

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending Ordinance No. 2002-1)
to Change the Post Mining Use of Up to 40 Acres)
from Resource Industrial Planned Development to) Ordinance No. 2006-12
Community Service Institutional)

The Board of County Commissioners for Columbia County, Oregon, ordains as follows:

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2006-12.

SECTION 2. AUTHORITY.

This Ordinance is adopted pursuant to ORS 203.035, 215.050, and 215.060, 215.223, and OAR 660-023-0180(4).

SECTION 3. HISTORY.

On March 6, 2002, the Columbia County Board of Commissioners adopted Ordinance No. 2002-1, approving a Post Acknowledge Plan Amendment to amend the Columbia County Comprehensive Plan and Zoning Ordinance to re-zone the Reichold Mining Site to Surface Mining (SM). As part of the amendment, the Board established the post-mining use of the property as Resource Industrial Planning Development (RIPD). Subsequently, the Columbia County Sheriff and the Federal Bureau of Investigation agreed with Morse Bros. to construct a firing range within the Southerly 400 foot setback, on approximately 12 acres, subject to land use approval. The area proposed for the firing range may exceed 12 acres, upon agreement between the County and Morse Bros. but will not exceed 40 acres.

SECTION 4. PURPOSE.

The purpose of this Ordinance is to amend Ordinance No. 2002-1, to establish the Post Mining Use of up to 40 acres of the Reichold Mining Site as Community Service Institutional (CS-I) to allow the construction of a firing range.

SECTION 5. FINDINGS.

The Board of County Commissioners adopts the findings of facts and conclusions of law set forth in the Staff Report to the Board of County Commissioners dated January 3, 200, which is attached hereto as Attachment 1, and is incorporated herein by this reference.

SECTION 6. AMENDMENT AND AUTHORIZATION.

The Board of County Commissioners hereby amends Ordinance No. 2006-1, as shown in Attachment 2, which is attached hereto and is incorporated herein by this reference.

SECTION 7. SEVERABILITY.

The provisions of this Ordinance are severable. If any provision of this Ordinance is determined to be invalid by a court of competent jurisdiction, such provision shall be considered a separate, distinct and independent provision and the decision shall not effect the validity of the remaining portions hereof.

SECTION 8. EMERGENCY.

An emergency having been declared, this Ordinance shall go into effect on the date of adoption.

APPROVED AS TO FORM

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: Sarah Hanson
County Counsel

By: John M. Gerhard
Chair

Attest:
By: Jan Greenhalgh
Jan Greenhalgh, Recording Secretary

By: [Signature]
Commissioner

First Reading: 1/10/07
Second Reading: 1/10/07
Effective Date: 1/10/07

By: [Signature]
Commissioner

ATTACHMENT 1

**COLUMBIA COUNTY BOARD OF COMMISSIONERS
STAFF REPORT**

January 3, 2007

Amendments to Conditions of Approval of the Reichold Mining Site
to Allow Community Service Institutional as a Post Mining Use

HEARING DATE: January 10, 2007

FILE NUMBER: PA 07-01

APPLICANT: Columbia County Sheriff
901 Port Avenue
St Helens, OR 97051

OWNER: Morse Bros., Inc (MBI)
32260 Old Highway 34
Tangent, OR 97389

PROPERTY LOCATION: On Columbia River Hwy. North of Dyno Nobel/Airgas

TAX ACCOUNT NUMBER : 5117-000-00200

ZONING: Surface Mining (SM)

SIZE: 134.22 acres

REQUEST: To Amend County Ordinance No. 2002-1, thereby allowing a Post Mining Use of up-to 40 acres in Community Service as opposed to the entire site to be used as Rural Industrial.

ASSOCIATED LAND USE ACTIONS: CU 07-08, AR 07-03, DR 07-01 & Operating Permit #05-0077 (amendment)

APPLICATION COMPLETE: 10/02/06 **150 DAY DEADLINE:** N/A

APPLICABLE REVIEW CRITERIA:

| <u>Columbia County Zoning Ordinance</u> | <u>Page</u> |
|---|-------------|
| Section 1037.3 Where mining is Allowed | |
| Post Mining Use Determined | 3 |
| Section 1600 Administration | 5 |
| <u>Columbia County Comprehensive Plan</u> | |
| Surface Mining | 4 |
| Resource Industrial Planned Development | 4,5 |
| <u>Oregon Administrative Rule OAR</u> | |
| AR 660-023-0180(5)(f) | 3,4 |

BACKGROUND:

The Columbia County Sheriff is seeking approval to site a firing range and law enforcement weapons training facility on land owned by Morse Bros., Inc. (MBI), currently approved for gravel mining. This Reichold mining site of 190 acres was determined to be a significant aggregate site in 2002 and re-zoned to Surface Mining through Ordinance 2002-1. Accordingly, when mining is approved, the County must designate a post mining uses of the mining site. A condition of approval was that the entire mining site be designated Rural Industrial with specific acreage for existing industrial, reclaimed industrial and riparian & wetland. This amendment would add up to 40 acres to Community Service uses from the existing and reclaimed industrial designated uses, near the southern border of the site.

Other land use applications associated with this plan amendment request include an Conditional Use (CU 07-08, Administrative Review (AR 07-03), Design Review (DR 07-01) and an Operating permit #05-0077 Amendment. Through this application (PA 07-01) the County is seeking to amend the proposed post mining uses allowed on the mined property from those approved in Ordinance 2002-1, to allow a Community Service use, a County operated law enforcement firing range. Through the conditional use (CU 07-08) the applicants are requesting approval of the proposed use under conditional use provisions of the Surface Mining (SM) zone which allow buildings or structures of a public nature not in conjunction with mining operations. In the Administrative Review request (AR 07-03) the applicants are seeking approval for the mining operator to excavate the proposed shooting range site on an expedited schedule, 24 hours a day 7 days a week, until the site is ready for range development. Additionally, the applicants are requesting an amendment to the approved operating hours, to operate the range facility when completed, outside of the scope of allowable operating hours in the surface mining zone. The Design Review is for siting of the firing range and operating permit is to excavate the site to approximately 55 feet below the existing surface. The proposed firing range and weapons training facility is to be used by local and federal law enforcement agencies during the week and will be available to the general public on the weekends. Structures to be sited for the firing range include a classroom, cleaning room, restroom facilities and a tower.

The approved mining property is 190 acres, part of another Tax Lot 300. The subject Tax Lot 200 property is 134.22 acres in size, of which approximately 12.0 acres will be utilized for the initial firing range complex. There may be a need to expand the firing range use in the future, as presented by the Columbia County Sheriff, up to a possible 40 acres. The property is located on Columbia River Highway approximately 3/4 mile northwest of Columbia City. The subject Tax Lot property is currently part of the Reichhold Mining site, approved through Ordinance No. 2002-1 and Design Review 03-06, which is currently active and located directly north of the proposed firing range. Historically the larger site previously housed the Columbia County fairgrounds and racetrack. Various concerts, approved through temporary permits, have been held on the Tax Lot site more recently. The general area is characterized as sparsely developed, rural industrial in nature with Dyno Nobel and Airgas located directly south of the proposed site and Columbia River PUD located to the north of the subject Tax Lot parcel. A large forested hill is to the west of the subject property, zoned for Primary Forest, with no development. The site will be accessible via a driveway off Hwy. 30 that serves Dyno Nobel and Airgas. The proposed method of sewage disposal is a holding tank and water will be supplied through a private well. Emergency services are provided by Columbia River Fire and Rescue and the Columbia County Sheriff.

A Notice of the proposed amendment was sent to DLCD on November 17, 2006, 45 days prior to the scheduled hearing as required by ORS 197.610. No comment has been received from DLCD about this proposed amendment.

REVIEW CRITERIA & FINDINGS:

COLUMBIA COUNTY ZONING ORDINANCE:

Section 1037 Protection of Mining Activities Where Mining is Allowed

- .3 Where mining is allowed under the process included in this Section, a post mining use shall be determined and provided for in Table XVI-2 of the Comprehensive Plan and land use regulations. For significant aggregate sites on Class I, II and Unique farmland, the County shall adopt plan and land use regulations to limit post-mining use to farm uses under ORS 215.203, uses listed under ORS 215.213(1) or 215.283(1), and fish and wildlife habitat uses, including wetland mitigation banking.

Finding 1: The subject property, part of the Reichold mining site, was approved for mining on March 6, 2002 adopting Ordinance 2002-1, and post mining uses were established in Condition 22; as follows:

22. The post-mining use for the entire mining site shall be designated Resource Industrial (RIPD) under the Columbia County Zoning Ordinance. Applicant shall submit an operating permit application that includes a detailed plan, which provides for reclamation of the Subject Property after mining as follows:

| | |
|--|-----------------|
| Existing Industrial Land | 30 acres |
| Reclaimed Industrial Land (Not mined below the water table) | 46 acres |
| Reclaimed Industrial Land (Below water table, partially refilled) | 75 acres |
| Riparian, ponds, wetlands in mining setback area | 20 cares |
| <u>Slopes, Misc.</u> | <u>19 acres</u> |
| | 190 acres |

Section 1037.3, above, only establishes that a post mining use be established. It does not mandate any post mining use, except for a site containing prime farmland soils. The prime farmland soils on the property were correspondingly designated correctly in the original zone change by Ordinance 2002-1, and are not applicable in this application. As far as designating a post mining use, the County has acknowledged that other types of uses in the Surface Mining zone are compatible with in old mined quarries, and in the Zoning Ordinance, Sections 1043 and 1044 provided a list of permitted and conditional uses. One of the listed uses, as stated, could be buildings, structures and uses of a public service nature when not necessary to the operation of an aggregate site. In 2002, the County determined that the entire site be reclaimed for rural industrial uses, as provided in the original Comprehensive Plan, but, other uses can be established as well. Staff finds that adding a Community Service designation to those uses not to be mined below the water table is compatible with this provision of the Zoning Ordinance.

OREGON ADMINISTRATIVE RULE, OAR

OAR 660-023-0180(5)(f)

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

Finding 2: See Finding 1. OAR 660-023-0180(5)(f) is substantively almost identical to Columbia County Zoning Ordinance Section 1037.3. The only difference is Columbia County is not required to coordinate with DOGAMI on its mineral and aggregate sites because the Columbia County Surface Mining Ordinance was effective before July 1, 1972.

COLUMBIA COUNTY COMPREHENSIVE PLAN:

SURFACE MINING

GOAL:

To protect and utilize appropriately the mineral and aggregate resources of Columbia County.

POLICIES: It is the policy of the County to:

2. Consider the preservation of aggregate material in all its land use actions.
3. Pay special attention to any development adjacent to mineral and aggregate resources and take the necessary steps to minimize the impacts of development on these resources.

Finding 3: The applicants are proposing to site the firing range as a post mining use on approximately 12.0 acres of a 190 acre mining site which has been approved for surface mining operations and currently houses the Reichhold aggregate mining site. The site will be fully mined out to approximately 55 feet below ground level. The proposed firing range will be located directly south of the overall Reichhold mining operation, at the very southern end of the subject parcel. Dyno Nobel and Airgas are located directly south of this proposed site. These adjoining industrial uses have been found to be compatible with surface mining uses and there is no evidence that these industrial uses would not be compatible with a law enforcement firing range as well. All necessary siting restrictions will be taken into consideration for siting of the range at Site Design Review, DR 07-01, so that adjacent uses are not adversely affected. Staff finds that the proposed redesignation is consistent with Surface Mining.

RESOURCE INDUSTRIAL - PLANNED DEVELOPMENT

RIPD

- 681 **Purpose:** The purpose of this district is to implement the policies of the Comprehensive Plan for Rural Industrial Areas. These provisions are intended to accommodate rural and natural resource related industries which:

- .1 Are not generally labor intensive;
- .2 Are land extensive;
- .3 Require a rural location in order to take advantage of adequate rail and/or vehicle and/or deep water port and/or airstrip access;
- .4 Complement the character and development of the surrounding rural area;
- .5 Are consistent with the rural facilities and services existing and/or planned for the area; and,
- .6 Will not require facility and/or service improvements at significant public expense.

The uses contemplated for this district are not appropriate for location within Urban Growth Boundaries due to their relationship with the site specific resources noted in the Plan and/or due to their hazardous nature.

Finding 4: Re-designating of 12 acres and up to 40 acres to Community Service for a law enforcement firing range will be bordered by Rural Industrial uses to the south and Surface Mining uses to the north. The proposal is consistent with the above purposes of the RIPD, even though not contemplated at this request. The proposed firing range is land extensive and not labor intensive. It would complement the character of the surrounding uses and be an appropriate use in a mined out quarry. It requires a location with adequate vehicle access and does not require facilities and services of an urban nature. A firing range may not be appropriate for location in an urban growth area because of its intrusive nature to neighborhood residential uses.

Continuing with the Columbia County Zoning Ordinance:

Section 1600 ADMINISTRATION

- 1612 **Special Hearings:** The Board of County Commissioners, in its discretion, may order any quasi-judicial land use application or type of quasi-judicial land use application to be heard at a Special Hearing in lieu of a hearing before the Planning Commission or the Board of County Commissioners.

Finding 5: Due to time constraints and availability of funding from the Federal Bureau of Investigation the Columbia County Board of Commissioners took jurisdiction of all land use requests associated with siting of the firing range and law enforcement training facility in order to expedite the process.

COMMENTS:

1. The Sanitarian has reviewed the application and has no objections to its approval as submitted with comments: "The holding tank will require to be installed under a permit from this office."
2. The St Helens CPAC has reviewed the application and has no objections to its approval as submitted.

3. The Building Official has reviewed the application and has no objections to its approval as submitted with comments: "Will need building permits for offices and structures."
4. Columbia River Fire & Rescue has reviewed the application and has no objections to its approval as submitted with comments: "I have discussed access and fire flow with Lt. Simmons already."
5. The County Road Department has reviewed the application and has no objection to its approval as submitted.
6. Columbia River PUD has reviewed the application and has no objections to its approval as submitted with comments: "Please keep us notified of all future actions and progress."
7. Columbia City has reviewed the application and has reviewed the application and has no objections to its approval as submitted.
8. The Oregon Department of Fish and Wildlife in coordination with the U. S. Fish and Wildlife Service submitted a letter dated November 16, 2006 (see attached) recommend that the applicant develop a site-specific management plan for the bald eagles, known to have nesting sites in the area.

No other comments have been received from notified nearby property owners or government agencies as of the date of this staff report (January 3, 2007).

STAFF CONCLUSIONS & RECOMMENDATION:

Changing the post mining use on the southerly 40 acres of the Reichold mining site to Community Service for a firing range is compatible with its original Rural Industrial designation. The change is consistent with those permitted uses and conditional uses of the Surface Mining zone. Given the demonstrated need for the facility, the physical characteristics of the site and its suitability with other land uses in the area, Staff Recommends APPROVAL.

Any conditions will be imposed on the Conditional Use permit and Site Design Review.

ATTACHMENT 2

REVISED ATTACHMENT "C" to Ordinance No. 2002-1, is amended as follows:

1. Condition No. 12 shall read, "All activities and storage of materials associated with the operation of the mine shall be conducted entirely inside the setbacks of the property. **Except for activities related to a firing range, and associated uses, including mining necessary to construct a firing range,** only plantings and berms shall be permitted within setback areas, and plantings shall be, as much as practical, made with native grass, shrubs and trees. There shall be a 10 foot berm along the eastern and northern boundaries."
2. Condition No. 21 shall read, "Applicant shall comply with all applicable DEQ noise standards. In addition, the Applicant shall comply with the noise mitigation measures, dust minimization measures, traffic minimization measures, resource lands minimization measures, **and except as provided below,** rural industrial minimization measures described in Finding 5 of the July 28, 2000, Staff Report (Attachment "A"), except so far as such measures propose reclamation of one-half of the subject property as wildlife habitat and one-half for resource industrial planned development, or are otherwise inconsistent with this ordinance, Attachment 'B' or these Conditions of Approval (Attachment "C"). **The Rural Industrial minimization measures shall not be required for the land having a Community Service Institutional (CS-I) post-mining use, as set forth in Condition No. 22.**"
3. Condition No. 22 shall read, "The post-mining use for the entire mining site, with the exception of the area to be used as a firing range, shall be designated Resource Industrial (RIPD) under the Columbia County Zoning Ordinance. The post-mining use for the area to be used as a firing range, shall be Community Service Institutional (CS-I). The CS-I post-mining use designation shall be only for the actual area used as a firing range, but shall not exceed 40 acres. Applicant shall submit an operating permit application that includes a detailed plan, which provides for reclamation of the Subject Property after mining as follows:

| | |
|---|------------------|
| Existing Industrial Land | 30 18 acres |
| Reclaimed Industrial Land (not mined below water table) | 46 18 acres |
| Community Service Institutional | 40 acres* |
| Reclaimed Industrial Land (mined below water table and partially refilled) | 75 acres |
| Riparian, ponds, wetlands in mining setback area | 20 acres |

Slopes, Misc.

19 acres

*The reclamation plan may include up to 40 acres with a CS-I post-mining use consistent with this Ordinance.