

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of an Application by John Petersen)
of Tide Creek Rock for a Comprehensive Plan)
Amendment and Zone Change from Forest) ORDINANCE NO. 2013-2
Agriculture (FA-80) to Surface Mining (SM) and)
Variances to Road and Riparian Setbacks and)
to Operating Hours (PA 13-01 and V 13-03))

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

SECTION 1. TITLE.

This ordinance shall be known as Ordinance No. 2013-2.

SECTION 2. AUTHORITY.

This ordinance is adopted pursuant to ORS 215.050, 215.060, 215.223, and OAR 660-023-0180.

SECTION 3. PURPOSE.

The purpose of this Ordinance is amend the Comprehensive Plan and Zoning Map to change the zoning on the approximately 56.7-acre subject property from Forest Agriculture (FA-80) to Surface Mining (SM) to allow surface mining adjacent to the existing Tide Creek Rock surface mine. This Ordinance also approves Variances to the Riparian Corridor Setback and Surface Mining Operating Setback.

SECTION 4. PROCEDURAL HISTORY.

A. On October 31, 2012, John Petersen filed an application for a Post-Acknowledgment Plan Amendment (PAPA) under OAR 660-023-0180(3) and a Major Map Amendment under Columbia County Zoning Ordinance (CCZO) §§1502.1 and 1605 to amend the Comprehensive Plan and change zoning from Forest Agriculture (FA-80) to Surface Mining (SM) on the approximately 56.7-acre subject property identified as Tax Account IDs 6236-000-00900 (51.2 acres), 6236-040-00900 (4.5 acres) and 6236-040-00600. The subject property consist of parcels that are adjacent to the applicant's existing surface mine located near the intersection of Highway 30 and Tide Creek Road, approximately 2 miles north of Deer Island, Oregon. The Applicant also requested approval of Variances to the Riparian Corridor Setback (CCZO §1172A.2) and the Surface Mining Operating Area Setback (CCZO §1044.4A) in accordance with CCZO §1504.1, and approval of extended Surface Mining Operating Hours in accordance with CCZO §1044.5.

B. The application was deemed complete on January 4, 2013 and assigned file numbers PA 13-01 and V 13-03.

C. A public hearing before Planning Commission was then scheduled for February 4, 2013, and notice of the hearing was mailed to nearby property owners, the St. Helens - Columbia City CPAC and affected agencies on January 7, 2013.

D. The Planning Commission continued the February 4, 2013 hearing to March 4, 2013, and Measure 56 notice of the hearing was mailed on February 11, 2013 to property owners within 1500 feet of the subject property, notifying them of the potential application of a Surface Mining Impact Overlay Zone on their property.

E. The Planning Commission held a hearing on March 4, 2013, and recommended approval of the application subject to conditions proposed by Planning staff with amendments requested by the applicant.

F. Following proper notice, the Board held a hearing on the application at its regularly scheduled meeting on May 1, 2013. At the hearing, the Board voted to allow the admission of new evidence and testimony in accordance with CCZO §1605. County Counsel entered legal counsel's file into the record, marked Exhibit 1. County Staff submitted additional written evidence marked Exhibit 2. The Board also received testimony and additional evidence at the hearing, all of which was admitted into the record as Exhibits 3 through 5.

G. The Board then closed the hearing and left the record open for additional written evidence and testimony, rebuttal evidence and testimony, and final argument. The Board continued its deliberations to its regularly scheduled meeting on June 5, 2013.

H. On June 5, 2013, the Board admitted timely submitted written evidence and testimony into the record as Exhibits 6 through 9. The Board then deliberated and by unanimous vote, tentatively approved the application subject to conditions recommended by staff. All written evidence and testimony admitted into the record is listed in Exhibit D, attached hereto and incorporated herein by this reference.

SECTION 5. FINDINGS AND CONCLUSIONS.

Based on the evidence in the record, the Board of County Commissioners ("Board") finds that the subject property is a significant Goal 5 aggregate resource and concludes that mining should be allowed with conditions. As set forth below, the Board thus approves the plan amendment and zone change from FA-80 to SM, subject to conditions. The Board also approves the requested variances to the Riparian Corridor and Surface Mining Operations Setbacks and extension of operating hours, subject to conditions.

In support of its decision, the Board adopts the findings and conclusions in the Staff Report dated April 24, 2013, attached hereto as Exhibit E and incorporated herein by this reference, to the extent those findings and conclusions are consistent with the Board's decision.

The Board also adopts the Supplemental Findings, attached hereto as Exhibit F and incorporated herein by this reference.

SECTION 6. AMENDMENT AND AUTHORIZATION.

A. PA 13-01 is hereby approved, subject to the following conditions:

- 1) The Applicant shall reclaim the site in accordance with State DOGAMI standards as depicted in the Conceptual reclamation Plan or as approved by DOGAMI. The required post mining use shall be forestry.
- 2) Prior to mining, the Applicant shall obtain a Site Design Review for the site, as required to satisfy the requirements of the Columbia County Zoning Ordinance.
- 3) The Applicant shall provide vegetated buffers on the site as depicted on the Mining and Reclamation Plan. Fences and warning signage shall be installed protecting the rock face as mining progresses east and south toward the Highway and residentially used properties.
- 4) The Applicant shall maintain the surface of the access road with gravel.
- 5) The Applicant shall water the access road to control dust as needed.
- 6) The Applicant shall maintain existing trees and wetland vegetation within 50 feet Riparian Corridor of Tide Creek, except as specifically varied by Columbia County. The applicant shall vegetate berms when constructed. The applicant shall vegetate overburden stored on site, as needed.
- 7) The Applicant shall wash away any rock, dust or mud tracked onto Hwy 30 as needed.
- 8) The Applicant shall limit hours of operation to 6:00 a.m. to 8:00 p.m., Monday through Sunday, except where approved otherwise by the county variance.
- 9) The Applicant shall observe minimum extraction setbacks of 50 feet from public rights-of-way (Tide Creek Road and Hwy 30) and from the riparian corridor along the Tide Creek on the north side of the site, except as specifically varied by Columbia County. Extraction setbacks shall be 200 feet from any zone which allows residences as permitted or conditional uses, unless a variance to these setbacks is applied for and approved or consent to reduce the setback received from adjoining property owners.

- 10) The Applicant shall not allow stormwater to be discharged offsite. Off site also includes Tide Creek.
- 11) The applicant shall provide for stormwater/erosion considerations on both sides of the private bridge where the new expansion rock will be transported. The Applicant will be required to install a silt fence for protection of stormwater/erosion during construction or heavy haul operations along both sides of the bridge. The applicant will provide a six foot solid fence or equivalent as a protective measure on and along the bridge to capture fallen debris.
- 12) In the event that prehistoric or historic cultural materials are encountered on the site the State Historic Preservation Office (SHPO), the County and the appropriate tribes shall be notified, and a qualified archaeologist shall be called in to evaluate the discovery and recommend subsequent courses of action in consultation with the tribes and SHPO.
- 13) Operations at the site shall comply with the applicable noise standards of the Department of Environmental Quality.
- 14) Applicant shall provide a legal description of the subject property to be rezoned to Surface Mining, prior to final approval of the Site Design Review.
- 15) Maintenance and work on mining equipment, creating significant off-site noise, will be limited to hours of operation 7:00 AM to 6:00 PM Monday through Sunday.
- 16) The applicant will comply with Department of Environmental Quality (DEQ) regulations regarding water quality.
- 17) All properties south of the expansion site not currently owned by the applicant shall be eliminated from the SMIO including and not limited to the Cosgriff property and the Parshall property, as shown on Exhibit B, attached hereto and incorporated herein by this reference.
- 18) If any state agency or local government provides the applicant written official notice that the applicable noise, dust or vibration standards have been violated, mining activities located within the expansion area that are alleged to be causing the violation shall cease, within thirty days of the written notice, until the alleged violation is resolved.
- 19) As part of the approved reclamation plan, the applicant shall reasonably restore existing contours and plan material to conditions as natural as practicable, using native material and plant species to the greatest extent

practicable. This condition is not intended to require refilling of the extracted area.

- 20) The crosshatched area in Phase 4 of the mining expansion site, as shown in Exhibit A, attached hereto and incorporated herein by this reference shall be used solely for the stockpiling of overburden.
 - 21) The Surface Mining Impact Overlay is reduced to approximately 750 feet from the proposed mining site as illustrated in Exhibit B.
- B. The Comprehensive Plan is amended to add the 56.7-acre subject property (Tax Account IDs 6236-000-00900, 6236-040-00900 and 6236-040-00600) to Table XVI-2, listing Statewide Planning Goal 5 significant aggregate sites, and Map 43: Mineral, Aggregate and Energy Resources of Columbia County.
- C. The Zoning Map designation for the subject property is hereby changed from Forest Agriculture 80 (FA-80) to Surface Mining (SM).
- D. V 13-03 is hereby approved, as follows:
- 1) A Variance to the 50-foot Riparian Corridor Setback, as shown in Exhibit C, is hereby approved subject to the following conditions:
 - a) The applicant shall provide detailed construction drawings of the berms and/or swales to be used for water quality protection of Tide Creek near the bridge (both sides). These plans can be submitted prior to Site Design Review and DOGAMI Operating Permit.
 - b) The applicant shall provide a detailed topographical drawing with distances to the top bank of the creek for those areas to be mined, developed or disturbed within the Riparian Corridor along Tide Creek. These plans can be submitted with the Mining plan to DOGAMI and the County for Site Design Review.
 - c) The Variance shall expire one year from the approval date if development has not occurred.
 - 2) The Variance to the Mining Operations Setback is hereby approved to allow mining within 50 feet of Tide Creek Road, as shown in Exhibit C, subject to the following conditions:
 - a) The applicant shall provide map showing the area to be mined within the 50' setback, along Tide Creek Road approved by the Road Department.

- b) The Variance shall expire one year from the date of approval if no development has occurred at the variance site.

SECTION 7. SEVERABILITY.

If for any reason any court of competent jurisdiction holds any portion of this Ordinance or its exhibits invalid, such portion shall be deemed a separate, distinct and independent portion, and any such holdings shall not affect the validity of the remaining portions thereof.

SECTION 8. SCRIVENER'S ERRORS.


Any scrivener's error in this Ordinance may be corrected by order of the Board of County Commissioners.

DATED this 28th day of August, 2013.

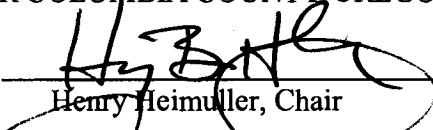
Approved as to form by

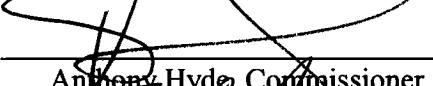
By: 
Office of County Counsel

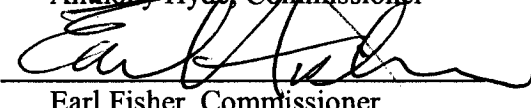
Attest:

By: 
Recording Secretary

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY OREGON

By: 
Henry Heimuller, Chair

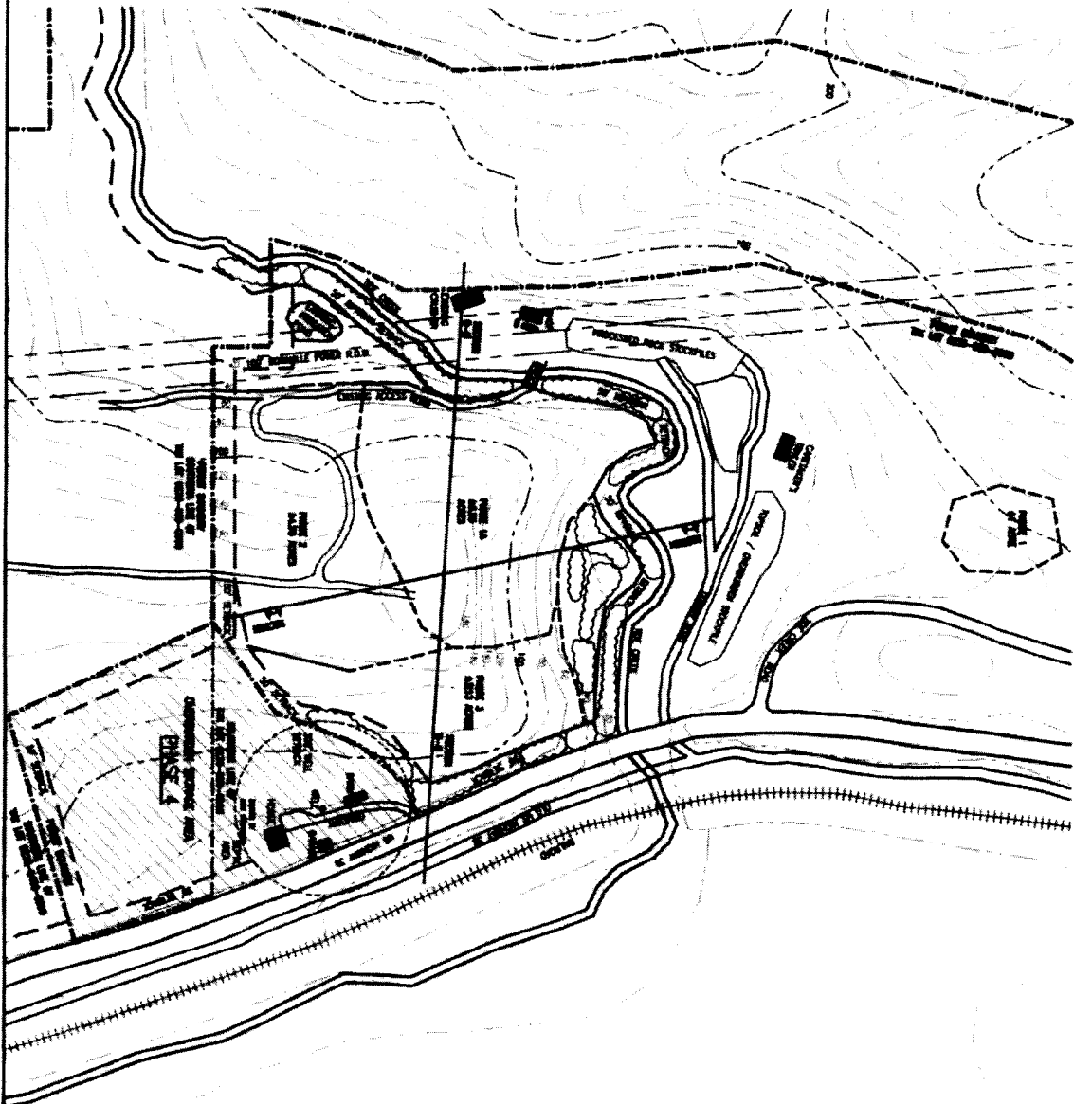
By: 
Anthony Hyde, Commissioner

By: 
Earl Fisher, Commissioner

First Reading: August 14, 2013
Second Reading: August 28, 2013
Effective Date: November 26, 2013

Exhibit AA

SECTION 4.3



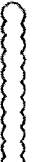
MINING PLAN

UPON COMPLETION IN THE MINING AREA SOUTH OF TIDE CREEK OTHER AREAS OF THE SITE WILL BE RECLAIMED AND PLANTED TO DOUGLAS FIR AND OTHER NATIVE SPECIES.

EXISTING TREES AND VEGETATION ALONG SETBACK AREAS SHALL REMAIN FOR VISUAL SCREENING, AND NOISE BUFFER.

TOPSOIL AND OVERBURDEN FROM PHASES 1, 2, AND 3 SHALL BE STOCKPILED FOR LATER RECLAMATION. TOPSOIL AND OVERBURDEN FROM PHASE 4 SHALL BE USED FOR RECLAMATION OF PHASES 1 THRU 3. PORTIONS NOT USED IN RECLAMATION OF THOSE AREAS SHALL BE STOCKPILED FOR LATER RECLAMATION OF ENTIRE SITE.

VEGETATED SCREEN



TOPOGRAPHIC CONTOUR LINES OF EXPANSION AREA ARE BASED ON USGS 24K D.G. FILES NORTH AMERICAN DATUM, 1983.

LOCATIONS OF EXISTING BUILDINGS, ACCESS ROADS, STOCKPILES, EQUIPMENT, ETC. BASED ON DOUGLAS AERIAL PHOTOGRAPHY, 2009.

REVISED 04-30-2013

APPLICATION TO PERMIT SURFACE MINING
 Columbia County, Oregon
 OCTOBER, 2012

TIDE CREEK ROCK - EXPANSION AREA
 AT TIDE CREEK ROAD AND COLUMBIA RIVER HIGHWAY,
 DOGAMI ID. # 05-0070

Prepared by:
 A K A N arch + design llc
 10718 Hudson St. N. Salem, OR 97158
 (503) 288-3300 F (503) 288-3305

SECTION 36 T6N R2W WM.

COLUMBIA COUNTY

THIS MAP HAS BEEN PREPARED FOR ASSESSMENT PURPOSES ONLY.
Scale: 1" = 400' Current Revision Date: 8/11/80

Surface Mining Impact Overlay

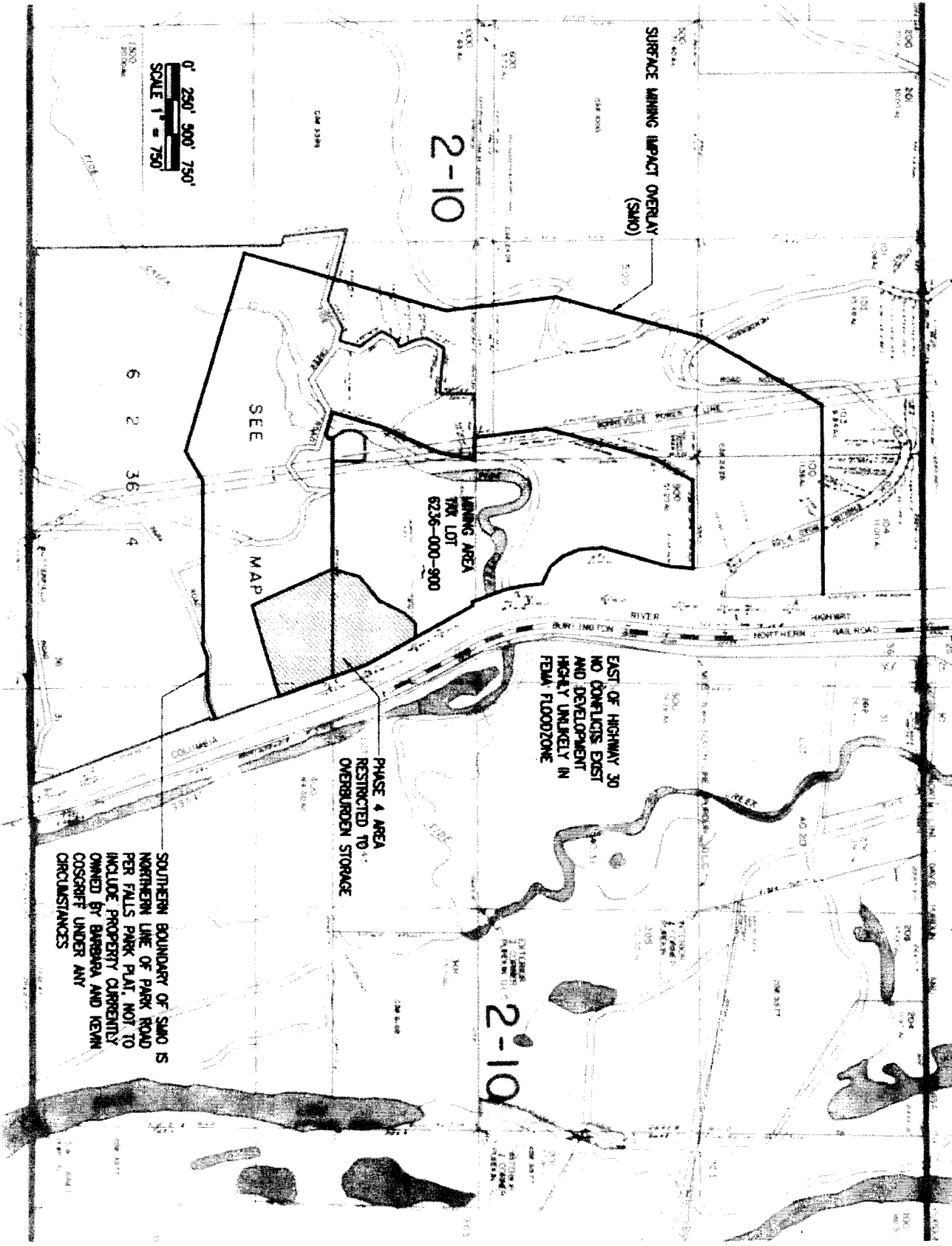
EXHIBIT BB

SECTION 31 T6N R1W WM.

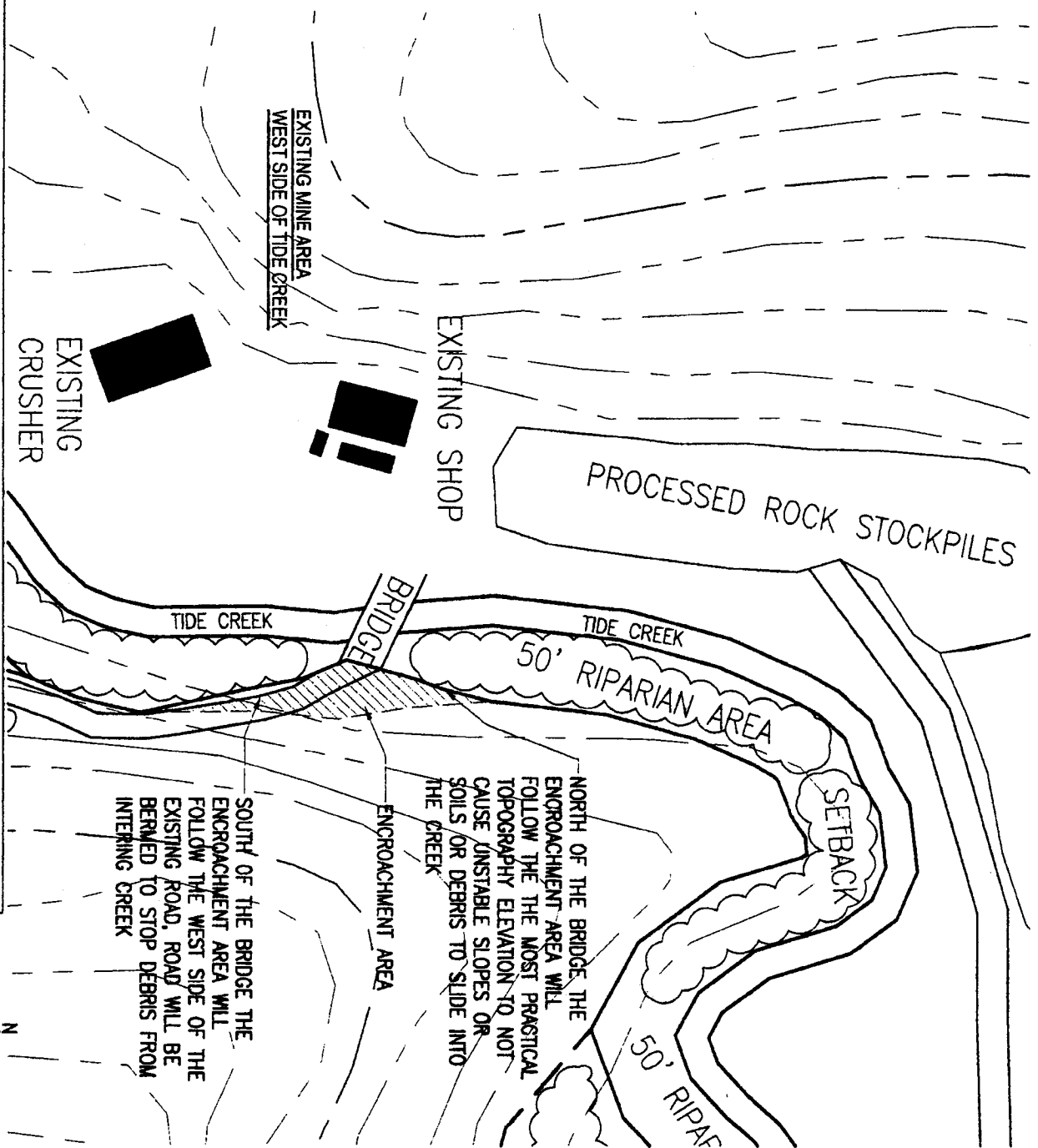
COLUMBIA COUNTY

THIS MAP HAS BEEN PREPARED FOR ASSESSMENT PURPOSES ONLY.
Scale: 1" = 400' Current Revision Date: 8/11/80

SITE MAP 6 1 10



SOUTHERN BOUNDARY OF SMIO IS
NORTHEN LINE OF PARK ROAD
PER FALLS PARK PLAT, NOT TO
INCLUDE PROPERTY CURRENTLY
OWNED BY BARBARA AND KEVIN
COSCRAFT UNDER ANY
CIRCUMSTANCES



TOPOGRAPHIC CONTOUR LINES OF EXPANSION AREA ARE BASED ON USGS 24K DLG FILES, NORTH AMERICAN DATUM, 1983

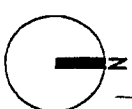
LOCATIONS OF EXISTING ROAD BASED ON DOGAMI AERIAL PHOTOGRAPH, 2009

AS OF DATE OF THIS DRAWING NO SURVEY HAS BEEN PERFORMED

NORTH OF THE BRIDGE THE ENCROACHMENT AREA WILL FOLLOW THE THE MOST PRACTICAL TOPOGRAPHY ELEVATION TO NOT CAUSE UNSTABLE SLOPES OR SOILS OR DEBRIS TO SLIDE INTO THE CREEK

NOTE AREA SHOWN IS APPROXIMATE, ACTUAL AREA WILL BE VERIFIED BY SURVEY AS REQUIRED BY DOGAMI

MINE EXPANSION AREA EAST SIDE OF TIDE CREEK



Prepared by:
AKAAN arch + design llc

101 St Helens St, St Helens, OR 97051
T: 503 388 3050 F: 503 386 3055

TIDE CREEK ROCK

AT TIDE CREEK ROAD AND COLUMBIA RIVER HIGHWAY

Surface Mining Application
Columbia County, Oregon
MAY 1, 2013

PERMIT BOUNDRY
TAX LOT 6236-000-0900

PHASE 1
MINING
AREA

ROAD SETBACK
VARIANCE AREA

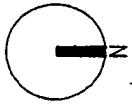
TIDE CREEK ROAD

HIGHWAY 30

ENCROACHMENT WILL ROUGHLY FOLLOW TOPOGRAPHY
ELEVATION LEVEL WITH TIDE CREEK ROAD. STEEP AREA
WEST OF ROAD WILL BE REMOVED UP TO ROAD RIGHT OF
WAY.
AREA WILL THEN BE RECLAIMED AND REPLANTED TO NATIVE
TREES PER DOGAMI REQUIREMENTS.

NOTE AREA SHOWN IS
APPROXIMATE. ACTUAL AREA
WILL BE VERIFIED BY SURVEY AS
REQUIRED BY DOGAMI

TOPOGRAPHIC CONTOUR LINES OF EXPANSION
AREA ARE BASED ON USGS 24K DLG FILES,
NORTH AMERICAN DATUM, 1983
LOCATIONS OF EXISTING ROAD BASED ON
DOGAMI AERIAL PHOTOGRAPH, 2009
AS OF DATE OF THIS
DRAWING NO SURVEY HAS
BEEN PERFORMED



TIDE CREEK ROCK

AT TIDE CREEK ROAD AND COLUMBIA RIVER HIGHWAY

Prepared by:
AKAAN arch + design llc
101 St Helens St, St Helens, OR 97051
T: 503 386 3050 F: 503 386 3055

Surface Mining Applicator
Columbia County, Oregon
MAY 1, 2013

EXHIBIT D

**Record - Tide Creek
(PA 13-01; V 13-03)**

The following is a list of evidence admitted into the record on PA 13-01 and V 13-03
(Petersen/Tide Creek)

Exhibit 1, containing:

- (1) Notice of Public Hearing (Publication) dated March 28, 2013
- (2) Affidavit of Publication dated April 3, 2013
- (3) Notice of Public Hearing (Property Owner Notice) dated March 28, 2013
- (4) Affidavit of Mailing dated April 3, 2013
- (5) Staff Report to the Board of Commissioners, dated April 24, 2013, with the following attachments:
 - (1) Referral and Acknowledgment from County Building Official, dated January 8, 2013
 - (2) Referral and Acknowledgment from County Roadmaster, dated January 14, 2013
 - (3) Referral and Acknowledgment from Columbia River Fire and Rescue, dated January 10, 2013
 - (4) Referral and Acknowledgment from County Sanitarian, dated January 17, 2013
 - (5) Letter from DOGAMI, dated January 15, 2013, and copy of response from Todd Dugdale, dated January 17, 2013
 - (6) Letter from Phillip Grillo, dated February 1, 2013, requesting continuance
 - (7) Letter from Phillip Grillo, dated March 4, 2013, opposing application on behalf of Kevin and Barbara Cosgriff
 - (8) Affidavit of John Petersen, dated March 4, 2013
 - (9) Applicant's Proposed Alternate Conditions, dated March 4, 2013
 - (10) Email from Bill Johnston, ODOT, dated April 18, 2013
 - (11) Letter from Phillip Grillo to Steve Abel, dated April 22, 2013, proposing conditions
 - (12) Email from Al Petersen, dated April 22, 2013, with Power Point presentation attached
- (6) Board Staff Meeting Minutes April 17, 2013
- (7) Board Communication from Todd Dugdale, dated April 17, 2013
- (8) Board Communication from Todd Dugdale, dated March 18, 2013, requesting public hearing date
- (9) Planning Commission Final Order (corrected), dated March 14, 2013 and Certificate of Mailing
- (10) Planning Commission Final Order, dated March 7, 2013 and Certificate of Mailing
- (11) Planning Commission Draft Meeting Minutes, March 4, 2013 Certificate of Mailing Measure 56 notice, dated February 13, 2013
- (12) Staff Report to the Planning Commission, dated January 25, 2013
- (13) Notice of Proposed Amendment to DLCD
- (14) Certificate of Mailing Notice to surrounding property owners and affected

- agencies, dated January 15, 2013
- (15) Notice of Public Hearing before the Planning Commission, dated January 7, 2013
 - (16) Application Deemed Complete letter, dated January 4, 2013
 - (17) Application by John Petersen for Variance and Post Acknowledgment Plan Amendment
 - (18) Letter from Glen Higgins to Al Petersen, dated November 29, 2012, identifying items needed for complete application
 - (19) Application for Post Acknowledgment Plan Amendment, dated October 31, 2012 (binder)

Exhibit 2, Letter from Phil Grillo, dated April 30, 2013

Exhibit 3, Riparian Setback Encroachment Plans, submitted by Al Petersen

Exhibit 4, Proposed 750' Surface Mining Impact Overlay Map, submitted by Al Petersen

Exhibit 5, Proposed Findings, submitted by Al Petersen

Exhibit 6, Letter from Bill Russell, dated May 8, 2013

Exhibit 7, Letter from Phil Grillo, dated May 15, 2013

Exhibit 8, Section Drawing, submitted by Al Petersen on May 15, 2013

Exhibit 9, Written Submittal from Al Petersen, dated May 15, 2013

COLUMBIA COUNTY BOARD OF COMMISSIONERS

Staff Report

04/24/13

Comprehensive Plan Amendment and Zone Change

HEARING DATE: May 1, 2013

FILE NUMBERS: PA 13-01, V 13-03

APPLICANT: Al Petersen
101 St. Helens Street
St. Helens, OR 97051

OWNER: John Petersen, Tide Creek Rock, Inc.
33625 Tide Creek Road
Deer Island, OR 97054

LOCATION: Approximately 2.2 miles north of Deer Island, Oregon west of the intersection of Highway 30 & Tide Creek Road

REQUEST: A Comprehensive Plan Amendment (PA) designating an expansion site (56 acres) as a significant mineral and aggregate resource. This request will amend the Columbia County Comprehensive Plan Map and Zoning Ordinance Map for the identified site. Also requesting a Variance to road and riparian setbacks in two areas, and to operating hours.

APPLICATION RECEIVED: Initial - Oct. 31, 2012 Add'tl Information- December, 17 2012

DEEMED COMPLETE: January 4, 2013

180-DAY DECISION DATE: July 3, 2013

**PRESENT COMPREHENSIVE
PLAN DESIGNATION:** Forest and Agricultural Resource

**PROPOSED COMPREHENSIVE
PLAN DESIGNATION:** Mineral and Aggregate Resource

PRESENT ZONING: (FA-80) Forest - Agriculture

PROPOSED ZONING: (SM) Surface Mining

SUBJECT PROPERTY:

“Site” - 56.70 acres to be considered a significant aggregate resource for Goal 5 protection.

<u>Tax Account Numbers</u>	<u>Zoning</u>	<u>Acreage</u>
6236-000-00900	FA-.80	51.20
6236-040-00900	FA-80	4.50
6236-040-00600	FA-80	.00
Tax Lot Total		56.70 acres

CURRENT GOAL 5 AGGREGATE INVENTORY STATUS:

The subject site is not listed as a “Significant Aggregate Site” in the 1985 Comprehensive Plan and is not listed in the 1998 amendment (Ord. 98-01) or in updates of the Mineral and Aggregate Inventory. However, it is adjacent to a listed site (No. 19 John, Petersen DBA: Tide Creek Rock, a significant Active Aggregate Site on T/L 6236-000-00500). This application is an expansion of the adjacent Surface Mining (SM) Zone. The Comprehensive Plan has a table identified as “Table XVI-2 Significant Aggregate Sites and Post Mining Uses, and a process for adding any new sites. The applicant is seeking to add this site to the list of Significant Aggregate Sites in the County Comprehensive Plan.

SOILS:

Soils on the Site are as follows:

	<u>Agricultural Capability</u>	
	<u>Class</u>	<u>% Property</u>
40 C - Quatama silt loam	IIIe	29.2%
46 - Sauvie silt loam	VIw	9.2
63 - Wapato silt loam	IIIw	8.8
64 E - Wauld very gravelly loam	VIIIs	52.8%

Source: Soil Survey of Columbia County, OR. SCS Issued November 1986, Field work by Soil Conservation Service of the United States Department of Agriculture, in cooperation with Oregon Agriculture Experiment Station.

The Soil Survey discusses details of the soil types listed above and classifies only one, Wapato silt loam, as Prime Farmland soil if it is drained and protected from flooding.

REVIEW CRITERIA:

Page

Columbia County Zoning Ordinance

Section 1030	Amendments to Permit Surface Mining	5
Section 1040	Surface Mining	22
Section 1502	Zone Changes (Map Amendments)	28
Section 1603	Quasi-Judicial Public Hearings	29
Section 1605	Zone Change - Major Map Amendment	31
Section 1607	Consistency with the Comprehensive Plan	31
Section 1608	Contents of Notice	32
Section 1170	Riparian Corridor Overlay Zone	32
Section 1504	Variance to Surface Mine Operating Setbacks	38

Comprehensive Plan

Economy	40
Transportation	42
Goal5: Surface Mining	44
Air, Land, and Water Resources	46

Oregon Administrative Rules (OAR)

OAR 660-023-0180 - Mineral and Aggregate Resources	47
OAR 660-023-0180 (2)	48
OAR 660-023-0180(3)	49
OAR 660-023-0180(5) (a - g)	50
Oar 660-023-0180(7)	54
OAR 660-023-0180(8)	55

Statewide Planning Goals

Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces	56
Goal 6 Air, Water and Land Resources Quality	
Goal 9 - Economy	
Goal 12 - Transportation	

BACKGROUND/SUMMARY:

Al Petersen, representing the owner John Petersen of Tide Creek Rock, Inc. hereinafter known as the applicant, has submitted an application for a Comprehensive Plan amendment (PA) to authorize rock mining on an expansion portion of the present quarry site - south and east of Tide Creek, known as the hilltop, consisting of approximately 29 acres of the total 56 acres expansion area. The rest of the expansion area to be re-zoned includes the Tax Lot where the old mining quarry was located and presently used for processing and stockpiling of rock. This application if approved would expand the present approximately 30 acres zoned Surface Mining (SM) to a total of 87 acres. Riparian Area boundaries will need to be protected along Tide Creek. At the expansion area across the creek, the applicant intends on starting mining an old private bridge and extracting material in 3 phases moving eastwardly toward Hwy. 30 and southerly, with multiple benches and including the hilltop.

The applicant requests that the County's inventory of significant Goal 5 aggregate resource sites include the applicant's site composed of 56 acres and to authorize mining on the site under section 1030 of the Zoning Ordinance. The rock that is mined on the site will be transported by truck loader across Tide Creek via a private bridge to the existing crushing and stockpile area where the rock will be processed and transported to market.

Once mining is completed, the applicant proposes to reclaim the site by replanting for forest use. The expected duration of the project is conservatively estimated at 28 years or more, however the exact life of the operation will be determined by market demand.

The subject property is located approximately 7 miles north of the City of St. Helens along Columbia River Hwy. 30 at the Tide Creek bridge/road intersection. The existing Tide Creek Rock processing area is located immediately to the west and north of the 29 acre expansion property. The applicant owns a significant amount of land bordering the subject site. Besides mining operations, large forest parcels generally characterize the area with two private homes located on existing public road to the north, and two private homes south of the subject property that are in the 1500 feet impact area.

Vehicle access to and from the mine processing site will be provided via the existing driveway under Hwy. 30 at the Tide Creek bridge. All of the processed material will be transported to market via trucks. Outgoing aggregate material can reach the closest major arterial (U.S. Hwy. 30) by a route from the loading area to the old Hwy. 30 east of the present highway. From Old Hwy 30 turn north a few hundred yards to a Highway 30 access point on the east side of Hwy 30, with significant sight distance for either direction entry.

The topography of the property ranges from 20-180 feet above sea-level and could be generally described as steep hillsides above Tide Creek. Vegetation on the subject property varies from pasture grass on the flat area to the south by the hilltop, to wetland plants and riparian forest near Tide Creek, to mixed forest on upland hillsides above the creek west of Highway 30.

REVIEW CRITERIA

Beginning with the applicable provisions of the Columbia County Zoning Ordinance:

Section 1030 AMENDMENTS TO PERMIT SURFACE MINING

APSM

[Added by Ordinance No. 98-01, effective 6/29/98]

1031 Purpose:

- .1 To protect mineral and aggregate resources for present and future use.
- .2 To provide for the development and utilization of deposits of aggregate and resource materials.
- .3 To provide a process to consider amendments to the comprehensive plan and implementing ordinances to permit surface mining consistent with OAR 660 Division 23 (1996).
- .4 To insure that aggregate resource sites which have been determined to be significant and which, based on the evidence in the record, the County finds suitable for protection from other conflicting uses, are zoned for surface mining.
- .5 This section does not apply to property located within the boundaries of incorporated cities, absent specific provisions in an agreement between the City and the County to apply some or all of the County's ordinance.

1032 Definitions: The following definitions of terms are applicable for Section 1030.

- .1 "Aggregate Resources" are natural occurring concentrations of stone, rock, sand and gravel, decomposed granite, lime, pumice, cinders, and other naturally occurring solid materials used in road building.
- .2 "Conflicting use" is a use or activity that is subject to land use regulations and that would interfere with, or be adversely affected by, mining or processing activities at a significant mineral or aggregate resource site, as specified in 1034.4, 1036.2 and 1037.5.
- .3 "ESEE consequences" are the positive and negative economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use.
- .4 "Existing site" is a significant aggregate site that is lawfully operating, or is included on an inventory in an acknowledged plan, on or before September 1, 1996.

- .5 "Expansion area" is an aggregate mining area contiguous to an existing site
- .6 "Mining" is the extraction and processing of mineral or aggregate resources, in the manner provided under ORS 215.298(3).
- .7 "Minimize a conflict" means to reduce an identified conflict to a level that is no longer significant. For those types of conflicts addressed by local, state, or federal standards (such as the Department of Environmental Quality standards for noise and dust levels) to "minimize a conflict" means to ensure conformance to the applicable standard.
- .8 "Mining area" is the area of a site within which mining is permitted or proposed, excluding undisturbed buffer areas or areas on a parcel where mining is not authorized.
- .9 "Processing" means the activities described in ORS 517.750(11).
- .10 "Protect" means to adopt land use regulations for a significant mineral or aggregate site in order to authorize mining of the site and to limit or prohibit new conflicting uses within the impact area of the site.
- .11 "Width of aggregate layer" means the depth of the water-lain deposit of sand, stones, and pebbles of sand-sized fraction or larger, minus the depth of the topsoil and non-aggregate overburden. ("Width" is thickness; thickness is measured by subtracting the depth of the bottom of the overburden layer from the depth of the bottom of the aggregate layer.)
- .12 "Impact area" is a geographic area within which conflicting uses could adversely affect a significant Goal 5 resource.

Finding 1: The above Sections of Purpose and Definitions apply to this application review.

Continuing with Section 1033 of the Zoning Ordinance

- 1033 Process: The following process shall be used to designate a site for surface mining activity:
- .1 All applications requesting a designation for surface mining activities must follow the requirements of Subsections 1033, 1034, 1035 and 1036.
 - .2 Three zones specifically permit surface mining activity through a conditional use process: the Primary Agriculture Zone (PA-38), the Forest-Agriculture Zone (FA-19), and the Primary Forest Zone (PF-76). Surface mining may be permitted, but only conditionally, in these three

other zones, if the applicant does not wish to seek the Surface Mining Zone (SM) and Goal 5 protection.

- .3 Nothing in this section shall prevent the County from adopting additional clear and objective standards to protect significant Goal 5 resources included in an acknowledged inventory from some or all conflicting uses in addition to the minimum required standards in the surface mining zone.
- .4 The County may update its inventory of significant aggregate sites and amend the Comprehensive Plan by following the process contained in OAR 660-23-180 and the Columbia County Comprehensive Plan.
- .5 The County shall follow the process described in this Section to determine whether an aggregate site is significant.
- .6 The County shall follow the process described in this Section to decide whether or not to authorize the mining of a significant mineral or aggregate site
- .7 For a significant mineral and aggregate site where mining is allowed, the County shall decide on a program to protect the site from new off-site conflicting uses by following the standard ESEE process in OAR 660-23-040 and 660-23-050 with regard to such uses.

Finding 2: The site is zoned Forest Agriculture which allows surface mining as a conditional use, however the applicant has chosen to re-zone the property to Surface Mining. If this application is approved the Comprehensive Plan will be updated to add the subject property to the Significant Aggregate Sites List, Table XVI-2. Much of the mining area presently used by Tide Creek Rock has previous land use approval through a conditional use procedure. However, the applicant is requesting to have the proposed site protected as a significant aggregate resource site and be re-zoned to Surface Mining. The findings of this Staff Report demonstrate that the County has followed the process described in this Ordinance to decide whether or not to approve, limit or deny this application.

Continuing with Section 1034 of the Zoning Ordinance:

1034 Application for Plan Amendment and Zone Change to Surface Mining (SM)
Requesting Goal 5 Protection:

An application submitted pursuant to this section may be scheduled for review after the Director has determined it complete. An application for a SM zone requesting Goal 5 protection shall contain the following information:

- .1 Information regarding location, quality and quantity of the resource, sufficient to determine whether the standards and conditions in Section 1035 are satisfied.

Finding 3: The application was determined complete on January 4, 2013 and scheduled for Planning Commission review at a first public hearing on February 4, 2013, but was continued to March 4, 2013. The applicant has submitted the required information regarding quantity, quality and location of the aggregate resource in test results by Carlson Testing, and in reports by Kuper Consulting LLC and H.G. Schlicker & Associates. Staff finds that the application consists of information required to determine significance under Section 1035.

Continuing with Section 1034 of the Zoning Ordinance

- .2 Plans for the reclamation of the site.

Finding 4: The applicant has stated in the DOGAMI permit application that post-mining use will be forestry, re-plant to forest or use in pasture hay fields.

- .3 A traffic impact assessment within one mile of the entrance to the mining area sufficient to address criteria in Section 1036(3)(b).

Finding 5: The applicant states that the current gravel mine has been using the Hwy. 30 entrance for more than 20 years. There is no anticipated increase in use or traffic due to this expansion application. The present mined areas of Tide Creek Rock site are mostly depleted. This expansion is to provide for the continued small quantity use of the operator, as has been the case for years. Increased traffic and /or any impacts on traffic are expected to be minimal. The County Road Department has not asked for a Traffic Impact Assessment. There has been no response from ODOT per the Referral and Acknowledgement packet sent them on January 7, 2013. A traffic assessment has not been required.

Continuing with Section 1034 of the Zoning Ordinance

- .4 Identification of all existing and approved conflicting uses within the impact area(s) proposed to satisfy the purposes of 1036.1 and 1037.5. Identification of all proposals to minimize any conflicts with approved uses within the impact area(s).

Finding 6: The applicant has provided Table 1, at page 9 of 41, of the application, which lists surrounding tax lot properties, acreage, owner and their uses within 1500' (impact area) of the subject site. Of the 23 properties listed, 13 of them are owned by the applicants or their

immediate family. Of the remaining, most is in farm use pastureland or forest use. The applicant made the determination that mining at Tide Creek Rock expansion area would not be in conflict with the farm and forest uses. The applicant includes findings supporting a determination that mining at Tide Creek expansion would not be in conflict with farm and forest uses. The application notes there may be a potential for conflicts with dwellings. There are 4 dwellings in the impact area not belonging to the applicant's relatives, two to the north along Tide Creek Road and two at the far south edge of the 1500' boundary. One of the dwellings on the north side, the closest dwelling to the site, located at 33660 Tide Creek Road, was approved by the County under a Conditional Use Permit (CU 99-29). As required by the permit, the owner signed a "Waiver of Remonstrance" against the existence and operation of the nearby quarry. The applicant contends that the other identified dwellings are protected from potential noise, dust and vibration by the existing topography and vegetation.

The applicant has submitted a letter from the State Historic Preservation Office that there have been no known cultural resource surveys in the project area. A conflict with cultural resources is highly improbable. However, if historical artifacts are found Tide Creek Rock must report it and stop work in the area.

Continuing with Section 1034 of the Zoning Ordinance

- .5 A site plan showing the location, area, dimensions, acreage, and legal description of the parcel to be developed or used, together with north point, scale, date of application, contours for all intended uses and phases, including incremental and total volumes of the resources to be mined.

Finding 7: The applicant has submitted a series of maps and figures that show the location, acreage and area of the subject expansion property. The applicant submitted one legal description for an Area "B" attached to a Significance Determination study conducted by David Newton & Assoc, Dorian Kuper in 1995. That legal description matches fairly closely to the hilltop expansion area. Legal descriptions and dimensions have not been provided for the whole site to be rezoned, but the applicant identifies specific tax lots where legal descriptions are of record through the Assessor's Office. The mining plan does not note total volumes of aggregate to be mined or volumes to be mined in phases. Both consulting Geologists agree there is a total of 6.1 million cu yds of rock to be extracted.

The applicant has indicated that mining will be phased beginning near the private bridge and commence easterly and southerly into the rock hilltop. However, the applicant submittals indicate that Phase 1 is a small one acre mining spot in the northern portion of 6236-00-00900, north of Tide Creek, close to the old mining quarry. This Phase 1 area also includes an area the applicant would like to mine adjacent to Tide Creek Road (subject to a variance) within 50 feet of the road. Mining in the Phase 1a mining area (the larger expansion area), is to start near the eastern side of the private bridge over Tide Creek and proceed easterly and southerly by

benching and terracing the land within and including the top of the hill. At the present rate of gravel sales, the applicant stated it will take years before they reach the setback from Hwy 30. Tide Creek Rock Inc. historically has been a family owned business, extracting rock with three to four workers at most, meeting contractor demand. There are no plans to increase intensity of mining activity, but only to continue present activities. Later phases of mining will be just that - years later.

Continuing with Section 1034 of the Zoning Ordinance

- .6 The documentation, as applicable, required for any application for a site design review as set forth in Section 1550.

Finding 8: The applicant will be required to submit a site design review application at a later date if this Plan Amendment is approved. This PA application did not contain documentation addressing site design review criteria, Section 1550. If this mining application is allowed, a site design review application is required to evaluate other factors associated with mining that are not reviewed in this Plan Amendment (Goal 5) process.

Continuing with section 1034 of the Zoning Ordinance

- .7 Provisions for landscaping and screen-planting of all parts of the site.
- .8 Provisions for preventing the collection and stagnation of water in all stages of the operation.
- .9 Plans, profiles, and cross-sections of all access roads.

Finding 9: The applicant did not provide any plans for landscaping or screening of the proposed aggregate site. The new mining area and the bridge and processing areas are at least a quarter mile from Hwy 30 and can not be seen nor heard easily. Noise from the proposed expansion area would be dispersed by the 150 feet tall hill. The expansion area is located on a hill with a steeply sloping, near vertical north face, steeply sloping west and east faces and a gently sloping south face. Trees, brush and other vegetation adequately buffer the mining area from adjacent properties, most of which are owned by the applicant. Plans and profiles of the access roads have not been provided. Prevention of water pooling in the mine area will be controlled by the creation of the contours during excavation. The applicant states that the cracked basalt type of rock at this location would not pond water but would allow seepage downward through cracks.

- .10 All plans prepared and submitted shall be at a scale no smaller than one inch to 200 feet, with 5 foot contours, and such information shall be

furnished for a distance of not less than 1500 feet beyond the site to determine the impact of the operation on adjacent and surrounding lands.

Finding 10: Maps presented Sections 4.3 and 4.5 of the application have a scale of 1" equals 150 feet. This scale meets this criterion. Contours are presented at 20 foot intervals which do not meet this paragraph; however, staff concludes that the terrain is so steep in the area that 5 foot intervals would not be readable and 20 foot intervals are acceptable.

- .11 A proposal to comply with the operating standards described in Section 1044 and the Columbia County Surface Mining Ordinance.

Finding 11: Columbia County no longer has a Surface Mining Ordinance; this criterion is not applicable.

- .12 A proposal to allow, limit or prevent future conflicting uses. The proposal may include, but is not limited to, a surface mining impact overlay zone as provided by Subsection 1038; site agreements with the owners of neighboring property within the impact area; or, other enforceable conditions on approval of post acknowledgment plan amendment to allow mining, which would address the impacts of future conflicting uses.

Finding 12: The applicant has not proposed a method for allowing, limiting or prohibiting future conflicting uses. The applicant concluded that those uses allowed in the Forest zone that potential could be conflicting with mining are highly unlikely to site near, because of the lack of infrastructure, steep slopes and flood hazards in the area. At the Planning Commission hearing, however, Phil Grillo attorney for neighboring property owners Kevin and Barbara Cosgriff, testified that the Cosgriff property could contain future housing. The Cosgriff property has 11 platted lots, which could be developed with housing under the forest dwelling template test.

In Section 1038 of the Zoning Ordinance Columbia County has instituted a Surface Mining Impact Overlay Zone to protect significant aggregate sites from future nearby development encroachment. The applicant did not submit the consequential evidence (ESEE analysis) used determine future protection measures. Once that additional information is submitted, it is anticipated that site agreements or enforceable conditions can be imposed to satisfy identified conflicts.

Continuing with Section 1035 of the Zoning Ordinance:

1035 Criteria for Determining Significance: An aggregate site shall be considered significant if adequate information regarding the quantity, quality, and location of the resource demonstrates that the site meets the following criteria:

- .1 A representative set of samples of aggregate material in the deposit on the site meets Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and sodium sulfate soundness; AND,
- .2 The estimated amount of material is more than 2,000,000 tons; OR,
- .3 The aggregate site is on an inventory of significant aggregate sites in the Comprehensive Plan, as of September 1, 1996; OR,
- .4 The operator of a site which is on the surface mining inventory wishes to expand the existing site, and on March 1, 1996 had an enforceable property interest in the expansion area.
- .5 Notwithstanding subsections .1 through .3 of this section, an aggregate site is not significant if more than 35% of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps as of September 1, 1996; unless the average width of the aggregate layer within the mining area exceeds 60 feet. *[Amended by Ordinance No. 2000-04 effective 11/13/00]*

Finding 13: The applicant has submitted information regarding quantity, quality and location of aggregate resource in two reports, one by David Newton & Assoc. dated May 1995 and by Schlicker & Assoc. dated June 1995. In addition, a review was conducted by Kuper Consulting LLC in October 2012 attesting that the site meets the present rules for determination of significance. The application includes information indicating that tests conducted on the rock material underlying the subject site meets ODOT's specifications for soundness, air degradation, abrasion and sodium sulfate soundness. As for quantity, the reports conclude there is in excess of 6.1 million cu yds of aggregate at the site. After converting cubic yards to tons, rock at the site is estimated at over 9 million tons of in-place rock. The subject site of this application is not listed on the County's inventory of significant resource sites, but an adjoining portion of the TCR quarry is listed. Staff finds that the site meets the criteria to be considered a significant Goal 5 aggregate site because the resource meets ODOT quality standards and the site contains greater than 2 million tons of aggregate. The average width of the of the aggregate layer exceeds 60 feet. This criterion is met.

Continuing with Section 1036 of the Zoning Ordinance:

1036 Criteria for Decision: For a significant site, the County will make its decision whether mining is permitted based on the following process and criteria after receipt of a complete application:

- .1 An impact area large enough to include uses listed in subsection .3 below will be established for the purpose of identifying existing and approved conflicts with proposed mining and processing activities. An impact area established for the purposes of this subsection shall be 1500 feet from the proposed mining area unless:
 - A) It can be demonstrated by the applicant that all existing conflicting uses are located within a lesser distance, an impact area with an irregular distance may be established if it is found to be capable of accurately depicting the presence of existing conflicting uses suitable for the purposes of this section; OR,
 - B) Factual data and information indicates a significant potential conflict exists beyond this distance. In that case, a larger area may be established for that conflicting use. The factual data and information for the expanded impact area must be submitted within 14 days after the first evidentiary hearing on the application.
- .2 All existing and approved land uses in the impact area shall be determined that will be adversely affected by the proposed mining operations, and the predicted conflict will be specified for each use.

Finding 14: The ordinance and the applicant has established an impact area of 1500 feet from the border of the subject property. Staff finds that no factual data nor other information indicates a significant conflict exists beyond this distance. Most acreage in the impact area is devoted to forestry and small farming operations. The applicant identified no conflicts with farm or forest uses and staff has not identified any such conflicts in the review of the application to date. The applicant discusses potential conflicts with residential uses in the impact area. There are 4 dwellings (not owned by the applicant or family) in the impact area. Although not specified in the application, staff assumes that dwellings could be negatively impacted from mining activities because of uncomfortable levels of noise, dust, vibrations or other discharges.

Continuing with Section 1036 of the Zoning Ordinance

- .3 For determination of conflicts from the proposed mining of a significant aggregate site, only the following will be considered:
 - A) Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges.

Finding 15: The application includes a list of existing and approved land uses in the impact area. (See related Finding 6,pg 8) There are no schools, medical facilities, fire stations or multi-family structures, that may be sensitive to mining discharges, in the impact area. If this site is determined to be a significant aggregate site and approved, because of the overlay zone, those types of conditional uses in the impact area would either not be allowed or conditioned to be built in a way as to mitigate any future potential conflict. The applicant's position is that any dust, noise or other discharges will be of no conflict with farm and forestry uses. These identified discharges of the mining activity may conflict with the five single family dwelling uses in the impact area.

- B) Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. Transportation conflicts shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan and implementing ordinances. Such standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials.

Finding 16: The applicant claims there is no conflict with local roads used for access and egress because there are no local roads. In this section of Old Hwy 30 neither the county nor state has not done maintenance; the only use is access to the Tide Creek Quarry and access to farm fields to the east. The applicant states that there will be no increase in truck traffic, only the same traffic that the quarry has generated for 20 or more years. Hwy 30 is the nearest transportation arterial. The County Road Department does not think there is a conflict with local roads as long as the applicant continues to maintain the section of Old Hwy 30 it uses. In their comments, ODOT has asked for a baseline count, the applicant needs to provide average trips per day of the existing rock products transport.

Continuing with Section 1036.3 of the Zoning Ordinance

- C) Safety conflicts with existing public airports due to bird attractants, i.e., open water impoundments, shall be addressed according to the processes established in statute or administrative rule, or in local ordinances enacted to implement statute and administrative rule.

- D) Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the application is initiated.
- E) Conflicts with agricultural practices; and
- F) Other conflicts for which consideration is necessary in order to carry out the provisions of the Columbia County Surface Mining Ordinance or ordinances pursuant to ORS 517.780.

Finding 17: There are no airports in the area. The applicant did not identify conflicts with agricultural practices. As stated by the applicant, Tide Creek Rock has been mining in this vicinity together with farming activities on neighboring property for years without conflict. Of the 23 identified tax lots in the impact area, five are principally involved in farm use. These farms are mainly east of the Hwy 30 corridor and are not expected to be influenced by mining activities in the expansion area because of the significant separation created by topography and natural vegetative screening. Columbia County has no Surface Mining Ordinance in which to conflict.

With respect to conflicts with other Goal 5 resources, the applicant identified four Goal 5 resources in the impact area, 1) Tide Creek, 2) three stand alone wetlands identified on State Wetland Inventory, 3) Peripheral Big Game Habitat, and 4) another significant aggregate site, the Tide Creek Rock site. The stand alone wetlands are quite some distance away from the proposed expansion area and will not be impacted. Big Game Habitat area regulations allow the underlying approved use but require clustering of uses so to lessen the impact on big game habitat. This application proposes clustering mining activities with the proposed and existing adjacent mining site to protect existing Goal 5 resource habitat.

By far the most significant possible Goal 5 conflict for mining the expanded site are those associated with Tide Creek itself. At the quarry location, the Oregon Department of Forestry Stream Classification Map identifies Tide Creek as a large fish bearing stream. County Zoning Ordinance requires a 50 foot riparian area setback for any development, including mining, fill and grading, from the top bank of the creek. The applicant's mining plan would maintain a 50 feet setback border and vegetative buffer along Tide Creek. A point of encroachment, identified by the applicant is a portion of the creek at the old bridge location. This area is a focal point of mining activity because all of the mined rock from the expansion quarry will be transported across this private bridge. The bridge itself and the access road to serve mining activity are within the 50' riparian corridor. Staff understands that this bridge has been there for at least 40 or more years. It also serves a Bonneville Power lines access easement. The applicant has identified the use of berms to protect the creek from stormwater runoff, and proposes maintaining vegetative buffers, use of bioswales and best management practices as methods to protect the sensitive creek habitat. There is a small area to be mined, a vertical hillside and road area, approaching the bridge that is within the 50' of the creek. To mitigate possible truck spillage and rolling debris at this well traveled transport bridge location from entering the creek, Staff has

considered and is open for a possible measures be applied to minimize this identified conflict, i.e. fencing on bridge & barrier berms. The applicant has not proposed any mitigation measures to address this conflict.

Continuing with Section 1036 Zoning Ordinance

- .4 Determine reasonable and practicable measures which can be required of the mining activity which minimize the conflicts identified in paragraph 1036.3, above. If reasonable and practical measures are identified to minimize all identified conflicts, mining shall be allowed at the subject site with the required conditions. If identified conflicts can not be minimized then Subsection .5 applies and ESEE analysis is required. *[Amended by Ordinance No. 2000-04 effective 11/13/00].*

To determine whether proposed measures would minimize conflicts to agricultural practices, findings must be made that the mining activity would not:

- A) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
- B) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm and forest use.

Finding 18: The applicant has identified potential conflicts in the impact area for residential uses only. As for farm and forestry practices, Staff finds that mining activity at the expansion site will not force a significant change or significantly increase the cost of farm or forest practices in the area. This determination is supported by the fact that there is a large separation by topography and natural vegetative cover between the uses, and the fact that farm and forest activities have co-existed with Tide Creek Rock for many years with no conflicts. Staff finds no conflicts with vibration sensitive uses or with traffic conditions. The application identifies potential conflicts with noise, dust and vibration with residential uses in the impact area; and, potential conflict with stormwater runoff and other contaminants reaching the protected Tide Creek. The applicant proposes to minimize the potential conflicts by leaving existing vegetation on the sides of the expansion quarry that border residential uses or public roads; and by constructing berms and swales to prevent stormwater from leaving the quarry site.

The applicant states that all potential conflicts can be minimized; therefore, an ESEE analysis is not required. If the Board of Commissioners discover additional evidence that conflicts have not

been minimized, then additional conditions can be placed on the project to minimize the conflict, or the applicant must complete an adequate ESEE analysis of the impacted use.

Typically, the applicant provides a standard ESEE consequences analysis for conflicting uses and proposes measures to mitigate identified conflicts and protect the mine against both existing and new uses. The applicant did not provide any ESEE analysis in the application. The Ordinance provides for two separate circumstances for ESEE analysis, one for the identified existing or approved conflicting uses for which the identified conflicts can not be minimized through conditioned measures. And, the second is an ESEE consequences analysis for limiting conflicting uses by developing protection measures for new or future uses that could be allowed in the underlying zone, FA-80.

The applicant contends, application page 16 of 41, that the natural topography, existing vegetated buffers and other standard mining practices will minimize all identified existing conflicting uses. Therefore, by rule the ESEE analysis is not required. However, the County is also obligated to provide the second ESEE consequence analysis for use in protecting the mine from new future uses that may conflict with mining. This ESEE analysis was not provided by the applicant. As stated above the applicant typically provides this ESEE analysis in their application as required by the ordinance. Although not identified by staff during the application acceptance process as a missing part of the application, staff did ask the applicant to provide this additional analysis on April 10, 2013. The applicant stated that it will be submitted hopefully one week prior to the Board hearing date of May 1, 2013.

Staff can not make an earlier finding of compliance for 1033.7 until an ESEE analysis is submitted and reviewed. Later in this Report under Section 1037 Protection of Mining Activities Where Mining is Allowed, there is a similar criterion in paragraph 1037.5, Finding 23, that will also need further evaluation and information. Also Finding 12 is similar.

Continuing with Section 1036 Zoning Ordinance

- .5 For any existing conflicts that cannot be minimized, the ESEE consequences of either allowing, limiting, or not allowing mining at the site will be determined and analyzed. A determination shall be made that the benefits to the public outweigh the detriments suffered as a result of said conflicts. Using the ESEE analysis, a final decision will be made by determining:
 - A) The degree of adverse effect on existing land uses in the impact area;
 - B) Reasonable and practicable measures that could be taken to reduce the identified adverse effects; and

- C) The probable duration of the mining operation and the proposed post-mining use of the site.

Finding 19: The applicant has provided data and analysis demonstrating that there are no conflicts that can not be minimized, see page 17 of 41 of application. Staff finds that so far in the review process, other than further protections being warranted for Tide Creek itself, there are no existing conflicts that the applicant has not raised and there are no conflicts that can not be minimized by measures proposed by the applicant or required as conditions of mining approval.

Continuing with Section 1037 of the Zoning Ordinance:

1037 Protection of Mining Activities Where Mining is Allowed:

- .1 Where mining is allowed through the process outlined in this ordinance, the plan map and zoning map shall be amended to allow such mining. Any required measures to minimize conflicts, including special conditions and procedures regulating mining, shall be clear and objective.
- .2 Any additional land use review processes, like Site Design Review, shall not exceed the minimum review necessary to assure compliance with this Section and OAR 660 Division 23, and shall not provide opportunities to deny mining for reasons unrelated to this Section, or attach additional approval requirements, except with regard to mining or processing activities:
 - A) For which the Zone Change and Plan Amendment application does not provide information sufficient to determine clear and objective measures to resolve identified conflicts;
 - B) Which were not requested in the application;
 - C) For which a significant change to the type, location, or duration of the activity shown on the Zone Change and Plan Amendment application is proposed by the operator.

Finding 20: If this application is approved and mining is allowed under this Ordinance the County Plan and Zoning Maps will be amended and the required conflict minimization measures will be implemented. The applicant proposes to leave existing vegetative screens & buffers and construct new screens & buffers as needed when mining phases progress. The applicant proposes to mitigate storm water runoff by creating berms and /or bio-swales to maintain and enhance a 50 foot riparian buffer from Tide Creek.

If mining is approved, the applicant will be required to obtain a Site Design Review approval prior to beginning mining. This review and resulting conditions shall only be the minimum necessary to comply with Section 1550, Design Review and OAR 660 Division 23.

- .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 21: If mining is allowed at this expansion site, Table XVI-2 of the Columbia County Comprehensive Plan will be amended to include this particular site. The post-mining use of this site will be forestry use.

Continuing with Section 1037 of the Zoning Ordinance

- .4 The County shall allow a currently approved aggregate processing operation at an existing site to process material from a new or expansion site without requiring a reauthorization of the existing processing operation unless limits on such processing were established at the time it was approved by the County.

Finding 22: The mined material from this expansion site will be processed at the present Tide Creek Rock plant site, immediately adjacent to the proposed expansion areas. Any violations, which may exist at the Tide Creek Rock plant must be resolved through code enforcement procedures, not through this amendment process. The existing Tide Creek Rock processing facility will not require reauthorization.

- .5 Where mining is allowed under the process included in this Section, for a significant mineral and aggregate site, new conflicting uses proposed within the specified impact area surrounding the mine shall be allowed, limited or not allowed, by following the standard ESEE process in OAR 660-23-040 and 660-23-050. For the purposes of this subsection, the impact area shall be a minimum of 1500 feet from the boundaries of the mining area unless a greater distance is identified and allowed under 1036.1.

Finding 23: Again, the applicant has not provided an ESEE analysis as required by this paragraph to determine whether to allow, limit, or prevent future conflicting uses. The applicant proposes to limit future conflicting uses within the 1500 foot impact area by applying the Surface Mining Impact Overlay (SMIO) Zone to be administered by the County. But, the County can not administer a SMIO without the ESEE consequences of future uses compared with mining uses.

- .6 Where mining is allowed under the process of this Section and a Surface Mining (SM) designation is approved for the site, a Surface Mining Impact Overlay (SMIO) zone shall be created surrounding the surface mining zone, except when the impact area(s) are located in an Urban Growth Boundary, and except where the County has no jurisdiction. The Surface Mining Impact Overlay Zone (SMIO) shall, at a minimum, encompass the same boundary as determined under 1036.1 The County shall establish specific conditions of approval for mining sites, and their designated impact areas which extend into an Urban Growth Area.
- .7 In lieu of having a Surface Mining Impact Overlay zone imposed on the impact area of an approved mining activity, the owner or operator of the mine and the property owners of the impact area may propose agreement(s) or other enforceable conditions on approval of mining activity, the provisions of which satisfy any and all negative impacts of the conflicting use to the mutual satisfaction of the operator and owners of properties with future conflicting uses. Such agreements or conditions shall be recorded with the County Clerks Office and run with the land, and shall be binding on all future owners, until reclamation is realized and mining activity ceases.

Finding 24: A Surface Mining Impact Overlay zone will be created to encompass all land within the impact area, within 1500 feet from the perimeter of the site. Modification or adjustment of the SMIO area, in combination with protection measures, is allowable with sufficient evidence and agreements. The impact area is not within an Urban Growth Area. The applicant does not propose private agreements with property owners within the impact area at this time. The applicant has proposed conflict minimization measures to reduce conflicts with adjacent uses to a level that is no longer significant. The applicant requests that one of the limitations to new sensitive approved uses be the requirement that they record a waiver of remonstrance stating that they will not object to lawful mining activities.

Continuing with Section 1038 of the Zoning Ordinance:

1038 Surface Mining Impact Overlay Zone (SMIO)

- .1 The purpose of the Surface Mining Impact Overlay Zone is to provide for the development and utilization of lands within the area of impact of a

significant mineral and aggregate resource site, zoned Surface Mining (SM), in order to maintain that unique deposit of material for extraction and future uses of the SM Zone, to encourage compatible uses and to avoid the establishment of incompatible uses through location, design and notification.

- .2 The location of a Surface Mining Impact Overlay Zone will be designated at the time of designation of SM Zoned site. It will be the area defined as the impact area under Subsection 1032.2 and determined under 1034.4, 1036.1 and 1037.5. For existing SM Zoned sites the owner or operator of the site shall apply for such designation within 2 years of enactment and final approval of this amendment.

Finding 25: If this mining application is approved, the County will limit uses that conflict with this significant aggregate resource site by implementing a Surface Mining Impact Overlay (SMIO) zone within 1500 feet of the Site.

Continuing with Section 1038 of the Zoning Ordinance

- .3 Relationship to the standards of the underlying zoning districts: The provisions of the Surface Mining Impact Overlay District are intended to supplement the provisions of the underlying zoning districts. In addition to the development standards of the primary district, the establishment of noise, dust and vibration sensitive uses and the creation of new parcels within the Surface Mining Impact Overlay District (SMIO) shall be subject to the following:
 - A) Setbacks: The location of new noise, dust or vibration sensitive uses, constructed after the establishment of the SMIO district, shall be situated on the parcel to minimize potential adverse effects of noise, dust or vibration. Their location shall take into consideration the surrounding topography and transportation system and, if necessary, setbacks greater than those required by the underlying district may be imposed by the review authority.
 - B) Noise, Dust and Vibration Reduction Measures: Measures may be required of owners of new noise, dust or vibration sensitive uses constructed after the establishment of the SMIO district when determined by the review authority to be necessary to ensure compliance by surface mining operator with applicable regulations and conditions of the Operating Permit. Reduction measures may include, but not limited to, berms, walls, vegetative buffers, insulation, double pane windows, reflective siding, foundation washer insulation, orientation of windows. The nature and extent of the reduction measures shall be determined by the review authority.

- C) Covenant Not To Sue: Prior to issuance of any building permits for new noise, dust or vibration sensitive uses after the establishment of a SMIO District, the owner shall sign and record in the County Clerk's Office, a "Covenant Not To Sue" or other instrument which restricts present and future owners from remonstrating against or objecting to permitted mining activities allowed in the nearby SM District.
- D) Creation of New Lots or Parcels: A notation shall be placed on an instrument creating a new lot or parcel which states that the lot or parcel is within a Surface Mining Impact Overlay District (SMIO) and is subject to the standards of Columbia County Zoning Ordinance Subsection 1038.

Finding 26: Any new uses in the SMIO District shall be reviewed to minimize potential adverse effects of noise, dust or vibration. Setbacks for new uses shall be allowed after consideration of measures to minimize potential adverse effects. Their location shall take into consideration the surrounding topography and transportation system and, if necessary, setbacks greater than those allowed by the underlying district may be imposed by the decision making authority.

Any new uses in the SMIO District may be required to implement noise, dust and vibration reduction measures that may include but are not limited to, berms, walls, vegetative buffers, insulation, double pane windows, reflective siding, foundation washer insulation, and orientation of windows.

The owner of any new uses in th SMIO District will be required to sign and record a waiver of remonstrance (covenant not to sue) which states the the present or any future owners shall not remonstrate against or object to permitted mining activities allowed in the nearby SM District.

Any new lots or parcels created in the SMIO District shall have a notation placed on the deed or plat which states the lot or parcel is in the impact area of the significant aggregate site and is subject Surface Mining Impact Overlay Section 1038 standards.

Staff finds that by the County requiring new uses in the SMIO District to follow the above requirements, protection will be afforded to the new Significant Goal 5 aggregate site.

Continuing with Section 1038 of the Zoning Ordinance

- .4 Land Use Approval and Permit Review: Prior to the commencement of any development activity involving the construction of new structures or substantial modification of existing structures requiring a building permit for a use that is noise, dust or vibration sensitive and is allowed in the SMIO and its underlying district, the development activity must first be reviewed for compliance with applicable standards of this Section 1030 and underlying zoning district and be granted approval by the Director. The Director shall review plans submitted for a

building permit and may request additional or amended plans, specifications or analysis prepared by an engineer or other qualified person, showing that the applicable standards are met or can be met by specified development standards. Review by the Director shall follow Section 1600 Staff Approval, subject to its notifications and appeal.

Finding 27: If this application is approved, the Director will require review any new proposed uses requiring a land use permit for any mining discharge sensitive uses within the adopted SMIO area or if not adjusted, 1500 feet impact area.

- .5 Required Findings: The Director shall make the decision for approval with conditions within the Surface Mining Impact Overlay Zone (SMIO) based on the following findings:
- A) The proposed use will not interfere with or cause an adverse impact on the lawfully established and lawfully operating mining operations;
 - B) The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this section, or terms of any approved Surface Mining Zoning conditions, or terms of the Surface Mining Operating Permit.
 - C) Any setbacks or other requirements of this subsection shall be clear and objective.

Finding 28: If this application is approved, the Director will require review any new proposed uses requiring a land use permit for any mining discharge sensitive uses according to the above criteria.

Continuing with Section 1038 of the Zoning Ordinance

- .6 Nonconforming uses and structures: Nonconforming uses and structures legally existing on or before the effective date of this Section may continue provided that, should the uses or structures be modified so as to become more nonconforming, the owner of such structures or uses first obtain land use approval pursuant to this Subsection.

Finding 29: If this application is approved, the Director will review any proposed modifications of nonconforming uses and structures in the SMIO pursuant to the criteria of this subsection.

Continuing with the applicable provisions of Section 1040 of the Columbia County Zoning Ordinance:

Section 1040 SURFACE MINING SM

[Amended by Ordinance 98-01, effective 6/29/98].

1041 Purpose:

- .1 To provide for development and utilization of deposits of aggregate and resource materials.
- .2 To provide for the protection and utilization of these resources in a manner which does not conflict with other land uses.
- .3 To assure economy in handling and transportation costs by locating removal, processing, and storage activities in as close proximity to the point of end use as feasible.

Finding 30: This application and its approval and implementation furthers the purpose of Surface Mining.

1042 Permitted Uses: The following uses shall be permitted subject to compliance with Section 1044 and all other applicable rules, standards, or statutes governing such uses, including the Columbia County Comprehensive Plan, the Surface Mining and Land Reclamation Ordinance, the Zoning Ordinance of Columbia County, and Oregon Department of Environmental Quality rules governing sewage disposal, air, and water quality:

- .1 Removal, excavation, and processing of aggregate materials.
- .2 Equipment and structures, except residences, which are necessary or accessory to the operation of an aggregate site.
- .3 Storage of heavy equipment necessary for operation.
- .4 Agricultural practices.
- .5 Aggregate stockpiling.
- .6 Sedimentation ponds when used in conjunction with aggregate removal operations.

- .7 The managing, growing, processing and harvesting of timber and forest products, including the operation of accessory equipment used in the manufacturing, growing, and harvesting of forest products, as permitted in ORS 215.283(2)(l).
- .8 Concrete and asphalt batch plant on a temporary basis not to exceed 60 days.

Finding 31: The applicant has indicated the purpose of the application is to remove and excavate aggregate materials from the subject expansion area only, and the storage of some equipment on site. The processing of aggregate materials will be done at the existing crushing, washing and stockpiling area, not in this expansion area. Most equipment will be stored at the existing shop area. The existing sedimentation pond will continue to be used.

Continuing with Section 1040 of the Zoning Ordinance

1044 Operating Standards: All mineral resource operations, either permitted or allowed by conditional use, shall conform to the following standards:

- .1 The landowner and operator shall be jointly responsible for signing the application.
- .2 The operator and landowner must remain in compliance with, and be responsible for, all the requirements of affected agencies.
- .3 Lot or parcel size: The minimum parcel size for a permitted or conditional use shall be 2 acres.

Finding 32: John Petersen, the owner and operator of the land and Tide Creek Rock Inc. signed the application. The landowner and operator will be required to remain in compliance with affected agencies. The site is 56 acres, thus meeting the minimum lot size.

Continuing with Section 1044 of the Zoning Ordinance

.4 Operating Setbacks: Each aggregate site within the district shall observe the following minimum setbacks:

- A. No extraction or removal of aggregate is permitted within 50 feet of the right-of-way of public roads or easements of private roads.

- B. No extraction or removal of aggregate is permitted within 50 feet of another property, nor within 200 feet of a residence or zoning district which allows a residence as a permitted use, without written consent of the property owner(s).
- C. Processing equipment and batch plants shall not be operated within 50 feet of another property without written consent of the property owner(s). Processing equipment and batch plants shall not operate within 50 feet of a public road right-of-way

Finding 33: The applicant's mining plan shows 50 feet setback from Hwy 30 and Tide Creek Road and 200 feet setback from the dwelling immediately to the south, in compliance with these setback requirements. However, the applicant is requesting a variance to the 50' road setback on a short section of Tide Creek Road to remove a steep area which is a slide hazard. There is a history of slides near Tide Creek Road from this hillside. See Section 1504 Variance and Findings below.

- .5 Operating Hours: Operation shall not start before 7:00 a.m., nor continue after 6:00 p.m. daily, except as authorized by Subsection 1046. The Department may exempt isolated aggregate sites from the established operating hours. Notice of the proposed change in operating hours must be provided to all property owners within a 1,000 foot radius of the aggregate site and to owners of property adjacent to private aggregate site access road. If no request for a public hearing is made within ten calendar days of mailing said notice, the operating hours shall be changed as requested by the aggregate operator. The Commission may, at any time, require resumption of standard operating hours. If a request is made for a public hearing, adjustment of standard operating hours shall be determined by the County. The Department may approve one period of extended operation beyond the 7:00 a.m. to 6:00 p.m. operating hours once every six months, not to exceed a two week period.

Finding 34: The applicant proposes that operating hours be established as starting at 6:00 AM and ending at 8:00 PM daily. The standard operating hours are 7:00 AM to 6:00 PM. The applicant requests these additional hours because of the site's rural location, natural topography and forested buffer areas that limit sight and sound from adjoining properties. Through written and oral testimony submitted by their attorney Phil Grillo, however, the Cosgriffs, who own property nearby, object to the extended hours of operation requested by the applicant. They are concerned that when the mine gets closer to their property, from 1500' to only 300', the resultant noise, dust and vibration associated with heavy vehicles mining rock would be burdensome.

Continuing with Section 1044 of the Zoning Ordinance

- .6 **Visual Impacts:** Existing trees and other natural vegetation adjacent to any public park, residential development, public road, or residential zoning district shall be preserved for a minimum width of 25 feet. Screening shall be provided at the boundary of the property on which the surface mining operation is located. If such trees and other vegetation are insufficient to provide a screen, such screening may be accomplished by one or more of the following:
- A. A sight-obscuring fence or wall;
 - B. A landscaped berm or preservation of a natural slope;
 - C. Use of native vegetation, or plants and trees with demonstrated ability to thrive under the anticipated conditions.

Finding 35: All trees and vegetation along the public roads that provide adequate screening shall be preserved as a visual buffer. The mining plan shows a 50' vegetated screen along Hwy 30 and the Tide Creek riparian corridor. The applicant will maintain existing trees for this purpose. The mining plan also shows a vegetative screen between Phase 3 and the existing house on T/L 900 (Phase 4 Long Term Future Mining). The propose mining expansion area is very secluded, in a narrow valley behind a large hill. Staff finds that if the existing vegetation is maintained the site is adequately screened.

- .7 **Access:** The operation shall have access to a public road with two-way capacity. The County may impose weight/load restrictions and/or require the operator to post an adequate surety bond for road repairs. An on-site access or service road used for mining shall be dust-free at all points within 300 feet of a public road or residence off the property being mined.

Finding 36: Tide Creek Rock has access to a major arterial, Hwy 30, via a private driveway and Old Hwy 30 which parallels Hwy 30 for a few hundred yards. This section of Old Hwy 30 is used only for farm access to the east and Tide Creek Rock to the west. There are little to no traffic issues in transporting truck loads of rock on this route. Tide Creek Rock maintains the driveway and road to Hwy 30: and the county is not imposing any weight limits. There are weight limits on the old bridge going south on Old Hwy 30, but trucks do not use this southerly roadway. The gravel access within 300' of the public road will be watered for dust protection when applicable.

Continuing with Section 1044 of the Zoning Ordinance

- .8 **Noise:** Each aggregate site shall operate with the applicable noise standards required by the Department of Environmental Quality or other state or federal agencies.

Finding 37: This aggregate site has been and will continue to operate within the applicable noise standards of DEQ.

- .9 **Water Quality:** All aggregate sites in the district shall be operated in a manner which will not create turbidity, cause siltation, deposit undesirable materials, or adversely affect water temperatures in any stream, drainage, or river. In addition, the operator shall not cause contamination of groundwater or change a stream channel unless the channel change has previously been approved by all applicable state and federal agencies. Provisions for settling ponds, diversion dikes, channels, and other structures may be required to protect these water resources.

Finding 38: The new expansion site surface water runoff will be contained by a berm along the existing access road adjacent to Tide Creek to avoid runoff into the creek. The applicant states that the puddling of water will be insignificant because of the cracked basalt medium of the rock in the expansion area, allowing settling and absorption into the ground. Never the less, containment of surface water from entering the creek will be required at this active transport location near the bridge. Transport trucks will be hauling mined rock and dirt across this bridge, and there needs to be some sort of protection measures to protect falling debris from entering the creek while crossing.

Continuing with Section 1044 of the Zoning Ordinance

.10 **Archeological Sites:**

- A. Prior to excavation - All sites proposed for excavation shall be inventoried for their archaeological significance in accordance with standards set by the State Archaeologist. If an area proposed for excavation is found to contain an archaeological site(s), the Planning Commission shall hold a public hearing, in accordance with Section 1603, to review testimony regarding the site(s) and establish measures to mitigate potential conflicts as necessary. The State Archaeologist shall be notified of such public hearings.
- B. During Excavation - If an archaeological site(s) is found during excavation, all work which would impact the site shall halt immediately and the requirements outlined in Section 1044.10A shall be met.

Finding 39: The State Archeologist at the Historic Preservation Office was contacted and provided a letter stating there are no known cultural resource sites in the area; however, if the applicant were to discover cultural artifacts, they must follow the approved guidelines.

Continuing with Section 1044 of the Zoning Ordinance

- .11 Erosion: The erosion of surfaces affected by mining activities shall be controlled by plantings of ground cover and other modes which protect these surfaces.
- .12 Slopes and Grading: Excavations, both above and below water level, shall be maintained in an operationally and environmentally safe condition by complying with standards established by the Oregon Safe Employment Act (ORS 654.001 to 654.295 and 654.991), the Oregon Safety and Health Act of 1970 (19 U.S.C. 651 et. seq.), the Department of Geology and Mineral Industries, and the regulations of other affected agencies.

Finding 40: According to the applicant's plan, all disturbed areas and overburden stock piles will be planted to protect against erosion. Swales and protective berms will be installed to protect expansion area runoff from entering the creek. The applicant is required to get an Operating Permit from the State DOGAMI. Standards applicable to mining this site will be administered through the Operating Permit.

- .13 Land Reclamation: A land owner or operator of an aggregate site shall, in advance of any excavation of aggregate materials, prepare and submit a site reclamation plan in accord with the requirements of the Surface Mining and Land Reclamation Ordinance. Reclamation must return the land to natural condition or return it to a state compatible with the livability, value, and appropriate development of the affected land and adjacent property. Reclamation shall begin within 12 months after mining activities cease on any segment of the area where mining has occurred and shall be completed within 3 years after mining activities cease. This does not apply to any land being used as plant site, stock pile, or work area for ongoing extracting mining operation.

Finding 41: Columbia County no longer has a Surface Mining Ordinance. The conceptual reclamation plan is to return the site to forestry use after mining is depleted. The applicant will be required to comply with reclamation requirements of an operating permit from DOGAMI should this application be approved by the County.

Continuing with Columbia County Zoning Ordinance:

Section 1502

Zone Changes (Map Amendments):

There are two types of zone changes, which will be considered by the Commission: Major Map Amendments and Minor Map Amendments.

.1 Major Map Amendments are defined as Zone Changes, which require the Comprehensive Plan Map to be amended in order to allow the proposed Zone Change to conform with the Comprehensive Plan. The approval of this type of Zone Change is a 2-step process:

A. The Commission shall hold a hearing on the proposed Zone Change, either concurrently or following a hearing, on the proposed amendment to the Comprehensive Plan, which is necessary to allow the proposed zoning to conform with the Comprehensive Plan. The Commission may recommend approval of a Major Map Amendment to the Board of Commissioners provided they find adequate evidence has been presented at the hearing substantiating the following:

1. The proposed Zone Change is consistent with the policies of the Comprehensive Plan;
2. The proposed Zone Change is consistent with the Statewide Planning Goals (ORS 197); and
3. The property and affected area is presently provided with adequate facilities, services, and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.

B. Final approval of a Major Map Amendment may be given by the Board of Commissioners. The Commissioners shall hold a hearing on the proposed Zone Change either concurrently or following a hearing on the proposed Comprehensive Plan Amendment, which is necessary to allow the proposed zoning to conform with the Comprehensive Plan. The Board may approve a Major Map Amendment provided they find adequate evidence has been presented substantiating the following:

1. The proposed Zone Change is consistent with the policies of the Comprehensive Plan;
2. The proposed Zone Change is consistent with the Statewide Planning Goals (ORS 197); and
3. The property and affected area is presently provided with adequate facilities, services, and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.

.3 Alternate Zones: If the Commission determines that a zone other than the one being proposed will adequately allow the establishment of the proposed use,

the Commission may substitute the alternate zone for the proposed zone in either the Major Map Amendment or the Minor Map Amendment procedures.

Finding 42: The applicant is requesting approval of a Comprehensive Plan Amendment application, which will change the Comprehensive Plan Map from Forest Resource to Aggregate Resource and the Zoning Map from Forest Agriculture to Surface Mining for the site. This proposed zone change is being processed as a Major Map Amendment because the request will require the official Comprehensive Plan Map to be amended in order for the official Zoning Map and the Comprehensive Plan to be in agreement. The applicant has also requested that the site (approximately 56 acres) be listed on the Inventory of Significant Mineral Resources. Goals and policies of the Comprehensive Plan will be reviewed later in this report. The applicant has addressed the Comprehensive Plan and the Statewide Planning Goals. Staff finds that the site is currently provided with adequate facilities and services for the proposed use.

Continuing with Columbia County Zoning Ordinance:

Section 1603

Quasi judicial Public Hearings:

As provided elsewhere in this ordinance, the Hearings Officer, Planning Commission, or Board of Commissioners may approve certain actions, which are in conformance with the provisions of this ordinance. Zone Changes, Conditional Use Permits, Major Variances, and Temporary Use Permits shall be reviewed by the appropriate body and may be approved using the following procedures:

.1 The applicant shall submit an application and any necessary supplemental information as required by this ordinance to the Planning Department. The application shall be reviewed for completeness and the applicant notified in writing of any deficiencies. The application shall be deemed complete upon receipt of all pertinent information. If an application for a permit or zone change is incomplete, the Planning Department shall notify the applicant of exactly what information is missing within 5 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of this section upon receipt by the Planning Department of the missing information. *[effective 7-15-97]*

.2 Once an application is deemed complete, it shall be scheduled for the earliest possible hearing before the Planning Commission or Hearings Officer. The Director will publish a notice of the request in a paper of general circulation not less than 10 calendar days prior to the scheduled public hearing. Notices will also be mailed to adjacent individual property owners in accordance with ORS 197.763. *[effective 7-15-97]*

[Note: ORS 197.763 requires 20 days notice (or 10 days before the first hearing if there will be 2 or more hearings), and that notice be provided to property owners within 100' (inside UGBs), 250' (outside UGBs), or 500' (in farm or forest zones).]

.3 At the public hearing, the staff, applicant, and interested parties may present information relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved, or what modifications are necessary for approval. [effective 7-15-97]

.4 Approval of any action by the Planning Commission at the public hearing shall be by procedure outlined in Ordinance 91-2. [effective 7-15-97]

Finding 43: This application, PA 13-01, for a Comprehensive Plan Amendment has been scheduled for two public hearings: one before the County Planning Commission, held on March 4, 2013; and the other before the Board of County Commissioners on May 1, 2013.

The applicant submitted the application on December 17, 2012. The application was deemed complete on January 4, 2013. A public hearing was scheduled for February 4, 2013 and continued until March 4, 2013 for the Planning Commission. Notice of the application and hearing date was mailed to the St. Helens - Columbia City CPAC, nearby property owners, and affected agencies on January 7, 2013. A measure 56 notice was mailed on February 11, 2013 advising affected property owners within 1500 feet of the mine, of a potential re-zone of their property - the application of a Surface Mining Impact Overlay zone. For the Board of Commissioners hearing, notice of the request and public hearing was published in local newspapers of general circulation on April 10, 2013. The hearings are conducted in accordance with ORS 197.763. These criterion have been met.

Continuing with Columbia County Zoning Ordinance:

Section 1605

Zone Change - Major Map Amendment:

The hearing for a major map amendment shall follow the procedure established in Sections 1502, 1502.1, 1502.1A and 1502.1B. This hearing cannot result in the approval of a major map amendment. The Commission may make a recommendation to the Board of Commissioners that such a zone change be granted. Approval by the majority of the Commission is necessary in order to make recommendation to the Board of Commissioners. The Board of Commissioners hearing on the proposed zone change - major map amendment

will be on the record unless a majority of the Board votes to allow the admission of new evidence.

Finding 44: The hearings for this application, which is a major map amendment, will follow the above mentioned procedures. The Planning Commission has held a quasi-judicial hearing and has made a recommendation to the Board of Commissioners, Final Order PA 13-01 & V 13-03. The Board of Commissioners will hold a hearing and make a formal decision to allow, allow with conditions, or prohibit surface mining at this site.

Continuing with Columbia County Zoning Ordinance:

Section 1607 **Consistency with the Comprehensive Plan:**

All amendments to the Zoning Ordinance Text and Map shall be consistent with the Comprehensive Plan Text and Maps.

.1 The Commission shall hold a hearing to consider the proposed amendments and shall make a recommendation to the Board of Commissioners with regard to the proposed amendments. The Board of Commissioners shall hold at least one hearing to consider the proposed amendments. Both the Commission and the Board of Commissioners hearings will require notice in the manner outlined in Section 1611.

Finding 45: The applicant proposes to amend the Comprehensive Plan designation of the site to Aggregate Resource and the Zoning designation of the site to Surface Mining. These amendments would allow the Comprehensive Plan and Zoning Ordinance to be consistent with each other. The applicant proposes to designate the site (Approximately 56.7 acres) as a significant Goal 5 mineral and aggregate resource site on the county's inventory of aggregate resources. The Board will hold a hearing on May 1, 2013, after receiving a recommendation from the Planning Commission following the March 4, 2013 hearing.

Continuing with Columbia County Zoning Ordinance:

Section 1608 **Contents of Notice:**

Notice of a quasi-judicial hearing shall contain the following information:

- .1 The date, time, and place of the hearing;
- .2 A description of the subject property, reasonably calculated to give notice as to the actual location, including but not limited to the tax account number assigned to the lot or parcel by the Columbia

County Tax Assessor;

- .3 Nature of the proposed action;
- .4 Interested parties may appear and be heard;
- .5 Hearing to be held according to the procedures established in the Zoning Ordinance.

Finding 46: For both hearings, notice was published in the local newspapers containing all of the above mentioned information and was published in the local news media at least 10 days prior to the hearing. Individual notice containing the above information was provide to surrounding property owners within 1,500 feet of the subject property line.

Continuing with Section 1170 of the County Zoning Ordinance:

Section 1170 RIPARIAN CORRIDORS, WETLANDS, WATER QUALITY, AND FISH AND WILDLIFE HABITAT PROTECTION OVERLAY ZONE RP

[Amended by Ordinance No. 2003 - 5, effective December 15, 2003].

1171 Purpose.

- A. The purpose of this Section is to protect and restore water bodies and their associated riparian corridors, thereby protecting and restoring the hydrological, ecological and land conservation function these areas provide. Specifically, this Section is intended to protect habitat for fish and other aquatic life, protect habitat for wildlife, protect water quality for human uses and for aquatic life, control erosion and limit sedimentation, prevent property damage during floods and storms, protect native plant species, and conserve the scenic and recreational values of riparian areas.
- B. This Section meets the above purpose by prohibiting structures and other development from riparian areas around fish-bearing lakes, rivers, streams and associated wetlands, and by prohibiting vegetation removal and/or other vegetative alterations in riparian corridors. In cases of hardship, the Section provides a procedure to reduce the riparian corridor boundary. Alteration of the riparian corridor boundary in such cases shall be offset by appropriate restoration or mitigation, as stipulated in this Section.
- C. For the purposes of this Section, "development" includes buildings and/or structures which require a building permit under the State of Oregon Uniform Building Code, as amended, or any alteration in the riparian corridor by grading, placement of fill material, construction of an

impervious surface, including paved or gravel parking areas or paths, and any land clearing activity such as removal of trees or other vegetation.

- D. This Section does not apply to land legally used for commercial forestry operations or standard farm practices, both of which are exempt from these riparian corridor protection standards. The use of land for commercial forestry is regulated by the Oregon Department of Forestry. The use of land for standard farm practices are regulated by the Oregon Department of Agriculture, with riparian area and water quality issues governed specifically by ORS 568.210 to ORS 568.805.

Finding 47: Tide Creek is a significant stream adjacent to Tide Creek Rock Co. mining permit area and adjacent to the subject property, expansion area. Mining or land clearing is a development that is prohibited within the stream or nearby riparian area.

Continuing with Section 1172 of the Zoning Ordinance:

1172 Riparian Corridor Standards:

- A. The inventory of Columbia County streams contained in the Oregon Department of Forestry Stream Classification Maps specifies which streams and lakes are fish-bearing. Fish-bearing lakes are identified on the map entitled, "Lakes of Columbia County." A copy of the most current Stream Classification Maps is attached to the Comprehensive Plan, Technical Appendix Part XVI, Article X(B) for reference. The map, "Lakes of Columbia County" is attached to the Comprehensive Plan, Technical Appendix Part XVI, Article X(B), and is incorporated therein. Based upon the stream and lake inventories, the following riparian corridor boundaries shall be established:
 - (1) Lakes. Along all fish-bearing lakes, the riparian corridor boundary shall be 50-feet from the top-of-bank, except as provided in CCZO Section 1172(A)(5), below.
 - (2) Fish-Bearing Streams, Rivers and Sloughs (Less than 1,000 cfs). Along all fish-bearing streams, rivers, and sloughs with an average annual stream flow of less than 1,000 cubic feet per second (cfs), the riparian corridor boundary shall be 50-feet from the top-of-bank, except as provided in CCZO Section 1172(A)(5), below. Average annual stream flow information shall be provided by the Oregon Water Resources Department.

Finding 48: Tide Creek is identified on Department of Forestry Stream Classification Map as a fish bearing stream with less than 1,000 cfs flow. The riparian corridor boundary is 50 feet from the top bank.

Continuing with Section 1173 of the Zoning Ordinance:

1173 Activities Prohibited within the Riparian Corridor Boundary

In addition to the prohibitions in the underlying zone, the following activities are prohibited within a riparian corridor boundary, except as provided for in Subsections 1175 and 1176 of this Section:

- A. The alteration of a riparian corridor by grading, placement of fill material, and/or impervious surfaces, including paved or gravel parking areas, or paths, and/or the construction of buildings or other structures which require a building permit under the State of Oregon Uniform Building Code, as amended.
- B. The removal of riparian trees or vegetation.

Finding 49: Mining activity that alters the grade or places fill is prohibited in the riparian corridor.

Continuing with Section 1174 of the Zoning Ordinance:

1175 Permitted Uses and Activities. Notwithstanding the prohibitions set forth in Subsection 1173 above, the following activities are allowed within the riparian corridor boundary:

- B. The following development is allowed within the riparian corridor boundary.
 - 1. Streets, roads, and driveways, if:
 - a. If it is not possible to locate the street, road or driveway outside of the riparian corridor boundary; and
 - b. The street, road or driveway is designed to minimize intrusion into the riparian corridor boundary.

Finding 50: The applicant proposes to use an old bridge to access the expansion area and remove rock the same way.(See maps) The old bridge, built strong enough to handle heavy loads, has been in this location for decades. It also serves as a Bonneville Power easement to access the power lines. It is not possible to locate the bridge out of the riparian corridor and it seems practical to use this present alignment. However, the steep almost vertical hillside immediately across the bridge (on east side) is probably within 50' of the top bank, even closer is the hill on the north side of the bridge. After crossing the creek the road turns sharply to the south slightly away from the creek forming a mining boundary as determined by the applicant. The applicant's Mining Plan is to start mining at the bridge and work east toward Hwy 30, mining and terracing as they go. There is a small area to be mined at the almost vertical hillside that is within the Riparian Corridor. This area can't be avoided if the road is to be used for

ingress/egress. The applicant is requesting a Variance to riparian setbacks in the area of the bridge crossing to allow access to the east side of the creek for mining. Staff has asked the applicant to identify the extent of the variance requested north along Tide Creek from the bridge. Mining Plans are to construct berms and/or swales to protect Tide Creek from water runoff at the bridge location on both sides of the creek.

Continuing with Section 1177 of the Zoning Ordinance:

1177 Requirements for new activities and development identified in Sub-section 1175 and 1176, above, shall be allowed in the riparian corridor boundary subject to the following requirements:

- A. All applicable permits from state and federal agencies, such as the Oregon Division of State Lands (DSL) and Oregon Department of Fish and Wildlife (ODFW) must be obtained by the land owner prior to commencing the use or activity.
- B. For activities and development for which land use permits, building permits, grading permits, variances or stormwater/erosion control permits are required, the County shall provide notification to ODFW of the proposed development activity. The County shall consider the recommendations of ODFW, including any mitigation recommendations, prior to issuance of permits and may condition permit approval on recommended measures to mitigate loss of fish and wildlife habitat pursuant to applicable provisions of OAR Chapter 635, Division 415.

Finding 51: Land Development Services provided notice to the State DLCD and DOGAMI. Both of these agencies coordinate with other state departments of ODFW and DSL. DOGAMI sent a Notification of Land Use Authorization to Columbia County, dated 01/15/13. DOGAMI is processing a mining permit for Tide Creek Rock, apparently at the time as this plan amendment application. They did not comment in response to LDS request for comments. We received response from ODOT; but, we have not received any comments from these agencies pertaining to this variance as of the date of this staff report.

Continuing with Section 1178 of the Zoning Ordinance:

1178 Variance Provisions

- A. In cases where encroachment into the riparian corridor boundary by

activities and development not otherwise allowed by Sub-section 1175, or 1176 cannot be avoided, a property owner may request a Variance to the riparian corridor boundary prohibition. In addition to the criteria found in Section 1504, and the requirements in Sub-section 1177, a variance to the riparian corridor boundary prohibitions shall not be granted unless all of the following criteria are met:

1. The proposed development requires deviation from the riparian corridor standards;
2. Strict adherence to the riparian setback and other applicable standards would effectively preclude a use of the parcel that could be reasonably expected to occur in the zone;
3. Removal of vegetation within the original riparian setback is the minimum necessary to allow the use. Any vegetation removed shall be replaced with native plant species;
4. The encroachment shall not occupy more than 50% of the width of the riparian corridor measured from the upland edge of the corridor;
5. The proposed use shall provide equal or better protection of riparian resources than the current condition.
6. The riparian setback must exceed any other setback on the parcel, and the riparian setback, when combined with other required setbacks, shall result in a building area depth of 30 feet or less, or a building envelop of 800 square feet or less.

Finding 52: In order for the applicant to use this bridge for transporting the mined rock to the processing facility and on to the customer, the steep near vertical hill side must be removed. The bridge itself and road are existing and can remain. To meet turn radius movement for the large trucks, portions of the steep hillside that is within the riparian corridor must also be removed. The removal of the steep hillside and related vegetation will be the minimum necessary for road use. As the applicant states the bridge is the only access and without road construction and hillside removal within the 50' boundary, it would prohibit mining of this site. The applicant will be restricted from encroaching within 25 feet of the top bank of the creek. As stated in the application "the mining area adjacent to the bridge will be bermed to keep debris and other potential discharges from entering Tide Creek". The applicant has not provided sufficient information, nor addressed the above criteria. The applicant has been unresponsive to requests for a even a map showing detail of the encroachment area. No structures are planned to be developed in this riparian area. The applicant has not submitted sufficient information, without which, this criterion is not met.

Continuing with Section 1178 of the Zoning Ordinance

1178.B. The applicant shall provide sufficient information regarding the proposed development and its impact on riparian resources to allow staff, in consultation with ODFW, to determine whether the proposal will provide equal or better protection of riparian resources than the current condition. The applicant shall submit, at a minimum, the following information:

1. A plot plan showing top-of-bank, existing streams and wetlands and other significant site features.
2. The extent of development within the riparian setback.
3. Uses that will occur within the riparian setback.
4. Potential impacts of proposed uses.
5. The extent of proposed vegetation removal.
6. Characteristics of the existing vegetation (types, density, and location).
7. Any proposed alterations of topography or drainage patterns.
8. Existing uses on the property.
9. Impact of existing uses on riparian resources.
10. An Erosion Control Plan.

Finding 53: The applicant did not submit details of the riparian corridor encroachment. Staff can not determine if the applicant's proposal will provide equal or better protection of Tide Creek riparian area until the applicant submits the above information. Consultation with ODFW needs to happen. This criterion has not been met.

1178. C. Variance Limitations.

1. Setback reduction shall be the minimum necessary to create a building area depth of 30-feet or a building envelop of 800 square feet (whichever requires less reduction of the setback).
2. The yard setback opposite the riparian area ("non-riparian yard")

must be reduced up to ½ of the standard setback prior to encroachment into the riparian corridor.

Finding 54: This paragraph is not applicable. The applicant is not planning to build any structures in the corridor.

Continuing with Section 1504 Variances of the County Zoning Ordinance:

Staff comment here: the applicant has applied for two Variances: 1) for Riparian Corridor Setback variance, and 2) a variance for mining within the 50' setback from a public road. Findings for this section on Variances: the Riparian Corridor setback finding will be in regular font. *The finding for road setback variance will be in italics font.*

1504 VARIANCES: Except as provided in Section 1504.4 below, there are 2 classes of variances to the standards established in this ordinance. A Minor Variance is defined as a request for a variance of less than 25% from a dimensional requirement such as setbacks, height, lot or parcel coverage, lot or parcel width, or lot or parcel depth, or a request for a variance of less than 10% from a minimum lot or parcel size requirement. All other variances are defined as Major Variances. Use variances are not permitted under this ordinance except as permitted under Section 1505.1 "Temporary Permits: Use Not Allowed in District".

Major Variances from the lot or parcel size requirements of the Primary Agriculture (PA-38), Forest Agriculture (FA-19), Primary Forest (PF-76) and Rural Residential (RR-5) zones are not permitted under this ordinance.

Finding 55: Although the applicant has not indicated exactly where or how far into the riparian corridor the clearing and grading will take place, after visiting the site staff assumes it will be more than 25%, and is therefore a major variance.

For the road setback variance, staff assumes the applicant wishes to mine right up to the right-of-way line and with Road Department's permission into the right-of-way, it is therefore a major variance.

- .1 Major Variances: The Planning Commission may permit and authorize a variance from the requirements of this ordinance when unusual circumstances cause undue hardship in the application of it. The granting of such a variance shall be in the public interest.

A. A variance shall be made only when all the following conditions and facts exist:

1. The granting of the variance will not be detrimental to the public safety, health, or welfare, or injurious to other property;

Finding 56: The Mining Plan will have excavation happening close (less than 50') to Tide Creek, and as mining progresses, a thoroughfare of rock products will cross the creek at the bridge. To mitigate this impact for the riparian variance, adequate protection measures must be installed to limit intrusion of contaminants into Tide Creek. This could include some sort of catch devise for material falling from the transport vehicles, and as applicant proposes, combinations of a berm and swales for water run-off protection. Until the variance area is clearly defined, consultations for adequate mitigation are yet to happen. This criterion has not been adequately addressed.

As for the road setback variance, the area is in a slide-prone hillside, there was a recent slide in the vicinity which covered Tide Creek Road. If this variance is approved the extraction of the hillside may improve public safety.

Continuing with Section 1504 Variances of the Zoning Ordinance

2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;

Finding 57: As explained in Findings 50 and 51 there are unique conditions for using the bridge crossing. A steep, near vertical slope is directly across on the east side which makes removal of the hillside necessary.

As for the road setback variance, the unique condition is the hazard road condition. The setback area in which the applicant proposes to mine is near the location of a landslide. Removing the high bank will reduce the potential for future landslides. Also unique is the location on the northern side of Tide Creek Rock original and expanded quarries. A new access to the quarry could be provided for personal use, not commercial. There has never been an access from Tide Creek Road. The applicant who lives on Tide Creek Road has always had to go out onto Hwy 30 then back under the Hwy bridge to access the mining quarry. If the slide hazard slope is removed a more gradual access slope could be provided on this north side.

3. Approval of the application will allow the property to be used only for purposes authorized by the Zoning Ordinance;
4. Strict compliance with the Zoning Ordinance would create an unnecessary hardship;

- 5. The granting of the variance will not adversely affect the realization of the Comprehensive Plan nor violate any other provision of the Zoning Ordinance.

Finding 58: The granting of either of these variance would not authorize any uses not already approved in the Zoning District. Strict compliance with riparian setbacks would require the applicant to relocate the bridge which would impact the riparian zones in another location and may degrade Tide Creek worse than the careful removal of the steep, near vertical hillside. The unnecessary hardship not only involves the applicant's increase cost, but also the Tide Creek protection.

As for the road setback variance, mining out of the slide hazard area may help an unnecessary hardship if a future slide were to occur without removal. Also, it helps access to the quarry sites from the north, Tide Creek Road, thereby staying off Hwy 30.

Continuing with Section 1504 Variances in the Zoning Ordinance

- B. A variance so authorized shall become void after the expiration of 1 year if the next step in the development process has not been applied for.

Finding 59: If this application is approved, a Condition of Approval will be required that the Variance expires after one year if not implemented.

- C. The Planning Commission may impose whatever reasonable requirements it feels will fulfill the intent of this ordinance.

Finding 60: The decision making body may impose additional reasonable, clear and objective conditions of approval. It is anticipated that the applicant will provide additional information about the extent of the riparian encroachment, at which time clearer measures could be developed. Staff can not recommend approval of the riparian variance without additional information.

As for the road setback variance, there is evidence in the record that suggests it does not meet applicable variance criteria.

Continuing with the applicable provisions of the Columbia County Comprehensive Plan:

Part X ECONOMY

GOALS:

1. To strengthen and diversify the economy of Columbia County and insure stable economic growth.
2. To utilize Columbia County's natural resources and advantages for expanding and diversifying the economic base.

POLICIES: It shall be a policy of the County to:

1. Encourage the creation of new and continuous employment opportunities
2. Encourage a stable and diversified economy.
3. Reflect the needs of the unemployed and of those persons who will enter the labor market in the future.
4. Place the County in the position of being able to respond to market opportunities by providing technical assistance in locating available sites for development.
5. Encourage the activity of the community organizations, which work for sound economic development.
6. Preserve prime maritime industrial sites from pre-emptive uses until needed for industrial uses.
7. Protect identified aggregate resources until they are extracted, and plan for the reclamation and future productive uses of those sites.
8. Reserve valuable industrial sites for industrial uses.
9. Encourage the trade and service sectors and the recreation industry to insure greater revenue spending locally.
10. Support improvements in local conditions in order to make the area attractive to private capital investment. Consideration of such factors as the following shall be undertaken:
 - A. Tax incentives
 - B. Land use controls and ordinances
 - C. Capital improvements programming
11. Coordinate with public utility companies to insure energy supplies are available to areas programmed for development and redevelopment.
12. Encourage new industrial growth within the urban areas so as to utilize existing public facilities.

13. Encourage industry, which needs or can benefit from the locational advantages of an airport and its facilities, to locate adjacent to one of the airports in the County. Create an Airport Industrial district to facilitate this policy. *[added 7-93]*

Finding 61: The applicant addresses the Economy section of the Comprehensive Plan in Section 8.10, page 50 of 53. Staff finds that allowing the expansion onto the site would encourage continuous employment opportunities for full time jobs working at Tide Creek Rock. Expansion of the site will encourage local economic stability that will continue to encourage a stable and diversified economy. Indirect employment in supporting industries such as local merchants, trucking and construction further enhances the economy of the area. Continued mining operations would generate property taxes, depletion fees, and recapture of farm deferral payments, as well. Policy 7 applies to the entire site. Specifically it states that identified aggregate resources should be protected until they are extracted. Staff finds no conflicts with the Economy section of the Comprehensive Plan.

Continuing with the Columbia County Comprehensive Plan:

Part XIII TRANSPORTATION

GOAL:

The creation of an efficient, safe, and diverse transportation system to serve the needs of Columbia County residents.

OBJECTIVES:

1. To utilize the various modes of transportation that are available in the County to provide services for the residents.
2. To encourage and promote an efficient and economical transportation system to serve the commercial and industrial establishments of the County.
3. To improve the existing transportation system.

POLICIES:

1. The County shall undertake the development of a detailed transportation plan that should contain the following minimum elements:
 - A. The development of a road classification system.
 - B. The development of road standards for all different types of roads over which the County has jurisdiction.

- C. The location of future arterial streets inside the urban growth boundaries.
 - D. Review the status of all county roads.
 - E. A review of all incorporated rights-of-way and a determination of whether or not the County should pursue the vacation of them.
 - F. A study of ways to maintain and upgrade the current county road system.
2. The dedication of adequate rights-of-way to meet the standards set in the Transportation Plan shall be required of any person seeking a Zone Change, Conditional Use Permit, Subdivision, or Partition. The developer of a subdivision in an urban growth area will be required to make the appropriate improvements to any related street to meet the standards set in a Transportation Plan.
 3. Appropriate off-site improvements to county roads shall be required whenever a development results in a major increase in traffic on an existing county road.
 4. The County will work with the State Highway Department to limit the number of access points onto arterial roads. Direct access to U.S. Highway 30 will be limited as much as is practical in order to reduce the potential for congestion and conflicting traffic patterns, which would disrupt the flow of traffic.
 5. Industrial uses shall be encouraged to locate in such a manner that they may take advantage of the water and rail transportation systems, which are available to the County.
 6. The County will support reducing the number of rail crossings.
 7. The County will work with the Port of St. Helens to encourage the establishment and use of dock facilities.
 8. The two existing airports, in Scappoose and Vernonia, will be zoned with a landing field overlay zone that incorporates the height restrictions set by the Federal Aviation Administration. It will allow the development of airport related industrial uses.
 9. Restriction of the location of new pipelines and high voltage transmission lines to within existing rights-of-way will be encouraged whenever possible.
 10. The County will study proposals, when presented, to develop modes of transportation as an alternative to the automobile. If these proposals prove to be feasible, the County will work to implement them.
 11. Columbia County will continue to support the efforts of COLCO Transportation to supply public transit to the citizens of the County.
 12. Special attention will be given to the needs of the handicapped whenever the County considers a proposal for the provision of public transit.

Finding 62: The applicant has addressed Transportation of the Comprehensive Plan in Section 8.10, page 51 of 53. The applicant did not submitted a Traffic Impact Analysis. The applicant asserts that since the site will not generate an increase in traffic, it is consistent with this section without an impact analysis.

Staff agrees that with approval of this expansion, it is unlikely that production of rock products from Tide Creek Rock will substantially increase, unless the mine is sold to a party with a more aggressive plan. The same truck route for products to market will be kept. Access to Hwy 30 is at a long straight stretch of the road with a large turn-out that other heavy trucks use at times. There has not been a problem in the present transportation system for over 30 years and a significant change is not expected.

A continual access to quality rock products is vital to a healthy economy. With this application the county will have over 9 million tons of aggregate for the enhancement of the economy providing construction products in the area.

Continuing with the Columbia County Comprehensive Plan:

Part XVI **Goal 5 Open Space, Scenic and Historic Areas, and Natural Areas**

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:

1. Develop an on-going program to determine the quality, quantity, location, and type of mineral and aggregate resources in the County so that up-to-date material will be available to make informed decisions.
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.
4. Recommend the establishment of an ad hoc committee to review inactive and undeveloped sites identified in the surface mining inventory and make recommendations as to whether or not the sites should be zoned Surface Mining (SM) and protected upon application of the Goal 5 process.

5. Designate as Surface Mining (SM) those sites with current active mining and land reclamation permits as of January 20, 1984 and the one inactive but proposed 700-acre site in the Scappoose area. Change, upon completion of mining activities, those sites that will revert to uses as indicated in the reclamation plan or to uses compatible with surrounding lands.
6. Designate new mining deposits not shown on the existing inventory as Surface Mining when a report is obtained from a certified geologist, engineer/geologist, or qualified engineering testing firm verifying the location, type, quality, and quantity of the material and when other steps of the Goal 5 process are satisfied.
7. Encourage timely utilization of mining resources to protect the site from incompatible development on adjacent lands.
8. Require that all sites proposed for surface mining be inventoried for their archaeological significance in accordance with standards set by the State Archaeologist. If an archaeological site(s) is discovered, the Planning Commission shall hold a public hearing to review the site(s) and establish measures to mitigate potential conflicts as necessary.
9. Retain in its possession lands it now owns which contain aggregate material. The County may permit private operators to mine county materials.
10. Require that proposals for new extraction operations be accompanied by detailed plans of the method of operation and assurances that the area will be suitably reclaimed for uses designated by the plan.
11. Require that once mining and/or associated activities (i.e. rock crushing) have begun they shall be in accordance with state standards and any more stringent standards that the County may enact. In particularly sensitive areas, such as forestry, residential, agricultural, or wildlife habitat, the mining and associated operations shall be subject to more restrictive standards to keep noise, dust, erosion, and other hazards to a level compatible with the adjacent uses. Such standards may include requirements for barrier isolation, setbacks, operating times, concomitant reclamation, limits to active mining area, mining lifetime, water quality, and restrictions on-site processing.
12. Prohibit extraction of sand and gravel from rivers and streams unless appropriate regulating agencies such as the Oregon Department of Environmental Quality, Department of Fish and Wildlife, Oregon State Land Board, Division of State Lands, Corps of Engineers, and Columbia County are in agreement and there is no other economically feasible alternative.
13. Make all possible efforts to insure the retention of riparian habitat, the prevention of erosion and sedimentation, and maintenance of water quality, which exists prior to extraction operations.
14. Insure that extraction operations approved by the County and other regulating agencies do not screen and wash within any river or stream. In addition, settling ponds shall not discharge directly into any watercourse.

15. Require, as a minimum standard, that extractive industries have access to a public road with two-way capability. As allowed by ORS 487.905, the County may impose weight/load restrictions and may also require the operator to post an adequate surety bond for road repairs.
16. Encourage DOGAMI to conduct a comprehensive inventory of the mineral resources. Upon completion of this study, the County shall up-date zoning and other implementing ordinances to accommodate newfound resources.
17. Prohibit new or expanded mineral or aggregate mining operations within 5,000 feet of the edge of a runway at Scappoose Industrial Airpark.
18. Prohibit new or expanded water impoundments greater than or equal to one quarter (1/4) acre in size, individually, or cumulatively, within 5,000 feet of the edge of a runway at the Scappoose Industrial Airpark.

Finding 63: The applicant addresses the surface mining policies of the Comprehensive Plan in Section 8.10, page 44 of 53. Staff finds that the site is a significant aggregate site considering quality, quantity and location. Detailed plans describing the methods of operation and reclamation of the site are included in the application in the Mining Plan, Section 4. These are copies of the operating permit submitted to DOGAMI.

In 1984 the County designated Tide Creek Rock as an active mining site and placed it on the Significant List for aggregate sites in the Comprehensive Plan and zoned 10 acres as Surface Mining (SM). Over the years there has been some confusion as to what areas are permitted for mining. Several land use actions and conditional use permits have been applied for by the applicant, Tide Creek Rock. It is the policy for the County to designate new mining deposits as significant in the Comprehensive Plan when they are shown to be significant and other steps in the Goal 5 process are satisfied.

Compatibility and impacts to neighboring properties within 1500 feet have been analyzed and the applicant thinks can be minimized. The site has been reviewed for archeological significance. No material will be extracted from the stream bed. Given that the applicant will provide additional information so impacts can be assessed, Riparian protection areas from the stream will be preserved, except in one portion where intrusion will require additional information from the applicant and enhancement activities, per conditions. The site is not located near any airports. DOGAMI is reviewing their application for an Operating Permit. Staff finds that the application is consistent with all of the surface mining policies of the Comprehensive Plan with conditions imposed, except for make all possible efforts to insure retention of riparian habitat.

Continuing with the Columbia County Comprehensive Plan:

Part XVIII AIR, LAND, AND WATER RESOURCES

GOAL:

To maintain and improve land resources and the quality of the air and water of the County.

POLICIES: It shall be the policy of Columbia County to:

1. Work with the appropriate State and Federal agencies to insure that State and Federal water, air, and land resource quality standards are met.
2. Comply with all applicable State and Federal standards and regulations regarding noise pollution.

Finding 63: Tide Creek Rock has a Water Quality Discharge Permit (#1000-100023) issued by the Department of Environmental Quality (DEQ) for its current processing equipment, gravel washing and settling pond. The State DOGAMI is presently processing an Operating Permit for mining the expansion area. Staff finds that applicable state and federal standards and regulations are to be adhered to. There is no evidence noise will be a problem because of the terrain and remoteness of the site.

Continuing with the Oregon Administrative Rules (OAR) Procedures and Requirements for complying with Goal 5's Mineral and Aggregate Resources in 660-023-0180

Beginning with OAR 660-023-01780(1) - Mineral and Aggregate Resources::

(1) For purposes of this rule, the following definitions apply:

(a) "Aggregate resources" are naturally occurring concentrations of stone, rock, sand gravel, decomposed granite, limestone, pumice, cinders, and other naturally occurring solid materials commonly used in road building or other construction.

(b) "Conflicting use" is a use or activity that is subject to land use regulations and that would interfere with, or be adversely affected by, mining or processing activities at a significant mineral or aggregate resource site (as specified in subsection (5)(b) and section (7) of this rule).

© "Existing site" is an aggregate site that meets the requirements of subsection (3)(a) of this rule and was lawfully operating, or was included on an inventory of significant aggregate sites in an acknowledged plan, on September 1, 1996.

(d) "Expansion area" is an aggregate mining area contiguous to an existing site.

(e) "Farmland" means land planned and zoned for exclusive farm use pursuant to Goal 3 and OAR chapter 660, division 033.

(f) "Mineral resources" are those materials and substances described in ORS 517.750(7) but excluding materials and substances described as "aggregate resources" under subsection (a) of this section.

(g) "Minimize a conflict" means to reduce an identified conflict to a level that is no longer significant. For those types of conflicts addressed by local, state, or federal standards (such as the Department of Environmental Quality standards for noise and dust levels), to "minimize a conflict" means to ensure conformance to the applicable standard.

(h) "Mining" is the extraction and processing of mineral or aggregate resources, as defined in ORS 215.298(3) for farmland, and in ORS 517.750 for land other than farmland.

(i) "Mining area" is the area of a site within which mining is permitted or proposed, excluding undisturbed buffer areas or areas on a parcel where mining is not authorized.

(j) "Processing" means the activities described in ORS 517.750(10).

(k) "Protect" means to adopt land use regulations for a significant mineral or aggregate site in order to authorize mining of the site. For purposes of subsection (2)(d) of this rule, "protect" also means to limit or prohibit new conflicting uses within the impact area of the site.

(l) "Thickness of the aggregate layer" means the depth of the water-lain deposit of sand, stones, and pebbles of sand-sized fraction or larger, minus the depth of the topsoil and nonaggregate overburden.

(m) "Willamette Valley" means Clackamas, Columbia, Linn, Marion, Multnomah, Polk, Washington, and Yamhill counties and the portions of Lane and Benton Counties east of the summit of the Coast Range.

Finding 64: As appropriate, these definitions are applicable to this application.

Continuing with OAR 660-023-0180(2) - Mineral and Aggregate Resources:

(2) Local governments are not required to amend acknowledged inventories or plans with regard to mineral and aggregate resources except in response to an application for a post acknowledgement plan amendment (PAPA) or at periodic review as specified in section (9) of this rule. The requirements of this rule modify, supplement, or supersede the

requirements of the standard Goal 5 process in OAR 660-023-0030 through 660-023-0050, as follows:

(a) A local government may inventory mineral and aggregate resources throughout its jurisdiction, or in a portion of its jurisdiction. When a local government conducts an inventory of mineral and aggregate sites in all or a portion of its jurisdiction, it shall follow the requirements of OAR 660-023-0030 except as modified by subsection (b) of this section with respect to aggregate sites. When a local government is following the inventory process for a mineral or aggregate resource site under a PAPA, it shall follow the applicable requirements of OAR 660-023-0030, except where those requirements are expanded or superceded for aggregate resources as provided in subsections (b) through (d) of this section and sections (3), (4) and (8) of this rule;

(b) Local governments shall apply the criteria in section (3) or (4) of this rule, whichever is applicable, rather than OAR 660-023-0030(4), in determining whether an aggregate resource site is significant;

© Local governments shall follow the requirements of section (5) or (6) of this rule, whichever is applicable, in deciding whether to authorize the mining of a significant aggregate resource site, and OAR 660-023-0040 through 660-023-0050 in deciding whether to authorize mining of a significant mineral resource; and

(d) For significant mineral and aggregate sites where mining is allowed, except for aggregate sites that have been determined to be significant under section (4) of this rule, local governments shall decide on a program to protect the site from new off-site conflicting uses by following the standard ESEE process in OAR 660-023-0040 and 660-023-0050 with regard to such uses.

Finding 65: See related finding 2 on page 7. Columbia County is responding to a Plan Amendment application to supplement our designated significant aggregate sites. The County will follow the process contained in this Rule and Zoning Ordinance Section 1030.

Continuing with OAR 660-023-0180(3) - Mineral and Aggregate Resources:

(3) An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality, and location of the resource demonstrates that the site meets any one of the criteria in subsections (a) through © of this section, except as provided in subsection (d) of this section:

(a) A representative set of samples of aggregate material in the deposit on the site meets applicable Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and soundness, and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley, or more than 500,000 tons outside the Willamette Valley;

(b) The material meets local government standards establishing a lower threshold for significance than subsection (a) of this section; or

© The aggregate site was on an inventory of significant aggregate sites in an acknowledged plan on September 1, 1996.

Finding 66: See related Findings 3 & 13. The applicant has submitted studies and reports by consulting geologists attesting that there are over 9 million ton of aggregate at the proposed expansion site, meeting the minimum tolerance levels for ODOT specifications. The site is significant.

Continuing with OAR 660-023-0180(3) - Mineral and Aggregate Resources

(d) Notwithstanding subsections (a) and (b) of this section, except for an expansion area of an existing site if the operator of the existing site on March 1, 1996, had an enforceable property interest in the expansion area on that date, an aggregate site is not significant if the criteria in either paragraphs (A) or (B) of this subsection apply:

(A) More than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps on June 11, 2004; or

(B) More than 35 percent of the proposed mining area consists of soil classified as Class II, or of a combination of Class II and Class I or Unique soil, on NRCS maps available on June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds:

- (i) 60 feet in Washington, Multnomah, Marion, Columbia, and Lane counties;
- (ii) 25 feet in Polk, Yamhill, and Clackamas counties; or
- (iii) 17 feet in Linn and Benton counties.

Finding 67: There are no Class I or Class II soils on the subject property. The application does not submit that there is an enforceable property interest for mining, nor is it applicable, given the low quality farm soils on this property.

Continuing with OAR 660-023-0180(5) - Mineral and Aggregate Resources:

(5) For significant mineral and aggregate sites, local governments shall decide whether mining is permitted. For a PAPA application involving an aggregate site determined to be significant under section (3) of this rule, the process for this decision is set out in

subsections (a) through (g) of this section. A local government must complete the process within 180 days after receipt of a complete application that is consistent with section (8) of this rule, or by the earliest date after 180 days allowed by local charter.

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

Finding 68: See related Finding 14, page 13. If the County determines the site is a significant aggregate site, it will follow the process outlined in this section to determine if mining shall be allowed. An impact area of 1500 feet has been established for review purposes.

Continuing with OAR 660-023-0180(5) - Mineral and Aggregate Resources

(b) The local government shall determine existing or approved land uses within the impact area that will be adversely affected by proposed mining operations and shall specify the predicted conflicts. For purposes of this section, "approved land uses" are dwellings allowed by a residential zone on existing platted lots and other uses for which conditional or final approvals have been granted by the local government. For determination of conflicts from proposed mining of a significant aggregate site, the local government shall limit its consideration to the following:

(A) Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges;

(B) Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. Conflicts shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan and implementing ordinances. Such standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials;

© Safety conflicts with existing public airports due to bird attractants, i.e., open water impoundments as specified under OAR chapter 660, division 013;

(D) Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;

(E) Conflicts with agricultural practices; and

(F) Other conflicts for which consideration is necessary in order to carry out ordinances that supersede Oregon Department of Geology and Mineral Industries (DOGAMI) regulations pursuant to ORS 517.780;

Finding 69: See related Findings 15,16,17 & 6) The applicant has provided a list of existing and approved land uses within the 1500 feet impact zone. The 4 dwellings in the impact area, not counting the ones owned by the applicant or immediate family, could potentially be impacted by noise, dust or other discharges from mining. The access road presently serves the applicant and other farm tracts to the east. Tide Creek Rock maintains the access road. There appears to be no conflicts on sight distances, road capacity, cross section elements, horizontal and vertical alignment or other similar items. There are no airports in the vicinity. Other Goal 5 resources are either being avoided (stand alone wetlands) or being protected with riparian area setbacks, except as may be varied by the County consistent with applicable criteria. A Goal 5 resource, Tide Creek, is protected by a 50' riparian corridor. The applicant has identified a short portion of the creek, at the private bridge, where avoidance of the riparian area is impossible, and a variance to the corridor distance has been applied for. The applicant must more clearly identify any area north of the bridge crossing that is being proposed for a setback variance. Special clear and objective measures need to be implemented with conditions to adequately protect the creek at this location. There seems to be no conflict with farming practices.

Continuing with OAR 660-023-0180(5) - Mineral and Aggregate Resources

© The local government shall determine reasonable and practicable measures that would minimize the conflicts identified under subsection (b) of this section. To determine whether proposed measures would minimize conflicts to agricultural practices, the requirements of ORS 215.296 shall be followed rather than the requirements of this section. If reasonable and practicable measures are identified to minimize all identified conflicts, mining shall be allowed at the site and subsection (d) of this section is not applicable. If identified conflicts cannot be minimized, subsection (d) of this section applies.

Finding 70: See related Finding 18, page 15. The applicant states that all potential conflicts can be minimized. The applicant states: the fact that the mining activity will be conducted near the creek floor around a bend, behind a 150 foot hill, the potential residential and farming conflicting uses will be adequately screened by topography and existing vegetation, which will remain. Special riparian corridor protection measures need consideration because of the potential loss of corridor protection from mining activities near the bridge crossing. Staff must review the

ESEE analysis, yet to be submitted, before staff can find that adequate measures can be incorporated to minimize conflicts. Based on the facts and information provided so far in this review, the identified conflicts can potentially be minimized.

Continuing with OAR 660-023-0180(5) - Mineral Aggregate Resources

(d) The local government shall determine any significant conflicts identified under the requirements of subsection © of this section that cannot be minimized. Based on these conflicts only, local government shall determine the ESEE consequences of either allowing, limiting, or not allowing mining at the site. Local governments shall reach this decision by weighing these ESEE consequences, with consideration of the following:

(A) The degree of adverse effect on existing land uses within the impact area;

(B) Reasonable and practicable measures that could be taken to reduce the identified adverse effects; and

© The probable duration of the mining operation and the proposed post-mining use of the site.

Finding 71: The applicant did not submit an ESEE consequent analysis. The applicant believes this section is not applicable because all identified conflicts can be minimized. But, the applicant has not provided enough information nor proposed sufficient measures to protect Tide Creek itself from identified impacts.

Continuing with OAR 660-023-0180(5) - Mineral Aggregate Resources

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

(A) For which the PAPA application does not provide information sufficient to determine clear and objective measures to resolve identified conflicts;

(B) Not requested in the PAPA application; or

© For which a significant change to the type, location, or duration of the activity shown on the PAPA application is proposed by the operator.

Finding 72: If this application is approved, the Comprehensive Plan will be amended to list the site as a significant aggregate site and the zoning will be changed to Surface Mining(SM). Before mining can proceed the applicant will need to file a Site Design Review application required by Columbia County. The Site Design Review may place additional needed measures to minimize identified conflicts.

Continuing with OAR 660-023-0180(5) - Mineral Aggregate Resources

(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 73: The applicant states that the post mining use will be forestry.

Continuing with OAR 660-023-0180(5) - Mineral Aggregate Resources

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

Finding 74: The present aggregate processing plant at Tide Creek Rock, which will accept and process rock mined from the subject expansion site, will not require any reauthorization. However, present permits from the State DOGAMI and DEQ must be complied with.

Continuing with OAR 660-023-0180(6) - Mineral and Aggregate Resources:

(6) For an aggregate site on farmland that is determined to be significant under section (4) of this rule, the requirements of section (5) of this rule are not applicable, except for subsection (5)(f), and the requirements of OAR 660-023-0040 through 660-023-0050 are not applicable. Instead, local governments shall decide whether mining is permitted by applying subsections (a) through (d) of this section:

(a) The proposed aggregate mine shall satisfy discretionary conditional use permit approval standards adopted by the local government pursuant to applicable requirements of ORS 215.213(2) or 215.283(2), and the requirements of ORS 215.296 and 215.402 through 215.416;

(b) The local government shall determine the post-mining use in accordance with subsection (5)(f) of this rule;

© The local government shall issue a permit for mining aggregate only for a site included on an inventory of significant aggregate sites in the comprehensive plan in accordance with ORS 215.298(2); and

(d) The conditional use permit shall not allow mining of more than the maximum amount of aggregate material specified under subsection (4)(a) of this rule.

Finding 75: This section is not applicable because the proposed aggregate site is not farmland determined to be significant under section (4).

Continuing with OAR 660-023-0180(7) - Mineral and Aggregate Resources:

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

Finding 76: The applicant has not provided an ESEE consequences analysis to determine what, if any, restrictions should be placed on new conflicting uses. Or in response to the ESEE analysis the County will need to know whether conditions straight from the SMIO are appropriate or whether restrictions can be better addressed in other ways, such as conditions of approval or an agreement between the mine owner and neighboring property owner. At the Planning Commission hearing several neighboring property owners stated did not want the SMIO applied directly to their property.

Continuing with OAR 660-023-0180(8) - Mineral and Aggregate Resources:

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

(a) Information regarding quantity, quality, and location sufficient to determine whether the standards and conditions in section (3) of this rule are satisfied;

(b) A conceptual site reclamation plan;

(NOTE: Final approval of reclamation plans resides with DOGAMI rather than local governments, except as provided in ORS 517.780)

© A traffic impact assessment within one mile of the entrance to the mining area pursuant to section (5)(b)(B) of this rule;

(d) Proposals to minimize any conflicts with existing uses preliminarily identified by the applicant within a 1,500 foot impact area; and

(e) A site plan indicating the location, hours of operation, and other pertinent information for all proposed mining and associated uses.

Finding 77: The applicant submitted the above referenced information in the application for review. The application was deemed complete on January 4, 2013. A determination of significance is allowable given the site has over 9 million tons of rock meeting ODOT specifications. A conceptual reclamation plan to forestry is presented. Factual information about the road to and access to Hwy 30 is sufficient. Traffic impacts will not be significant and , therefore an impact assessment is unnecessary. Proposals to minimize impacts were evaluated and the applicant determined unnecessary. Hours of operation have been requested to be extended an hour in the morning and two hours in the evening.

Continuing with OAR 660-023-0180(9)

(9) Local governments shall amend the comprehensive plan and land use regulations to include procedures and requirements consistent with this rule for the consideration of PAPAs concerning aggregate resources. Until such local regulations are adopted, the procedures and requirements of this rule shall be directly applied to local government consideration of a PAPA concerning mining authorization, unless the local plan contains specific criteria regarding the consideration of a PAPA proposing to add a site to the list of significant aggregate sites, provided:

(a) Such regulations were acknowledged subsequent to 1989; and

(b) Such regulations shall be amended to conform to the requirements of this rule at the next scheduled periodic review after September 1, 1996, except as provided under OAR 660-023-0250(7).

Finding 78: Columbia County amended the Comprehensive Plan and Zoning Ordinance to comply with procedures and requirements of this Rule by Ordinance No. 99-01, effective June 29, 1998. See earlier portions of this Staff Report, specifically Section 1030 and Section 1040 of the Zoning Ordinance.

Continuing with the State of Oregon’s Statewide Planning Goals:

Goal 5: Natural Resources, Scenic and natural Areas, and Open Spaces:

This Goal requires local governments to adopt programs that will protect natural resources and conserve scenic and historic areas and open space resources in order to promote healthy environments and natural landscapes. Sites for the removal and processing of mineral and aggregate resources should be identified and protected for interim, transitional and “second use” utilization as well as for primary uses. This Goal encourages the protection and managements of stream flow and water levels adequate for fish, wildlife, pollution abatement, recreation, agricultural, and aesthetic purposes.

Finding 79: If this application is approved, the significant aggregate site is a protected Goal 5 resource (see related Findings 20 and Finding 72). The County must be assured that protection measures are in place to also protect natural areas, conserve scenic and open space resources. Long term, the applicant plans to reclaim the site to forestry use, albeit the terrain will be changed. The mining activity is an interim and transitional use until this long term identified use is realized. Adequate measures can be implemented to protect Tide creek, the other adjoining Goal 5 resource.

Continuing with the State of Oregon’s Statewide Planning Goals

Goal 6: Air, Water and Land Resources Quality: This Goal maintains and improves the quality of the air, water and land resources by ensuring all waste and process discharges from development do not violate local, state and federal environmental quality statues, rules and standards. Development should buffer and separate land uses which could potentially conflict with and detrimentally impact the air, water and land resources and include conservation and development actions that do not exceed the carrying capacity of such resources.

Finding 80: With the exception of fully exploring all appropriate measures for Tide Creek preservation at and near the bridge, the applicant states that discharges from the mining activity in the expansion area will be kept away from Tide Creek through berms, swales or other improvements as determined through DOGAMI Best Management Practices publication. Columbia County will also review these resource protection measures at the Site Design Review level. A protective buffer will remain natural in the riparian corridor along the creek except where any setbacks variances are specified and approved. To protect water quality entering the creek, the State DEQ has issued Water Pollution Control Facility Permit No. 1000-100023. The State DOGAMI has issued a mining Operating Permit No. 05-0070 for the older portions of Tide Creek Rock and is reviewing a permit for this expansion area. This goal is being implemented through the above methods.

Continuing with the State of Oregon Statewide Goals

Goal 9: Economic Development: This Goal encourages local jurisdictions to provide for adequate and a variety of economic activities that contribute to a stable and healthy economy.

Finding 81: The production of good quality rock products is vital to the local and regional economy. Transporting rock materials over long distances significantly adds to the cost of construction. A broad distribution of rock products at the local level helps bring local construction costs down. The proposed expansion of Tide Creek Rock will help assure that local products will be used and contributes to a stable economy.

Goal 12: Transportation Provides and encourages a safe, convenient, and economic transportation system that allows for the movement of people and goods.

Finding 82: Tide Creek Rock has direct access to Hwy 30 via a short stretch of Old Hwy 30, no longer used by other traffic. Hwy 30 links with other state and federal transportation networks. The present transportation access has been used for rock exportation for at least 20 years. There will not be an increase of production because of this expansion. Tide Creek Rock's other quarry areas are near depletion. The transportation network will not need to be modified with related traffic safety improvements because of this application.

COMMENTS RECEIVED

- 1) Building Official, January 8, 2013, no objection to an approval.
- 2) County Roadmaster, January 14, 2013, no objection to an approval.
- 3) Columbia River Fire & Rescue, January 16, 2013, no objection to an approval.
- 4) County Sanitarian, January 17, 2013, on-site system is shown to be in the mining area. Activities that adversely affect the soil is not allowed in drainfield of a working system.
- 5) DOGAMI, January 15, 2013, LDS received a notification of land use authorization for an aggregate mine operation. DOGAMI is processing a mining permit for Tide Creek Rock.
- 6) Phillip Grillo, February 4, 2013, attorney representing Cosgriff property; request a Planning Commission continuance to March; to review application & staff report.
- 7) Phillip Grillo, March 4, 2013, Letter in opposition to the approval (12 pages with attachments and maps).

- 8) John Petersen, March 4, 2013, Submittal of applicant's affidavit with exhibits.
- 9) Al Petersen, March 4, 2013, Applicant's Proposed Alternated Conditions.
- 10) Bill Johnston, April 18, 2013, E-mail requesting additional information on existing traffic generation.
- 11) Phillip Grillo, April 22, 2-13, seeking an agreement with Tide Creek Rock attorney.

CONCLUSION & RECOMMENDATION

Staff finds the Plan Amendment application demonstrates the Goal 5 procedural requirements and substantive review criteria have been sufficiently satisfied except as may be further addressed in recommended conditions. The Tide Creek Rock Expansion Area is a Significant Aggregate Site and should be indicated as such in the Comprehensive Plan. Appropriate measures can assure that all state and local criteria can be met. Therefore, the staff recommends APPROVAL of this request for a Plan Amendment and Zone Change to allow surface mining on the subject property, with the following conditions:

CONDITIONS - PLAN AMENDMENT TIDE CREEK ROCK EXPANSION SITE

- 1) The Applicant shall reclaim the site in accordance with State DOGAMI standards as depicted in the Conceptual reclamation Plan or as approved by DOGAMI. The required post mining use shall be forestry.
- 2) Prior to mining, the Applicant shall obtain a Site Design Review for the site, as required to satisfy the requirements of the Columbia County Zoning Ordinance.
- 3) The Applicant shall provide vegetated buffers on the site as depicted on the Mining and Reclamation Plan. Chain link fences shall be installed protecting the rock face as mining progresses east and south toward the Highway and residentially used properties.
- 4) The Applicant shall maintain the surface of the access road with gravel.
- 5) The Applicant shall water the access road to control dust as needed.
- 6) The Applicant shall maintain existing trees and wetland vegetation within 50 feet Riparian Corridor of Tide Creek, except as specifically varied by Columbia County. The applicant shall vegetate berms when constructed. The applicant shall vegetate overburden stored on site, as needed.
- 7) The Applicant shall wash away any rock, dust or mud tracked onto Hwy 30 as needed.

- 8) The Applicant shall limit hours of operation to 7:00 a.m. to 6:00 p.m., Monday through Sunday, except where approved otherwise by the county variance.
- 9) The Applicant shall observe minimum extraction setbacks of 50 feet from public rights-of-way (Tide Creek Road and Hwy 30) and from the riparian corridor along the Tide Creek on the north side of the site, except as specifically varied by Columbia County. Extraction setbacks shall be 200 feet from any zone which allows residences as permitted or conditional uses, unless a variance to these setbacks is applied for and approved or consent to reduce the setback received from adjoining property owners.
- 10) The Applicant shall not allow stormwater to be discharged offsite. Off site also includes Tide Creek.
- 11) The applicant shall provide for stormwater/erosion considerations on both sides of the private bridge where the new expansion rock will be transported. The Applicant will be required to install a silt fence for protection of stormwater/erosion during construction or heavy haul operations along both sides of the bridge. The applicant will propose for approval protective measures on and along the bridge to capture fallen debris.
- 12) In the event that prehistoric or historic cultural materials are encountered on the site the State Historic Preservation Office (SHPO), the County and the appropriate tribes shall be notified, and a qualified archaeologist shall be called in to evaluate the discovery and recommend subsequent courses of action in consultation with the tribes and SHPO.
- 13) Operations at the site shall comply with the applicable noise standards of the Department of Environmental Quality.
- 14) Applicant shall provide a legal description of the subject property to be rezoned to Surface Mining, prior to final approval of the Board of County Commissioners.
- 15) Maintenance and work on mining equipment, creating significant off-site noise, will be limited to hours of operation 7:00 AM to 6:00 P.M Monday through Sunday.
- 16) The applicant will comply with Department of Environmental Quality (DEQ) regulations regarding water quality.

CONCLUSION & RECOMMENDATION - VARIANCES

Findings for the Variance to allow development within the 50' Riparian Corridor are located in Finding 52, page 38 and Findings 55 - 59, pages 40-42. In summary, the applicant has met a majority of the the applicable criteria with the exceptions of providing detailed drawings depicting the amount of, or distances of encroachment into Riparian Corridor setback. Consultations need to occur with appropriate State officials once the extent of encroachment is

known. Therefore, based on the findings in this Report and with the assumption and receipt of identified information, staff can not make a recommendation of the Variance to setbacks of the Riparian Corridor, but if the Board were to approve staff recommends, at a minimum, the following conditions:

- 1) The applicant shall provide detailed construction drawings of the berms and/or swales to be used for water quality protection of Tide Creek near the bridge (both sides). These plans can be submitted prior to Site Design Review and DOGAMI Operating Permit.
- 2) The applicant shall provide a detailed topographical drawing with distances to the top bank of the creek for those areas to be mined, developed or disturbed within the Riparian Corridor along Tide Creek.
- 3) The Variance shall expire one year from the approval date if development has not occurred.

Findings for the Variance to mine within 50 feet of Tide Creek Road are found in Findings 55-59, pages 40-42. In summary the applicant has met the applicable criteria to approve the variance with the exception of providing a map depicting area where mining will occur within the 50' road setback. Therefore, based on the findings and information provided so far, staff can not make a recommendation. If the Board approves this variance staff recommends, at a minimum the following conditions:

- 1) The applicant shall provide map showing the area to be mined within the 50' setback, along Tide Creek Road approved by the Road Department.
- 2) The Variance shall expire one year from the date of approval if no development has occurred at the variance site.

The only finding for the increase in hours of operation the response to Zoning Ordinance Section 1044.5 Operating Hours, Finding 34, pg26. "The applicant requests that the operating hours be established as starting at 6:00 am and ending at 8:00 pm daily. These times are requested due to the rural location, the natural topography and forested buffer areas that limit sound from affecting adjoining properties." Staff finds that this site is not an isolated aggregate site subject to the Department approval for modification of standard operating hours.

Attachments: Comments received - Application in separate cover, notebook

EXHIBIT F

SUPPLEMENTAL FINDINGS
Columbia County Board of Commissioners
to Staff Report (dated 4/24/13)

Applicant: John Petersen (dba) Tide Creek Rock, Inc.
Case Number: PA 13-01, V 13-03
Request: Comprehensive Plan and Zone Amendment to expand by 56.7 acres the Tide Creek Rock permitted mining area; also, a Variance to road and riparian setbacks in two areas, and increase operating hours.

1. Based on the evidence in the record, the Board finds that the proposed surface mining meets the criteria for a PAPA, and after weighing the ESEE consequences finds that, with conditions, the proposed 750-foot Surface Mining Impact Overlay Zone, as shown in Exhibit B, is sufficient to include all identified conflicting uses. As an initial matter, the applicant submitted an ESEE analysis, including a presentation of potential conflicting uses, as additional information on May 15, 2013. This submittal of an ESEE analysis satisfies required information to be included in the application, which was not submitted previously. This analysis concludes that the economic, social and energy consequences of limiting conflicting uses clearly outweigh allowing or not allowing conflicting uses; and, allowing mining subject to conditions and impositions clearly outweighs not allowing mining. The ESEE analysis supports a reduced SMIO impact area to approximately 750 feet from the mining area boundary.

The applicant and neighboring property owner contend that the standard impact area of 1500 feet is too large. The reason for a reduced impact area is that the proposed expanded Tide Creek quarry is nestled along the bottom of a large creek canyon with steep slopes and high hills surrounding. There is separation by topography, natural tall trees and vegetative cover between the proposed mine expansion site and any conflicting new uses. CCZO Section 1036.1 allows the county to adjust the impact area to reflect the characteristics of a particular mine site. The Board finds that an impact area of 750 feet from the mine area is sufficient to include all identified conflicting uses. The greatest potential for conflicting uses, the siting of new homes is to the south of the expanded mine site, toward the Cosgriffs. This area's lot pattern is characterized by an old platted subdivision with a potential of up to 12 new homes on the Cosgriff property. This property is approximately 800 feet from the expanded mine area (excluding Phase 4). To further reduce potential mining impacts the two property owners propose a Condition to allow only stockpiling of overburden (not rock extraction) in the Phase 4 area. The Board finds that imposing a condition to restrict mining activity in Phase 4 is supported by the record.

The Board finds that those uses that are listed as conditionally allowed in the Primary Forest and Forest Agriculture zones that may conflict with mining are highly unlikely to locate in this rural area of the county. The mine impact area is at least 5 miles from the nearest community water or sewer system. Other infrastructure to support such uses as churches, community

centers, golf course and parks is just not available. Conflicts with mining for these uses are so remote that they are not required to be analyzed.

2. The applicant also submitted scaled contour maps depicting the area of the two requested variances at the hearing on May 1, 2013. One is for the setbacks of 50 feet from the top bank of Tide Creek, and the other is for setbacks to a public road (Tide Creek Road). Both are major variances, greater than 25% of the required setback dimensions.

With respect to the 50 feet riparian setback to Tide Creek, the applicant's mining plan is to start phase 1a at the east end of the private bridge crossing the creek. Some rock extraction will occur at a fan angle from the bridge until out of the riparian area. All rock from the expansion area will be transported across this bridge to the processing area on the west side of the creek. Without approval of this variance a completely different mining plan would need to be developed. As an alternative, if the applicant were to remove the rock in the other direction, conflicts with Hwy 30 access and existing residences would cause an undue hardship. If the variance is granted the applicant will mine the immediate area at the east end of the bridge. To protect the creek at the crossing the applicant proposes to install combinations of a berm and swales to catch water runoff from entering the creek. There is no side rail on the private bridge that will accommodate the crossing of 6 million ton of rock over the Creek. The Board finds that additional protection measures must be installed to protect contaminants and mine material from entering the creek. Barriers must be installed along the bridge to prevent fallen debris from entering the creek. With these conditions the Board finds that granting the Variance to riparian setbacks will not be detrimental to the public or injurious to other property.

With respect to the 50 feet setback to Tide Creek Road, the applicant requests to mine up to the road right-of-way. The area along Tide Creek Road has had several land slides interrupting road service and requiring costly repairs. The granting of this variance would remove a potential landslide hazard, and is in the public interest.

3. The applicant has requested an increase in operating hours from 6:00 AM to 8:00 PM. One testimony at the initial hearing was in opposition to this increase in hours. Subsequently, the applicant proposed conditions to mitigate impacts, such as allowing only stockpiling in the Phase 4 area, and the neighboring property owner removed their objection. The Board finds that an increase in operating hours as requested by the mining operator will not be injurious to neighboring property owners.