesite both of which we use for Farming. Tax lot #61 also borders on the Gravel Mine Holdings of site #8 of Multnomah Co. inventory.

We have written previous comments to you opposing any change in restriction-s, or relaxation of requirements to allow this present mine #8 into a full scale commercial operation. The most recent letter was Dec. 15, 89 and also included copies of our May 4, 87 letter all of which opposed any expansion of the above Gravel Mine. (Face page only copies attached).

At this time we have these additional concerns and statements for your consideration:

- (1) Our properties would definitely (be devalued) due to Noise, Blasting, & Heavy Truck Traffic on S.E. Howard RD. We can hear the noise of the Rock Crusher, particularly when the East Wind is blowing, as it does frequently in this area. We have also heard blasting from the area, and approximately one year ago a large blast was reported which dislodged a large portion of the quarry hillside. This blast reportedly partially covered and damaged the Rock Crusher at that time. Since then the crusher has been Dismanteled, Repaired, and Moved to Site #13 - Multnomah Co., where I am informed it is now operating.
- (2) Site #13 is now supplying Rock to the Corbett area (Pit Run Inc.) so it does not appear to be necessary to use Howard Canyon Site #8. Also supplying Corbett, Gresham, and East County area are:
 Gresham Sand & Gravel - Gresham, Ore.
 Toombs Sand & Gravel - Troutdale, Ore.
- (3) It has been suggested that since Log Trucks use this area, the roads should be sufficient for Gravel Trucks also. This is not true because Log Trucks do not create the traffic density a Gravel Mine would. For example Log Trucks have used S.E. Howard Rd., but only for a month or six weeks periodically. Timber can be harvested from an area, but then must take 20-30 years or more to replenish & regrow a new supply.
- (4) Also the following economic considerations for access roads should be addressed: It has been stated by the County Engineer in Cu 7-87 report that S.E. Howard & S.E. Knieriem Rds. would not withstand heavy Truck Traffic on a continued basis.

(Cont. next page)

Alan L. Stokes
Shirley E. Stokes
Cl-88 cont.

(4) cont.

We understand the operators of the quarry propose to upgrade the roads, but only if a Lid or limit is placed on thier contributions. So the question is who would contribute the balance of funds ? Multnomah County Taxpayers ? and/or property owners bordering these two roads ?.

We do not feel it to be Just or Equitable that County Road Funds and/or surrounding property owners should subsidize road improvements for a private enterprise which will devalue our properties and make this area a less desirable place to live.

For the above considerations, we urge you not to allow any further expansion of operations at Howard Canyon Site #8 .

Sincerely,

Alan L. Stokes

Alan L. Stokes

Shirley E. Stokes

Shirley E. Stokes

shirley

Alan L. Stokes
Shirley E. Stokes
38025 S.E. Howard Rd.
Corbett, Ore. 97019
December 15, 1989

Multnomah County,
Board of County Commissioners
1021 S.W. Fourth Ave.
Portland Ore. 97204

Re: Case # C1-88
Periodic Review
9:30 a.m. Dec. 19, 1989

Dear Commissioners,

Inasmuch as we will be unable to attend the above hearing, please consider our written comments.

We are concerned about the future effects of gravel mining on our homesite (one corner of which is adjacent to Gravel mine holdings on S.E. Howard Rd.) and also to a lot we ~~xxx~~ have purchased just behind our homesite (which has 582' of boundary adjoining the total gravel mine holdings.). Please see our written comments to planning commission in regards to CU7-87 #681 attached. These comments include a 2 page letter of May 4, 1987, and also copies of 4 pages of Photos & map -all attached. Your planning commission may still have the original color Photos in thier file.

We are particularly concerned about the following recent proposals; The proposal to impose a setback distance of 200' for property owners adjoining Mineral Extraction Sites is putting the burden of Noise, Dust, & Blasting Hazards on the adjoining property owners, whereas the burden should be placed on the cause of these Hazards or the extraction site operators. (see pge 183 of Policy 16-B & pge 155 of ? subsection attached, also pge 4 of 4 page Mult. Co. Goal 5 inventory Site #8 attached)

This proposal is in direct conflict with Section 11.15.7315, Subsec. (B) (attached) which states; To provide maximum flexibility of the extraction process, while at the same time minimizing potentially adverse effects on the public and property surrounding the extraction site.

Imposing a setback requirement on surrounding property is a very severe adverse effect in itself.

Also of serious concern is sec. 11.15.7322 Exceptions (pge 157 copy attached)

Subsection (A) and (B) are only a means for the operators of extraction site to circumvent the requirements of section. Over a period of time the limitations on the amount of material or area involved would not be honored.

We will appreciate your serious considerations of our concerns and urge you not to incorporate them in your ordinances.

Sincerely,

Alan L. Stokes

Shirley E. Stokes

Alan L. Stokes
Shirley E. Stokes

March 9, 1990

In regard to the proposed
rock quarry in Corbett:

This is a rural area with fairly narrow roads. Many children and crossback riders use these roads. The high rate of speed traveled by the gravel trucks is hazardous to both pedestrians and others using these roads. (Often, these trucks far exceed the standard, posted speed which is deemed 'safe' for normal use). Furthermore, Howard Canyon and the surrounding vicinity contains a natural edho which means that sound carries much further than one would expect. Even these factors, along with the famous East winds (which carry dust, etc. from the existing gravel pit) are quite detrimental to family life. Our family has raised beef cattle as well. The noise, road hazard and dust created by this pit is harmful to the production of healthy beef cattle.

The majority of property owners (other than Raymond Smith) live and have invested heavily in this community. Our family's quality of life (beside the potential reduction in property values) has already suffered as a result of these gravel trucks, noise and dust.

(Continued)

Ron + Nancy Runka

There are many blind curves on the roads out here. We have witnessed gravel trucks running stop signs as well as driving in the middle of the road. We are quite concerned about the safety of others (drivers, children waiting for the school bus or riding their bikes, etc).

We respectfully request that the county commissioners deny Raymond Smith permits to expand his operations. We sincerely believe the expansion of the Smith gravel pit operation will be a nuisance (in terms of noise, etc) and hazardous (numerous gravel trucks driving narrow rural roads with many dangerous curves + "blind" spots) to the liveability of our community.

Sincerely

Danny Rytkan
 Ronald R. Renke
 145 S.E. Littlepage Rd
 Corbett, OR 97019
 (503) 495-5967

March 4, 1990

431 S.E Littlepage Rd.
Corbett, Oregon
March 9, 1990

County Commissioners
1021 S.W. 4th
Portland, Oregon

To Whom It May Concern:

As a concerned citizen of Corbett and a near resident to the Howard Canyon site of Mr. Smith, I am not willing to participate in a local improvement district to upgrade the roads to a capacity which would accommodate the quarry operation.

We live at the junction of Knieriem and Littlepage Roads. This is a very busy intersection now without more gravel trucks than we now have. This is a neighborhood with several small children who ride their bikes on the roads. Their safety would be threatened with more gravel trucks using our country roads.

Very truly yours,

Constance Curl

Constance Curl

March 7, 1990

To Whatever Commission or Commissioner it May Concern,

I am a property owner in the area affected by the proposed expansion of the Howard Canyon Gravel Pit. I would like to express my objections to this proposal based on several factors.

The first is that the areas roads are stressed heavily. We bear a large tourist traffic and we also carry a fairly heavy log truck traffic base. Secondly our roads are poorly kept up, narrow and in many places barely passable by two cars. We have no shoulders to speak of and in general the roads are rural in all aspects. To add even 3 or 4 of these trucks a day with their heavy loads is to beg for at the very least a great deal of road wear and at the very worst a serious accident.

I travel Howard and Pounder frequently and I don't want to compete for space with a parade of gravel trucks and I don't want to endanger the children in school buses and in vehicles and on bikes any more then they already are on these terrible roads.

Thank You,



Barbara A. Kirkham
32240 E. Crown Pt. Hwy.
Corbett, Or. 97019

SANTIAM CHIROPRACTIC CLINIC

920 Main St. Sweet Home 97386-0920

Dr. Robert W. Sainz

367-6163

3-12-90

305 SE Littlepage Rd.
Corbett, Ore.

Commissioners:

A lot has been said concerning the actual noise of the proposed gravel pit operation and the actual hazard of the physical passage of "x" number of trucks passing a given point so many times during a given day. I will not belabor those points but instead want to address the residual effects caused by trucks when they are not even present.

Gravel trucks by nature have a tendency to bounce and eject bits of gravel on the roads on which they travel. While this may not sound like much from ten trucks per day, five to six days per week this debris upon the roads will become significant. This significant amount of debris will directly

SANTIAM CHIROPRACTIC CLINIC

920 Main St. Sweet Home 97386-0920

Dr. Robert W. Sainz

367-6163

AFFECT THE RESIDENTS OF THIS AREA

IN SEVERAL WAYS:

- 1) ~~THE~~ INCREASE IN DAMAGE TO AUTO WINDSHIELDS AND AUTO PAINT FINISHES. KICKED UP GRAVEL WILL CAUSE CRACKS AND SCRATCHES AND SCRATCHED FINISHES.
- 2) THE INCREASED HAZARD OF SLIDING ON THE GRAVEL DEBRIS. CARS IN THE COUNTRY TYPICALLY DRIVE FAST, ESPECIALLY THE LEAST EXPERIENCED DRIVERS, THE TEENAGERS, THERE WILL BE DANGER OF COMING INTO A CURVE TOO QUICKLY AND SLIDING, LOSING CONTROL AND PERHAPS DAMAGING THE VEHICLE OR INJURING THE OCCUPANTS OF THE VEHICLE.

SANTIAM CHIROPRACTIC CLINIC

920 Main St. Sweet Home 97386-0920

Dr. Robert W. Sainz

367-6163

3) DANGER TO school children waiting for busses. The gravel lying on the road easily becomes a DANGEROUS projectile when it is squeezed between the road and a car tire. Children could be hurt by this "flying" gravel just standing by the road without a gravel truck in sight.

Is the county willing to go to the additional expense of keeping the truck route swept on a daily or weekly basis to avert such a scenario?

Who will the responsible party be in

the case of eye injury or property damage resulting from "flying" gravel?

SANTIAM CHIROPRACTIC CLINIC

920 Main St. Sweet Home 97386-0920

Dr. Robert W. Sainz

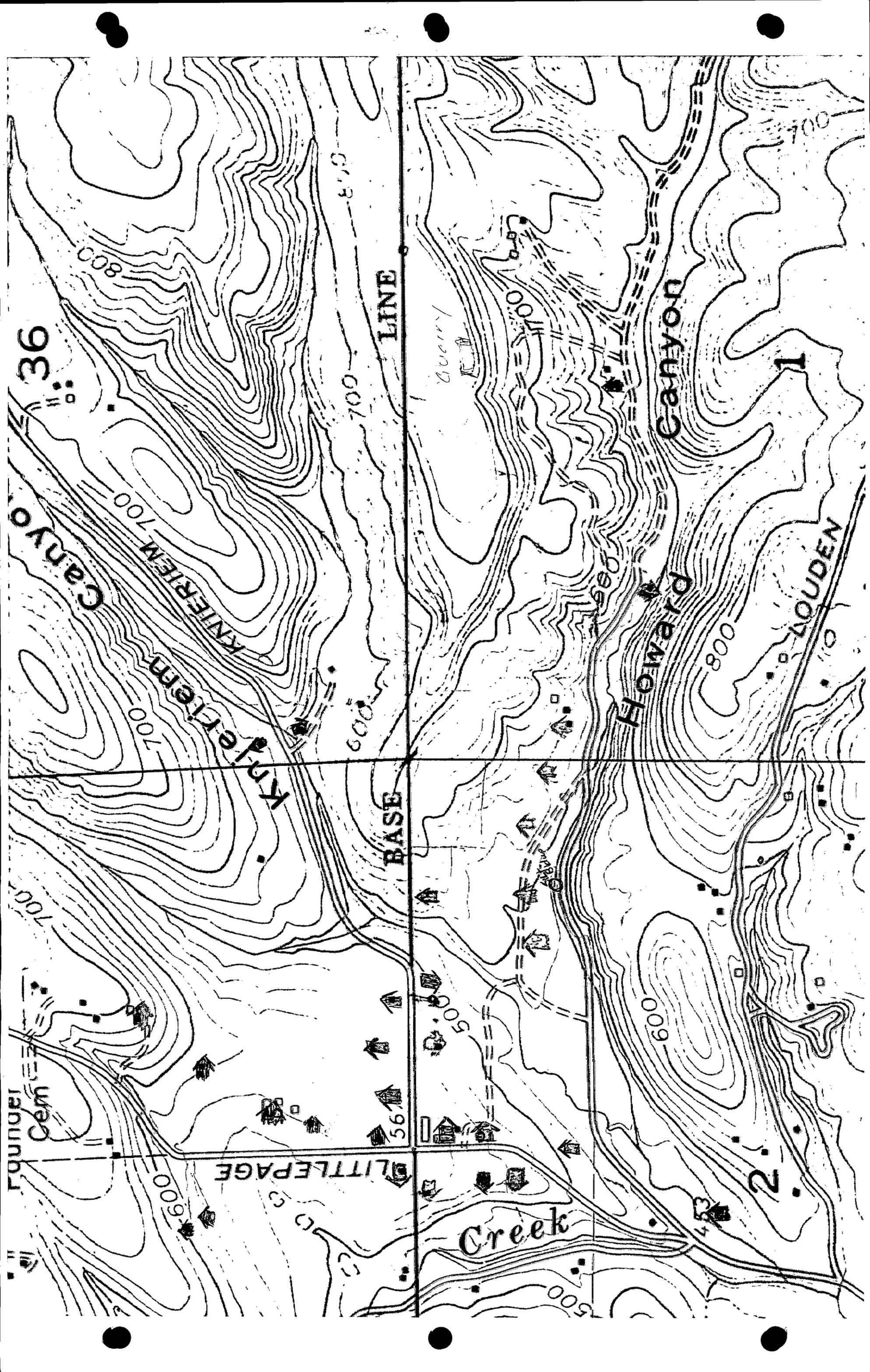
367-6163

Will liability lie with the county
for failure to keep the rooms clean
or will it be the responsibility of the
general operator?

Thank you for your time,



MAP OF
SURROUNDING HOMES



Enlarged Copy of Map
also submitted

One Original Submitted

MR. SMITH'S
OBJECTIONS

LAW OFFICES OF
RAPPLEYEA, BECK, HELTERLINE & ROSKIE

1200 THE BANK OF CALIFORNIA TOWER

707 S. W. WASHINGTON STREET

PORTLAND, OREGON 97205

TELEPHONE (503) 224-5560

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SUSAN J. WIDDER
HARVEY N. BLACK (1986)
BORDEN F. BECK, JR. (1989)
JOHN D. PICCO
COUNSEL

March 6, 1990

OUR FILE NUMBER
S152-1

HAND DELIVERED

The Honorable Gladys McCoy, Chair
Multnomah County Board of Commissioners
Multnomah County Courthouse
Room 602
1021 S. W. Fourth Avenue
Portland, Oregon 97204

Reference: Multnomah County Periodic Review
Goal 5 Mineral and Aggregate Resources
Howard Canyon Quarry

Dear Chair McCoy and Members of the Commission:

I represent Raymond Smith, the owner of Howard Canyon Quarry ("Howard Canyon"). We are in receipt of the county's "alternative" economic, social, environmental and energy ("ESEE") analysis for Howard Canyon, Multnomah County Inventory Site #8. We have the following objections, comments and criticisms related to the "alternative" ESEE analysis.

1. Page 1, paragraph 2. The county indicates that the basalt lava resource occupies the strip along the ridge of the Howard Canyon site which is approximately 350 feet in width for most of its length. The county fails to indicate that the relatively flat bench on which the basalt lava resource is located is approximately 700 feet in width. This leaves a substantial amount of the total bench area for buffer purposes. As the basalt lava resource is generally located at the center of the bench (test pits indicated the greatest depth toward the center of the bench), there is substantial room on either side of the bench for use as a buffer.

2. Page 1, paragraph 3. The county indicates the side slopes on the site vary from 50 percent to 90 percent. The county fails to note that the top of the ridge where the mineral

The Honorable Gladys McCoy, Chair
Multnomah County Board of Commissioners
March 6, 1990 - Page 2

resource is located is very gently sloped with average slopes of approximately 5 percent.

3. Page 2, paragraph 2. The county describes only one potential conflicting use at the site: single-family residences. The county's zoning designations at the site are primarily MUF 38 and MUF 19, although there is some EFU land in the area. All the land in the area is classified by the Multnomah County Framework Plan Map as Natural Resource land. In listing its conflicting use (single-family residences), the county has failed to consider 1,000 Friends of Oregon v. LCDC (Lane County), 305 Or 384, 752 P2d 271 Or (1988). This case substantially changed the interpretation and application of Goal 4 by the Land Conservation and Development Commission ("LCDC") to resource land. The net effect of the change in the interpretation is to discourage single-family residences on resource lands. The court stated, "it is not a minor or technical violation of Goal 4 to allow non-forest uses, such as dwellings, on forest lands by simply showing the non-forest uses will enhance certain forest uses." 752 P2d at 279. The Department of Land Conservation and Development ("DLCD") was advised by the Attorney General on November 21, 1989 that the 1,000 Friends of Oregon v. LCDC (Lane County) case constitutes a "substantial change in circumstances" which is legally advisable for LCDC to address during the Periodic Review process. Multnomah County also ignores 1,000 Friends of Oregon v. LCDC (Curry County), 301 Or 447, 724 P2d 268 (1986) which requires that the county take an exception to Goals 3, 4 and 14 if it converts "rural land" outside an established urban growth boundary to "urban use."

The county MUF zoning provisions do not address either of these cases and the county assumes that single-family residences may be constructed on natural resource land and, therefore, give rise to a potential conflict with Goal 5 uses. This position is rejected by the courts and seriously compromises the county's claim that single-family residences are conflicts on resource land. Unless the county can justify the continued existence of single-family residences on its resource land, it is not justified in using single-family residences as a conflict for Goal 5 resources. The county has forgotten that a conflicting use defined by the Goal 5 administrative rules is "one which, if

The Honorable Gladys McCoy, Chair
Multnomah County Board of Commissioners
March 6, 1990 - Page 3

allowed, could negatively impact a Goal 5 resource site." OAR 660-16-005. If single-family uses are not allowed in MUF resource zones, there is no conflict. The county has not adequately justified when a single-family residence could be constructed on the site and, therefore, has failed to justify that the identified conflict (single-family residences) is, in fact, an actual conflict.

4. Page 2, paragraph 3. The county fails to state that conditional uses and community service uses (i.e., churches, schools, cottage industries, surface commercial and tourist commercial establishments) cannot be located in resource lands if they will adversely affect natural resources (See MCC 11.15.7120(B)). There is no conflict between these conditional uses and the existing Goal 5 natural resource because by the county's own admission, they would conflict with natural resources. The county erroneously removed this statement from its prior ESEE analysis.

5. The county's discussion of impacts on the resource under its economic heading (page 2), social heading (page 5) and environmental heading (page 6) does not meet the requirements of OAR 660-16-005(2). In its ESEE analysis, the county must take its identified conflicting use (i.e., single-family residences) and assess what impacts that use would have on the Goal 5 mineral and aggregate resource. Instead, the county uses the "Impacts on Resource" category under its ESEE analysis to largely describe impacts the resource would have on the conflicting use. Accordingly, the county fails to identify what are the economic impacts, the social impacts and the environmental impacts on the resource. The county goes out of its way to project impacts on the conflicting use which might be caused by the resource, but does not analyze impacts from that use on the Goal 5 resource. This reflects the county's failure to understand that the purpose of the ESEE analysis is to evaluate conflicts in an even-handed and factual manner. The county may not reach ESEE conclusions based on prior conditional use applications.

6. Page 3, paragraph 1. The county erroneously concludes that other sites are available for development, therefore, Howard Canyon (by inference) is not needed. First,

this does not assess an impact on the resource and, therefore, is a non sequitur. Second, "need" is not a consideration for the Goal 5 analysis. The purpose of Goal 5 is to protect significant natural resources from conflicting development. If the matter under consideration were wetlands, for example, the county would not be justified in saying that there are eight other wetlands within a 25-mile range and, therefore, the wetland under consideration is not "needed." The same analysis must be applied to all Goal 5 resources including mineral and aggregate. Third, the factual inaccuracies of the Scott report are discussed more fully below. Fourth, the county uses its "1989 ESEE Worksheet" as though it is factual data in the record. The record shows that the county did not consider the availability and, most importantly, the price of the materials when developing its worksheet. The county relies on the Scott report, which bootstraps its conclusions based solely on the "1989 ESEE Worksheet" produced by the county. Simply stated, there is no factual underpinning for the county to conclude that it "believe[s] these reports and data." Fifth, the county ignores extensive contrary evidence in the record without discussion. This violates Younger v. City of Portland, 305 Or 346, 752 P2d 262 (1988).

7. Page 3, paragraph 2. The county states that the quarry site "may be used for other economically viable uses." First, this does not constitute an impact on the resource and, therefore, is a non sequitur. Second, the ability to use land for other purposes is not relevant to the inquiry under Goal 5. Because a Goal 5 wetland might be used for contract duck hunting or sewage treatment purposes does not mean that a wetland may not deserve the protections of Goal 5. The same analysis is true for all other Goal 5 resources including mineral and aggregate resources. Third, the county seems to assume that the entire area will immediately be used for mining and that no reclamation will occur at the site. Mining is a transitory activity and reclamation is mandatory under state law. Topsoil will be stockpiled at the site so that after the minerals are extracted, farm or forestry uses may continue. The entire site will not be mined at once, and ongoing reclamation will ensure that farm or forestry uses will remain available on the site in the future. The county ignored these facts.

The Honorable Gladys McCoy, Chair
Multnomah County Board of Commissioners
March 6, 1990 - Page 5

8. Page 3, paragraph 3. The county attempts to justify its "3B" designation by stating that the county is "currently and adequately supplied by at least five different operations." This statement has nothing to do with the impacts on the Howard Canyon Goal 5 resource caused by conflicting uses and, therefore, is a non sequitur. Second, "need" is not a criterion of the Goal 5 analysis. Third, the county ignores the facts and record which are relevant to the quarries it lists as alternative supply sources, assuming for the purposes of argument that alternative supply is even a consideration. Smith Bros. Quarry does not produce any crushed rock. It produces only hand-split veneer rock which is used for masonry purposes. The Brightwood Quarry is not a year-round supply because of snow and will only deliver large quantities of rock at high cost, approximately three times the cost of rock which could be produced at Howard Canyon. Gresham Sand & Gravel Co. ("Gresham S&G") has indicated reluctance to deliver in the Corbett area because of expensive haul costs and uphill travel which expends fuel. The Gresham S&G owner recognizes that it is extremely expensive to serve the Corbett/Larch Mountain area from its source and is an enthusiastic proponent of Howard Canyon. Gresham S&G has very little of its own material and is importing material from the Lone Star operation in Scappoose. It transships Lone Star material at a high material cost and adds transportation costs which nearly double the price of the raw material. Cascade Sand & Gravel has been purchased by Lone Star and will not deliver small amounts of rock to the Corbett area. Lone Star suggested that gravel in the area be handled by Gresham S&G who purchases Lone Star rock in bulk. Pacific Rock Products is located in the state of Washington and will deliver rock to the Corbett area at an extremely high price, approximately two to three times the cost of the material to be produced at Howard Canyon. The county ignores all of these facts which are directly applicable to the only salient reason for the economic portion of the ESEE analysis: namely, to determine whether the quarry provides an economic benefit. The Howard Canyon Quarry clearly provides an economic benefit as it can produce high quality rock at one-half to one-third the price of rock provided by "alternative sources" listed by the county. Because the county ignores the purpose and the ultimate result of a proper economic analysis, its ESEE analysis is deficient.

The Honorable Gladys McCoy, Chair
Multnomah County Board of Commissioners
March 6, 1990 - Page 6

9. Page 3, paragraph 4. The county makes the preposterous statement that the Howard Canyon resource "may increase in value if preserved for future use." If the county were serious about preserving the quarry for future use, it would make a "3A" designation. Of course, the county is not serious about this option. "Preservation for future use" is a euphemism for allowing conflicting residential development to occur in the area which will ultimately prevent the use of the Howard Canyon site. The county recognizes the rock material is scarce in the area and that supplies are dwindling, nonetheless, it pays lip service to the idea of preserving the resource. The county statement is contrary to fact in that a rock resource that cannot be used in the future because of conflicting uses that are allowed to be presently established, has no economic value, regardless of its potential value. Second, the county statement contradicts the purpose of Goal 5, which is to protect the resource. The advisory planning guidelines to Goal 5 state that "in conjunction with inventory of mineral aggregate resources, sites for removal and processing of such resources should be identified and protected." (Emphasis added.) The goal itself states that natural resources, including mineral and aggregate resources must be protected. Allowing conflicting uses fully does not protect the resource. The county's argument is the equivalent of saying that land needed for open space or potential scenic waterways (both Goal 5 resources) will increase in value in the future and, therefore, they should be given "3B" designations ("allow conflicting uses fully") so that future resource value can increase because homes, powerplants or other physical development at the resource site increase the need for the resource, as it formerly existed. Such reasoning is absurd and turns the Goal 5 process on its head.

10. Page 3, paragraph 5. The county again makes the statement that because the site is not necessary to meet demand, conflicting uses should be fully allowed. First, this is not an economic factor which has impact on the resource and, therefore, the argument is a non sequitur. Second, "need" is not a consideration in the Goal 5 process. Third, the county has ignored the record which explains that the economically viable 25-mile one-way trip does not include winding roads, hills, or traffic and is based on delivery in a 20-yard truck and trailer

on a freeway. Assuming that alternative sites are even relevant to the issue of protection under Goal 5, the county has completely ignored the record evidence considering its eight "alternative" sites. Damascus Quarry cannot deliver rock material to the Corbett area in a cost-effective manner. Even though its raw rock prices are lower than Gresham S&G, transportation cost does not allow it to compete with Gresham S&G prices. The county assumes that a freeway exists between Damascus Quarry and the Corbett area when, in fact, the roads are secondary. The county also assumes that rock needs in the Corbett area are for large amounts which could be delivered by trucks and trailers in a more cost-effective manner. The reality is most of the rock needs in the area are small and provide no efficiencies for trucks and pup trailers. Construction Aggregates cannot deliver rock to the Corbett area for a competitive price because of the long haul involved. Deep Rock Quarry is close to closing and does not have material available all the time. It is not feasible for them to deliver rock to the Corbett area in a cost-effective manner. American Sand & Gravel does not deliver in the Corbett area. A person would have to have their own dump truck if they wish to use American Sand & Gravel as a rock source. Alternatively, that person could pay \$40.00 per hour for a private trucking firm which would add an estimated \$80.00 to \$120.00 to the cost of 10 cubic yards of rock available from American Sand & Gravel. Mt. Hood Rock cannot deliver on a year-round basis and quotes a price of approximately two to three times the price of the rock to be produced at Howard Canyon. Gresham S&G actively supports the establishment of Howard Canyon because of the cost involved in providing transshipment material from Gresham S&G to the Corbett area. The owner of the business states that he cannot deliver to the Corbett area in a cost-effective manner. Rogers Construction in Oregon and Asphaltic Paving are not two separate operations; they are connected. They do not provide raw rock because they put their own rock into value-added products such as asphalt or deliver it as part of construction contract work in which they build the road. The record demonstrates that the county's "alternative sites" are, in fact, unresearched excuses for reaching a preconceived conclusion about the economic value of the Howard Canyon site.

11. Page 4, paragraph 1. The county admits that the Gresham site will be depleted before the expiration of the county's current 20-year plan. Nonetheless, the county states that sources in Clackamas County, which cannot deliver material in a cost-effective manner, will be sufficient to supply the county. First, this analysis has nothing to do with impacts on the resources and is, therefore, a non sequitur. Second, the availability of alternative sites is not relevant to the Goal 5 analysis, and is particularly not relevant to the economic prong of the ESEE analysis when the alternative site can deliver rock only at prices two to three times the price of Howard Canyon. Third, the county rejects the requirement of Goal 5 that natural resources be protected in an attempt to delay the protection process until the next Periodic Review. The county ignores that its proposed "3B" designation will "allow conflicting uses fully" and, therefore, potentially eliminate the availability of the site prior to the next Periodic Review.

12. Page 4, paragraph 2. The county states that two "potential" community pits on Forest Service land may be available to produce rock at tantalizingly low prices. First, the county is in error. The record reflects that the United States Forest Service does not have an active pit in the area. Second, the county ignores the record which demonstrates that the \$1.00 per cubic yard price does not include the crushing which adds considerable start-up expense (\$2,500.00 to \$4,000.00). Assuming for the purposes of argument that community pits were available, the county is internally inconsistent in stating that Howard Canyon would be unable to compete on a price basis with community pits, while elsewhere in its ESEE analysis it rejects the idea that Howard Canyon has no economic value despite the inability of all of its "alternative" sites to compete with Howard Canyon on the price point. The county also fails to demonstrate how its statements about community pits demonstrate an impact by conflicting uses on the Goal 5 Howard Canyon resource and, therefore, its entire discussion is a non sequitur.

13. Page 4, paragraph 3. First, the discussion in this paragraph does not have anything to do with impacts of the conflicting use on the Howard Canyon Goal 5 resource and, therefore, it is a non sequitur. Second, the county confuses

immediate exploitation with "protection" as required by Goal 5. Because the county does not want the resource to be used, it attempts to place it in a "3B" category which allows conflicting uses fully. It makes this determination without proper facts of analysis. The county ignores the record which indicates sites are becoming more scarce in East Multnomah County and that producers who remain are charging a premium for rock material. The county also ignores the reality that the failure to preserve the site at this point means only greater conflicts in the future as more and more development locates or attempts to locate on resource land in East Multnomah County.

14. Page 4, paragraph 4. The county's conclusionary statement that residences "too near" noise and dust will have less resale value is without support in the record. The record clearly demonstrates that the quarry can operate well within the Department of Environmental Quality ("DEQ") noise standards. The county makes no rational connection between noise within DEQ noise standards and reduced home value. The crusher to be used at the quarry has an existing DEQ crusher permit (No. 370-0362). Accordingly, crusher-related dust at the site will be within DEQ standards. The county makes no rational connection between DEQ-controlled dust levels and decreased home value. The county states that there is proportionately greater impact on the value of the home than there is on the Goal 5 resource. This statement is factually incorrect. If the county intends to compare the conflict of siting a home on the resource with a conflict of development of the resource with nearby homes, the county is factually wrong in its conclusion. Siting a home on the resource site will eliminate all economic value of the Goal 5 resource. By the county's own admission, the value of nearby homes will be "lessened." Accordingly, there will be a greater economic impact on the Goal 5 resource. In addition, the proportionality analysis suggested by the county compares apples to oranges. It is impossible to establish a proportional relationship between different economic impacts and different activities (i.e., there is no proportional relationship between the economic impact on home values as compared to economic impacts on rock resource values). The county again includes its invalid argument that the rock resource will increase in value over time if it is "preserved" with a "3B" designation.

The Honorable Gladys McCoy, Chair
Multnomah County Board of Commissioners
March 6, 1990 - Page 10

15. Page 4, paragraph 5. The county quotes statewide Goal 12 but ignores the economic prong of the transportation goal. Mineral and aggregate materials are the basic building block for any transportation system. By failing to protect existing sources of mineral and aggregate materials, especially when those sources are admittedly scarce, the county has failed to take necessary steps to provide and encourage an economic transportation system. Even though the county supposedly is discussing economic consequences at this point in its ESEE report, it completely fails to address transportation economics. In addition, Goal 5 provides general conceptual guidelines for what a transportation plan must contain. The goal does not make specific policy requirements for road widths, depths of asphalt and other factors on individual transportation routes. There is no suggestion that the county's transportation plan does not incorporate the guidelines set forth in the goal. In addition, the county ignores that one of the transportation plan guidelines is to facilitate the flow of goods and services so as to strengthen the local and regional economy. In this manner, Goal 12 ties in with Goal 9, the economy of the state, which is also ignored by the county. The county also ignores the economic effects on Goal 10 (affordable housing depends in part on reasonably-priced aggregate) and Goal 13 (expensive energy is used to import rock to the Corbett area). These shortcomings invalidate the county's analysis.

16. Page 5, paragraphs 1 through 4. In these paragraphs, the county attempts to establish a conflict between roads and the Goal 5 resource. First, roads are not a use which conflicts with the mineral and aggregate resource. The county has proposed no roads on the Goal 5 resource site. Second, the county is treating this matter like a development application. Rather than concentrating on the task at hand (analysis of the Goal 5 resource), the county attempts to examine all operation aspects of the quarry. This is more properly addressed in a development application. Third, the county has ignored several facts in the record. It is eight-tenths of a mile from the intersection of Little Page Road to the turnoff of Howard Canyon. Within that eight-tenths of a mile, there are only six residential dwellings and a total of nine residential dwellings in the entire length of Howard Canyon Road. Road impacts, if

any, will affect a finite number of persons. Howard Canyon Road is 20 feet in width and offers adequate site distance as confirmed by the opponent's traffic expert. The roads have proved adequate for significant log hauling which occurs in the area. Ten deliveries per day does not constitute "constant" use of the road. The applicant has offered to improve the first 1,850 feet down Howard Canyon Road from the quarry access road. This would include modification of the two curves the county is worried about and the application of a two-inch lift of asphalt. The county has rejected this offer as "arbitrary." The county describes "difficult" site distances when the only evidence in the record indicates that site distances are adequate. The county's estimated cost for upgrading roads in the area is exaggerated. Modification to Howard Canyon Road is estimated to be only approximately \$60,000.00. In addition, the applicant has agreed to join a local improvement district by waiving his right of remonstrance against formation of such a district. A local improvement district is one of three road improvement strategies allowed countywide by the Multnomah County Department of Environmental Services under Street Standards, Code & Rules. The county singles out mineral and aggregate resources in its Goal 5 procedure as the only use in Multnomah County that cannot pay for road improvements through a local improvement district. This fails to protect mineral and aggregate resources as required by Goal 5. Knieriem Road offers two full lanes of traffic, a double-striped center line and marked fog lines on the shoulders. The county has ignored evidence in the record and made credibility statements in its ESEE analysis which do not evaluate evidence available to the county.

17. Page 5, paragraph 5. In its discussion of social impacts, the county ignores impacts on the resource and only discusses the potential impact of the resource on conflicting uses. As a result, the county's entire "Impacts on Resource" section is a non sequitur. Second, the county states that the Scott report "indicates" that DEQ noise violations are likely. Mr. Scott is not an acoustical engineer and makes several unscientific and factually incorrect statements regarding noise. Mr. Smith's registered acoustical engineer finds that there is no problem meeting DEQ or county noise standards at the site.

Third, it is not clear whether the county considers noise a social consequence or an environmental consequence.

18. Page 6, paragraph 1. The county indicates that there are four residences within 700 feet of the site. The county fails to consider that the closest residence (400 feet) is owned by Mr. Smith. The county also fails to mention that the residence located 500 feet away is actually at least 1,600 feet from the existing quarry operation and that there will be no noise impact on this residence because of the mining plan proposed for Howard Canyon. The county also fails to recognize that Mr. Smith owns one of the residences to the south which is 700 feet away. The county fails to consider that a registered acoustical engineer has found no likelihood for violation of DEQ standards for any residence near the site. The county appears to rely on a certified engineering geologist for a testimony regarding noise. A certified engineering geologist does not have the proper training or background and is not entitled to a professional opinion on noise issues. Third, the county fails to recognize that DEQ has separate standards which prohibit continuous blasting. Fourth, the county arbitrarily expands its impact area for the noise use to a one-mile radius. This is an unreasonable impact area. Fifth, the county makes the factually insupportable statement that "noises amplified the wind tunnel and funnel effect of canyon topography." This statement is contrary to the laws of physics and is a scientific impossibility. In addition, the inference the county seeks is contrary to the facts provided by a registered professional acoustic engineer.

19. Page 6, paragraph 4. The county apparently finds social impacts related to safety a consideration under Goal 12. The county, however, ignores that Goal 12 requires an "economic" transportation system in addition to a "safe" transportation system. As mineral and aggregate resources are the building blocks for all transportation system construction, the goal requires consideration of "economic" means to provide these resources. The county fails to take this into account when discussing Goal 12. In addition, the county fails to consider Goal 9 which requires diversification and improvement of the economy of the state. The county also fails to consider Goal 10

The Honorable Gladys McCoy, Chair
Multnomah County Board of Commissioners
March 6, 1990 - Page 13

which requires the provision of affordable housing. The county also fails to consider Goal 13 which requires conservation of energy. Basically, the county has focused on one portion of Goal 12 and ignored the remainder of the goal as well as other statewide goals in its analysis of the social factor.

20. Page 6, paragraph 5; page 7, paragraph 1. The county makes several errors with regard to its environmental analysis. First, the county makes no analysis of any impact on the resource and only discusses how the resource might impact other uses. Accordingly, the "Impacts on Resource" discussion is a non sequitur. Second, the county again makes it invalid argument that a mineral and aggregate use may be preserved for future use by a "3B" designation. This is an abdication of the county's planning responsibility and is a direct conflict with the statements of Mr. Gray of the Department of Geology and Mineral Industries ("DOGAMI"). He states rock resources are becoming more and more difficult to site.

The county lists a "direct" conflict with deer and elk wintering area which is located within one mile of the resource site to the southwest. The county cannot state what the nature of the conflict is. Assuming that the conflict is noise, DEQ noise standards will be met and Dr. Bob Ellis and Dr. Paul Whitney, wildlife biologists, indicate that noise will not affect the use of the wintering area by deer or elk. There is no factual basis for the county's statement regarding "proximity to weakening wintering herds." The county makes an irrelevant and incorrect statement regarding past activities at the site resulting in a Forest Practices Act violation. No violations have occurred at the site. The county also ignores the preliminary mining plan which shows that disturbed areas will be minimized so the site will remain available for grazing. Ongoing reclamation and revegetation will encourage grazing. The county's concern regarding erodible soils assumes that activities will occur on the side slopes. The record demonstrates that primary extraction activities will occur in level portions of the bench where slopes are not a problem. In addition, revegetation of overburden will prevent erosion and sedimentation ponds will be available to prevent adverse effects on the streams. The county fails to explain how dust and noise cause conflict with

adjacent farm and forest uses. Both farm and forest uses create dust and noise and are dependent on truck transportation for hauling products. In addition, the only farm and forest land adjacent to the site is owned by Mr. Smith. The county's analysis is inadequate.

21. Page 7, paragraph 2. The county ignores that schools and public parks cannot be located in MUF areas if they conflict with a natural resource operation. The county's statement regarding impacts on homes ignores the record which demonstrates that noise will be well within the DEQ requirements. With one exception, residences in the area are located far away from the actual extraction area. Many of the closest residences are separated from the extraction area by canyons and streams. The county also makes an incorrect statement that a "3B" designation merely prohibits immediate exploitation. This is clearly not the case. A "3B" designation would allow conflicting uses to be located which would prevent the future use of the quarry.

22. Page 7, paragraph 3. The county attempts to demonstrate conflicts with forest uses under Goal 4. The county ignores several critical facts about the site. The land is bare and does not support trees at the present time. The county also ignores that there will be no effect on wildlife or fisheries habitat and that quarry design provides noise buffers and visual separation from residences in the area. The county also ignores that Mr. Smith has agreed to stockpile soil in a manner that prevents erosion. The county ignores that the crusher used at the site has a DEQ air contaminant discharge permit and that a sedimentation pond will be constructed on site. These facts ensure that air and water remain clean. There is no outdoor recreation on this site as it is privately owned and there is no public access. Cattle presently graze on the land and that use will continue during operation because the quarry will occupy only a small portion of the land and reclamation will be ongoing. In addition, the county ignores that new administrative rules implementing Goal 4 were adopted on February 5, 1990. The new administrative rules provide that extraction and processing of aggregate materials related to forest practices are allowed outright. In addition, the rules provide that mining and

processing of aggregate mineral resources are allowed under specified conditions which are designed to make the use compatible with forest operations and agriculture. The county cannot justify a Goal 4 conflict under these circumstances.

23. Page 7, paragraph 5. The county recognizes that although Class I streams are in the area, extraction can occur without disturbance. However, the county continues to state that road construction of the site has already caused a Class I stream violation. This is not a true statement. The county indicates that there may be wetlands in the area which "may" be adversely affected by the operation. This is contrary to the facts in the record which demonstrate that the extraction area is not located near a Class I stream and adequate space exists for sedimentation ponds to control erosion and runoff.

24. Page 8, paragraph 2. The county ignores the record which demonstrates that the crusher to be used at the site has an existing DEQ air permit (DEQ No. 37-0362). The county also makes a statement that "resource development" has conflicted with the water quality because of a Forest Practices Act violation. As discussed above, there has never been a Forest Practices Act violation at the site. The county concludes, without facts, that the site will create dust and off-site water quality impacts. The record demonstrates that the design of the extraction operation and standard engineering practices, including a sedimentation pond, will eliminate off-site water quality impacts. Dust will be controlled through a DEQ permit. The county also states that the site should "retain" its "3B" designation. The site has never been given a "3B" designation, in fact, the record demonstrates that a "3B" designation is not appropriate.

25. Page 8, paragraph 3. The county attempts to raise a conflict with Goal 7 related to natural hazards. As the county states, evidence from a soil scientist and from DOGAMI found no problem with drainage or stability at the site. Nonetheless, the county attempts to make a credibility determination regarding testimony that was submitted as part of a conditional use hearing in 1986. The county ignores that conditional use standards are not applicable during the Goal 5 process. In addition, the

county ignores the record which indicates that testimony the county chooses to rely on is of an extremely general nature and can apply to any site located anywhere in the east county. The county points to evidence that landslides and seeps may occur where Boring lava formation meets the Troutdale formation and states that the Troutdale formation is subject to failure. These statements say nothing about the geology at the site. They are generalized statements that have no bearing on whether or not Howard Canyon can be operated in a safe manner as to protect life and property of natural hazards. The county relies on the Scott report which infers that mineral extraction will occur on steep side slopes. The preliminary extraction plan does not support this nor does the record support the conclusion that the site cannot be properly mined. As stated by certified engineering geologist Schlicker: "There is no basis to assume that the Howard Canyon Quarry cannot be developed and operated in a safe hazard-free manner." The county attempts to create a conflict where none exists.

26. Page 9, paragraph 1. The county again repeats the irrelevant and incorrect statement that there was a violation assessed by the Oregon Department of Forestry. The record demonstrates that a violation did not occur on the site and was unrelated to aggregate extraction. The county ignores testimony that "roads can be, and are, commonly constructed on the Troutdale formation." (Schlicker) The county attempts to take a design question and create a Goal 7 conflict as though no thought would be given to the placement and design of the aggregate extraction site.

27. Page 9, paragraph 2. The county should be commended in that this is the only place in its ESEE analysis where it actually discusses impacts on the resource under the heading "Impacts on Resource." However, the county fails to address Goal 13 as an additional energy consideration. Goal 13's purpose is to conserve energy. Failure to use the site by allowing conflicting uses will cause rock to be transported greater distances by truck. The record demonstrates that uphill transportation of aggregates from Gresham will use more fuel. In addition, the record demonstrates that transportation cost directly related to energy use, is a limiting factor in the

The Honorable Gladys McCoy, Chair
Multnomah County Board of Commissioners
March 6, 1990 - Page 17

delivery of rock from outlying sources. Even though there are no consequences to conflicting uses, the county fails to conclude that the energy analysis favors development of the quarry. This is evidence of the county's lack of good faith in proceeding through the Goal 5 process.

28. Page 9, paragraph 3. The county states that there are "overriding benefits from allowing conflicting uses." This is not supported by the record. The only conflicting use identified by the county is single-family dwellings. The county cannot show that the positive economic consequences of allowing dwellings outweighs the positive economic consequences of allowing the Goal 5 resource. The county fails to even discuss issues related to the economy of the state. The county cannot show that social consequences of allowing dwellings are so overwhelmingly positive that those uses must be protected even though it means loss of scarce aggregate resources. The record shows that adverse consequences to the conflicting use are nonexistent (i.e., noise) or can be easily remediated (i.e., road improvement). The county cannot demonstrate any adverse environmental consequences of protecting the resource and completely fails to discuss any adverse consequences on the environment, including wildlife, fisheries, slope hazards, energy conservation, recreational needs, clean air and water, or forest lands or agricultural lands related to allowing single-family dwellings to occur on the resource site. Finally, by its own admission, there are energy consequences to the resource by allowing the conflicting uses but the county cannot identify a single energy consequence related to allowing the conflicting use. Nonetheless, the county concludes that the conflicting uses must be fully allowed. The county's Alice in Wonderland ESEE analysis has no place in the Goal 5 process and the county's conclusion cannot be substantiated. As required by Goal 2, the county must make its decision on factual information.

The county states that "resources" [sic] within seven miles exist and have been identified. The county fails to note that this single resource (Gresham S&G) has an expected life of less than the county's 20-year planning period and presently is importing much of its rock supply. The county words its ESEE analysis in terms of "denial." Apparently, the county feels that

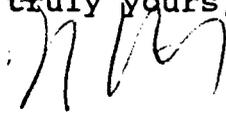
it is in a permitting process and "denying" the use of Howard Canyon. What the county should be going through is an ESEE analysis where it balances, in an even-handed manner, the appropriate factors. The county repeats its mistaken conclusion that Mt. Hood National Forest would provide private and governmental sectors with an economically viable alternative. The Goal 5 process is not a zero sum game where one resource site must lose if another is identified. That process is known as an "exception" in Oregon land use law and it is a procedure that is foreign to the Goal 5 process. The county is not entitled to ignore the evidence related to one site because it believes there is an alternative site available in the area. Goal 5's purpose is to protect all significant natural resources regardless of the amount of the resource in the area.

The county errs when it refers to "potential for additional conflicts" in the Goal 5 process. Goal 5 requires the county to identify conflicts, not "potential" for conflicts. The county also ignores that Goal 5 resources are preferred over conflicting uses. This is evident from OAR 660-16-005 which defines "conflicting use" as one which "could negatively impact a Goal 5 resource site." The county appears to adopt the methodology of Mr. Scott who states that the "burden of proof is on the applicant" (Scott report, page 4, paragraph 4) and that the county "should continue to deny the application for a conditional use permit for the Howard Canyon Quarry." (Scott report, page 4, paragraph 5.) Once a resource owner has established location, quality and quantity of a mineral and aggregate resource, there is no burden of proof. The county is charged with making an even-handed assessment of the value of the Goal 5 resource as compared with the value of conflicting uses, if any. The county has approached this matter as though it were a conditional use permit with the burden of proof on the quarry owner. In fact, this is a Goal 5 proceeding and the county has abdicated its responsibility under Goal 5 to protect mineral and aggregate resources because it either misunderstands the process or is intentionally misusing the process. The county seeks to adopt a "3B" designation on the flimsiest of pretexts and contrary to a strong record rebutting allegations of conflict. The county is required to protect resources that are significant and important, and is required to resolve conflict, not invent

The Honorable Gladys McCoy, Chair
Multnomah County Board of Commissioners
March 6, 1990 - Page 19

conflicts. (See OAR 660-16-010.) The county's "alternative"
ESEE analysis does not comply with the procedures and
requirements of Goal 5 and should not be adopted by the county.

Very truly yours,



Paul R. Hribernick

PRH:mmd
Enclosures
prh617

cc: Mr. Raymond Smith (w/enclosures)
Mr. Craig Greenleaf (w/o enclosures)
Mr. Greg Wolf (w/o enclosures)
Mr. Jim Sitzman (w/o enclosures)

MOBILE CRUSHING V.
LANE COUNTY

FACTS

The property in question is located within the city's urban growth boundary. The county's zoning classification is Commercial (C-3) on the property for which the CS-U overlay classification is sought. The city appeared at the hearings before both the planning commission and the county commissioners to object to the proposed development as being in violation of the city's comprehensive plan and the Urban Growth Area Management Agreement between the city and the county. Over the city's objections, the county commissioners voted to grant the change at its meeting on October 17, 1984.

ASSIGNMENTS OF ERROR

Petitioner claims the county's action violates the county comprehensive plan provisions calling for adoption of the city's comprehensive plan for unincorporated areas of the county within the city's urban growth boundary. Further, petitioners allege the decision violates the Urban Growth Management Agreement provision prohibiting conflicts in comprehensive plan provisions between the two jurisdictions. However, we are unable to reach these claims because of the county's failure to adopt findings demonstrating compliance of the proposal with the applicable criteria.

The only evidence of the decision in the record is in the minutes of the county commissioner's meeting on October 17, 1984. The minutes merely show adoption of a motion "to allow the Community Service Utility Overlay for the 1.7 acres for the purpose to accommodate the PUD use. . . ." Record at 1.

Decisions without findings have been held insufficient for review by both this Board and the courts on many occasions. See e.g., *Sunnyside Neighborhood v. Clackamas Co. Comm.*, 280 Or 3, 569 P2d 1063 (1977); *Green v. Hayward*, 272 Or 693, 552 P2d 815 (1976); *Allen v. Columbia County*, 6 Or LUBA 81 (1982); *Hoffman Industries v. Beaverton*, 2 Or LUBA 411 (1981). Respondent's failure to provide a record with written findings adopted by the county commissioners provides us no opportunity to review the merits of petitioner's claim that the decision violates the controlling plan documents and implementing agreements. We therefore remand the decision for the adoption of appropriate findings.

Remanded.

**BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON**

MOBILE CRUSHING COMPANY, *Petitioner,*

v.

**LANE COUNTY and FALL CREEK
LIVEABILITY GROUP, *Respondents.***

[LUBA No. 84-092]

FINAL OPINION AND ORDER

Affirmed

February 25, 1985

Appeal from Lane County.

Bruce Anderson, Eugene, filed the Petition for Review and argued the cause on behalf of Petitioner. With him on the brief was D. Michael Wells, Hutchinson, Anderson, Cox & Teising.

William A. Van Vactor, Eugene, filed a response brief and argued the cause on behalf of Respondent County.

Susan Connolly, Eugene, filed a response brief and argued the cause on behalf of Respondent Fall Creek Liveability Group.

KRESSEL, Referee; BAGG, Chief Referee; DUBAY, Referee, participated in the decision.

ISSUES

[1] LUBA Procedure

Appeal and Review — Mootness — Rezone. The rezoning of property from FF-20 to F-2 did not render moot an appeal of the county's refusal to designate the property as a Quarry-Mining Combining District. The subsequent rezone did not alter the fact that the petitioner's mining proposal could not be authorized without the addition of a QM overlay designation, and did not change the standards for approval of such a designation.

[2] LUBA Procedure

Appeal and Review — Mootness — Goal 5. A petitioner's Goal 5 challenges to a county's denial of a rezone were not rendered moot by acknowledgment of the county's plan and zoning ordinance, since the acknowledged measures incorporated a Goal 5 standard of approval in connection with the Quarry-Mining Combining District designation sought by the petitioner.

[3] Local Government Procedure

Adequacy of Findings — Goal 5 — Rural Residences as Conflicting Uses. Neither Goal 5 nor LCDC's interpretive rules prohibited a county from classifying existing rural residences in an acknowledged F-2 zone as conflicting uses, precluding extraction of mineral resources at the site.

OPINION OF THE BOARD

Opinion by Kressel

NATURE OF DECISION

This appeal is part of a long-standing controversy over whether mining should be allowed on a 171-acre tract in rural Lane County. The history is capsulized in our opinion in *Mobile Crushing Company v. Lane County*, 11 Or LUBA 173 (1984). In that opinion, we held the county adopted insufficient findings in support of its conclusion that Goal 5 prevented rezoning of the tract by the addition of an overlay district, the Quarry-Mining Combining District (hereinafter QM). Approval of the amendment would have permitted the site to be extensively mined.

After our remand, petitioner unsuccessfully sought a reopening of the county's record to permit the introduction of additional evidence. Supplemental findings were then adopted by Order No. 84-9-26-9. In addition to adopting these findings, the order reaffirmed the previous decision to deny the rezoning request. Petitioner appeals adoption of Order No. 84-9-26-9.

Mootness

As a threshold matter, the county urges us to dismiss this appeal as moot. Its argument is based on two events that occurred prior to adoption of the challenged order: (1) In February 1984, the property in question was rezoned in conjunction with legislative revisions of the map and text of the Lane County Zoning Ordinance and (2) in September, 1984 the new zoning provisions were acknowledged by LCDC as in conformance with the statewide planning goals. For the reasons set forth below, we do not believe either of these events renders this appeal moot.

Mootness issues have arisen in several land use appeals. Although the contexts have been varied, a single inquiry has guided the judicial response: Would a decision on the merits of the case resolve merely an abstract question or, on the other hand, would it have practical effect? A mootness claim should be sustained only in the former circumstance. *Warren v. Lane County*, 297 Or 290, 686 P2d 316 (1984); *Citadel Corp. v. Tillamook County*, 66 Or App 965, 675 P2d 1114 (1984); *Carmel Estates v. LCDC*, 51 Or App 435, 625 P2d 1367 (1981) *rev den* 291 Or 309 (1981); *Multnomah County v. LCDC*, 43 Or App 655, 603 P2d 1238 (1978); *Card v. Flegel*, 26 Or App 783, 554 P2d 596 (1976).

A. Rezoning

For purposes of the mootness question here, the principal change brought about by the zoning revisions enacted in February, 1984 was the redesignation of the 171-acre tract from FF-20 (Farm Forest Use) to F-2 (Impacted Forest Lands). As explained below, we do not believe this change renders our review of Order No. 84-9-26-9 an abstract exercise or one having no practical effect.

[1] As previously noted, Order No. 84-9-26-9 reaffirmed the county's denial of petitioner's request to add a QM overlay designation to the zoning of the site. It is undisputed that the reclassification to F-2 did not alter the fact that petitioner's large-scale mining proposal could not be authorized without the addition of a QM overlay designation.⁽¹⁾ The parties also agree that the standards for approval of a QM designation were not significantly changed by the legislative zoning revisions enacted in February, 1984. Under these circumstances, it is clear the subsequent rezoning had little or no impact on (1) petitioner's interest in securing approval of the QM

(1) The F-2 zone designates quarrying in conjunction with farm or forest use as a permitted use. Small-scale quarrying for offsite use requires issuance of a conditional use permit. Petitioner's proposal, however, requires rezoning to add a QM designation because of the magnitude of the intended use.

designation⁽²⁾ and (2) the standards governing such an approval. Accordingly, we cannot conclude the rezoning to F-2 per se means review of Order No. 84-9-26-9 would be of purely abstract significance or academic interest.

In support of the mootness claim, the county argues its February, 1984 rezoning constituted a new decision denying petitioner's request for QM rezoning, thereby superseding the original rezoning denial (Order No. 83-8-24-9). The argument is stated, in the county's supplemental memorandum as follows:

In the legislative process, petitioner's application for the Quarry Mining zoning designation was denied, with the county finding that the requested activity could occur via the CUP process. Per *Warren, supra*, these facts establish the appeal is now moot, as a new record and findings were made. While the record and findings are admittedly minimal, they are nevertheless sufficient to meet the *Warren, supra*, test. Respondent's Supplemental Memorandum at 4.

This argument derives at least theoretical support from *Carmel Estates, Inc. v. LCDC, supra*, and *Warren v. Lane County, supra*, 297 Or at 295 ("For the purposes of judicial review, a new ordinance enacted on a new record and different findings will generally supersede the prior one and render any decision on the sufficiency of the prior record moot.") However, we find no basis in the record for application of the quoted rule in the manner urged by the county.

First, we have not been furnished with evidence that the county considered and rejected a request to apply a QM overlay designation to the property when F-2 zoning was imposed in February, 1984. See ORS 197.830(11) (limiting this Board's review to the record established at the local government level). The county's *brief* provides some proof petitioner requested a QM designation during the legislative hearing process, but the evidence contained in the *brief* is not part of the record in this appeal. Moreover, no proof has been provided indicating the county's disposition of this request, or even that it was actually considered by the governing body during the rezoning process. Accordingly, we have not been presented with sufficient evidence in support of the mootness claim. *Cf. Maresh v. Yamhill County*, 68 Or App 471, 476, 683 P2d 124 (1984).

(2) In *Card v. Flegel, supra*, the reclassification of the land during the pendency of an appeal rendered the appeal moot because the use sought by petitioner was allowed under the new classification. Here, in contrast to *Flegel*, the intervening zone change to F-2 has not obviated petitioner's need to obtain further zoning approval (i.e., the QM overlay designation) before commencing the intended use.

Equally significant to our refusal to accept the theory advanced by the county is the fact that *after* the allegedly superseding action was taken in February, 1984, the county itself proceeded as though petitioner's previous request for QM zoning remained in issue. The county did not claim the February, 1984 action superseded, or rendered moot, Order No. 83-8-24-9 during the pendency of our review of that order, although our review was conducted many months after February, 1984. Similarly, the county reaffirmed Order No. 83-8-24-9 in the decision challenged in this appeal, although that decision was made approximately 11 months after adoption of the legislative rezoning measure allegedly superseding it.

Based on the foregoing, we do not accept the county's assertion this appeal is moot as a consequence of legislative revisions adopted in February, 1984. *Warren v. Lane County, supra; Carmel Estates v. LCDC, supra*. We next consider the related claim that LCDC's acknowledgment of the legislative revisions in September, 1984 provides a basis for declaring the appeal moot.

B. Acknowledgment

As noted earlier, we remanded the county's initial denial of petitioner's application for the QM designation (Order No. 83-8-24-9) in May, 1984. See *Mobile Crushing Company v. Lane County*, 11 Or LUBA 173 (1984). The county readopted the denial, with the addition of supplemental findings, in October, 1984. During the period between these two events, LCDC acknowledged the county's plan and zoning ordinance, including the legislative revisions adopted in February, 1984.

[2] The county correctly states that after LCDC's acknowledgment decision, the controlling land use measures were the county's acknowledged plan and implementing ordinances. ORS 197.175(2)(d). Relying on the cited statute and *Byrd v. Stringer*, 295 Or 311, 313, 666 P2d 1332 (1983), the county claims this appeal is moot because the petition raises only goal-related issues. Although the county's description of the usual effect of acknowledgment cannot be disputed, we nonetheless conclude that in this case, petitioner's Goal 5 challenges to the rezoning denial remain viable even after acknowledgment. This is because the acknowledged measures themselves incorporate a Goal 5 standard of approval in connection with the QM district. Section 6.216(2) of the acknowledged zoning code states:

The Quarry and Mine Operations Combining Zone is intended to be applied only to those operations which have been evaluated through the Goal No. 5 Administrative Rule Conflict Resolution Process. Other Quarry and Mining operations of short term or intermittent

Mobile Crushing Company v. Lane County

duration should be provided pursuant to this special use provision of the various zones. Lane County Code, Section 6.216(2). (Emphasis added).

Thus, at least with respect to the QM district, it is clear Lane County chose to maintain a type of goal analysis requirement in the post-acknowledgment period by codifying the requirement in the acknowledged zoning ordinance. Accordingly, petitioner's contention that Order No. 84-9-26-9 misconstrues Goal 5 is not mooted by the acknowledgment.⁽³⁾

In conclusion, we reject the county's claims this appeal should be dismissed as moot. We turn next to the merits of the petition.

FIRST ASSIGNMENT OF ERROR

While respondent suggests LCDC's September, 1984 acknowledgment order requires dismissal of this appeal on mootness grounds, *see* discussion, *supra*, petitioner claims the acknowledgment warrants a considerably different disposition of the appeal, viz., reversal of Order No. 84-9-26-9 and allowance of the requested zone change. We disagree.

Petitioner's reasoning takes a circuitous path. In essence, the claim is that acknowledgment (1) removed Goal 5 as a criterion of rezoning approval and (2) reinstated the county hearings officer's decision that the proposal complied with the comprehensive plan and should be conditionally approved.⁽⁴⁾ Petition at 3-4.

(3) After oral argument, the parties provided supplemental materials on the question whether the zoning revisions adopted in February, 1984 and later acknowledged by LCDC were intended to apply to petitioner's rezoning application. We raised this question because the application was initially denied by the county in 1983 under ordinances predating the February, 1984 revisions.

The supplemental materials do not provide a clear answer to the question. In either event, however, the mootness claim must be rejected since (1) if the prior, unacknowledged plan and ordinances govern, Goal 5 must be considered an approval criterion of petitioner's (QM) rezoning proposal, ORS 197.175(2)(c) and (2) if the acknowledged measures govern, Section 6.216(2) of the acknowledged QM district requires evaluation of the proposal "through the Goal 5 Administrative Rule Conflict Resolution Process."

(4) The steps taken by petitioner's argument seem to be as follows:

1. The county commission's sole basis for denying the rezoning request was that Goal 5 required protection of conflicting uses (rural residences) near the quarry site;
2. While our remand in Mobile Crushing Co. v. Lane County, *supra*, was pending before the county commission, LCDC acknowledged the county's plan and implementing measures as in compliance with the

Cite as 13 Or LUBA 97 (1985)

We do not find petitioner's explanation of the effect of acknowledgment convincing. If we assume the acknowledged plan and implementing ordinance became the governing land use controls after September 13, 1984, we must also recognize that the acknowledged measures incorporated a Goal 5 review requirement. As noted in our discussion of the mootness issue, *supra*, petitioner's application required evaluation "through the Goal No. 5 Administrative Rule Conflict Resolution Process" pursuant to Lane County Code, Section 6.216(2). Since this type of goal analysis requirement survived acknowledgment, the hearings officer's pre-acknowledgment findings of plan compliance cannot be relied on to avoid application of the goal.

If, on the other hand, we assume the rezoning application was subject to the pre-acknowledgment measures in force when the hearings officer's decision was made, petitioner's argument must be rejected for a different reason. The argument disregards the indisputable fact that *after* the findings of plan compliance were entered by the hearings officer, the county commissioners reviewed the decision and expressly determined the rezoning proposal violated Goal 5. We would be standing *Byrd v. Stringer*, *supra*, and a considerable body of Oregon land use law on its head if we interpreted these circumstances to constitute satisfaction of Goal 5.⁽⁵⁾

statewide goals;

3. Pursuant to ORS 197.175(2)(d) the effect of the intervening acknowledgment was that the acknowledged plan and implementing measures became the controlling land use authorities in Lane County;
4. Given ORS 197.175(2)(d), the challenged order could not rely on Goal 5 as a basis for denying the requested rezoning because the order was adopted after acknowledgement;
5. In response to petitioner's rezoning request, the county hearings officer made findings of comprehensive plan compliance in November, 1981 and those findings were not appealed to the governing body by opponents of the application;
6. The county has not shown that the plan acknowledged by LCDC in September 1984 differs in any significant respect from the plan in force when the hearings officer's findings of plan compliance were adopted; and
7. Therefore, under ORS 197.175(2)(d), the county's reliance on Goal 5 in Order No. 84-9-26-9 was impermissible; that order should be reversed and the county should be directed to approve the zone change in accord with the action of the hearings officer. Petition at 3-4.

(5) Apart from the above, petitioner's argument invites us to make an unwarranted assumption, i.e., that the plan acknowledged by LCDC did not differ in any material respects from the plan in force when the hearings officer entered the findings of plan compliance. With respect to this point, we believe it is petitioner's obligation to

In summary, we reject petitioner's claim that acknowledgment of the county's plan in September, 1984 reinstated the county hearings officer's 1981 approval of the request and barred the county from subsequently analyzing it under Goal 5. The first assignment of error is accordingly denied.

SECOND ASSIGNMENT OF ERROR

In *Mobile Crushing Co. v. Lane County*, 11 Or LUBA 173 (1984), we held the county's final order did not adequately explain why statewide Goal 5 warranted denial of petitioner's rezoning request. In reaching this conclusion we noted that, while the stated purpose of the goal is resource protection, the county's decision relied on the goal to prevent resource use in order to protect a conflicting use (residences) on nearby land.(6)

In the prior appeal, the county sought to explain this apparent incongruity by reference to two interpretative rules adopted by LCDC, OAR 660-16-005 and 660-16-010. The former requires identification of conflicting uses(7) and separate analysis of the

demonstrate identity, or at least substantial equivalence, between the plan considered by the hearings officer and the plan subsequently acknowledged by LCDC. See ORS 197.350(1). Petitioner, however, would place the burden on the county to demonstrate significant dissimilarity between the two plans and to adopt a finding to that effect. Petitioner cites no authority for this proposition and we decline to endorse it.

(6) In pertinent part, Goal 5 (OAR 660-15-000) provides:

Goal: To conserve open spaces and protect natural and scenic resources.

Programs shall be provided that will: (1) insure open space, (2) protect scenic and historic area and natural resources for future generations, and (3) promote healthy and visually attractive environments in harmony with the natural landscape character. The location, quality and quantity of the following resources shall be inventoried:

b. Mineral and aggregate resources;

Where no conflicting uses for such resources have been identified, such resources shall be managed so as to preserve their original character. Where conflicting uses have been identified, the economic, social, environmental and energy consequences of the conflicting uses shall be determined and programs developed to achieve the goal.

(7) According to OAR 660-16-005 a conflicting use is "one which, if allowed, could

"resource site" and the conflicting use in terms of their economic, social, environmental and energy consequences (hereinafter the ESEE analysis). The ESEE analysis must include consideration of the impact of the conflicting use on the resource site and vice versa. OAR 660-16-005. The latter rule describes the alternatives available to a jurisdiction in cases of conflict between resource sites and conflicting uses. A subparagraph of this rule permits a planning jurisdiction to "...determine that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site." OAR 660-16-010(2).(8) According to the rule, this approach may be used when the conflicting use for a particular site is of "sufficient importance, relative to the resource site." *Id.*

In the prior appeal we accepted the county's contention that Goal 5 does not protect utilization of resources absolutely but instead contemplates a conflict resolution process which may result in severe restrictions or even prohibition of such activities in favor of conflicting uses. *Mobile Crushing Co. v. Lane County, supra.* See OAR 660-16-010; *See also, Olsen v. Columbia County*, 8 Or LUBA 152, 167 (1983). However, we held that the county's ESEE analysis was not sufficient. We stated:

The ESEE analysis by the county is inadequate to meet this standard. Although impacts on the protected resource site from the conflicting use - i.e., residential use in the neighborhood - are required to be considered, the findings are almost exclusively confined to impacts of mining on the adjacent residential use. The only mention of impacts on the resource site are findings related to economic matters, but the findings address only the possibility of economic loss to the owner during a period in which mining hardly occurred. There are no findings, such as one might expect in such an analysis, of any increased costs incident to mining near residential areas, and the effects of such increases, if any, on the costs of the roads and other aggregate uses in the county. The energy consequences, both on the resource site and the residential use, are also missing from the analysis. We find no discussion of

negatively impact a Goal 5 resource site. Notably, the rule does not solely protect "resource sites" from the harmful consequences of "conflicting uses." Another provision states "where conflicting uses have been identified, Goal 5 resource sites may impact those uses. These impacts must be considered in analyzing the economic, social, environmental and energy (ESEE) consequences." Thus, a balancing process is envisioned. See also OAR 660-16-010.

(8) Alternatively, the rule allows a conflict to be resolved by protecting the resource site and prohibiting all conflicting uses, OAR 660-16-010(1), or by limiting conflicting uses in certain ways in order to "protect the resource site to some desired extent." OAR 660-16-010(3).

Mobile Crushing Company v. Lane County

whether use of this resource site would be more or less energy efficient than the alternatives. Mobile Crushing Co. v. Lane County, 11 LUBA at 180.

In response to our remand, the county adopted supplemental findings in support of its rezoning denial under Goal 5. The findings can be summarized as follows:

1. The majority of the consequences to the resource use of allowing the conflicting use (the residences) are economic in nature. They include (a) increased operating costs as a result of strict limitations on the resource use which the county would probably impose as conditions of mining approval, (b) potential liability of the mining operator for accidents between gravel trucks and the vehicles driven by area residents, and (c) increased transportation costs due to traffic congestion in the area.
2. No social consequences would be engendered by allowance of the conflicting use.
3. The rural residential traffic in the area would cause air pollution at the resource site (an environmental consequence).
4. The resource operator's energy (transportation) costs would increase as a result of conflicts between truck traffic and rural residential traffic. There are 93 homes within one half mile of the quarry and 183 homes within one mile. The roads are narrow, and single lane.
5. There are at least five operating quarries within eight miles of the quarry site; within the same area there are at least ten additional aggregate sites;
6. The present and projected demand for aggregate in the portion of the county including petitioner's site is relatively low in comparison with other sections of the county; the supply is relatively high and is adequate to meet the demand;
7. The county's draft plan on mineral and aggregate resources listed 30 aggregate sites in the conflict analysis sections

Cite as 13 Or LUBA 97 (1985)

and determined that the site in question was the only quarry of the 30 with identified conflicts.

8. Transportation is the largest expense item in the aggregate mining industry; the numerous quarries in the area in question "...insure that local residents and businesses can easily and economically fulfill their needs for rock and gravel."
9. Although petitioner claimed the type of aggregate at the site is unavailable elsewhere in the area, other evidence contradicted this assertion. Record at 54-64.

In the second assignment of error, petitioner claims the supplemental findings do not adequately address the issues raised in our remand order. Four specific challenges are presented. We consider each of them below.

The first challenge is predicated on OAR 660-16-010, LCD's interpretive rule concerning the process by which conflicts between uses may be resolved. As noted earlier, one provision of the rule allows a planning jurisdiction to resolve a conflict between a resource site and a conflicting use in favor of "allowing the conflicting use fully, notwithstanding the possible impacts on the resource site." OAR 660-16-010(2). This approach is authorized, according to the rule, "...when the conflicting use for a particular site is of sufficient importance, relative to the resource site." *Id.*⁽⁹⁾

Petitioner claims the supplemental findings fail to reasonably explain why the rural residences near the quarry "are so important as to preclude the mineral resource on this site for the indefinite future." Petition for Review at 7. We agree the county's findings are not phrased expressly in the terms used by OAR 660-16-010(2).⁽¹⁰⁾ However, this does not necessarily mean petitioner's challenge must

(9) OAR 660-16-010(2) states:

- 2) Allow Conflicting Uses Fully: Based on the analysis of ESEE consequences and other Statewide Goals, a jurisdiction may determine that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. This approach may be used when the conflicting use for a particular site is of sufficient importance, relative to the resource site. Reasons which support this decision must be presented in the comprehensive plan, and the plan and zone designations must be consistent with this decision.

(10) In its brief, the county claims OAR 660-16-010 impermissibly goes beyond the

be sustained. Taken as a whole, the findings do explain the county's judgment that, on balance, the conflicting residential uses deserve full protection in this instance.

The key points made by the findings are as follows: (1) numerous residences exist in proximity to the site, (2) a mining operation on the site would have significant negative impacts on the residential uses (e.g., increased noise, truck traffic and safety problems), (3) other sources of rock exist in the vicinity and are adequate to meet the demand, and (4) while the effect of approval of the rezoning would be highly adverse to the conflicting use, the effect of denial would be to preserve the resource site for future mineral extraction. These points are concisely summarized in the following finding adopted by the county in answer to objections raised by petitioner during the remand proceeding:

We agree there is an aggregate resource at the site. However, with the five nearby quarries available, non-use at this time would not outweigh a high degree of conflict with the existing residences.

Furthermore, denial at this time nearly preserves the resource for the future. This objection is denied. Record at 64.

[3] Given these findings, we cannot sustain petitioner's charge that "...there is no rational relationship between those findings and the conclusion that the conflicting uses are to be fully allowed and preclude extraction of the mineral resources." Petition at 7. See *Higginson v. Yamhill County*, 2 Or LUBA 314, 317 (1981). Neither Goal 5 nor LCDC's interpretive rules prohibit the county from classifying existing rural residences in the acknowledged F-2 zone as "conflicting uses."⁽¹¹⁾ Further, the rules permit the county to "allow

scope of Goal 5 and therefore cannot serve as authority in the interpretation of the goal. However, the county's sole explanation for this sweeping claim is that the goal includes the following language:

Where conflicting uses have been identified the economic, social, environmental and energy consequences of the conflicting uses shall be determined and programs developed to achieve the goal.

We fail to see why this language prevented LCDC from adopting the interpretative rule in question. See *Coates v. LCDC*, 67 Or App 504, 679 P2d 898 (1984) (concluding that the requirements of OAR 660-16-010 are consistent with this Board's interpretation of Goal 5).

(11) We note OAR 660-16-010(2) authorizes allowance of a conflicting use despite the impacts on a resource site based on the ESEE analysis and other statewide goals. Petitioner seems to argue that the rural residences (i.e., the conflicting uses) protected by the county's decision are not consistent with the statewide goals, e.g., Goal 4, because the area is rural forest land. See Petition at 7. However, the acknowledged

the conflicting use fully, notwithstanding the possible impacts on the resource site." OAR 661-16-010(2). Although the findings may severely limit the prospects for aggregate extraction at this resource site, we cannot say they are arbitrary⁽¹²⁾ or outside the purview of the goal and the interpretive rules.⁽¹³⁾

This portion of the first assignment of error is therefore denied.

Petitioner's remaining challenges are to the adequacy of the county's ESEE analysis. First, petitioner claims the findings are focused incorrectly on the private rather than the public consequences of precluding use of the resource site. The petition states:

The question is not how a particular owner of a resource site will be affected but what is the effect on the public from the county's decision to preclude use of this resource. The majority of the findings concern economic impacts; all of those are hypothetical impacts on Mobile Crushing Company.

Brief of Petitioner at 8 (citations omitted).

F-2 zoning district allows even new non-forest residences on "vacant legal lots." Section 16.211(5)(9), Lane County Code. We believe LCDC's acknowledgment of the F-2 zone entitles the rural residences near the quarry site to status as "conflicting uses." We need not consider whether or under what circumstances that status would be denied to rural residences in an unacknowledged zone.

(12) OAR 660-16-005 includes the following broad language:

A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain, why decisions are made for specific sites.

The county's decision is well within this very general requirement.

(13) Although not stated in the petition, an argument could be made that OAR 660-16-010(2), which seems to lend support to the county's Goal 5 interpretation, is not intended as a means of protecting established conflicting uses from resource proposals on nearby sites (as here). Instead, the text might be read to apply only where the proposal would "allow" a new conflicting use on or near a resource site. Compare OAR 660-16-010(1) (locality can "protect the resource site") with OAR 660-16-010(2) (locality can "allow conflicting uses fully"). See also the definition of "conflicting use" in OAR 660-16-005.

We have considered such an interpretation of the rule and rejected it. The text is concededly ambiguous. However, we doubt LCDC (which did not participate in this appeal) intended the Goal 5 conflict resolution process to cover only resource sites and future conflicting uses. Had that been the agency's intent, clear language to that effect could easily have been used. If our approach to this question is in error, the agency can enact a remedial rule, or, if this case is appealed, advise the appellate courts of the correct interpretation.

However, after making this statement, petitioner acknowledges that certain of the findings do contain the proper public interest focus. Petitioner then sets forth reasons why some of those findings are contradictory or irrelevant.

Although a few of petitioner's specific criticisms of the findings seem valid, we find the attack as a whole unpersuasive. As noted previously, the county's ESEE analysis expressly acknowledges the existence of a resource on the site, but concludes that the consequences of prohibiting use (extraction) of this resource at this time are not significant. This is because similar resources are available in the area and the supply of the resource meets current and projected demands.⁽¹⁴⁾ Importantly, the county's findings also note that other aggregate resource sites in the area do not present the use conflicts presented by petitioner's proposal. These findings are sufficient to warrant rejection of petitioner's challenge. We believe the ESEE analysis correctly focuses on the consequences of the decision to the public interest in resource protection. *Higginson v. Yamhill County*, *supra*, (where record showed adequate quarry sites in area, Goal 5 did not require county to designate petitioner's property for quarry purposes). Consequently, whether some other findings adopted by the county are flawed in certain respects is not significant. *Heilman v. City of Roseburg*, 30 Or App 71, 77, 591 P2d 390 (1979); *Marracci v. City of Scapoose*, 26 Or App 131, 135, 552 P2d 552 (1976).

Petitioner next challenges certain findings which describe the negative energy consequences of allowing the mining use. Petitioner claims the findings are inadequate because they fail to compare these consequences with those that would result from use of the site for

(14) Petitioner takes particular issue with the county's finding that, because other quarries exist in the area, denial of Mobile Crushing Company's proposal will not result in increased costs for aggregate. Petition at 9-10. Petitioner points out that this finding is at odds with a finding in Order No. 83-8-24-9 stating:

Appellant's witnesses testified very generally that they preferred Fall Creek Quarry Rock, and that the quarry was closer to their homes than other quarries.

We fail to see legal significance in the fact that the quoted finding was previously made by the county. It does not contradict the county's more recent finding on the availability and adequacy of alternative resource sites. Instead, the prior finding merely recites evidence in the record, i.e., that certain witnesses testified about their preference for Fall Creek Quarry Rock. Petitioner does not explain why such testimony prevents the county from now concluding that adequate alternative sites exist in the area.

purposes other than mining. However, we again do not believe such findings are necessary to support the challenged decision. Denial of the proposal under Goal 5 does not depend on whether or not use of the site for aggregate extraction will have energy consequences different from some other use. Rather, the county's decision is grounded on the determinations that (1) mining in this area will have significant adverse impacts on a conflicting use and (2) adequate supplies of the resource are available at nearby sites which do not present such conflicts. No purpose would be served by requiring the county to adopt additional findings in response to this challenge.

Petitioner's final challenge directs our attention to the county's admittedly speculative findings on the economic costs to the quarry operator if conditional approval of QM zoning should be granted. The cited findings discuss conditions which might be imposed to protect adjacent residences and conclude that such conditions would impose severe costs on the operator. See Record at 55-57. However, we again fail to see why the adequacy or inadequacy of these findings is critical to the decision in issue. Regardless of whether the costs to the operator of mining the site under county approval would be high or low, the county could still disapprove the proposal on grounds it imposed unacceptable costs on the nearby residences (the conflicting use). OAR 660-16-010(2). As we understand it, this is precisely the rationale underlying the challenged order. Accordingly, we proceed no further concerning this claim.

The second assignment of error is denied.

THIRD ASSIGNMENT OF ERROR

In this assignment of error petitioner claims the county followed improper procedure prior to adopting Order No. 84-9-26-9. Specifically, petitioner claims the county erred in refusing to first reopen the record for additional evidence pertinent to the ESEE analysis. The petition states:

Mobile Crushing Company requested a reopening of the hearing for evidence on the consequences of fully allowing the conflicting residential uses on the Goal 5 Protected Resource Use. This evidence would necessarily have included any evidence on any remaining substantial beneficial use of the property including any limited quarry operations under a conditional use permit. Lane County denied the request to reopen the hearing. (Citations omitted).

Mobile Crushing Company v. Lane County

The inadequate findings show that the hearing should have been reopened for evidence on the impact of the residences on the resource site and the explanation of why those residences are of sufficient importance to justify denying use of the resource. This Board should direct Lane County to reopen the hearing on what will be a third attempt to create adequate findings. Lane County should not be able to avoid this requirement by stating that no evidence is better than hypothetical evidence. Petition at 13-14 (citation omitted).

Petitioner offers no legal argument in support of this claim and we find it unpersuasive. Petitioner and its legal counsel were undoubtedly aware of the applicability of Goal 5 to the rezoning request when the county conducted the hearings resulting in the original rezoning denial, Order No. 83-8-24-9. Indeed, the record indicates the Lane County Commission held a *de novo* evidentiary hearing specifically on the Goal 5 issue prior to adopting that order. Petitioner clearly had an opportunity to make a record on the goal issue.

Our remand of Order No. 83-8-24-9 found deficiencies in the Goal 5 findings adopted by the county in support of its rezoning denial. However, nothing in the remand order required the county to take additional evidence relating to the goal.⁽¹⁵⁾ Under the circumstances, the county's decision to permit only legal argument concerning the sufficiency of the proposed supplemental findings was not error.

The third assignment of error is denied.

Based on the foregoing, the county's decision is affirmed.

(15) In *Morrison v. City of Portland*, 70 Or App 437, ___ P2d ___ (1984) this Board remanded an order approving a variance on grounds the order set forth inconsistent and unclear interpretations of the variance approval criteria. On remand the locality adopted supplemental findings interpreting the criteria and applying the revised interpretation to the facts in the record. Petitioners requested the opportunity to present additional evidence pertinent to the revised interpretation but the request was denied. Although we subsequently upheld that denial, *Morrison v. City of Portland*, (12 Or LUBA 246 (1984), the Court of Appeals disagreed. The Court held that petitioner had a right, under *Fasano v. Washington County*, 264 Or 574, 507 P2d 23 (1973), to present evidence once the decisionmaker clearly articulated the governing standards. 70 Or App at 441-42.

The present case is distinguishable from *Morrison v. City of Portland*, *supra*. Here the governing criteria are not locally adopted ordinance or plan provisions, but are instead embodied in a statewide planning goal adopted by a state agency. Further, our remand in LUBA No. 83-092 did not require the county to clarify or reformulate the mandated criteria, but rather to more fully explain how the facts related to those criteria. We do not read *Fasano* or *Morrison* to require an opportunity to present evidence in such a circumstance.

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

LYNN HARRIS, *Petitioner*,

v.

THE CITY OF HAPPY VALLEY, and
ENSTONE ENTERPRISES, Ltd., *Respondents*.

[LUBA No. 85-011]

FINAL OPINION AND ORDER OF DISMISSAL

Dismissed

March 1, 1985

Appeal from the City of Happy Valley.

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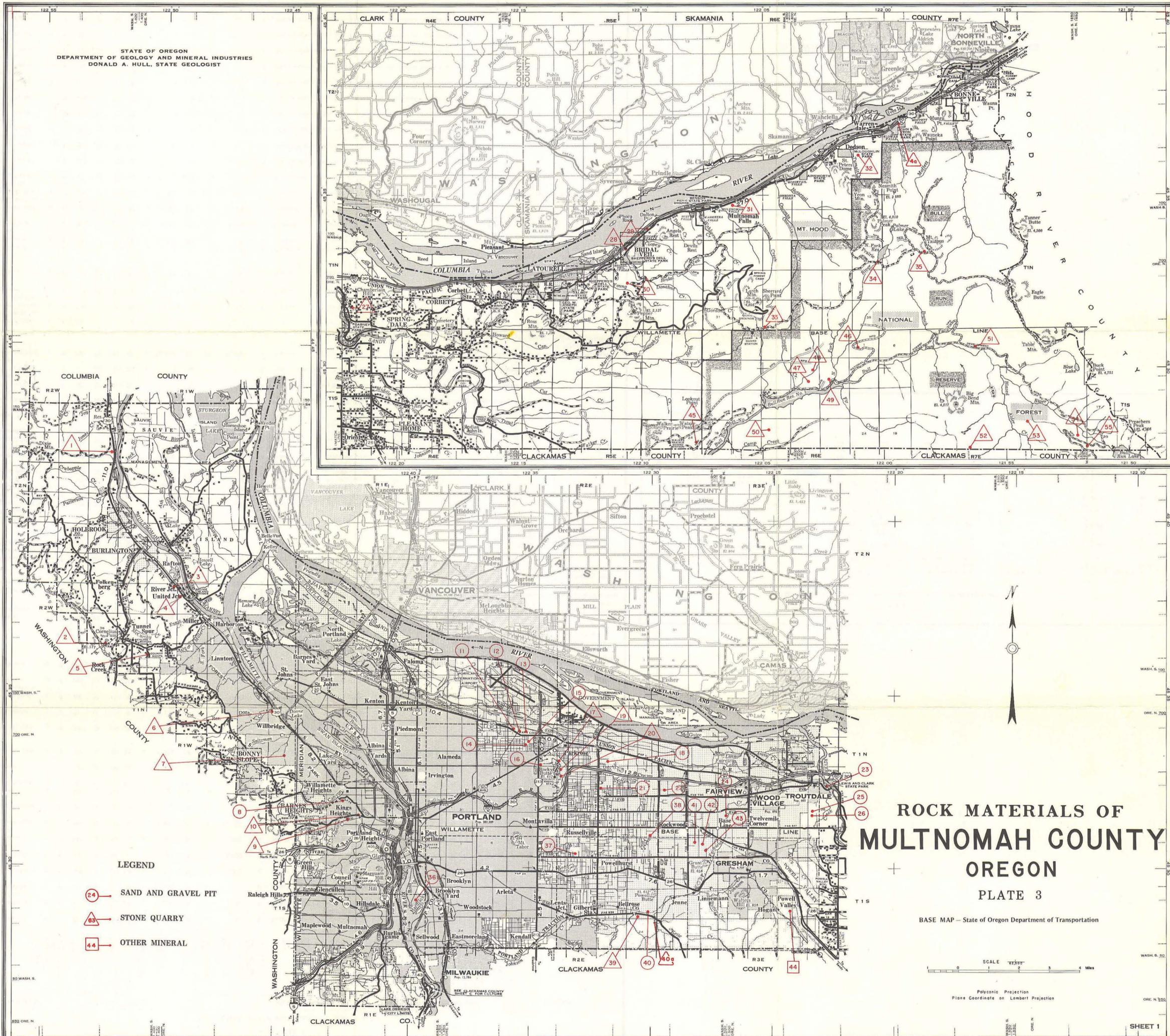
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ISSUES

[1] LUBA Procedure

Appeal and Review — Date of Final Decision. LUBA's rules define the date of a final decision to be the date a decision is reduced to writing and bears the necessary signatures of the governing body.



LEGEND

- 24 SAND AND GRAVEL PIT
- 33 STONE QUARRY
- 44 OTHER MINERAL

ROCK MATERIALS OF
MULTNOMAH COUNTY
OREGON
PLATE 3

BASE MAP - State of Oregon Department of Transportation

SCALE 1" = 4 Miles

Polyconic Projection
Plane Coordinate on Lambert Projection

TABLE 5.
MULTNOMAH COUNTY ROCK MATERIAL SURVEY DATA

Site number	Operator or owner	Commodity: stone, sand and gravel; Limestone, Dolomite, Limestone, Fossiliferous, C. County, S. County, Fossiliferous, Fossiliferous	LOCATION			STATUS	SIZE		SOURCE DESCRIPTION			MINING SYSTEM AND USES						REMARKS				
			Section	Township	Range		Acres excavated	Acres (plant and receipt)	Feet of material (1,000 cu yd)	Depth type: Boring, Rock, Gravel	Rock type	Geological formation or unit	Number of benches	High wall (yds)	Location: 1/4 sec. Course (1-47), Block (1-18), Milestone (1-18)	Breaking ground: stripable, explosive	Processing plant: plant, screen washing, other		Uses: asphalt, aggregate, base, riprap, concrete, stone, sand, gravel, concrete, other			
1	Unknown	s	S	SE	36	3N	2W	i	20	0.8	-	26	B	Basalt	Columbia River	2	12	C-B	e	-	e, b, s, r	
* 2	Oregon State Hwy. Div.	s	S	SE	36	2N	2W	a	250	3.5	-	30	B	Basalt	Columbia River	1	26	F-B	r	-	e, b, s	
3	Hidden Valley	s	P	NE	29	2N	1W	r	500	2.5	-	-	B	Basalt	Columbia River	1	27	F-C	r, e	-	e, b, s	Landfill
* 4	Angel Brothers, Inc.	s	P	NW	28	2N	1W	a	250	1.5	0.5	7,000	B	Basalt	Columbia River	2	67	F-C	r, e	c, s	e, b, s, t	
* 4a	Oregon State Hwy. Div.	s	S	NE	3	2N	7E	i	225	5.1	2.3	2,000	B	Basalt	Columbia River	1	108	F-C	r	-	e, b, s, t	
5	Multnomah County	s	C	NW	5	1N	1W	a	340	3.5	-	300	B	Basalt	Columbia River	1	22	F-B	e	c, s	e, b, s	
* 6	Rivergate Rock Prod.	s	P	NW	13	1N	1W	a	3,250	26	8	16,000	B	Basalt	Columbia River	3	113	C-M	e	c, s, t	e, b, s, r	Asphalt plant
7	City of Portland	s	L	SE	24	1N	1W	i	23	0.4	-	230	B	Basalt	Columbia River	1	27	F	e	-	e, b, s	
8	Unknown	g	P	NE	32	1N	1E	i	10	0.3	-	10	B	Conglomerate	Trousdale	1	20	-	r	-	e	
9	City of Portland	s	L	SE	32	1N	1E	i	90	0.6	-	0	B	Basalt	Columbia River	1	47	F-B	e	-	e, b, s, r	
10	Unknown	s	P	SW	33	1N	1E	i	150	1	-	50	B	Basalt	Columbia River	4	40	F-C	e	-	e, b	
* 11	Porter W. Yett Co.	g	P	SW	17	1N	2E	a	1,520	18	7	300	G	Various	Terrace gravel	2	23	-	r	c, s, o	e, s, b, t, c	Reserves are under plant area; material under water not included in reserves; asphalt plant
* 12	Porter W. Yett Co.	g	P	SW	17	1N	2E	i	720	10	-	280	G	Various	Terrace gravel	2	26	-	r	-	e, s, b, t	
* 13	Kibby estate	g	P	SE	17	1N	2E	i	1,150	15	-	260	G	Various	Terrace gravel	2	18	-	r	-	e, s, b, t, c	Site contains fine sand to jettystone
14	Portland Sand and Gravel Co.	g	P	NE	20	1N	2E	a	1,500	16	-	500	G	Various	Terrace gravel	1	26	-	r	-	e, s, b, t	
15	Waybo, Inc.	g	P	NE	20	1N	2E	a	1,800	23	-	550	G	Various	Terrace gravel	2	26	-	r	c, s	e, s, b, t	
* 16	Lavelle and Yett	g	P	NW	28	1N	2E	r	1,750	20	-	0	G	Various	Terrace gravel	1	30	-	r	-	e, s, b, t, c	Landfill fills former Rose City Sand and Gravel pit; company is using 5 acres for concrete batch plant and stockpile; Columbia County is source of concrete aggregate
17	Unknown	s	S	NE	21	1N	2E	i	125	0.7	-	60	B	Basalt	Boring Lava	2	37	C-M	e	-	e, b, s, r	Long abandoned
18	Lewis Celoria	g	P	SW	24	1N	2E	a	30	10	-	30	G	Sandy loam	Terrace sand	1	3	-	r	-	o	Being mined for topsoil; mined land is reshaped and returned to farming within one year of mining
19	Unknown	s	C	SE	28	1N	2E	i	380	3	-	350	B	Basalt	Boring Lava	1	103	C-M	e	-	e, b, s, r	Used for dimension stone on Rocky Butte, Stark Street, etc.; closed 20 years
20	Unknown	s	C	SE	28	1N	2E	i	70	0.7	-	50	B	Basalt	Boring Lava	1	32	C-M	e	-	e, b, s, r, o	Concrete plant
* 21	Columbia Sand and Gravel Co.	g	P	SW	26	1N	2E	a	1,120	8	3	400	G	Various	Terrace gravel	2	40	-	r	s, o	e, s, b, t, c	Being mined for topsoil; site appears to have been left in shape for building construction
22	Bob Kingsbury	g	P	SW	30	1N	3E	a	30	6	-	5	G	Sandy loam	Terrace sand	1	3	-	r	-	o	
23	Trousdale Sand and Gravel Co.	g	P	SE	25	1N	3E	a	43	3	-	15	G	Various	River gravel	1	5	-	r	-	e, s, b, t, c	
* 24	Rogers Const. Co.	g	P	SW	33	1N	3E	i	1,500	30	10	500	G	Various	Terrace gravel	1	10	-	r	-	e, s, b, t, c	
25	Loren Obrist	g	P	NW	36	1N	3E	a	300	4	-	30	G	Sand	Terrace sand	1	20	-	r	-	e, s	
26	Don Obrist	g	P	SW	36	1N	3E	a	1,200	17	-	500	G	Sand	Terrace sand	1	22	-	r	-	e, s	
27	C. T. Howell	s	P	NW	31	1N	4E	a	100	5	-	150	T	Basalt	Boring Lava	1	15	-	r	-	e, s, b	
28	Hershel McGriff	s	P	NW	22	1N	5E	i	50	3	-	100	B	Basalt	Columbia River	1	7	F-C	r	-	e, s, b	
* 29	Oregon State Hwy. Div.	s	S	SW	14	1N	5E	i	500	7	-	3	B	Basalt	Columbia River	1	15	F	r	-	e, b, s, t	
30	Raymond Smith	s	P	NE	27	1N	5E	i	75	2	-	25	B	Basalt	Boring Lava	1	10	C	e	-	e, s, b	
31	Unknown	s	S	SE	7	1N	5E	i	50	1.6	-	200	T	Basalt	Columbia River	1	5	F-C	r	-	e, b, s, r	
* 32	Oregon State Hwy. Div.	s	S	NW	1	1N	6E	i	0	0	-	5,000	T	Basalt	Columbia River	0	0	F-C	r	-	e, b, s	Located to nearest 1/4 section
33	U. S. Forest Service	s	F	SW	33	1N	6E	r	2	1.2	-	-	B	No on-site survey; Bull Run Reserve; site checked by aerial reconnaissance August 1977								
34	U. S. Forest Service	s	F	SE	24	1N	6E	-	5	1.0	-	-	B	No on-site survey; Bull Run Reserve; site checked by aerial reconnaissance August 1977								
35	U. S. Forest Service	s	F	-	20	1N	7E	-	3	1.0	-	-	B	No on-site survey; Bull Run Reserve; site checked by aerial reconnaissance August 1977								
* 36	Ross Island Sand and Gravel Co.	g	P	NE	15	1S	1E	a	15,000	135	55	21,000	G	Various	River gravel	1	33	-	r	c, s	e, s, b, t, c, a	Reserves will come from removal of Ross Island; lagoon area now exhausted; mining is by floating dredge; concrete plant
* 37	Portland Sand and Gravel Co.	g	P	SW	3	1S	2E	a	4,400	27	2	1,000	G	Various	Terrace gravel	3	47	-	r	c, s	e, s, b, t, c, a	Fill and concrete
* 38	Oregon Asphaltic Paving Co.	g	P	NE	1	1S	2E	a	1,200	12	-	250	G	Various	Terrace gravel	1	20	-	r	-	e, s, b, t, c, a	
39	Unknown	s	P	SW	13	1S	2E	i	15	0.3	-	50	B	Basalt	Boring Lava	1	23	B	e	-	e, b	Badly weathered
40	Unknown	g	P	SE	13	1S	2E	r	15	2.5	-	80	G	Various	Terrace gravel	1	3	-	r	-	e, b, s	Boneyard for construction company; reserve estimate based on 20 ft depth
* 40a	Don Obrist	s	P	NE	24	2S	1E	a	6	0.7	-	2,500	B	Andesite	Boring Lava	2	3	C-M	e	-	e, b, s, t	
* 41	Multnomah County	g	C	SW	5	1S	3E	a	1,800	40	3	230	G	Various	Terrace gravel	3	5	-	r	c, s	e, s, b, t, c, a	
* 42	Rogers Const. Co.	g	C	SE	5	1S	3E	a	4,000	20	4	4,000	G	Various	Terrace gravel	1	40	-	r	c, s	e, s, b, t, c, a	
* 43	Gresham Sand and Gravel Co.	g	C	SE	5	1S	3E	a	3,300	26	5	1,200	G	Various	Terrace gravel	1	30	-	r	c, s	e, s, b, t, c, a	
44	Columbia Brick Works, Inc.	o	P	SW	14	1S	3E	a	150	6	3.6	400	B	Clay	Terrace silt	0	0	-	r	c, o	o	Kiln used to burn clay into brick
45	U. S. Forest Service	s	F	SE	24	1S	5E	-	2	0.3	-	-	B	No on-site survey; Bull Run Reserve; site checked by aerial reconnaissance August 1977								
46	U. S. Forest Service	s	F	SW	1	1S	6E	-	3	0.5	-	-	B	No on-site survey; Bull Run Reserve; data taken from aerial photos								
47	U. S. Forest Service	s	F	SE	10	1S	6E	-	17	3.4	-	-	B	No on-site survey; Bull Run Reserve; data taken from aerial photos								
48	U. S. Forest Service	s	F	NE	10	1S	6E	-	6	1.3	-	-	B	No on-site survey; Bull Run Reserve; data taken from aerial photos								
49	U. S. Forest Service	s	F	SW	11	1S	6E	-	2	0.2	-	-	B	No on-site survey; Bull Run Reserve; data taken from aerial photos								
50	U. S. Forest Service	s	F	NW	21	1S	6E	-	8	1.3	-	-	B	No on-site survey; Bull Run Reserve; data taken from aerial photos								
51	U. S. Forest Service	s	F	-	3	1S	7E	-	5	4.0	-	-	B	No on-site survey; Bull Run Reserve; site checked by aerial reconnaissance August 1977								
52	U. S. Forest Service	s	F	SW	22	1S	7E	-	1	0.1	-	-	B	No on-site survey; Bull Run Reserve; data taken from aerial photos								
53	U. S. Forest Service	s	F	NW	24	1S	7E	-	3	0.2	-	-	B	No on-site survey; Bull Run Reserve; site checked by aerial reconnaissance August 1977								
54	U. S. Forest Service	s	F	SE	19	1S	8E	-	2	0.7	-	-	B	No on-site survey; Bull Run Reserve; data taken from aerial photos								
55	U. S. Forest Service	s	F	SW	20	1S	8E	-	1	0.3	-	-	B	No on-site survey; Bull Run Reserve; data taken from aerial photos								

* State Highway Division laboratory data

TABLE 11.
OREGON STATE HIGHWAY DIVISION LABORATORY DATA FOR MULTNOMAH COUNTY

Number	Specific gravity	Los Angeles rattler (% loss)	Sodium sulfate (% loss)	Natural fines		Manufactured fines		Degraded material		Oregon degradation	
				Plasticity index (%)	Liquid limit (%)	Plasticity index (%)	Liquid limit (%)	Plasticity index (%)	Liquid limit (%)	Pass No. 20 (%)	Height (inches)
2	2.74-2.91	16.3-34.5	2.7 -13.4	NP-8	NP-40	-	-	2-3	25-27	11.0-48.7	0.3-10.6
4	-	-	-	-	-	-	-	-	-	21.1	1.4
4a	2.85-2.88	15.1	-	NP-2	19-31	-	-	NP	24	20.3-22.0	0.7- 1.3
6	2.35-2.91	15.7-21.9	1.6 -37.0	NP-12	NP-46	NP	29	-	-	14.2-20.5	0.3- 7.4
7a	2.74	19.0	6.9	-	-	-	-	-	-	25.5	4.5
11, 12, 13	2.51-2.85	11.8-17.31	0.2 -20.9	NP-6	NP-29	-	-	-	-	13.7-21.8	0.3- 3.6
16	-	-	-	-	-	-	-	-	-	19.0	0.9
21	2.40-2.85	8.1	0.8 -25.1	-	-	-	-	-	-	10.8-17.4	0.4- 2.6
24	2.78-2.82	16.3-19.0	-	NP	20-23	-	-	-	-	21.2	1.7
29	2.67-2.74	19.0-40.9	-	NP-12	23-40	-	-	-	-	-	-
32											