

**MINUTES**  
**UMATILLA COUNTY PLANNING COMMISSION**  
**Meeting of Thursday, September 23, 2021, 6:30pm**  
**Umatilla County Courthouse, 216 SE 4<sup>th</sup> Street, Pendleton, Oregon**  
**VIRTUAL MEETING VIA ZOOM**

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**COMMISSIONERS**

**PRESENT:** Suni Danforth, Chair, Don Wysocki, Vice Chair, Hoot Royer, Jon Salter, Cindy Timmons, Sam Tucker, Tammie Williams & Tami Green

**ABSENT:** Lyle Smith

**STAFF:** Bob Waldher, Planning Director and Tierney Cimmiyotti, Administrative Assistant

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*NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. RECORDING IS AVAILABLE AT THE PLANNING OFFICE.*

**CALL TO ORDER**

Chair Danforth called the meeting to order at 6:35pm and read the Opening Statement.

**NEW HEARING**

**TYPE III LAND DIVISION, REPLAT REQUEST #LD-2N-204-21; Jason Wells, Applicant, Larry & Jayne Patterson and Joseph Zaworski & Katharine Hunter-Zaworski, Owners.** The applicant requests approval of a replat of Lots 6 & 7 of the Fieldcrest Addition. Lot 6 is also identified as Tax Lot 200 and Lot 7 is identified as Tax Lot 300 on Assessor’s Map 2N3234B. The applicant’s replat proposal moves the shared lot line between Lots 6 & 7. The property is located on the west side of State Highway 395 and to the west of McKay Dam, approximately 2.5 miles south of the City of Pendleton. Replat approval standards are found in Umatilla County Development Code (UCDC) Section 152.697(C).

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex-parte contact or objections to jurisdiction. There were none. She called for the Staff Report

**STAFF REPORT**

Bob Waldher, Planning Director, presented the staff report for Planner, Carol Johnson. Mr. Waldher stated that the applicant requests a Replat (Patterson Subdivision Replat) of Lots 6 and 7 of the Fieldcrest Addition to reconfigure the lots and move the shared lot line to the west. The subject property is located on the west side of Oregon State Highway 395 and McKay Dam, approximately 2.5 miles south of the City of Pendleton.

Mr. Waldher stated that notice of the applicant’s request was mailed on September 3, 2021 to agencies and owners of properties located within 250 feet of the subject property. Notice was also published in the *East Oregonian* newspaper on September 11, 2021 to notify the public of the applicant’s request before the September 23, 2021 Planning Commission meeting.

Mr. Waldher explained that the Standards of Approval are covered in UCDC Section 152.697(C), Type III (Replat) Land Divisions. The Standards generally consist of complying with the Rural Residential (RR-2) Zone development requirements (lot size, setbacks, etc.) and conformance to the existing development scheme in the area, including existing roads and any public facilities within and on adjoining sites. Additionally, the applicant is required to supply a survey plat meeting county and state regulations.

Mr. Waldher stated that this is a very straight forward request. Typically, boundary adjustments are processed as a Type V Land Division, Property Line Adjustment, which is handled administratively by staff. However, when the change is located in a Subdivision the request becomes a Type III Land Division, Replat, and is required to go before the Planning Commission.

Mr. Waldher referred to the map on page 2 in the Commissioners packets and explained that the applicant is simply requesting to move the property boundary to the west. Both tax lots involved will continue to meet the minimum parcel size for the zone and access to both properties will not be affected.

**Applicant Testimony:** No comments.

**Opponent Testimony:** No comments.

**Public Agencies:** No comments.

Chair Danforth closed the hearing for deliberation.

### **DELIBERATION**

Commissioner Tucker made a motion to approve Patterson Replat, #LD-2N-204-21 based on the foregoing Findings of Fact and Conclusions of Law. Commissioner Williams seconded the motion. Motion passed with a vote of 8:0.

### **NEW HEARING**

**TEXT AMENDMENT #T-21-085, PLAN AMENDMENT #P-128-21 & ZONE MAP AMENDMENT #Z-317-21; Oregon Department of Transportation (ODOT), Applicant/Owner.** The applicant requests to add an existing quarry (Vinson Canyon Quarry) to the Umatilla County Comprehensive Plan list of Goal 5 protected Significant Sites and apply the Aggregate Resource (AR) Overlay Zone to the entire quarry site. The property is located off the north side of Oregon State Highway 74, identified on Assessor's Map as Township 1 South, Range 30 East, Tax Lot 1901. The property is 8.03 acres and zoned Exclusive Farm Use (EFU).

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex-parte contact or objections to jurisdiction. There were none. She called for the Staff Report.

## STAFF REPORT

Bob Waldher, Planning Director, presented the staff report. Mr. Waldher stated that the applicant, ODOT, requests to add an existing quarry site, Vinson Canyon Quarry, to the Umatilla County Comprehensive Plan list of Goal 5 Protected Significant Sites and apply the Aggregate Resource (AR) Overlay Zone to the entire quarry site. The property is located off the north side of Oregon State Highway 74, identified on Assessor's Map as Township 1 South Range 30 East Tax Lot 1901. The tax lot is 8.03 acres and is zoned Exclusive Farm Use (EFU). The criteria of approval are found in Oregon Administrative Rule (OAR) 660-023-0040 – 0050, 660-023-0180(3), (5) & (7), and UCDC Sections 152.487 – 488.

The process of approval involves review by the Planning Commission with a recommendation to the Board of County Commissioners (BCC). The BCC must also hold a public hearing and make a decision whether or not to adopt the proposed amendments. A public hearing before the BCC is scheduled for Wednesday, October 20, 2021 at 9am.

Mr. Waldher pointed out a few errors in the Commissioner's packets; page 4, first sentence of the last paragraph, should say Vinson Canyon Quarry, not Butter Creek; page 19, first sentence of the second paragraph, should say Vinson Canyon Quarry, not Butter Creek and should say 525,000 tons instead of 525,000 cubic yards; page 28 Public Notice Map is of the Butter Creek Quarry site, should be the Vinson Canyon Quarry site. The Vinson Quarry Public Notice map was sent to the Planning Commissioner's via email before the hearing today. Commissioner Tucker pointed out that on page 3, under the title, Hearing Date, it says the hearing will be on September 26, 2021, but should be September 23, 2021. Mr. Waldher stated that he will make the revisions.

Mr. Waldher stated that this request is to add 13.6 acres of property owned by ODOT located on Tax Lot 1901 of Assessor's Map 1S30, to the Umatilla County list of significant sites. This action would provide necessary protections under Goal 5 including limiting conflicting uses within the buffer area, and applying the Aggregate Resource Overlay Zone to the subject property, with the objective to allow mining, processing, and stockpiling at the site. The site is currently listed in the Umatilla County Technical Report on page D-183 as a 3C Significant Site which requires Umatilla County to limit conflicting uses adjacent or near this site.

The Oregon Department of Transportation (ODOT) intends to excavate aggregate, process and batch that aggregate for public road projects, and to stockpile unused aggregate material for current and future use.

**Applicant Testimony:** Carla McLane, Consultant, Carla McLane Consulting, 170 Van Buren Drive, Umatilla, Oregon, 97882. Ms. McLane indicated that she represents the applicant, ODOT. Ms. McLane stated that the applicant's request is for Umatilla County to protect this site, approve mining, stockpiling and processing and apply the Aggregate Resource (AR) Overlay

Zone to the subject property. These actions will ensure there is not future encroachment on the site and help limit conflicting uses on properties in close proximity.

Ms. McLane stated that this application is to amend the Umatilla County Comprehensive Plan to list the Vinson Canyon Quarry as a significant site protected by Goal 5; amend the Comprehensive Plan Map to identify the site as significant and to apply the buffer area to limit conflicting uses. Approval of this request will also amend the Zoning Map by applying the AR Overlay Zone to the mining site. She explained that ODOT has owned this property since 1953. ODOT has always intended to use the aggregate at this site for regional maintenance and safety improvements to the road network, but nothing has happened to date. ODOT has identified two access points for future use, but they have not developed as they have not yet extracted rock from the site.

ODOT has plans to use the site to excavate aggregate, then process, batch and stockpile the aggregate. The intent of this request is to protect this site so it is available for future use in maintenance, preservation and safety projects on state and regional highways in and around Umatilla County.

Ms. McLane stated that this site does meet the requirements to be considered significant. Vinson Canyon quarry has an approximately one million cubic yards of available basalt and an inventory estimated that it contains 525,000 tons of available material. ODOT standards for use require that a site be inventoried to have a minimum of 500,000 tons, so this condition has been met. She stated that the basin was formed in an area where a great deal of basalt flow developed over a long period of time. As a result, the basalt rock in this area is considered to be solid and of high quality. She added that this request also meets air degradation requirements for coarse and fine materials.

Ms. McLane stated that Scott Billings, ODOT Senior Engineering Geologist, is present at the hearing tonight to answer any technical questions. He has also submitted a letter included in the application materials (Commissioner's packet page 33) designating Vinson Canyon quarry as a Significant Aggregate Site.

Ms. McLane stated that this quarry site is very remote and the nearest dwelling is two miles away. Surrounding land is being used for grazing and there is dryland wheat fields located to the north of the site. There are no activities within the 15,000 ft. impact area and no approved land uses have been identified within the buffer area. The only infrastructure present at this time is Highway 74, which runs from the southeast to the northwest toward Morrow County.

Ms. McLane explained that the objective under the Goal 5 process is to protect the mine from uses that may create conflict. ODOT acknowledges that there could be impacts, but there are no uses in the area that would be problematic relative to this operation. She added that ODOT will obtain necessary air discharge permits, comply with noise standards and if they are unable to maintain stormwater on site, they will obtain other permits related to water.

Ms. McLane stated that ODOT pits differ from commercial pits. In a commercial environment mining occurs quite regularly to support regional development and industrial activities. Activity at ODOT quarries only occurs to support regional or state highway projects located near the quarry. In this case, the quarry would support a project that may occur on Highway 74 or Highway 395 and those projects tend to happen every 10-15 years. Therefore, mining activities occurring at the site would be temporary and sporadic; there could be no activity for a number of years.

Ms. McLane stated that traffic impacts due to activity at the mine would be similar to impact created by harvest activities. There may be a lot of traffic for a short period of time while the project is happening. The projects tend to occur in the Spring & Fall. The UCDC does have a requirement for a Traffic Impact Analysis when a project reaches 250 average daily trips. Similar regional projects demonstrate that the activity on this site would not come close to reaching that number. Additionally, there are no public airports and no other known Goal 5 resources within the impact area.

The agricultural practices in the area are limited and there is a history of the land being used for grazing. Property located several miles to the north of the site is used for dryland wheat farming. South of the property is forest land and to the west, the nearest homes are located along Butter Creek in the canyon approximately two miles away.

Ms. McLane explained that the primary reason for this request is to avoid additional impacts on mining activity in the future. The applicant would like to ensure that Vinson Canyon does not see a growth boom and start to develop homes. Although it might be nice to have additional housing in the area, this is a remote location and ODOT feels it is in their best interest to seek protections to limit conflicting uses within the buffer area (1,500 ft. from the potential impact area). The key issue to be decided is whether or not the Planning Commissioners choose to deem this site as Significant. Without the designation of being considered a Significant site, they cannot move forward with next steps to protect the activity. Ultimately the intent is not to disallow potentially conflicting activities, but rather for the applicants with plans for conflicting land use activities to be made aware of the potential conflict and waive their rights to remonstrance against impacts made by aggregate mining activities in the region.

Ms. McLane stated that once the site is determined to be Significant, ODOT can look at the list of possible future uses in the area, identify the conflicts and limit those conflicting uses. UCDC 152.063(D) requires that, “[a] dwelling shall not be located within 500 ft. of an existing aggregate mining operation unless the owner of the property of the proposed dwelling: (1) Obtains a written release from the adjacent mining operation allowing a closer setback; and (2) Waives his or her rights to remonstrate against normal aggregate mining activities allowed by permits issued under this chapter.”

Ms. McLane pointed out that this site is included in the list of Inventory of Rock Material Resources in Umatilla County in the Umatilla County Comprehensive Plan Technical Report (page D-183, table D-XXII). She stated that ODOT will be submitting a Surface Mining Permit application to the State of Oregon Department of Geology and Mineral Industries (DOGAMI) once the Planning Commission request is approved, as it is a requirement prior to mining at the site. They will also be required to improve the site's access points and obtain ODOT State Highway Approach permits.

Chair Danforth asked for clarification about what the next steps would be if this request were to be approved. Ms. McLane stated that the first step is deeming the site to be Significant. Next, the applicant will request to allow mining at the site and the result could be one of three possibilities; allow mining without conflicting uses, allow mining with conflicting uses in the manner presented, or to prohibit mining. She pointed out that the site can be deemed Significant and still not receives authorization to mine.

Commissioner Green asked for clarifications about the prohibitions that would be attached to dwellings and other gathering spaces. She stated that she is aware of gatherings that take place in that area when ranchers gather to do brandings, for example. Ms. McLane stated that she wanted to be clear that ODOT is not requesting for limitations on uses allowed outright (ie. farming & ranching activities) in the EFU Zone. Regular agricultural activities will be allowed to continue in the area. Limitations would only be placed on applicants who submit permits for development or activities that would not be considered an outright use in the zone. Additionally, the limitation would not necessarily prohibit conflicting activity. The Goal 5 protection would simply ensure that applicants are made aware of the potential conflict of use and waive their rights to remonstrance against impacts made by aggregate mining activities in the region.

Commissioner Timmons asked about the DOGAMI permitting process. She wanted more information about the requirements for reclamation including contouring and revegetation. Ms. McLane stated that the mine will need to meet sloping standards as part of ending the mining operation, when that day comes. Vegetation will not apply much to this mine because there was not much vegetation there before the mining operation came into play. She explained that they remove the top layer of soil at the site and build it into berms as part of their mining operations. At the time of reclamation, the top soil is spread back out over the site and they reseed the area with native plant species. Ultimately, the owner of the mining operation is responsible for returning the site as close as possible to its natural state.

Chair Danforth asked if the mining operations will impact the creek on the site. Ms. Mc Lane explained that the stream on the site is an ephemeral stream, which has flowing water only during the spring season. ODOT will be responsible for protecting the creek and will be required to address impacts during the mining application process.

Chair Danforth asked if there was a timeframe in which ODOT plans to commence mining operations at the site. Ms. McLane deferred to Scott Billings with ODOT to respond.

**Applicant Testimony:** Scott Billings, ODOT Region 4/5 Senior Engineering Geologist, Region 4 Tech Center, 63034 OB Riley Road, Bend, Oregon, 97703. Mr. Billings stated that ODOT has two quarries in use at this time. Franklin Hill Quarry is located approximately 11 miles southwest of this site and Nye Junction Quarry located at the junction of Highway 74 and Highway 395. Both sites have been used regularly but they will not be available forever. ODOT is making future plans to have alternative sites available to take the place of these existing mines when they are no longer available for extraction. ODOT hopes to get their DOGAMI permit approved in the next nine months. They do not have any plans to start mining operations at Vinson Canyon Quarry at this time. They are just seeking protections to ensure it will be available in the future.

Chair Danforth asked more about blasting impacts. She saw language in the commissioner's packets which indicates that minimizing blasting impacts will be accomplished using best practices within acceptable limits. Chair Danforth asked for more clarification on what that means. Mr. Billings stated that there are two major impacts from blasting as part of mining operations. The first is ground vibration measured in inches per second, which must be kept at a safe and acceptable level. The second impact is noise, including actual sound and sound shockwaves. Acceptable noise levels are determined by the distance between the blasting site and other developments or uses. For example, they are authorized to be louder if there are no homes nearby and must regulate noise levels more heavily when there are homes near a site. ODOT has a policy to provide advance notice to surrounding land owners 48-hours before they blast at a site. They want to give ranchers enough time to relocate livestock if they feel it is necessary. Chair Danforth asked about how far they go, distance wise, in noticing landowners before blasting. Mr. Billings stated that they notify adjacent land owners. He added that the Planning Commission could add additional Conditions of Approval if they would like more owners to receive the blasting notice.

Commissioner Royer asked if this is a typical process as part of requesting Goal 5 protections on a mining site in Umatilla County, or is there something that makes this request special or different compared to others. Chair Danforth stated that she recalls other applications with similar requests in the past, and this seems to be the same process as the others.

**Applicant Testimony:** Teresa Penninger, ODOT Region 5 Planning Manager, 3012 Island Avenue, La Grande, Oregon, 97850. Ms. Penninger stated that ODOT has been working with Umatilla County to get several mining sites on the record for many years. Today's request includes a few of the last sites they will be seeking to protect as they work to secure their network of aggregate mining sites in Umatilla County.

Commissioner Green asked more about the seasonal creek on the site. She stated that the creek is used for stockwater systems to provide suitable water to livestock during the spring grazing season. She wants to ensure the stream will be left unobstructed. Mr. Billings stated that DOGMAI is focused on both environmental protections and reclamation as part of their permitting process. ODOT plans to build a berm on the north side of the creek to ensure the work does not impact the creek. If they have operations while the creek is running with water they will install a small culvert to pass over the creek and avoid going through it. He asserted that ODOT and its contractors would never remove water from the creek to use in operations. He explained that they have various methods for obtaining water, including the purchase of water from adjacent land owners or trucking it in from the city.

Commissioner Green asked if blasting will affect existing wells in the region and if ODOT is aware of issues associated with blasting near wells. Mr. Billings stated that it is possible if the well is very close to the site of the blast. He added that utilities near quarries are noticed before blasting. Commissioner Green stated that she is very familiar with the area and lives in the region so she appreciates all the information provided by the applicant.

**Proponent Testimony:** No comments.

**Opponent Testimony:** No comments.

**Public Agencies:** No comments.

Chair Danforth closed the hearing for deliberation.

### **DELIBERATION**

Chair Danforth moved to add a Condition of Approval to require blast notification 48-hour in advance to any landowner located within 1,500 ft. of the quarry, not just adjacent land owners. Commissioner Wysocki seconded and the motion passed by consensus.

Commissioner Tucker made a motion to recommend approval of the Text Amendment #T-21-085, Plan Amendment #P-128-21 & Zone Map Amendment #Z-317-21; Oregon Department of Transportation, applicant/ owner to Amend the Umatilla County Comprehensive Plan to list the Vinson Canyon Quarry as a Significant Site protected by Goal 5; amend the Comprehensive Plan Map to identify the site as Significant and to apply the buffer area to limit conflicting uses; and amend the Zoning Map by applying the Aggregate Resource Overlay Zone to the mining site, and to add a Condition of Approval requiring blast notification 48-hours in advance for any landowner located within 1,500 ft. of the quarry, to the Board of County Commissioners. Commissioner Timmons seconded the motion. Motion passed with a vote of 8:0.

A public hearing before the BCC is scheduled for Wednesday, October 20, 2021, 9am at the Umatilla County Courthouse.

## NEW HEARING

**TEXT AMENDMENT #T-21-086, PLAN AMENDMENT #P-129-21 & ZONE MAP AMENDMENT #Z-318-21: ODOT, Applicant/ Owner.** The applicant requests to add an existing quarry (Butter Creek Quarry) to the Umatilla County Comprehensive Plan list of Goal 5 protected Significant Sites and apply the Aggregate Resource (AR) Overlay Zone to the entire quarry site. The property is located off the northeast side of Butter Creek Road, identified on Assessor's Map as Township 2 North, Range 27 East, Tax Lot 2700. The property is 4.76 acres and is zoned EFU. The criteria of approval are found in Oregon Administrative Rule 660-023-0040 – 0050, 660-023-0180(3), (5) & (7), and UCDC Sections 152.487 – 488.

Chair Danforth read the Opening Statement and called for any abstentions, bias, conflicts of interest, declarations of ex-parte contact or objections to jurisdiction. There were none. She called for the Staff Report.

## STAFF REPORT

Bob Waldher, Planning Director, presented the staff report. Mr. Waldher stated that the applicant, ODOT, requests to add Butter Creek Quarry to the Umatilla County Comprehensive Plan list of Goal 5 protected Significant sites, and apply the AR Overlay Zone to the entire quarry site. The property is located off the northeast side of Butter Creek Road on Tax Lot 2700 of Assessor's Map 2N 27. The subject property is 4.76 acres and zoned EFU.

Mr. Waldher stated that the approval process for this request is similar to the Vinson Quarry request. The Planning Commission will make a recommendation to the BCC. He pointed out an error in the Memo on page 1, under the Butter Creek Quarry section of the Commissioner's packets. The hearing date reads, "September 16, 2021" and should be today's date, September 23, 2021. He stated that he will make the correction in the Final Findings.

**Applicant Testimony:** Carla McLane, Consultant, Carla McLane Consulting, 170 Van Buren Drive, Umatilla, Oregon, 97882. Ms. McLane indicated that she represents the applicant, ODOT. Ms. McLane stated that the applicant's request is very similar to the last hearing request. However, there are additional impacts in the Butter Creek area that were not present in the Vinson Canyon request. She stated that she would like to pinpoint the dissimilarities in the Butter Creek Quarry request and explain how and why they matter.

Ms. McLane stated that Butter Creek Quarry is a smaller site at 4.76 acres, but it does meet the requirements to be deemed as a Significant site. There is an estimated 540,000 tons of available basalt at the site and samples taken in 2014 determined the site meets the standards for resistance to degradation, soundness and coarseness.

Ms. McLane stated that the biggest difference between Vinson Canyon and Butter Creek is the way the land is being used in and around the sites. In terms of conflicting uses, the analysis for

Butter Creek was much more critical. She stated that some agricultural structures are nearby, but no dwellings are located within 1,500 ft. impact area boundary and the nearest home is 1,560 ft. away. She referred to the map on page 31 of the Commissioner's packets which displays a satellite image of the site with overlays representing the 750 ft. advance notice boundary and the 1,500 ft. blasting impact area. She stated that the agricultural uses in the area include dryland farming to the north, circle pivot irrigation farming in the valley and potential for livestock grazing.

Ms. McLane stated that there are no current uses within the buffer area that would be affected by the noise, dust or other discharges from the proposed mining activity. She added that there is a slight increase in traffic on the access road for Butter Creek than for Vinson Canyon, but the impacts would be comparable. The state has designated this site to be part of the Butter Creek Critical Groundwater Area (CGWA). Therefore, the quarry is subject to regulations and standards imposed by the Oregon Water Resources Department (OWRD) including a complex series of administrative rules to ensure groundwater is adequately protected.

Ms. McLane stated that Butter Creek Quarry is included in the list of Inventory of Rock Material Resources in Umatilla County in the Umatilla County Comprehensive Plan Technical Report on page D-180 and classified as a 1A Site. It is the objective of this request to determine that the site is Significant and does deserve protection of mining activities under Goal 5.

Ms. McLane explained that, prior to engaging in mining activity ODOT will obtain a Permit for Construction of Road Approaches onto County & Public Roads (Access Permit) from Umatilla County Department of Public Works. As part of the permitting process, ODOT will enlarge the access point for safe ingress and egress from Butter Creek Road. She acknowledged that the site is located on a slight curve of the road, but maintained that sight-distance is good in both directions.

Ms. McLane explained that stormwater on the site will be either collected and held onsite or executed in accordance with management standards set by the National Pollutant Discharge Elimination System (NPDES) permit program.

Ms. McLane stated that ODOT intends to excavate, process and batch aggregate for public road projects and to stockpile unused aggregate material for current and future use at Butter Creek Quarry. The applicant's goal through this request is to ensure that this quarry site can avoid additional future impacts on mining activity. ODOT and feels it is in their best interest to seek protections to limit conflicting uses within the buffer area (1,500 ft. from the potential impact area). She explained that the Planning Commission is tasked with making a recommendation to the BCC on whether or not to deem this site as Significant.

Commissioner Tucker asked if the measurement taken to determine the 1,500 ft. distance between the blast site and nearby structures and parcels is measured from the north edge of the

mining activity or by starting from the center of the property. Ms. McLane stated that they measured starting from the edge of the property boundary to determine the 1,500 ft. impact area.

Chair Danforth reminded the Planning Commission that the Goal 5 protection request for Butter Creek Quarry will not prohibit conflicting activities in the area. Instead, it would impose requirements for applicants with plans for potentially conflicting land use activities or development near the site to waive their rights to remonstrance against impacts made by aggregate mining activities in the area.

Chair Danforth asked if this request is approved, how landowners already in the area would be affected. She asked whether it would impose a requirement for those with pre-existing dwellings and other structures to also sign documents waiving their rights to remonstrance against impacts made by aggregate mining activities. Mr. Waldher stated that is not an issue in this request because there are no pre-existing conflicting uses within the 1,500 ft. impact area at this time. He further clarified that the requirement for land owners to waive rights to remonstrance against mining impacts will only apply to future requests for activities or development with potential for conflict located within the established 1,500 ft. buffer zone.

**Opponent Testimony:** John Luciani, 27633 Butter Creek Road, Echo, Oregon 97826. Mr. Luciani stated that he does not feel that ODOT should consider this site for mining due to the close proximity to his home, his daughter's home and a neighbor's home, Mr. Price, which is located 60 ft. outside of the 1,500 ft. impact area. He believes there are other rural sites available in the county for blasting and mining activities which are located further away from residences.

Mr. Luciani questions ODOT's claim that they are running out of rock at current mining sites because he has driven by active quarries in the area and seen a lot of rock there. He does not understand why ODOT would want to mine at this location when they know it is located on a curve in the road and close to three dwellings.

Mr. Luciani stated that he is concerned about damage to his underground cement cistern and the wells on his property. He is also concerned about how the blasting will affect his goats, horses, chickens and cows. He expressed frustration with the proposal and stated that he never imagined he would have to deal with something like this near his home. He urged the Planning Commission to make a site visit before making a final recommendation to the BCC.

Commissioner Green asked for clarification on which property was owned by Mr. Luciani. Ms. McLane stated that Mr. Luciani's property is located southeast of the aggregate site, outside the 1,500 foot impact area, but inside the additional notice boundary area (map in Commissioner's packets, page 31).

Commissioner Wysocki asked Mr. Luciani how long he has lived on his property. Mr. Luciani stated that the home his daughter currently lives in was built by his father in 1965. He built his own home on the site in 1999. Commissioner Wysocki asked if Mr. Luciani has ever seen or

heard any mining activity occur at the Butter Creek Quarry site since he has lived in the area. Mr. Luciani replied no, he has not.

Commissioner Timmons asked if Mr. Luciani's neighbor, Mr. Price, received notification of this Goal 5 request as part of the public notice process. Mr. Waldher explained that the state requires public notice be sent to land owners within 750 feet of the subject property. Umatilla County has a provision that requires at least five individual land owners to receive notice. As a result, the public notice area for this request was expanded to include landowners within about ¾ mile of the quarry. Mr. Waldher referred to the list of landowners that received public notices on page 31 of the Commissioner's packets. He pointed out that the name "Price" is not on the list, but there are several corporations and limited liability companies (LLC) listed as surrounding land owners, so Mr. Price may own land under another name.

Chair Danforth thanked Mr. Luciani for calling attention to the curve in the road leading to the site. After reviewing the maps she shares his concern about dangerous conditions in accessing the site off of Butter Creek Road. Mr. Luciani once again urged the Planning Commission to make a site visit before making a recommendation to the BCC.

**Applicant Rebuttal:** Carla McLane, Consultant, Carla McLane Consulting; Scott Billings, ODOT Senior Engineering Geologist; and Teresa Penninger, ODOT Planning Manager.

Ms. McLane stated that ODOT has owned this site for over 75 years and it is identified in the County's Comprehensive plan as a 1A site. She reiterated that the applicant meets the requirements for quality and quantity of aggregate materials at the site.

Ms. McLane explained that ODOT has quarries located throughout the region because they must ensure that they maintain an adequate inventory of materials available for current and future road projects. She pointed out that regional roads will continue to require maintenance over the next several decades and the need for materials will not subside. Although ODOT has not yet used Butter Creek Quarry for mining operations, they are trying to plan for the future. They know they will eventually need to relocate active operations to new sites as materials become less available at current mines. They feel this site is Significant and hope the Planning Commission agrees.

Ms. McLane acknowledged that the road has some curves, but she insisted that you can see for quite a distance.

Ms. Penninger pointed out that the access point will be off a county road and they will be required to obtain an Access Permit from the County Road Department. The process of approval for the Access Permit will ensure that all aspects of the curvature of the road and any sight restrictions that may apply will be taken into account at that time. She stated that safety is important to ODOT and they will comply with all applicable safety standards pertaining to access.

Chair Danforth asked about the estimated lifespan of an average 4 ½ acre mine. Mr. Billings stated that there are a number of factors that come into play in making that estimate. The lifespan of the mine will depend on a number of factors including; the number of highways serviced, the size of each highway and how much traffic those highways get.

Commissioner Wysocki stated that there are seven formations of basalt in this region (The Columbia River Basalt Group) and some sites yield better quality rock than others. The formations are subdivided into formal and informal members and flows. He asked which member Butter Creek Quarry is part of. Mr. Billings stated that this site is part of the Wanapum Basalt Formation, Frenchman Springs Member.

Chair Danforth stated that she has not been to the location and asked staff if it would be appropriate for the Planning Commission to make a site visit before making a decision. Mr. Waldher stated that it is a gray area because site inspections performed alone could be considered to be a form of ex-parte contact. He explained that arranging a group visit could be possible, but he warned that the public perception might become problematic so he discouraged the notion.

**Public Agencies:** No additional comments.

Chair Danforth closed the hearing for deliberation.

### **DELIBERATION**

Commissioner Williams made a motion to recommend denial of the Text Amendment #T-21-086, Plan Amendment #P-129-21 & Zone Map Amendment #Z-318-21; Oregon Department of Transportation, applicant/ owner to Amend the Umatilla County Comprehensive Plan to list the Butter Creek Quarry as a Significant Site protected by Goal 5; amend the Comprehensive Plan Map to identify the site as Significant and to apply the buffer area to limit conflicting uses; and amend the Zoning Map by applying the Aggregate Resource Overlay Zone to the mining site, to the Board of County Commissioners. Commissioner Royer seconded the motion. Motion passed with a vote of 5:3.

A public hearing before the BCC is scheduled for Wednesday, October 20, 2021, 9am at the Umatilla County Courthouse.

### **MINUTES**

Chair Danforth called for any corrections or additions to the minutes from the July 22, 2021 meeting. There were none. Commissioner Tucker moved to approve the minutes as presented. Motion carried by consensus.

Minutes from the August 26, 2021 Planning Commission hearing for Kevin & Heather James Conditional Use Request #C-1342-21 will be included in the Commissioner's packets for the continued hearing on October 28, 2021.

### **OTHER BUSINESS**

Mr. Waldher stated that he sent information about an upcoming training opportunity to all the Planning Commissioners. The Oregon Planners Network Fall 2021 Virtual Meeting is scheduled for September 29-30, 2021. The training on Wednesday, September 29, 6-8pm is titled, "Keeping Out of Hot Water: Land Use Decision-making for Planning Commissioners, Elected Officials, City Administrators, and Planners". Mr. Waldher encouraged all Planning Commissioners to attend, if possible. All members of the Planning Commission confirmed they will attend. Tierney Cimmiyotti, Administrative Assistant to the Planning Department, stated that she will finalize registrations on Friday and the Umatilla County will cover the fees for Planning Commissioners.

### **ADJOURNMENT**

Chair Danforth adjourned the meeting at 8:55pm.

Respectfully submitted,

Tierney Cimmiyotti,  
Administrative Assistant

Minutes adopted by the Planning Commission on October 28, 2021