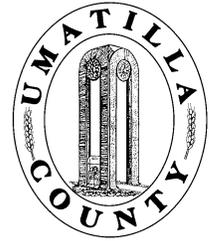


Umatilla County

Department of Land Use Planning



AGENDA

Umatilla County Planning Commission Public Hearing

Thursday, January 27, 2022, 6:30PM

VIRTUAL MEETING

TO PARTICIPATE IN THE HEARING PLEASE SUBMIT COMMENTS BEFORE 4PM ON JANUARY 27TH TO planning@umatillacounty.net OR CONTACT THE PLANNING DEPARTMENT AT 541-278-6252.

Planning Commission

Suni Danforth, Chair
Don Wysocki, Vice-Chair
Tammie Williams
Tami Green
Hoot Royer
Jon Salter

Lyle Smith
Sam Tucker
Cindy Timmons

Planning Staff

Bob Waldher, Director
Carol Johnson, Senior Planner
Megan Davchevski, Planner/ Transit Coordinator
Tamara Ross, Planner II/ GIS
Gina Miller, Code Enforcement Coordinator
Tierney Cimmiyotti, Administrative Assistant

1. **Call to Order**
2. **New Hearing**

PLAN AMENDMENT #P-130-21, ZONING MAP AMENDMENT #Z-319-21 & TEXT AMENDMENT #T-21-087 to Co-adopt City of Umatilla Goal 5 Aggregate Site. Oregon Department of Transportation (ODOT) and the City of Umatilla request the County co-adopt a proposed change within the city's UGB. The proposed change would provide an Aggregate Resource (AR) Overlay Zone to an existing ODOT aggregate quarry, a 1500 ft. buffer area, and identify the site as a Goal 5 protected site.

The criteria of approval are found in Umatilla County Development Code 152.750-152.755, OAR 660-024-0020, and the Joint Management Agreement between the City & County.

3. **Adjournment**

Umatilla County

Department of Land Use Planning



DIRECTOR
ROBERT WALDHER

LAND USE
PLANNING,
ZONING AND
PERMITTING

CODE
ENFORCEMENT

SOLID WASTE COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

MEMO

TO: Umatilla County Planning Commission

FROM: Megan Davchevski, Planner

DATE: January 20, 2022

Re: January 27, 2022 Planning Commission Hearing
Comprehensive Plan Map Amendment #P-130-21,
Comprehensive Plan Text Amendment #T-21-087 and
Zoning Map Amendment #Z-319-21
Co-adoption of City of Umatilla Amendments

CC: Robert Waldher, Planning Director

Background Information

Oregon Department of Transportation (ODOT), property owner, and the City of Umatilla request Umatilla County to co-adopt amendments to the property identified as Map 5N2816A, Tax Lot 1700, located within the City of Umatilla's Urban Growth Boundary (UGB). The proposal is to include the existing aggregate site as a Goal 5 protected site. The property is generally located southeast of the City of Umatilla and east of Interstate 82.

Criteria of Approval

The criteria of approval for co-adoptions are found in the Joint Management Agreement (JMA) between Umatilla County and the City of Umatilla. Amendments are found in Umatilla County Development Code 152.750-152.755.

Conclusion

In accordance with the Joint Management Agreement (JMA) between Umatilla County and the City of Umatilla, the County is required to co-adopt any amendments within the city's UGB. Therefore, the County has the authority to consider and approve the Comprehensive Plan Map, Text and Zoning Map Amendments.

The process of approval by the County involves review by the County Planning Commission with a recommendation to the Board of County Commissioners (BCC). The BCC must also hold a public hearing(s) and make a decision whether or not to adopt the proposed change to the Development Code. A public hearing before the BCC is scheduled for February 9, 2022 at 9am.

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**UMATILLA COUNTY
PLANNING COMMISSION HEARING – JANUARY 27, 2022
UMATILLA COUNTY COMPREHENSIVE PLAN AMENDMENT,
TEXT AMENDMENT & ZONING MAP AMENDMENT
OREGON DEPARTMENT OF TRANSPORTATION, APPLICANT & OWNER
PACKET CONTENT LIST**

1.	Staff Memo to Planning Commission	Page 1
2.	Notice and Vicinity Map	Page 4
3.	Soils Map	Page 5
4.	County Staff Report & Preliminary Findings	Pages 7-35
5.	Lab Report 92-14527	Pages 37-39

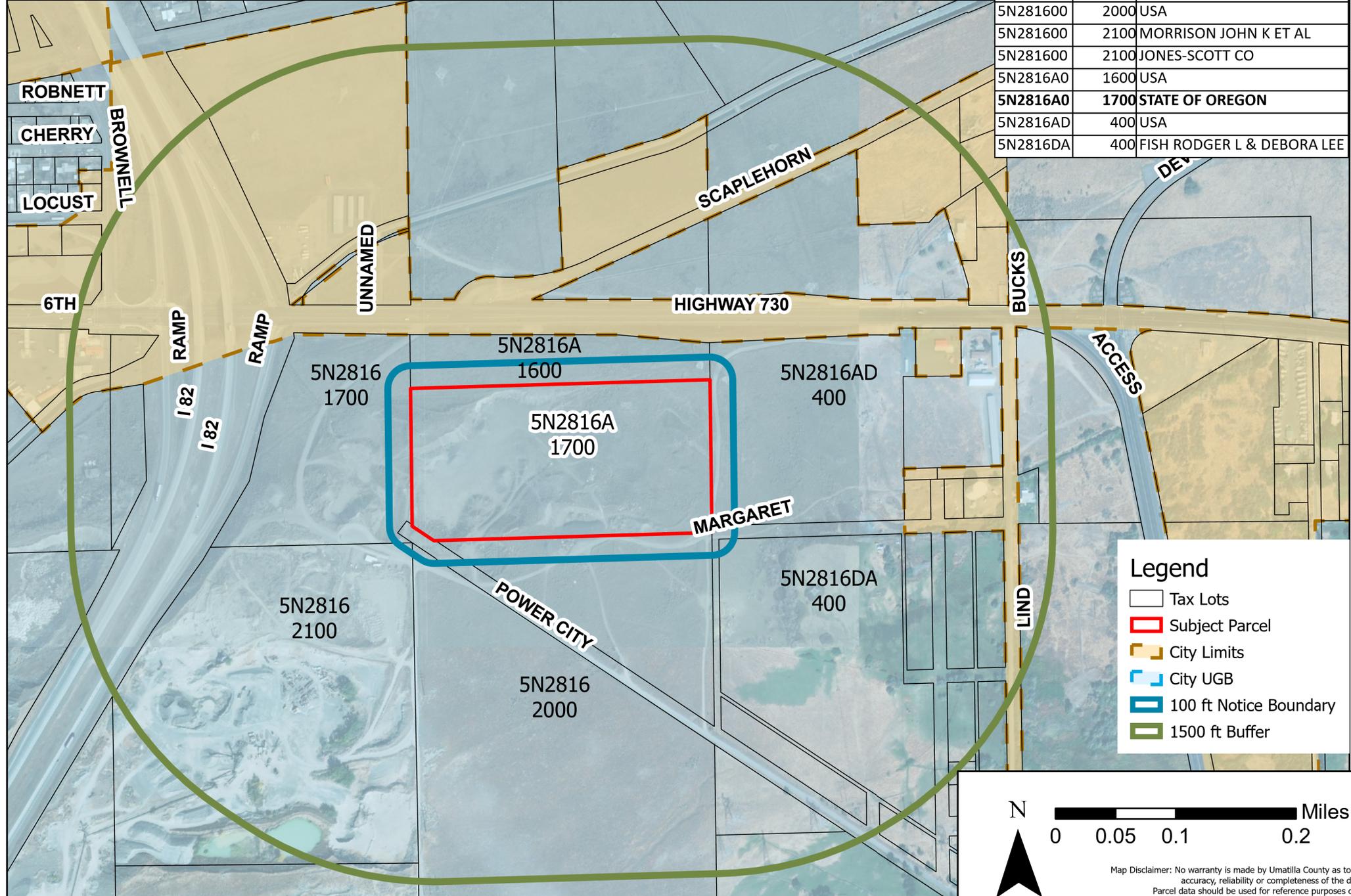
APPLICANT / OWNER: ODOT
MAP: 5N2816A TAX LOT 1700

#T-21-087, #Z-319-21 AND #P-130-21

POWERLINE SITE

Notified property owners within 100 feet of Subject Parcel

MAP	TAX LOT	OWNER
5N281600	1700	UMATILLA COUNTY OF
5N281600	2000	USA
5N281600	2100	MORRISON JOHN K ET AL
5N281600	2100	JONES-SCOTT CO
5N2816A0	1600	USA
5N2816A0	1700	STATE OF OREGON
5N2816AD	400	USA
5N2816DA	400	FISH RODGER L & DEBORA LEE



Legend

- Tax Lots
- Subject Parcel
- City Limits
- City UGB
- 100 ft Notice Boundary
- 1500 ft Buffer

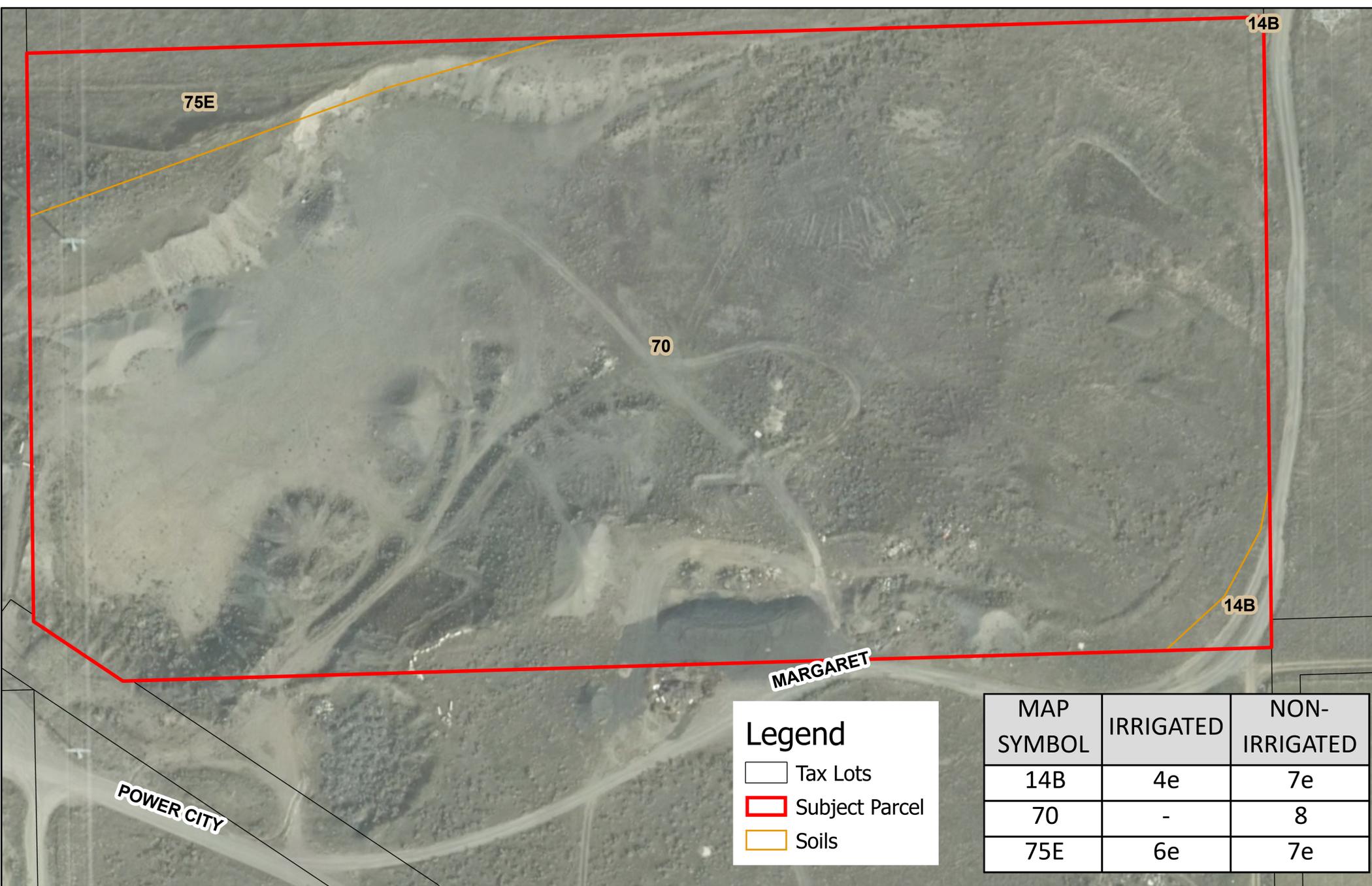
N

0 0.05 0.1 0.2 Miles

Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by M. Davchevski, Umatilla County Planning Department Date: 11/30/2021



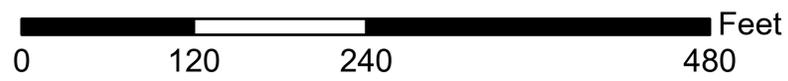
POWERLINE SOIL MAP



Legend

-  Tax Lots
-  Subject Parcel
-  Soils

MAP SYMBOL	IRRIGATED	NON-IRRIGATED
14B	4e	7e
70	-	8
75E	6e	7e



Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by M. Davchevski, Umatilla County Planning Department Date: 11/30/2021

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**UMATILLA COUNTY BOARD OF COMMISSIONERS
PRELIMINARY FINDINGS AND CONCLUSIONS
CO-ADOPTION OF CITY OF UMATILLA AMENDMENTS
PLAN MAP AMENDMENT (File #P-130-21)
ZONING MAP AMENDMENT (File #Z-319-21)
COMPREHENSIVE PLAN TEXT AMENDMENT (File #T-21-087)**

I. OVERVIEW

Applicant: ODOT City of Umatilla
3012 Island Ave 700 6th St PO Box 130
La Grande OR 97850 Umatilla, OR 97882

Consultant: Carla McLane Consulting
700 6th St PO Box 130
Umatilla, OR 97882

Property Owners: Oregon Department of Transportation
3012 Island Ave
La Grande OR 97850

Proposed Action: The request is to add Tax Lot 1700 of Assessor’s Map 5N 28 16A to the City of Umatilla’s list of significant aggregate sites, providing necessary protections under statewide Planning Goal 5 and Oregon Administrative Rule (OAR) Chapter 660 Department of Land Conservation and Development (DLCD) Division 23 Procedures and Requirements for Complying with Goal 5 including limiting conflicting uses within the buffer area, and to allow mining, processing, and stockpiling at the site.

The site is currently listed in the Umatilla County Technical Report on page D-174 as a 1A Site which indicates that at the time of listing the site was determined to be not important. This application will provide evidence that the site is significant and is in an area with other aggregate extraction that supports county roads and local development. The subject property is identified in the City of Umatilla Comprehensive Plan as Natural Resource which recognizes areas that contain high-quality aggregate and basalt.

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

The City of Umatilla has approved the amendment applications, Umatilla County has been asked to co-adopt the amendments.

Subject Property: The subject property is identified as Tax Lot 1700 on Assessor’s Map 5N 28 16A. The property is located inside the City of Umatilla’s Urban Growth Boundary but not inside City Limits.

(See attached mapping for an overview of the subject property included in the proposed request)

Comp. Plan Designation: The property has a City Comprehensive Plan designation of Natural Resource.

Zoning: The current and proposed zoning is F-2 (General Rural Zone).

Land Use: The property has been historically used as an aggregate site since ODOT acquired the property in 1951. The property is used for aggregate extraction and stockpile. Several permits have been issued by Umatilla County to allow for mining, crushing, and processing. Transmission lines are installed on the subject property.

Irrigation: The applicant provides there are no irrigation water rights.

Soil Types: High Value Soils are defined in UCDC 152.003 as Land Capability Class I and II. As shown in the attached soils map, the subject parcels are composed of non-high value soils.

Soil Name, Unit Number, Description	Land Capability Class	
	Dry	Irrigated
14B: Burbank loamy fine sand, 0 to 5 percent slopes	VIIe	IVe
70: Pits, gravel	8	--
75E: Quincy loamy fine sand, 5 to 25 percent slopes	VIIe	VIe

Soil Survey of Umatilla County Area, 1989, NRCS. The suffix on the Land Capability Class designations are defined as “e” – erosion prone, “c” – climate limitations, “s” soil limitations and “w” – water (Survey, page. 172).

Utilities: The subject parcel is located inside the City’s UGB and located in close proximity to existing City water and sewer mainlines.

The applicant provides there is no need for utilities under the current use of the property.

Public Hearings: A Public Hearing was held before the City of Umatilla Planning Commission on **Tuesday, November 23, 2021 at 6:30 PM** in the city council chambers, 700 6th Street, Umatilla, Oregon. A subsequent public hearing was held before the Umatilla City Council is scheduled for **Tuesday, December 7, 2021 at 6:30 PM** in the city council chambers, 700 6th Street, Umatilla, Oregon.

A Public Hearing for a recommendation of Co-adoption of the request will be held before the Umatilla County Planning Commission and is scheduled for **Thursday, January 27, 2022 at 6:30 PM**. The Planning Commission's recommendation will then go before the County Board of Commissioners. The public hearing held before the Board of Commissioners is scheduled for **Wednesday, February 9, 2021 at 9:00 AM**.

II. JOINT MANAGEMENT AGREEMENT

The City and County are authorized under the provisions of Oregon Revised Statutes (ORS) 190 to enter into intergovernmental agreements for the performance of any functions that the City or County has authority to perform. The City of Umatilla and Umatilla County entered into a Joint Management Agreement (JMA) on January 3, 2017. The JMA requires the City and County to have coordinated and consistent comprehensive plans which establish an UGB and a plan for the Urban Growth Area (UGA) within the UGB.

Statewide Planning Goal 2 (Land Use Planning) requires that the City and County maintain a consistent and coordinated plan for the UGA when amending their respective comprehensive plans.

Per the provisions of the JMA, the City of Umatilla is responsible for preparing and/or reviewing all legislative and quasi-judicial amendments to the City Comprehensive Plan text and map(s). All adopted amendments to the City's Comprehensive Plan and/or maps affecting the UGA or UGB shall be referred to the County for adoption as amendments to the County Plan. The County must adopt the amendments approved by the City for these to be applicable in the UGA. The process of approval by the County involves review by the County Planning Commission with a recommendation to the Board of County Commissioners (BCC). The BCC must also hold a public hearing(s) and make a decision whether or not to co-adopt the proposed change to the property located inside the City of Umatilla's UGB.

Procedures for annexation shall be in accordance with relevant methods and procedures in ORS and city ordinances. At the time of annexation, the city shall apply the appropriate zoning designation to the property and amend the City Zoning Map accordingly.

III. AMENDMENT ANALYSIS

The criteria applicable to this request are shown in underlined text and the responses are shown in standard text. All of the following criteria must be satisfied in order for this request to be approved.

STANDARDS OF THE OREGON ADMINISTRATIVE RULES, DIVISION 23 FOR GOAL 5 LARGE SIGNIFICANT SITES are found in OAR 660-023-0180 (3), (5), & (7), OAR 660-023-0040, and OAR 660-023-0050.

OAR 660-023-0180 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 (c) 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 Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and sodium sulfate soundness, and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley, 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

(c) The aggregate site is on an inventory of significant aggregate sites in an acknowledged plan on the applicable date of this rule.

(d) Notwithstanding subsections (a) through (c) 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 the date of this rule; 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 the date of this rule, unless the average width 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.

Applicant Findings: The Powerline Quarry is located in Eastern Oregon and has an inventory of 2.95 million tons of available sands and gravels and basalt bedrock. The sand and gravel layer are up to 68 feet deep with the basalt layers between 183 and 290 feet. An evaluation of the sands and gravels to account for rock that may not be of the right size or meet other standards the inventory of half the total available is 365,000 cubic yards or 548,400 tons. For the basalt there is 1.6 million cubic yards or 2.4 million tons.

Historic DOGAMI mapping and the United States Department of Agriculture Soil Conservations Service Soil Survey identify, respectively, lava flows of Quaternary Missoula Flood deposits of

silt to boulders over Miocene Columbia River Basalt Group and identify the site as predominately Pits Gravel, a designation that is applied to areas where aggregate extraction has taken place or is anticipated at the time of the soil survey.

Samples of material were tested from the Powerline Quarry in 1980, 1992, and 1993. For this analysis we are relying on testing completed in 1992, specifically test number 92-14527. View the three pages of the lab report as though it were a spreadsheet and read across each of the pages staying within the same row of cells. The requirements are for abrasion to be less than or equal to 30 percent, soundness to be less than or equal to 12 percent, and less than or equal to both 30 percent and 4 inches for degradation. For this testing the abrasion is 12.6 percent, soundness is 1 percent, and degradation is 11.4 percent with a sediment height of .2 inches.

Powerline Quarry exceeds the criteria for a significant aggregate site in accordance with OAR 660-023-0180(3)(a).

County Finding: In review of the material provided by the applicant, the County finds the proposed site meets the requirements found above. 548,400 tons of sand and gravel as well as 2.4 million tons of basalt rock clearly exceed the requirement of 500,000 tons for protection outside of the Willamette valley as required by criterion 3(a).

(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.

Applicant Findings: This request is for Goal 5 protections for the entire ODOT aggregate site and is not a request for an expansion. Utilizing an impact area of 1500-feet from the boundary of the mining area is reasonable and does account for the activities in the vicinity.

County Finding: Mining is permitted at the existing site, this process will allow for the protection of aforementioned use. The applicant's proposed impact area of 1500-feet will be sufficient to account for the activities in the area.

(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:

Applicant Findings: There is a variety of activity within the 1,500-foot impact area based on review of aerial photography and site visits. Residential areas are found to the northwest of the site as well as to the east and southeast, however only two residential units to the east fall within the impact area. The one on tax lot 100 of Assessor’s Map 5N28E16AC is associated with a self-storage operation which is a commercial activity which was converted from a farm use (hatchery and coop) in 1991. Also, within the impact area are two self-storage operations and a medical facility, both along Highway 730. And Highway 730 and Interstate 82, including the interchange, are within the 1500-foot impact area. These uses appear to have been “approved land uses” granted by either Umatilla County or the City of Umatilla.

County Finding: The subject property is currently zoned General Rural (F-2) in the Urban Growth Boundary. The existing mining activity has existed prior to application for Goal 5 protection, the current use will not change and existing uses in the area have been exposed to the use prior to this application. Additionally, non-commercial mining is a permitted use in the F-2 zone, the applicant is merely wanting to protect the resource.

(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;

Applicant Findings: There are uses that could be impacted by noise, dust, or other discharges from the proposed mining operation. Noise from mining activities will be mitigated as the aggregate site, based on past use, is already functionally below ground level containing and muffling most noise. Blasting, which is conducted as part of the mining process, can also create noise, cause vibration, and result in fly rock. The current and continued configuration of the mining site will mitigate noise and fly rock. This same configuration of the mining site will also allow ODOT to manage stormwater and other related discharges onsite. Should any activities require permitting by the Oregon Department of Environmental Quality those permits will be obtained. Additionally, ODOT will comply with the requirements of DOGAMI.

County Finding: The mining use has been in existence for many years, and the existing site has mitigated conflicts through time with noise, dust or other charges due to the preexisting use. No changes are proposed to the site at this time, the request is to have the existing use and site be protected under Goal 5 provisions. Should any activities require permitting by the Oregon Department of Environmental Quality those permits will be obtained. Additionally, ODOT will comply with the requirements of DOGAMI.

(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;

Applicant Findings: Unlike commercial quarry sites, this quarry will be used to support public road projects, with traffic generation temporary and sporadic. Occasional maintenance by the state will also be customary generally consisting of just a few vehicles. Most vehicle trips in and out of the quarry will occur when material from the quarry is used for road maintenance and improvement projects. These projects generally occur from the spring through fall during daylight hours. The level of vehicle trips generated by the quarry does not trigger a traffic impact analysis as it will be less than the 250 average daily trips as outlined at the City of Umatilla Zoning Ordinance 10-11-10.

County Finding: The subject property has access to multiple roads in the area. The subject property is not expected to create any conflicts for access and egress. These projects generally occur from the spring through fall during daylight hours. The level of vehicle trips generated by the quarry does not trigger a traffic impact analysis as it will be less than the 250 average daily trips as outlined at the City of Umatilla Zoning Ordinance 10-11-10. Power City Road and Margaret Street both have access to Highway 730 which is a major highway. It is worth noting that the applicant is ODOT and has maintenance responsibility for Highway 730. It is likely that maintenance projects for Highway 730 have utilized the Powerline Quarry in the past, and will continue to do so.

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

Applicant Findings: There are no public airports within the Impact Area. The closest public airport is south of Hermiston.

County Finding: This criterion does not apply.

(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;

Applicant Findings: There are no county inventoried Goal 5 resource sites within the impact area for Powerline Quarry. The City of Umatilla Comprehensive Plan map designation is Natural Resource, which supports the protection and extraction of aggregate material, but does not appear to provide specific Goal 5 protections.

County Finding: There are no Goal 5 resource sites within the impact area. This criterion does not apply.

(E) Conflicts with agricultural practices; and

Applicant Findings: The subject property is within the Urban Growth Boundary of the City of Umatilla with the nearest agricultural activities over a mile away to the southwest and southeast.

There are also agricultural activities over a mile to the north across the Columbia River. No agricultural activities will be impacted by this operation.

County Finding: The property and the impact area are wholly inside the City of Umatilla's Urban Growth Boundary. There are no agricultural practices within the impact area. This criterion does not apply.

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

Applicant Findings: The City of Umatilla nor Umatilla County have ordinances that supersedes DOGAMI regulations.

County Finding: This criterion does not apply.

(c) 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.

Applicant Findings: ODOT has identified the potential for impacts from noise blasting, and dust. These potential impacts will be minimized using the following actions and practices:

- Noise will be minimized by completing crushing activities during daylight hours.
- Impacts from blasting will be minimized by providing notice to sensitive users 48 hours prior to blasting. Sensitive users would be residences and medical facilities.
- Dust will be minimized by using water or other suppressive measures within the quarry and along gravel roads used for ingress and egress.

County Finding: The mitigation actions listed above will be sufficient to control negative consequences of the use. These actions were included as conditions of approval within the City of Umatilla's approval.

(d) The local government shall determine any significant conflicts identified under the requirements of subsection (c) 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
- (C) The probable duration of the mining operation and the proposed post-mining use of the site.

Applicant Findings: ODOT asserts that all identified conflicts can be minimized as described above.

County Finding: The above criterion states “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.” The applicant has identified conflicts and how they will be minimized. Therefore, this criterion is not applicable.

(d) 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

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

Applicant Findings: ODOT is requesting the Umatilla County and the City of Umatilla list the Powerline Quarry in their respective inventories and that the City of Umatilla approve mining. The narrative above identifies that ODOT has acknowledged potential conflicts and identified measures that can reduce or eliminate those same conflicts. Conditions limiting crushing and blasting to daylight hours, providing notice prior to blasting activities, and managing stormwater onsite are achievable.

County Finding: As this is a preexisting use that is seeking Goal 5 protection there will be no additional land use review required. The required measures to minimize conflict are listed above and will be required as a condition of approval, enforced by the City of Umatilla.

(e) 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.

Applicant Findings: It is anticipated that the site would be appropriate for industrial, commercial, or open space uses at the time the quarry was no longer needed as an aggregate source. Post mining use will be consistent with the F-2 General Rural Zone and comply with DOGAMI Reclamation Plan requirements. The site is within the City of Umatilla Urban Growth Boundary.

County Finding: It is expected that when the site is no longer viable for its use under Goal 5 protections that it will be utilized as a use approved in the F-2 General Rural Zone or whichever zone may be applied to the site at that time.

(f) 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.

Applicant Findings: Powerline Quarry is not an existing significant aggregate resource on either Umatilla County or the City of Umatilla's inventory of significant sites. This review criterion does not apply.

County Finding: The City of Umatilla does not have a Goal 5 natural resource for aggregate. This criterion does not apply.

(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.)

Applicant Findings: ODOT has provided an ESEE analysis. The analysis supports a decision to limit new conflicting uses within the buffer.

County Finding: The applicant provided ESEE analysis is more than adequate. This analysis will be used for a decision on limiting new conflicting uses within the impact area.

660-023-0040 ESEE Decision Process

(1) Local governments shall develop a program to achieve Goal 5 for all significant resource sites based on an analysis of the economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use. This rule describes four steps to be followed in conducting an ESEE analysis, as set out in detail in sections (2) through (5) of this rule. Local governments are not required to follow these steps sequentially, and some steps anticipate a return to a previous step. However, findings shall demonstrate that requirements under each of the steps have been met, regardless of the sequence followed by the local government. The ESEE analysis need not be lengthy or complex, but should enable reviewers to gain a clear understanding of the conflicts and the consequences to be expected. The steps in the standard ESEE process are as follows:

(a) Identify conflicting uses;

Applicant Findings: The subject property is within the Urban Growth Boundary of the City of Umatilla and is zoned F-2 General Rural Zone which allows a variety of farm and rural residential uses, some outright and others conditionally. Some of these uses could create conflicts with an aggregate operation. Conflicts are most likely to arise when a new use would place people, living or working, within the buffer area. Those uses include homes, schools or churches, parks or certain recreation facilities, farm stands, commercial activities such as veterinarians, and other similar uses.

County Finding: This is an existing site, therefore, the biggest potential conflicting use would be new uses that locate in the area. Due to the potential for future conflict the applicant's proposed 1,500-foot buffer is accepted by the City and County. Conflicting uses will be restricted at the City level, as the City manages the UGB in accordance with the JMA. As stated

earlier, both the site and the entirety of the impact area are entirely located inside the City's UGB.

(b) Determine the impact area;

Applicant Findings: A 1,500-foot buffer extending from the aggregate site boundary.

County Finding: A 1,500-foot buffer is sufficient according the maximum distance allowed by statute.

(c) Analyze the ESEE consequences; and

Applicant Findings: See the analysis below.

County Finding: This criterion is addressed below.

(d) Develop a program to achieve Goal 5.

Applicant Findings: See a full analysis below.

County Finding: This criterion is addressed below.

(2) Identify conflicting uses. Local governments shall identify conflicting uses that exist, or could occur, with regard to significant Goal 5 resource sites. To identify these uses, local governments shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area. Local governments are not required to consider allowed uses that would be unlikely to occur in the impact area because existing permanent uses occupy the site. The following shall also apply in the identification of conflicting uses:

Applicant Findings: City of Umatilla Planning staff, under this provision, will need to identify conflicting uses that exist, or could occur, relative to this site. The F-2 General Rural Zone is applied to the subject and surrounding property which allows a variety of farm and rural residential uses. As previously stated ODOT is concerned with activities that might be negatively impacted by mining activities including processing and stockpiling. ODOT has anticipated conflicting uses the city could identify and based the ESEE analysis attached to this application on these uses.

County Finding: Conflicting uses that were identified by the City at this time are homes, schools or churches, parks or certain recreation facilities, farm stands, commercial activities such as veterinarians, and other similar uses.

(a) If no uses conflict with a significant resource site, acknowledged policies and land use regulations may be considered sufficient to protect the resource site. The determination that there are no conflicting uses must be based on the applicable zoning rather than ownership of the site. (Therefore, public ownership of a site does not by itself support a conclusion that there are no conflicting uses.)

Applicant Findings: ODOT is requesting that conflicting uses be identified, and the site be protected from those uses within the buffer area.

County Finding: The previously identified conflicting uses will be restricted within a 1500- foot buffer by an overlay zone. City staff are working on creation of the 1500-foot buffer zone overlay zone to add to the development code, but it is not included in this co-adoption.

(b) A local government may determine that one or more significant Goal 5 resource sites are conflicting uses with another significant resource site. The local government shall determine the level of protection for each significant site using the ESEE process and/or the requirements in OAR 660-023-0090 through 660-023-0230 (see OAR 660-023-0020(1)).

Applicant Findings: There are no county inventoried Goal 5 resource sites within the impact area for Powerline Quarry. The City of Umatilla Comprehensive Plan map designation is Natural Resource, which supports the protection and extraction of aggregate material, but does not appear to provide specific Goal 5 protections.

County Finding: There are no City or County inventoried Goal 5 resource sites within the impact area for Powerline Quarry. This criterion is not applicable.

(c) Determine the impact area. Local governments shall determine an impact area for each significant resource site. The impact area shall be drawn to include only the area in which allowed uses could adversely affect the identified resource. The impact area defines the geographic limits within which to conduct an ESEE analysis for the identified significant resource site.

Applicant Findings: The impact area for an aggregate site is 1,500 feet, as specified by OAR 660-023-0180(5)(a). This is the buffer area used for this analysis.

County Finding: The impact area for an aggregate site is 1,500 feet, as specified by OAR 660-023-0180(5)(a). This is the buffer area used for this analysis.

(3) Analyze the ESEE consequences. Local governments shall analyze the ESEE consequences that could result from decisions to allow, limit, or prohibit a conflicting use. The analysis may address each of the identified conflicting uses, or it may address a group of similar conflicting uses. A local government may conduct a single analysis for two or more resource sites that are within the same area or that are similarly situated and subject to the same zoning. The local government may establish a matrix of commonly occurring conflicting uses and apply the matrix to particular resource sites in order to facilitate the analysis. A local government may conduct a single analysis for a site containing more than one significant Goal 5 resource. The ESEE analysis must consider any applicable statewide goal or acknowledged plan requirements, including the requirements of Goal 5. The analyses of the ESEE consequences shall be adopted either as part of the plan or as a land use regulation.

Applicant Findings: ODOT is requesting that the City of Umatilla determine that future dwelling or residential use and other noise sensitive uses be limited to protect the mining area from encroachment. The types of uses that have potential to pose a conflict with the quarry include residential uses, and “gathering spaces” - certain public or semi-public uses, churches, private and public parks, golf courses, community centers, residential homes, room and board operations, and schools.

Umatilla County’s Comprehensive Plan Finding 38 states, “extraction of non-renewable aggregate and mineral resources requires ongoing exploration, reclamation, separation from adjacent incompatible land uses and access” and has three supporting Policies. It is the “separation from adjacent incompatible land uses” that ODOT is seeking to assure to limit future impacts from the Powerline Quarry.

On page D-196 of the Umatilla County Technical Report it states the following, “About 30 ‘3C’ and ‘2A’ resource sites are owned [or] operated by the Oregon State Highway Department and County Road Department. Most of these sites are small (under four acres) and are used as material resources for road repair and construction. Costs and energy are saved by having scattered material sources available through the county.” It is in support of this statement that ODOT is seeking protection for this quarry and others within its network throughout Umatilla County.

The ESEE Analysis follows:

ESEE consequences related to review criteria for dwellings and gathering spaces in the 1,500-foot impact area surrounding the Powerline Canyon Quarry			
	<i>Prohibit dwellings and gathering spaces</i>	<i>Condition the placement of new dwellings and gathering spaces</i>	<i>No change to review standards for dwellings and gathering spaces</i>
Economic Consequences	<p>Consequences related to new use on neighboring properties. There may be some negative economic impact to neighboring property owners if new dwellings or gathering places were not allowed within 1500 feet of the quarry boundary. Since only a portion of properties, all with a 19-acre minimum lot size requirement for a dwelling, would be affected, the negative impact would be small. There are also challenges to future residential development in the impact area due to the amount and type of infrastructure installed in the 1500-foot buffer. This decreases the</p>	<p>Consequences related to new use on neighboring properties. The economic impact to neighboring property owners would be neutral. A requirement for a waiver of remonstrance would not restrict the use of the property allowed in the underlying zone. Similar wavers are required by counties around the state as a condition of approval for a new residential structure in a farm or forest zone. These wavers, required by ORS 215.213 and 215.283, restrict a landowner’s ability to pursue a claim for relief or cause of action alleging injury from farming or forest</p>	<p>Consequences related to new use on neighboring properties. The economic consequence for property owners would be neutral. This decision would maintain the current approval criteria for new residences and gathering spaces in the impact area. Consequences related to loss or interruption of quarry access. The economic impact would be negative. Interruptions in use of a quarry, due to complaints</p>

	<p>likelihood of residential development and lowers the potential negative consequences of prohibiting dwellings.</p> <p>Consequences related to loss or interruption of quarry access.</p> <p>The economic benefit of preserving ODOT’s ability to access material from sites within the state’s network of material sources is well</p>	<p>practices. While the property is not zoned for Exclusive Farm Use it is zoned General Rural Zone which is designed to maintain the openness and rural nature of the countryside.</p> <p>Without evidence that the widespread use of such waivers has negatively impacted property values or development rights, it is reasonable to conclude</p>	<p>and nuisance lawsuits, have cause delays and increased costs for road projects across the state. Development of this quarry supports economically efficient staging of road maintenance and construction projects in the region. New noise sensitive uses locating within 1500 feet of the quarry will bring the possibility that</p>
	<p>documented. Offering a state-owned aggregate site on a road project is known to increase the number of contractors bidding on a project. This enables more competition, which results in lower project costs. As this request is seeking approval of a site owned by ODOT since 1951 this is a less costly strategy than seeking a new site. The Powerline Quarry will provide material for road maintenance and construction along Highways 730 and 395 and Interstate 82 in northwest Umatilla County. All commercial users of these highways will also benefit economically from efficient maintenance of these roads.</p>	<p>that the proposed limit on new conflicting uses in the impact area of the Powerline Quarry will have no negative economic consequence.</p> <p>Consequences related to loss or interruption of quarry access.</p> <p>The economic benefit would be the same as that for a decision to prohibit uses since the proposed “limit” is to require that new uses would be permitted on the condition that the applicant except mining activity on this significant aggregate site.</p>	<p>limitations on quarry activity will be sought by people who are bothered by mining activity. The potential negative economic impact ranges from small to exceptionally large. All commercial users of state and county roads in the service area may also experience negative economic consequences if maintenance of these roads is compromised due to less efficient access to aggregate material.</p>
	<p><i>Prohibit dwellings and gathering spaces</i></p>	<p><i>Condition the placement of new dwellings and gathering spaces</i></p>	<p><i>No change to review standards for dwellings and gathering spaces</i></p>
Social Consequences	<p>Consequences related to new use on</p>	<p>Consequences related to new use on</p>	<p>Consequences related to new use on</p>

	<p>neighboring properties. Removing the option to place a dwelling, which otherwise meets all existing review criteria, within 1500 feet of the quarry boundary, would have a negative social consequence. This would be similar if gathering spaces were also prohibited. The social consequences stem from</p>	<p>neighboring properties. The social impact to neighboring property owners would be neutral if acceptance of the mining activity were added as a condition of approval for new dwellings and uses related to social gatherings within 1500 feet of the quarry boundary. Options</p>	<p>neighboring properties. The social impact to neighboring property owners would be neutral if new dwellings and social gathering spaces within 1500 feet of the quarry boundary were allowed under the existing review criteria.</p>
	<p>a landowner’s desire to have reasonable options and flexibility when making choices about what they can and cannot do on their land.</p> <p>Consequences related to loss of quarry access. Noncommercial users of state and county roads within the region derive social benefit from using these roads. Efficient road maintenance will preserve this benefit.</p>	<p>available to property-owners would not be reduced. Dwellings and gathering spaces that meet existing review criteria would be allowed, provided the applicant agreed to accept the mining activity approved by the county.</p> <p>Consequences related to loss of quarry access. Noncommercial users of state and county roads within the region derive social benefit from using these roads. Efficient road maintenance will preserve this benefit.</p>	<p>Consequences related to loss of quarry access. Noncommercial users of state and county roads within the region derive social benefit from using these roads. Obstacles to efficient road maintenance, which could result from opposition to mining activity, would have a negative social impact.</p>
	<p><i>Prohibit dwellings and gathering spaces</i></p>	<p><i>Condition the placement of new dwellings and gathering spaces</i></p>	<p><i>No change to review standards for dwellings and gathering spaces</i></p>
Environmental Consequences	<p>Consequences related to new use on neighboring properties. There are no environmental consequences identified that stem from prohibiting new dwellings or social gathering spaces in the impact area.</p>	<p>Consequences related to new use on neighboring properties. There could be a negative environmental consequence from noise if new dwellings or social gathering spaces were limited in the impact area. New dwellings and social</p>	<p>Consequences related to new use on neighboring properties. There could be a negative environmental consequence from noise if new dwellings and social gathering spaces were allowed in the impact area. Different than the option to limit a</p>

	<p>Consequences related to loss of quarry access. Efficient road maintenance practices include obtaining</p>	<p>gathering spaces in the impact area could be authorized on the condition that the applicant accept the mining activity approved by this decision. This approach assures that a property owner will make an informed decision when locating a</p>	<p>decision, there would be no mechanism in the city or county's approval process to inform property owners of the authorized mining activity. This would result in a higher possibility for a residence or social gathering space to be located in the</p>
	<p>aggregate material from a quarry close to the project site. There will be some environmental benefit from fewer vehicle emissions when truck travel is minimized.</p>	<p>new use. If they decide to locate within the impact area, they will be exposed to noise impacts when mining activities are conducted on the site.</p> <p>Consequences related to loss of quarry access. Efficient road maintenance practices include obtaining aggregate material from a quarry close to the project site. There will be some environmental benefit from fewer vehicle emissions when truck travel is minimized</p>	<p>impact area and a higher potential for a negative consequence.</p> <p>Consequences related to loss of quarry access. There may be some negative environmental consequence if new uses in the impact area oppose mining activity and pose an obstacle to the use of this site. Efficient road maintenance practices include obtaining aggregate material from a quarry close to the project site. Vehicle emissions will increase if trucks have to travel further to access material.</p>
	<p><i>Prohibit dwellings and gathering spaces</i></p>	<p><i>Condition the placement of new dwellings and gathering spaces</i></p>	<p><i>No change to review standards for dwellings and gathering spaces</i></p>
<p>Energy Consequences</p>	<p>Consequences related to new use on neighboring properties. There are no energy consequences identified that stem from prohibiting new dwellings or social gathering spaces in the impact area.</p> <p>Consequences related to</p>	<p>Consequences related to new use on neighboring properties. There are no energy consequences identified that stem from limiting new dwellings or social gathering spaces in the impact area.</p> <p>Consequences related to loss of quarry access.</p>	<p>Consequences related to new use on neighboring properties. There are no energy consequences identified that stem from allowing new dwellings or social gathering spaces in the impact area.</p> <p>Consequences related to loss of quarry access.</p>

	loss of quarry access. Efficient road maintenance practices include obtaining aggregate material from a quarry close to the project site. There will be some energy benefit from	Efficient road maintenance practices include obtaining aggregate material from a quarry close to the project site. There will be some energy benefit from reduced use of fuel when truck travel is minimized.	Efficient road maintenance practices include obtaining aggregate material from a quarry close to the project site. There will be some negative energy consequences from additional fuel use if
	reduced use of fuel when truck travel is minimized.		truck travel is increased due to loss of access to this quarry.

County Finding: The applicant’s ESEE analysis table is sufficient for this application and will be used to make a determination.

(4) Develop a program to achieve Goal 5. Local governments shall determine whether to allow, limit, or prohibit identified conflicting uses for significant resource sites. This decision shall be based upon and supported by the ESEE analysis. A decision to prohibit or limit conflicting uses protects a resource site. A decision to allow some or all conflicting uses for a particular site may also be consistent with Goal 5, provided it is supported by the ESEE analysis. One of the following determinations shall be reached with regard to conflicting uses for a significant resource site:

- (a) A local government may decide that a significant resource site is of such importance compared to the conflicting uses, and the ESEE consequences of allowing the conflicting uses are so detrimental to the resource, that the conflicting uses should be prohibited.
- (b) A local government may decide that both the resource site and the conflicting uses are important compared to each other, and, based on the ESEE analysis, the conflicting uses should be allowed in a limited way that protects the resource site to a desired extent.
- (c) A local government may decide that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. The ESEE analysis must demonstrate that the conflicting use is of sufficient importance relative to the resource site, and must indicate why measures to protect the resource to some extent should not be provided, as per subsection (b) of this section.

Applicant Findings: ODOT is requesting that the City of Umatilla and Umatilla County determine that the resource site is important, and based on the ESEE analysis, the identified conflicting uses which are also important should be allowed in a limited way to protect the Powerline Quarry. The protection sought from potential conflicting uses would be within the 1,500-foot impact area and for the life of the Powerline Quarry. Specifically, local authorization of new residential and gathering spaces should be limited to achieve that goal.

County Finding: Based on the analysis that is provided above, both the resource site and conflicting uses are important. New uses that locate in the area are required to sign a memorandum of understanding that locating near the subject property will have the potential for conflict. This memorandum will be provided and enforced by the City of Umatilla, as the entire

impact area is located within the City's UGB, thus, the affected properties are within the City's planning jurisdiction.

660-023-0050 Programs to Achieve Goal 5

- (1) For each resource site, local governments shall adopt comprehensive plan provisions and land use regulations to implement the decisions made pursuant to OAR 660-023-0040(5). The plan shall describe the degree of protection intended for each significant resource site. The plan and implementing ordinances shall clearly identify those conflicting uses that are allowed and the specific standards or limitations that apply to the allowed uses. A program to achieve Goal 5 may include zoning measures that partially or fully allow conflicting uses (see OAR 660-023-0040(5) (b) and (c)).

Applicant Findings: ODOT would request that the City of Umatilla and Umatilla County take action to facilitate protection of this aggregate site by mapping the 1,500-foot impact area within the Comprehensive Plan map and acknowledge that conflicting residential and gathering space uses identified previously will be limited and require that activities approved through a land use permit process will be required to waive rights to remonstrate against aggregate mining activities allowed by this decision. This would be consistent with practices required by Umatilla County Development Code provisions found at 152.063(D), which are applicable to permitted mining activities outside the UGB. The intent of this request is not to disallow these activities but to ensure that applicant for these types of uses be made aware of the mining operation and waive their rights to remonstrate against aggregate mining activities allowed by this decision.

County Finding: City staff will develop an overlay zone that matches the 1,500-foot impact area in which a non-remonstrance will be required if any conflicting developments are proposed. It is expected that the 1,500-foot impact area will be effectively managed by this overlay zone on the City of Umatilla zoning map. The zoning map will be co-adopted by Umatilla County through this action.

(2) When a local government has decided to protect a resource site under OAR 660-023-0040(5)(b), implementing measures applied to conflicting uses on the resource site and within its impact area shall contain clear and objective standards. For purposes of this division, a standard shall be considered clear and objective if it meets any one of the following criteria:

- (a) It is a fixed numerical standard, such as a height limitation of 35 feet or a setback of 50 feet;
- (b) It is a nondiscretionary requirement, such as a requirement that grading not occur beneath the dripline of a protected tree; or
- (c) It is a performance standard that describes the outcome to be achieved by the design, siting, construction, or operation of the conflicting use, and specifies the objective criteria to be used in evaluating outcome or performance. Different performance standards may be needed for different resource sites. If performance standards are adopted, the local government shall at the same time adopt a process for their application (such as a conditional use, or design review ordinance provision).

Applicant Findings: ODOT has requested protection consistent with OAR 660-023-0040(5)(b) seeking that identified conflicting uses be limited within the buffer area as discussed above.

County Finding: The chosen overlay zone is clear and objective as it prescribes a specific area (1,500) in which a land use is limited (non-remonstrance). The 1,500 buffer is clear and objective in the regard that if a proposed use is in the numerical buffer area it will be restricted and if it is outside of the numerical buffer area it will be allowed as long as it is consistent with the existing zoning.

(3) In addition to the clear and objective regulations required by section (2) of this rule, except for aggregate resources, local governments may adopt an alternative approval process that includes land use regulations that are not clear and objective (such as a planned unit development ordinance with discretionary performance standards), provided such regulations:

- (a) Specify that landowners have the choice of proceeding under either the clear and objective approval process or the alternative regulations; and
- (b) Require a level of protection for the resource that meets or exceeds the intended level determined under OAR 660-023-0040(5) and 660-023-0050(1).

Applicant Findings: These provisions would not be applicable as the request is related to aggregate resources.

County Finding: This criterion does not apply as this application is directly related to aggregate resources.

The City of Umatilla Comprehensive Plan is applicable, specifically Goal 2 Land Use Planning and Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces. Goal 2 Section 2.1 Land Use Planning Background and Discussion defines the Natural Resource (NR) plan district as follows, “This district applies outside of the city limits, within the Urban Growth Boundary, to areas that contain high-quality aggregate and basalt. The district is intended to identify the general location of aggregate deposits and to protect the aggregate and basalt supply for future needs. It is not intended to restrict current land use, which is subject to Umatilla County Zoning, and presently includes a variety of industrial and residential uses. The “NR” areas should be reviewed to determine if the Comprehensive Plan designation remains appropriate.”

Goal 5 Section 5.1 Natural Resources Background and Discussion 5.1.300 Gravel states, “Gravel extraction is also an important natural resource feature of the Umatilla area. Most of the areas currently being utilized are situated south of Sharp’s Corner. The need for this material will no doubt increase with the advent of I-82 construction and the McNary second powerhouse. These gravel extraction areas have been retained in the Comprehensive Plan and are shown on the Developable Areas map, Figure 5.1-3.”

Applicant Findings: ODOT supports the current Comprehensive Plan designation of NR as the subject property for this application has been and is an aggregate site with known inventory of both basalt and sand/gravel deposits. The intent of this application is to protect the site for future aggregate use and to allow mining, processing, and stockpiling.

The following Land Use Planning Findings support the request of ODOT:

2.5.101 Land uses should be located to take advantage of existing systems and physical features, and to minimize development costs.

2.5.102 Land uses should be situated so as to achieve compatibility and to avoid conflicts between adjoining uses.

2.5.105 Uses of the land which have an adverse effect on the environment should be regulated consistent with State and federal guidelines.

The following Land Use Planning Policies support the request of ODOT:

2.6.101 The City will maintain a Comprehensive Plan which designates a range of land use areas based on findings with respect to:

- Natural resource capacity
- Existing land use patterns

ODOT requests that the City of Umatilla add appropriate language to the Comprehensive Plan as part of Goal 5 subsection 5.1.300 Gravel adding the subject property as a significant site with Goal 5 protections and allowing mining, processing, and stockpiling. ODOT also requests that the City of Umatilla map the aggregate site and the impact area to implement the Goal 5 program to protect this resource site.

County Finding: The purpose of this application is to allow for the City of Umatilla Comprehensive plan to account for and protect a specific aggregate use within the Urban Growth Boundary. The city has approved this application, thus, the subject property will be listed as a significant site with Goal 5 protections. The City’s overlay zone and non-remonstrance requirements will be the instruments used to successfully implement the Goal 5 program. Since the City has adopted the Goal 5 site, the County must co-adopt the approval.

The Umatilla County Comprehensive Plan Chapter 8. OPEN SPACE, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES

It states, “this section includes those areas that, if managed wisely, will protect, conserve, and enhance the natural and cultural elements of the county.” Specifically Mineral and Aggregate Resources are described as follows, “although no minerals of commercial value are known to exist in the county, aggregates are relatively common. Aggregates include sand, crushed and uncrushed gravel, and stone. They are primarily used for the construction of new homes, streets, sewers, churches, businesses, etc. Since long truck hauls are costly, local sources must remain available.” Finding 38 states, “extraction of non-renewable aggregate and mineral resources requires ongoing exploration, reclamation, separation from adjacent incompatible land uses and access” with three supporting Policies. And Finding 41 states, “Several aggregate sites were determined to be significant enough to warrant protection from surrounding land uses in order to preserve the resource” with the associated Policy listing those significant sites.

Applicant Findings: ODOT requests, based on this application and the evidence provided, that Umatilla County co-adopt the City of Umatilla decision providing protection to the aggregate site and allowing mining, processing, and stockpiling of both the basalt and gravel resources.

County Finding: Umatilla County, through this findings document, is processing the co-adoption of the City of Umatilla decision.

The Joint Management Agreement between Umatilla County and the City of Umatilla

Sections or portions of Sections 2.1.2 City Processing of Comprehensive Plan Text, Plan Map and Zoning Map Amendments; 2.1.3 County Adoption of City Comprehensive Plan Text, Plan Map and Zoning Map Amendments; and 2.1.4 Adoption or Amendment to Land Use

Regulations; Plan and Zone Maps are applicable. There are also provisions related to annexation, Section 3, and roads, Section 4, that are also considered. The requirements, many of which are procedural, are included below with appropriate responses.

2.1.2 City Processing of Comprehensive Plan Text, Plan Map and Zoning Map Amendments.

a. The City shall have lead responsibility for reviewing and adopting amendments to the Comprehensive Plan text, plan map and zoning map for the UGA. Amendments may be initiated by the City, the County, or an affected person, by application to the City.

Applicant Findings: Application has been made to the City of Umatilla.

County Finding: The amendment proposal has been made by the applicant and the City has taken the lead in processing the request in accordance with the JMA.

b. Amendment applications shall be processed by the City, with notification to the County at least twenty (20) days prior to the City Planning Commission's first hearing on the proposed amendment.

Applicant Findings: The applicant supports notice to Umatilla County as required.

County Finding: Notice was mailed to Umatilla County Planning Department 20 days prior to the City of Umatilla's first hearing on the matter at the City Planning Commission hearing.

c. Any comments received from the County shall be considered by the City Planning Commission when making its recommendation to the City Council.

Applicant Findings: The applicant supports incorporation of any comments received from Umatilla County.

County Finding: Umatilla County made no comment.

d. The County may also provide comments prior to the City Council hearing, in which case, the Council shall consider the County's comments in making its final decision.

Applicant Findings: The applicant supports incorporation of any comments received from Umatilla County.

County Finding: Umatilla County made no comment but staff did attend the City Council hearing and provided Council with the County hearing dates for co-adoption.

e. The City shall provide written notification of the City Council's final decision to the County within five (5) working days.

Applicant Findings: The applicant supports providing the City's final decision timely to Umatilla County.

County Finding: Umatilla County Planning Department received timely notice of the City's final decision.

2.1.3 County Adoption of City Comprehensive Plan Text, Plan Map and Zoning Map Amendments.

a. All amendments to the Comprehensive Plan text, plan map and zoning map affecting the UGA shall be referred to the County for co-adoption.

Applicant Findings: The applicant supports co-adoption of these changes by Umatilla County.

County Finding: The County has scheduled the co-adoption meetings for the Planning Commission and Board of Commissioners.

b. The County must adopt the amendments approved by the City for these to be applicable in the UGA. The adoption shall be scheduled for hearing within sixty (60) days of City transmittal.

Applicant Findings: The applicant is prepared to assist the City of Umatilla and Umatilla County to achieve this timely requirement.

County Finding: The County has scheduled the co-adoption meetings for the Planning Commission and Board of Commissioners within 60 days of the City's approval.

c. If the City and County disagree on the proposed amendment, either party may request a conflict resolution process to resolve the conflict.

Applicant Findings: The applicant supports conflict resolution but is hopeful that none would be needed.

County Finding: The City and County have both been involved in early discussions of this proposal, is not expected that a disagreement will occur. If one does occur the County supports the preapproved conflict resolution process.

2.1.4 Adoption or Amendment to Land Use Regulations; Plan and Zone Maps

a. It is the intent of the City and County to jointly develop and adopt a single set of land use regulations and plan and zone map designations for properties within the City and UGA.

Applicant Findings: Co-adoption would maintain consistency between the City of Umatilla and Umatilla County.

County Finding: The proposed co-adoption will allow for a single set of land use regulations and plan and zone map designations for properties within the City and UGA.

b. The City agrees to adopt and apply the (1972) County zoning map designations and land use regulations to lands located within the UGA until adoption and implementation of City land use regulations and zoning designations for lands within the UGA.

Applicant Findings: This application will maintain consistency and provide updates to the City of Umatilla Comprehensive Plan relative to the Powerline quarry.

County Finding: The current zoning for the subject property is from the 1972 County zoning map designations and land use regulations. The property is within the City's UGA and therefore, the City's jurisdiction.

c. The City shall have lead responsibility for reviewing and adopting amendments to land use regulations and to the Plan Map or Zoning Map for the UGA. Amendments may be initiated by the City, the County, or an affected person, by application to the City.

Applicant Findings: Application was made to the City of Umatilla with application materials also submitted to Umatilla County. This application is proposed to be co-adopted by Umatilla County.

County Finding: The amendment proposal has been made by the applicant and the City has taken the lead in processing the request. Umatilla County is processing the co-adoption request.

d. The City shall notify the County of proposed amendments at least (20) days prior to the City Planning Commission first hearing on the proposed amendment.

Applicant Findings: The applicant supports notice to Umatilla County.

County Finding: Notice was mailed to Umatilla County Planning Department 20 days prior to the City of Umatilla's first hearing on the matter at Planning Commission.

e. The County may comment on the proposed amendment in writing, or in person, before the Planning Commission. The City Planning Commission shall consider the County's comments in making a recommendation to the City Council.

Applicant Findings: The applicant welcomes comment by Umatilla County.

County Finding: The County does not have any comments, however, the County was given opportunity to comment.

f. The County may review and comment on the Planning Commission's recommendation to the City Council in writing, or in person at the City Council's public hearing on the amendment. The City Council shall consider the County's comments in making a final decision.

Applicant Findings: The applicant welcomes comment by Umatilla County.

County Finding: The County does not have any comments, however, the County was given opportunity to comment.

g. The City shall notify the County of the City Council's final decision within five (5) working days.

Applicant Findings: The applicant supports timely notice to Umatilla County by the City of Umatilla.

County Finding: Notice was made within five working days to Umatilla County Planning Department. All amendments to the land use regulations affecting the UGA shall be referred to the County for co-adoption, including this request. Notice of the co-adoption was provided to the City.

h. All amendments to the land use regulations affecting the UGA shall be referred to the County for co-adoption.

Applicant Findings: The applicant supports co-adoption.

County Finding: The City has referred the decision to the County for co-adoption, the meetings for the Planning Commission recommendation and decision by the Board of Commissioners have been scheduled and the dates were provided at the beginning of this document.

i. The County must adopt the land use regulation amendments approved by the City for these to be applicable in the UGA. The adoption shall be scheduled for hearing within sixty (60) days of City transmittal.

Applicant Findings: The applicant supports timely action by Umatilla County to co-adopt.

County Finding: The County scheduled the co-adoption hearings within a timely manner.

j. If the City and County disagree on the proposed amendments, either party may request a conflict resolution process to resolve the conflict.

Applicant Findings: The applicant supports conflict resolution but is hopeful that none would be needed.

County Finding: It is not expected that a disagreement will occur. If one does occur the County supports the preapproved conflict resolution process.

Statewide Planning Goals 1-14 are applicable:

Goal 1 Citizen Involvement: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Applicant Finding: Both the City of Umatilla and Umatilla County's Comprehensive Plan's and development codes outline their citizen involvement program that includes the activities of the Planning Commission and provides for the public hearing process with its required notice provisions. These notice provisions provide for adjoining and affected property owner notice; notice to interested local, state, and federal agencies; and allows for public comment to the process. More specifically this request will be publicly noticed and discussed at multiple public hearings and will be subject to input from citizens.

County Finding: The required public notice process was completed for both the City and County hearings, allowing and encouraging multiple public involvement opportunities during the decision process.

Goal 2 Planning: To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Applicant Finding: Goal 2 establishes the underlining process that a county or a city needs to utilize when considering changes to their Comprehensive Plans and development codes. This application meets those requirements for this request.

County Finding: The City and County actions on land use requests must be consistent with local comprehensive plans. This co-adoption process for a comprehensive plan, map and zoning map amendment to lands located within the City's UGB is consistent with the City and County Joint Management Agreement.

Goal 3 Agricultural Lands: To preserve and maintain agricultural lands.

Applicant Finding: Goal 3 requires counties to preserve and maintain agricultural lands for farm uses. Counties must inventory agricultural lands and protect them by adopting exclusive farm use zones consistent with Oregon Revised Statute 215.203 et. seq. This request is not subject to Goal 3 as the aggregate site under review is within the urban growth boundary of the City of Umatilla.

County Finding: Included in this application are analyses of why this particular location can support a change to provide a Goal 5 protection to land inside the Urban Growth Boundary.

Goal 4 Forest Lands: To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Applicant Finding: There are no forest lands impacted by this request and none within the City of Umatilla.

County Finding: The subject property is not forest land, nor is there forest land adjacent to this property. As described in (1)(b) above, Goal 4 is not applicable to this request.

Goal 5 Open Spaces, Scenic and Historic Areas, and Natural Resources: To protect natural resources and conserve scenic and historic areas and open spaces.

Applicant Finding: The process undertaken within this application is to protect the subject property under Goal 5 as a significant aggregate site. The subject property does not have any overlays or other known cultural or historical sites. There are no mapped wetlands on the subject property and no floodplain has been mapped.

This application for a Comprehensive Plan amendment to protect an aggregate resource has been reviewed under Oregon Administrative Rule 660-023-0180, the process required under Goal 5.

County Finding: The subject property does not have any inventoried or known features referenced in Goal 5. The intent of this application is to amend the City Comprehensive Plan, Map and Zoning Map to include an overlay zone, identifying the property as a Goal 5 protected site, with a 1500 foot impact area.

Goal 6 Air, Water and Land Resources Quality: To maintain and improve the quality of the air, water and land resources of the state.

Applicant Finding: Goal 6 addresses the quality of air, water and land resources. In the context of comprehensive plan amendments, a local government complies with Goal 6 by explaining why it is reasonable to expect that the proposed uses authorized by the plan amendment will be able to satisfy applicable federal and state environmental standards, including air and water quality standards. Goal 6 is addressed through a condition of approval that DEQ air quality and stormwater permits will be required as determined by DEQ.

County Finding: The mining activity on this property has been managed by ODOT for years. ODOT will be required to follow DEQ requirements, the mining itself is already a permitted use in this property's zone, this application is for resource protection only. Negative impacts will be required to be mitigated at the time development is proposed, this will fall under the jurisdiction of the City of Umatilla.

Goal 7 Areas Subject to Natural Hazards and Disasters: To protect people and property from natural hazards.

Applicant Finding: Goal 7 is concerned with the identification and mitigation of natural hazards. The subject property does not have any known natural hazards.

County Finding: There are no known natural hazards on the subject property, and it is located significantly above and outside the flood plain for both the Umatilla and Columbia Rivers.

Goal 8 Recreation Needs: To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Applicant Finding: No recreation components are included in this application.

County Finding: Recreation is not a direct consideration of this request.

Goal 9 Economy: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Applicant Finding: Goal 9 requires local governments to adopt comprehensive plans and policies that contribute to a stable and healthy economy. The City of Umatilla has just completed an update to Goal 9 that included an Economic Opportunities Analysis (EOA) outlining the need for additional employment lands. Umatilla County has a comprehensive plan and technical report that has been acknowledged to comply with Goal 9. Aggregate is a necessary component to the maintenance and safe operation of the highway and road network that is essential for residents, businesses, and recreation and tourism activities identified in the EOA.

County Finding: The City completed an Economic Opportunities Analysis in 2019 under Goal 9. The aggregate site is owned and utilized by ODOT for use on ODOT highways. Aggregate sites are necessary to provide maintenance and safe operations of highways and other roads, which are used by the public. This application supports Goal 9.

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

Applicant Finding: Housing is not a consideration of this application.

County Finding: Housing was identified as a conflicting use in the ESEE analysis, therefore residential development will be restricted and limited within the 1500 foot impact area, by a

non-remonstrance agreement. It is important to note that the City manages land inside its UGB, and the City's recent (2019) Economic Opportunities Analysis (EOA) identified an excess inventory of residential lands. Thus, housing is not a direct consideration of this request.

Goal 11 Public Services: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Applicant Finding: Goal 11 requires local governments to plan and develop a timely, orderly, and efficient arrangement of public facilities and services. The goal provides that urban and rural development be guided and supported by types and levels of services appropriate for, but limited to, the needs and requirements of the area to be served. The approval of this request would support the local highway road network that provides for the safe movement of residents, delivery of goods, and allows for recreation and tourism in the region.

County Finding: Adding Goal 5 protection of this site will support the local highway network which provides safe transportation services of residents, goods and tourists. The ODOT maintained site will provide materials for ODOT services in the area.

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

Applicant Finding: Goal 12 requires local governments to provide and encourage a safe, convenient, and economic transportation system. The approval of this request is consistent with the City of Umatilla and Umatilla County's Transportation System Plans and the Oregon Highway Plan.

County Finding: The approval of this request is consistent with the City of Umatilla and Umatilla County's Transportation System Plans and the Oregon Highway Plan.

Goal 13 Energy: To conserve energy

Applicant Finding: Goal 13 directs local jurisdictions to manage and control land and uses developed on the land to maximize the conservation of all forms of energy, based on sound economic principles. Having an ODOT material source efficiently located in their service district can reduce haul length and therefore fuel usage and energy consumption.

County Finding: The applicant's referenced energy conservation opportunities will improve energy conservation in the City of Umatilla and the surrounding area. Having an ODOT material source efficiently located in their service district can reduce haul length and therefore fuel usage and energy consumption for ODOT projects in the area.

Goal 14 Urbanization: To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Applicant Finding: The approval of this request is consistent with Goal 14. The subject property is within the urban growth boundary for the city of Umatilla. Aggregate extraction is one of the uses allowed conditionally in this area.

County Finding: The aggregate site is located inside the City of Umatilla’s Urban Growth Boundary, and is appropriately zoned for mining which is allowed conditionally with City land use approval.

Goals 15-19 are not applicable in Umatilla County.

VI. DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, where it has been demonstrated the request is in compliance with the City and County Comprehensive Plans, The Umatilla Joint Management Agreement, and the State Administrative Rules for Co-Adoption of amendments to the City of Umatilla’s Comprehensive Plan, Text and Plan Map, the applicant’s request is approved.

PLANNING COMMISSION CO-ADOPTION RECOMMENDATION OPTIONS

A. Motion to Recommend Approval Based on Evidence in the Record

I, Commissioner _____, make a motion to recommend approval of the ODOT Powerline Quarry, Comprehensive Plan Text Amendment, number T-21-087, Comprehensive Plan Map Amendment, number P-130-21 and Zoning Map Amendment, number Z-319-21, to the Board of Commissioners based on the foregoing Findings of Fact and Conclusions of Law.

B. Motion to Recommend Approval with Additional Findings

I, Commissioner _____, make a motion to recommend approval of the ODOT Powerline Quarry, Comprehensive Plan Text Amendment, number T-21-087, Comprehensive Plan Map Amendment, number P-130-21 and Zoning Map Amendment, number Z-319-21, to the Board of Commissioners with the following additional Findings of Fact:

_____.

C. Motion to Recommend Denial Based on Evidence in the Record

I, Commissioner _____, make a motion to recommend denial of the ODOT Powerline Quarry, Comprehensive Plan Text Amendment, number T-21-087, Comprehensive Plan Map Amendment, number P-130-21 and Zoning Map Amendment, number Z-319-21, to the Board of Commissioners based on the foregoing Findings of Fact and Conclusions of Law.

DATED this _____ day of _____, 20_____.

UMATILLA COUNTY BOARD OF COMMISSIONERS

George L. Murdock, Commissioner

John M. Shafer, Commissioner

Daniel N. Dorran, Commissioner

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SUMMARY Lab Testing Results

As of: 7/29/2014 10:23:55 AM PART A

AGGREGATE SOURCE # ~~OK~~-30-001-5 Powerline Rd. Quarry

LAB #	CONT #	TEST		USE	REPORT					----- UNIT WEIGHT -----				----- FINE BULK GRAVITY -----				---- COARSE BULK GRAVITY ----			
		TYPE	AGG SIZE		DATE	ACRONYM	SE	LL	PI	LOOSE	COMPACT	% COMB	WT COMB	BULK	SSD	APAR	% ABS	BULK	SSD	APAR	% ABS
80	20909	Q	PIT AG	BASE AC	800922	CACAG	89	NP	NP												
80	20908	Q	PIT GR	BASE AC	800922	CACAG	79	NP	NP												
92	14993	11245	QCD 3/4-1/4	AC	930104	CACAG											2.8	2.83	2.9	1.22	
92	13492	11245	QC 3/4-0	BASE	921104	BASEAG	65														
92	13619	11245	QC 3/4-0	BASE	921113	BASEAG	58										2.67	2.72	2.8	1.73	
92	14154	11245	QC 3/4-0	BASE	921125	BASEAG	48														
92	14527	11245	QC 3/4-1/4	AC	921230	CACAG											2.74	2.78	2.86	1.53	
92	14528	11245	QC 1/4-10	AC	921230	FACAG	77					2.62	2.71	2.9	3.73						
92	14529	11245	QC 10-0	AC	921230	FACAG	77	NP	NP			2.62	2.71	2.9	3.73						
92	14928	11245	QC 3/4-1/4	AC	921230	CACAG															
92	14994	11245	QCD 1/4-10	AC	930104	FACAG	80					2.64	2.71	2.85	2.77						
92	14995	11245	QCD 10-0	AC	930104	FACAG	80	NP	NP			2.64	2.71	2.85	2.77						
92	15019	11245	QC 3/4-1/4	AC	930108	CACAG															
92	15020	11245	QC 1/4-10	AC	930108	FACAG	85														
92	15021	11245	QC 10-0	AC	930108	FACAG	85	NP	NP												
92	14909	11245	QC 3/4-1/4	AC	921230	CACAG															
93	03778	11245	CR 3/4-0	BASE	930520	BASEAG	59														
93	00989	11245	Q 4"-0	MSE GRANULAR BF	930308	SPECAG		NP	NP								2.69	2.73	2.8	1.44	
93	02582	11245	CR 3/4-0	BASE	930415	BASEAG	38														

37

AGGREGATE SOURCE # 30-001-5

LAB #	----- TM206 SODIUM SULFATE -----										----- TM208 DEGRADE -----						ASPH STRIP	% LOSS	ABR GRD	ORGANIC	FRACTURE	
	21/2 - 11/2	11/2 - 3/4	3/4 - 3/8	3/8 - 4	C. AVG	4 - 8	8 - 16	16 - 30	30 - 50	F. AVG	C. DEGR HT	P20	REF HT	P20	F. DEGR HT	DEGR P20						
80 20909				0.6	1.5	1	7.2	1.9	1.3	3.4	0.5	14.4			0.3	3.6		15	A			
80 20908			0.9	2.9	1.9	4.4	5.3	8.2	7.2		0.7	14.2			2.2	9						
92 14993		0.7	0.5	0.7	0.6						0.2	11.9						12.4	B		97	
92 13492											0.2	12			0.3	17.8		14.5	B		96	
92 13619											0.5	19.8			0.6	11.8		15.8	B		90	
92 14154											0.3	10.7						13.6	B		82	
92 14527		0.5	0.7	1.8	1						0.2	11.4						12.6	B		97	
92 14528						3.4	2.3	2.8	3.3	3					0.4	10.8					99	
92 14529						3.4	2.3	2.8	3.3	3					0.4	10.8						
92 14928		0.6	0.8	1.1	0.8						0.1	8.9						12.8	B		96	
92 14994						1.9	1.7	2.7	3	2.3					0.4	8					99	
92 14995						1.9	1.7	2.7	3	2.3					0.4	8						
92 15019		0.9	0.6	1.4	1						0.2	13						13	B		91	
92 15020						2	2.4	2.5	5.1	3					0.4	7.7					89	
92 15021						2	2.4	2.5	5.1	3					0.4	7.7						
92 14909		0.4	0.7	0.7	0.6						0.3	13.1						12.6	A		97	
93 03778																			0		87	
93 00989																						
93 02582																						93

3

AGGREGATE SOURCE # 30-001-5

LAB #	----- FRIABLE PARTICLES -----				LIGHT WT PIECES		WOOD WASTE	DUST COATING	CLEANNESS	ELONGATED PIECES	ACCOUNT #	DATA #	QAQC	ENGLISH or METRIC	RESULTS
	WT AVG	1 1/2 - 3/4	3/4 - 3/8	3/8 - 4	4 - 16	COARSE									
80 20908											30-1921				
80 20909											30-1921				
92 13492												AB45867			
92 13619												AB45868			
92 14154												AB45870			
92 14527	0.1		0.1	0.1		0.01	0.01	0.03		1		AB47449			
92 14528					0.1							AB47450			
92 14529					0.1							AB45900			
92 14909	0.3		0.3	0.5		0.01	0.01	0.22		2		AB45874			
92 14928	0.3		0.3	0.2		0.01	0.01	0.24		5		AB45875			
92 14993	0.2		0.2	0.2		0.01	0.01	0.08		3		AB60602			
92 14994					0.2							AB60603			
92 14995					0.4							AB60604			
92 15019	0.4		0.3	0.5		0.01	0.01	0.04		1		AB60605			
92 15020					0.3							AB60606			
92 15021					0.2							AB60607			
93 00989												AB64229			
93 02582												AB47316			
93 03778												AB64476			

DRAFT MINUTES

CONDITIONAL USE REQUEST

#C-1342-21

(Continued Hearing)

**KEVIN & HEATHER JAMES,
APPLICANTS/ OWNERS**

**REQUEST APPROVAL FOR THE USE OF
AN RV AS A TEMPORARY HARSHIP DWELLING**

**53613 ROSEBUD LANE
MILTON FREEWATER**

**PLANNING COMMISSION HEARING
OCTOBER 28, 2021**

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, October 28, 2021, 6:30pm
Umatilla County Courthouse, 216 SE 4th Street, Pendleton, Oregon
VIRTUAL MEETING VIA ZOOM

** ****

COMMISSIONERS

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

ABSENT: Lyle Smith

STAFF: Bob Waldher, Planning Director, Carol Johnson, Senior Planner, Tierney Cimmiyotti, Administrative Assistant & Gina Miller, Code Enforcement Program Coordinator

** ** ** ** ** ** ** ** ** ** ** ** ** ** ** ** ** ** ****

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 6:30pm and read the Opening Statement.

CONTINUED HEARING

CONDITIONAL USE REQUEST #C-1342-21; KEVIN & HEATHER JAMES, APPLICANTS/ OWNERS. The applicants request approval for the use of a Recreational Vehicle (RV) as a Temporary Hardship Dwelling on property located at 53613 Rosebud Lane, Milton Freewater, Oregon 97862. The subject parcel is northeast of the City of Milton Freewater and identified as Tax Lot 103 on Umatilla County Assessor’s Map 6N3525D. The applicable Land Use standards for a Temporary Hardship Dwelling on Exclusive Farm Use (EFU) Zoned land are in Section 152.617(I)(V), 152.013, 152.060 & 152.615 of the Umatilla County Development Code (UCDC).

STAFF REPORT

Carol Johnson, Senior Planner, presented the staff report. Mrs. Johnson stated that this request by applicant Kevin James is for the use of an RV as a Temporary Hardship Dwelling for his parents, Kenny and Lenora James. She added that UCDC Sections 152.617(I)(V), 152.060 & 152.615 apply to the James request, as presented in the staff report.

Mrs. Johnson explained that at the August 26th Planning Commission hearing the Commissioners continued the James Conditional Use Permit request to the October 28, 2021 hearing date. The hearing continuance provided time for Mr. James’s parents to meet with their doctors and obtain medical documentation to present as evidence. Also at the August hearing, a question was raised as to whether the parents met the Temporary Hardship Dwelling purpose in which a person must require direct personal care in order to qualify. Staff met with County

Counsel and confirmed that medical evidence is necessary for review when the decision is based on medical need.

The applicant provided two letters from Dr. Robert Morasch for the record; one on behalf of his father, Kenny James, and another on behalf of his mother, Lenora James, included on pages 32 - 33 of the Commissioner's packets. Mr. James was advised by staff that testimony at the continued hearing from his parents, expressing the care they need and things they cannot do for themselves, would be helpful and was encouraged. Mrs. Johnson added that new information was submitted to staff by the James's neighbor, Melanie Hein, and is included in the Commissioner's packets on pages 28 - 31.

Mrs. Johnson explained that the Planning Commission may approve the applicants' request based on belief of the facts and presented evidence, or may deny the request based on a lack of evidence and doubt about the facts as presented. Approval of the request is based on meeting all of the criteria. Denial of the request would require a modification of the Findings on page 11, under section (2)(b) of the Commissioner's packets.

Chair Danforth asked if there has been a resolution to the concern regarding business related activities occurring on the James property. Mrs. Johnson explained that the issue of business activities on the property is not related to the request for a Temporary Hardship Dwelling. She recognized that the neighbor has concerns related to business activity and stated that Code Enforcement will reach out to Mr. James to resolve that issue. However, she clarified that those concerns are outside the purview of the request being considered today.

Applicant Testimony: Kevin James (with parents, Kenny & Lenora James) 53613 Rosebud Lane, Milton Freewater, Oregon, 97862. Mr. James stated that his mother has problems with her back and leg going out and she sometimes falls down. His father suffers from dizzy spells and is unable to lift heavy objects. He stated that his parents are in a position where they would not physically be able to lift each other after a fall. He pointed out that he provided letters from Dr. Morasch and stated that he is available to answer any questions the Planning Commissioner's may have.

Commissioner Tucker asked Mrs. James (Lenora) if her son described her current physical condition accurately. Mrs. James confirmed that his description was accurate.

Commissioner Timmons was not in attendance at the first hearing related to this matter and asked for clarification about the number of structures on the property at this time. According to the minutes from the first hearing, she understood there to be one stick-built dwelling, one manufactured dwelling and two recreational vehicles on the property. She asked if that understanding was correct. Mr. James stated that they have two RV's being stored on the property (owned by him and his parents) which are not being lived in. He added that, if this request is approved, they would move one additional RV onto the property for his parents to live in. Commissioner Timmons asked about the RV which was identified as having wooden steps.

Mr. James stated that he has removed the wooden steps in question. Commissioner Timmons asked for history regarding the manufactured dwelling on the property. Mr. James stated that the manufactured dwelling was grandfathered-in. He added that it has an address and is served by its own septic system.

Commissioner Wysocki asked if there would be someone available onsite most of the time to provide assistance to Mr. James's parents. Mr. James replied yes, there would be someone onsite and available to provide assistance most of the time.

Opponent Testimony: Melanie Hein, 53608 Rosebud Lane, Milton Freewater, Oregon, 97862. Ms. Hein stated that she has been a nurse for fifty years and has experience working in home health. She believes the term "infirm" is defined as total dependence in 5-6 Activities of Daily Living (ADLs). She believes people requiring care in this way are not independent drivers and need assistance with transportation to medical appointments. Therefore, she questions the validity of the claims made by the James's.

Commissioner Wysocki asked Ms. Hein if she disagrees with the letters provided by Dr. Morasch. Ms. Hein agreed that the senior James's (Kenny & Lenora) might experience dizziness at times, but argued that approximately 90% of people over sixty deal with that issue. She acknowledged that people sometimes fall down, but added that she does not feel that is a reason to consider a person homebound or in need of live-in assistance. She explained that she has witnessed the senior James's driving vehicles and walking around the yard independently and by definition she does not believe these behaviors demonstrate that they are infirm.

Commissioner Tucker asked what MRADL means, as referred to in the doctor's note. Ms. Hein stated that she was unsure. Commissioner Williams stated she worked as a nurse at Kadlec for 33 years and explained that MRADL refers to Mobility Related Activities of Daily Living.

Commissioner Williams stated that she understands Ms. Hein does not believe the senior James's meet the criteria required to qualify for medical hardship, but asked if there were additional concerns related to her opposition of the request. Ms. Hein stated that the senior James's had already lived on the property a few years ago for approximately 6-8 months, and during that time there was an increase of activity on the road.

Commissioner Timmons asked Ms. Hein how long she has been neighbors with the James's. Ms. Hein stated that she purchased her property in 2011 and the James's moved next door approximately 5 years ago.

Public Agencies: Gina Miller, Code Enforcement Officer/ Program Coordinator, Umatilla County Code Enforcement, 216 SE 4th Street, Pendleton, Oregon, 97801. Officer Miller stated that she is available to answer any questions for the Planning Commission. She added that the initial conversations with Mr. James pertaining to the RV did not include discussion of a medical hardship. Her understanding of this request is that the senior James's plan to live in the RV for

only part of the year. She explained that this is unique and differs from typical Hardship Dwelling requests which are intended to provide fulltime support continuously throughout the year.

Commissioner Wysocki asked how the standards differ when a request is made to live in a Hardship Dwelling for only part of the year, versus living there all year. Ms. Miller stated that her experience with those who qualify for a Hardship Dwelling is that they generally require assistance with ADLs including dispensing medications, assistance with bathing, dressing, meals and transportation to medical appointments, etc.

Commissioner Tucker stated that his interpretation of the rule is that it does not require a person to live in the Hardship Dwelling all year. He gave the example of multiple family members sharing the responsibility of caring for an individual. A person may live in one place for part of the year, and then move to a second location for the remainder of the year. He asked if there is language in the standards of approval for this request requiring that a person must live in the Hardship Dwelling permanently. Mrs. Johnson stated that the hypothetical scenario Commissioner Tucker described would be acceptable and a Conditional Use Permit could apply to two locations. She pointed out that staff has not had a request like that to date and so it would be considered unique. She clarified that Code Enforcement's contact with Mr. James was the result of a violation on the property related to the RV. The application to use the RV as a Hardship Dwelling was submitted as a way to bring the property back into compliance. Ms. Miller stated that she agreed with Mrs. Johnson's summary.

Applicant Rebuttal: Kevin James (with parents, Kenny & Lenora James. Mr. James stated that he purchased his property in 2016. Regarding the issue of living onsite only part time, that is not the plan. He explained that his parents used to live in Hermiston with his sister for part of the year, but that is no longer the case. He clarified that, if approved, his parents will live in the RV fulltime.

Chair Danforth asked Kenny & Lenora James if they are able to travel to their appointments independently. They both stated that they are able to take themselves to appointments most of the time. Chair Danforth asked if they have fallen and required help getting up. Mr. & Mrs. James both replied, yes.

DELIBERATION & DECISION

Chair Danforth stated that she personally does not feel that the James's meet the criteria of approval for a Temporary Hardship Dwelling. She explained that she currently cares for her own mother who lives in her home and expressed concern about people with mobility issues living in an RV. Additionally, the note provided by the physician states that they require intermittent assistance and she does not believe that constitutes the need for a Hardship Dwelling.

Commissioner Williams stated that she has had two hospice patients in her home; her aunt and father-in-law. She also provided care for her mother-in-law after she developed senile dementia. She stated that her family was not in a position to pay for a nursing home and it was her mother-in-law's wish to die in her home surrounded by family. She explained that the first signs of these conditions include falling and confusion about medications. She believes that it is important for loved ones to provide assistance during the first stages and early signs of struggle performing ADLs. When those early signs are missed it can lead to bigger problems and contribute to a rapid regression of physical and mental capabilities. She does not feel it will hurt anyone to have an additional RV on the property to ensure that the James's are able to care for their aging parents.

Commissioner Williams acknowledged that Ms. Hein does not feel the medical condition meets the criteria for approval, but she disagreed. She explained that some days may be better than others, but added that it would take two people to lift them if either of them fell. She insisted that there will be days when they definitely will require more assistance. She believes the Planning Commission should extend the courtesy of allowing the James's to care for their parents on their property, especially because it will not impact anyone else.

Commissioner Royer stated that he appreciates Commissioner Williams's comments. He explained that he was involved with providing care for his grandfather toward the end of his life and witnessed now quickly a person's condition can deteriorate. He stated that he is in support of the James's request.

Commissioner Timmons asked for clarification of the term 'temporary' and how it relates to the Temporary Hardship Dwelling request. Chair Danforth stated that the initial approval is good for two years. After that, they would be subject to an annual review process. She pointed out UCDC 152.617(I)(V)(2)(b) on page 11 of the Commissioner's packets states that, "[a]pproval shall be for a period of two years, which may be renewed; additional doctor's certification may be required to confirm the continued existence of a medical hardship." She further explained that the manufactured dwelling must be removed within 90 days (after the original medical hardship need has ceased) so ultimately the approval is considered to be temporary.

Chair Danforth reiterated that she is concerned about the use of stairs required to enter and exit the RV. She added that fifth wheel trailer stairs are especially skinny making it easy to fall.

Commissioner Wysocki stated that his reservations during the first hearing in August were due to the lack of medical information provided by the applicant. He appreciates that Mr. James provided the letters from the doctor. He also thanked Commissioner Williams for her input and for sharing her medical and nursing experience.

Commissioner Tucker stated that he also felt there was too little evidence presented at the August meeting to support the medical need. He believes the decision for this matter is a close call and understands why opinions may differ. He explained that the criteria of approval for a medical hardship does not require a person be invalid to qualify. The criteria requires an 'undue

hardship' which is defined in UCDC 152.576(I)(V)(1) as, "unique and temporary conditions that exist which justify the need for temporary housing..." and in order to qualify a person must require direct personal care. Commissioner Tucker stated that he feels the James's barely meet the standard. He acknowledged Ms. Hein's concerns but agreed that they do not have any bearing on this decision and should be dealt with another time. He concluded that he believes they do meet the criteria and he supports approval of their request.

Commissioner Williams made a motion to approve Conditional Use Request #C-1342-21, Kevin and Heather James, Applicants and Owners. Commissioner Royer seconded the motion. Motion passed with a vote of 6:1.

MINUTES

Chair Danforth called for any corrections or additions to the minutes from the August 26, 2021 Planning Commission meeting. Chair Danforth pointed out an error on page 3, second to last paragraph, third sentence; the word "here" should be "there". Ms. Cimmiyotti stated that she will make that correction. Commissioner Tucker moved to approve the minutes with the noted correction. Commissioner Wysocki seconded the motion. Motion carried by consensus.

Chair Danforth called for any corrections or additions to the minutes from the September 23, 2021 Planning Commission meeting. There were none. Commissioner Williams moved to approve the minutes as presented. Commissioner Royer seconded the motion. Motion carried by consensus.

OTHER BUSINESS

Mr. Waldher thanked the Planning Commissioners for attending the virtual training, "Keeping Out of Hot Water: Land Use Decision-making for Planning Commissioners" September 29, 2021, as part of the Oregon Planners Network Fall 2021 meeting.

Mr. Waldher announced that we do not have agenda items for the Planning Commission next month, so there will not be a November meeting. The next Planning Commission hearing is scheduled for December 16, 2021 at 6:30pm.

ADJOURNMENT

Chair Danforth adjourned the meeting at 7:22pm.

Respectfully submitted,

Tierney Cimmiyotti,
Administrative Assistant