

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON
FOR THE COUNTY OF YAMHILL

FILED
YAMHILL COUNTY, OREGON

96 AUG 30 AM 11:41

CHARLES STERN
COUNTY CLERK

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

DEPUTY

In the Matter of an Ordinance Amending)
the Yamhill County Comprehensive Plan)
(1974) to Change the Designation from)
"Agriculture/Forestry Large Holding" to)
"Quarry", to Amend the Official Zoning)
Map from "AF-20 Agriculture/Forestry")
to "MR-2 Mineral Resource" on)
Approximately 80 Acres, Tax Lot)
5423-1202; Applicant C.C. Meisel Co.)
Inc.; Planning Docket PAZ-5-93;)
and Declaring an Emergency.)

ORDINANCE 614

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in special session on August 28, 1996, Commissioners Robert Johnstone, Thomas E. E. Bunn, and Dennis L. Goecks being present.

WHEREAS, on an application was made by C.C. Meisel Co. Inc. ("Applicant") to the Department of Planning and Development (Planning Docket PAZ-5-93) for a Comprehensive Plan Map amendment from "Agriculture/Forestry Large Holding" to "Quarry", and a zone change from "AF-20 Agriculture/Forestry" to "MR-2 Mineral Resource" on approximately 80 acres, tax lot 5423-1202 approximately three miles east of the city of Amity on the north side of Amity Road (State Highway 153), and more particularly described on Exhibit "B" attached hereto and incorporated herein by this reference; and

WHEREAS, on April 6, 1995 the Yamhill County Planning Commission held a public hearing to consider the application and continued the matter to May 4, 1995, at which time the Planning Commission voted unanimously to recommend denial of the application, and referred the matter to the Board of Commissioners; and

WHEREAS, on October 18, 1995, the Board held a public hearing on the application at which testimony and evidence was received and remanded the application back to the Planning Commission to consider additional information submitted by the applicant regarding the water issue; and

WHEREAS, on January 4, 1996, the Yamhill County Planning Commission held a public hearing on reconsideration and voted 4-3 in favor of recommending approval of the application and referred the matter to the Board of Commissioners; and

96-583



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WHEREAS, on April 6, 1995 the Yamhill County Planning Commission held a public hearing to consider the application and continued the matter to May 4, 1995, at which time the Planning Commission voted unanimously to recommend denial of the application, and referred the matter to the Board of Commissioners; and

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WHEREAS, on January 4, 1996, the Yamhill County Planning Commission held a public hearing on reconsideration and voted 4-3 in favor of recommending approval of the application and referred the matter to the Board of Commissioners; and

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WHEREAS, on January 31, February 7, February 21, and April 3, 1996, the Board held public hearings on the application at which testimony and evidence was received and following the close of the hearing and the record, the Board deliberated and a voted unanimously to tentatively approve the application for the comprehensive plan amendment and zone change , and directed staff to prepare an ordinance and findings in support of approval; and

WHEREAS, the findings and conclusions attached hereto as Exhibit "A and incorporated herein by this reference provide a justification for approval of the application; and

WHEREAS, the attached Exhibit "A" demonstrates that the proposed amendment to the Yamhill County Comprehensive Plan, Plan Map, and Official Zoning Map of Yamhill County are in the best interests of the citizens of Yamhill county; Now Therefore,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. The Yamhill County Comprehensive Plan and Plan Map (1974) are hereby amended as specified in the attached Exhibit "B", made part of this ordinance by reference, to reflect a plan designation of "Quarry" on the 80 acres known as tax lot 5423-1202 as more particularly described and shown in Exhibit "B".

Section 2. The Official Zoning Map of Yamhill County is hereby amended as specified in the attached Exhibit "B" to reflect a zoning designation of " MR-2 Mineral Resource".

Section 3. The findings attached as Exhibit "A" and incorporated herein by reference are hereby adopted in support of this ordinance.

Section 4. This ordinance being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage.

DONE at McMinnville, Oregon this 28th day of August, 1996.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STEIN
County Clerk
By: *Jayne Mitchell*
Deputy County Clerk
JAYNE MITCHELL

Robert Johnstone
Chairman ROBERT JOHNSTONE
Dennis L. Goecks
Commissioner DENNIS L. GOECKS

FORM APPROVED BY:

John C. Pinkstaff
JOHN C. PINKSTAFF
Assistant County Counsel
:\ADMIN\PINKSTJ\LU\96.241

Thomas E. E. Bunn
Commissioner THOMAS E. E. BUNN

YAMHILL COUNTY BOARD OF COMMISSIONERS
FINDINGS OF FACT AND CONCLUSIONS OF LAW

PAZ-5-93

APPLICANT: C. C. Meisel Co., Inc.

REQUEST: A Comprehensive Plan map amendment from "Agriculture/Forestry Large Holding" to "Quarry" and zone change from "AF-20 Agriculture/Forestry" to "MR-2 Mineral Resource."

LOCATION: Tax Lot 5423-1202. Approximately three miles east of the city of Amity on the north side of Amity Road (State Highway 153).

SUMMARY OF DECISION: The decision allows one use, rock extraction and crushing, consistent with the requirements of agricultural and forestry uses.

PROCEDURAL HISTORY: This request was first made in an application submitted by C. C. Meisel in 1993 and activated in the Spring of 1995. At that time, the request was for a comprehensive plan amendment and a zone change to MR-1, to add an additional 80 acres to an adjacent existing 40-acre quarry. The request was later modified to change the zone to MR-2, instead of MR-1. The Yamhill County Planning Commission held a hearing on the request on April 6, 1995. A seven-day continuance was granted in order to address questions raised about water resources impact on the area. David Newton and Associates was asked by the applicant to study these questions. At the end of the seven-day continuance, David Newton and Associates indicated that they would require more than seven days to properly answer the questions, and recommended a water study of the area. On May 4, 1995, the Planning Commission unanimously voted to recommend denial to the Board of Commissioners citing the lack of

information on the water issue, but indicated that the Commission would entertain another review of the application should additional information on the water issue be submitted. On May 12, 1995, the Yamhill County Planning Department granted applicant's request for a 120-day delay in scheduling a public hearing before the Board of Commissioners in order to conduct a comprehensive hydrogeologic study. On October 18, 1995, the Board of Commissioners remanded the application to the Planning Commission to consider additional information submitted by the applicant regarding the water issue only. At a January 4, 1996 hearing on reconsideration, the Planning Commission voted 4-3 in favor of recommending approval of the application to the Board of Commissioners, but because the Commission procedurally needed a vote of five to recommend either approval or denial of an application, the Planning Commission sent the application back to the Board of Commissioners without a recommendation. Following hearings on January 31, 1996, February 7, 1996 and February 21, 1996, the Board of Commissioners closed the record and voted 3-0 to tentatively approve a comprehensive plan amendment and zone change to MR-2. The record was reopened for approximately one week for additional written testimony and a final decision was made on April 3, 1996 upon another 3-0 vote by the Board of Commissioners to approve the comprehensive plan amendment and zone change to MR-2.

BACKGROUND: This application is a proposal to change the comprehensive plan and zoning designations to allow a single use, the extraction and crushing of rock, on an 80-acre parcel adjacent to an existing 40-acre quarry. The requested use is consistent with the existing zoning (AF-20) and is further consistent with the farm and forestry goals. The county's approval does not permit batching. Batching of the rock will be done on the adjoining parcel which is already zoned for such use. When the extraction is complete, the site will be reclaimed for

tree production and harvest, including Christmas trees. We find that the relevant physical characteristics of the site are as follows:

1. Lot Size: The entire parcel is 80 acres.
2. Access: Lafayette-Hopwell Highway (a state highway), Walnut Hill Road (a county road), and a private, paved access road.
3. On-Site Land Use: The subject property is in the Amity Hills. The property is on south-facing and easterly-facing slopes with an elevation of about 400 feet above sea level at Lafayette-Hopwell Highway. The property slopes up to over 600 feet at the northwest corner of the property. The northern portion of the land is in a fairly narrow valley that slopes to the east. The area proposed for the zone change is pasture land, scrub brush with a small growth of managed trees in the midsection. There is an untended and overgrown grape patch on the southern end of the property.
4. Land Use In The General Area: The area is in mixed farm and forest use with several existing quarries in the area. Tax Lot 5423-1300, immediately adjacent and to the east of the northern portion of the subject parcel, contains a quarry identified in the county inventory as the Stephens Quarry, Site No. 64. This quarry is operated by the applicant (C. C. Meisel Co., Inc.). Tax Lot 5423-1402, 1500 and 5424-1001 are located approximately 1,200 feet to the east of the subject parcel and are identified in the county inventory as the Anderson "A" Quarry, Site No. 65. A Plan Amendment and a Zone Change was granted for expansion of the Anderson "A" quarry in 1993 (Docket: PAZ-01-93). Tax Lot 5423-2200 is located across Burch Hill Road to south of the subject parcel and is identified in the county inventory as the Anderson "B" Quarry, Site No. 66. Farm uses are predominately livestock in the immediate vicinity, but orchards and field crops are raised in the general area. There

are several dwellings within one-quarter mile and three within approximately 500 feet of the proposed zone change area.

5. Surrounding Zoning: At the time of the application, the zoning was as follows: Most adjacent land to the west, southwest and east is zoned AF-20 Agriculture/Forestry. Land situated to the southeast, across Lafayette-Hopwell Highway, is zoned EF-40, Exclusive Farm Use. The area bordering the north is zoned AF-10, Agriculture/Forestry Small Holding. The quarry site to the east of the northern portion of the site (the Stephens Quarry) is zoned MR-1, Mineral Resource. The quarry site to the east (Anderson "A" Quarry) is zoned MR-2. The quarry site to the southwest (Anderson "B" Quarry) is zoned AF-20 and carries a plan designation "Quarry."

6. Soils: Sheet 51 of the Yamhill County Soil Survey indicates that the soils on the subject property are comprised of a mixture of soils, the most predominate (75%) being Nekia (Class IV). Other soils are Shale Rock, Jory and Yamhill (Class VI and IV due to slopes of over 20 percent).

7. Site History: The existing quarry immediately to the east is identified on the acknowledged county inventory of aggregate sites as the Stephens site (No. 64). The analysis of the site during the inventory process, during the early 1980s concluded that this quarry site has a 20-year history of extraction of an extremely high quality aggregate. In 1982, Yamhill County's original Task Force on Goal 5 recommended that a 161-acre site (including the existing Stephens Quarry No. 64 and the 80 acres presently under consideration), be included in the Goal 5 inventory and the Comprehensive Plan Designation be amended to Quarry. The recommendation was to designate the easterly 80 acres of the 161 acres (the proposed 80 acres we consider in this application) to MR zoning designation. The Planning Commission altered the Task Force's recommendation and changed the plan designation and the zone for only the Stephens Quarry (40 acres).

APPROVAL CRITERIA: The Board of Commissioners' decision to approve the current request is based upon the Board's conclusion that the application and information before the Board demonstrate that the request satisfies all of the approval criteria that apply to the application, as described more specifically below.

A. YAMHILL COUNTY ZONING ORDINANCE APPROVAL CRITERIA

1. Section 404--MINERAL RESOURCE DISTRICT

(a) **Criterion:** Section 404.03: Permitted Uses--MR-2 .

In the MR-2 District, the following uses shall be permitted:

- A. Quarry or mining operations for the extraction of rock, clay, soil, sand and gravel; ...
- C. Rock crushing, washing or screening;
- D. Stockpiling of rock or earth products in conjunction with the operation of the mineral resource business on-site; ...
- G. Storage of heavy equipment in conjunction with the mineral resource business on-site

Finding: We find that this application is for a new Comprehensive Plan designation (Quarry) and Zoning District designation (MR-2) to allow use of the subject property as a quarry for the extraction of rock. The applicant is proposing to extract the rock on the subject property. In conjunction with the proposed operation, we find that the applicant may have a crusher, heavy equipment and several employees on the site. We find that these activities presently occur on the adjacent Stephens Quarry site, but may move to the proposed site in the

future, consistent with appropriate setbacks. We find that the screening and stockpiling of rock will also be part of the operation. We find that no batch plant will be operated on the site; batching will be done on the existing site which has an approved MR-1 designation that allows batch plants. We find that no caretaker dwelling, or manufacturing (e.g., tiles, concrete pipe) will be allowed on the site, and such is prohibited by a condition of approval and a limited use overlay. We find that all of the proposed uses for the subject property are explicitly permitted under Section 404.03. We conclude, therefore, that this approval criterion has been met.

(b) Criterion: Section 404.06: Standards and Limitations

In the MR District, the following standards and limitations shall apply:

A. *The minimum parcel size for a permitted or conditional use shall be five (5) acres.*

B. *The maximum building height of any residential structure shall be thirty five (35) feet and the maximum height of all other structures shall be sixty (60) feet.*

C. *The minimum setbacks for all yards of a residential dwelling in the MR District shall be thirty (30) feet.*

Finding: We find that the size of the subject parcel is 80 acres, which is greater than the minimum five-acre parcel size for the MR District. We further find from the application and

accompanying documents that there are no residential or other structures proposed on the site and that, therefore, none of the other standards of this section apply. We further find that our conditions of approval, and the limited use overlay we have applied, prohibit caretaker dwellings, batch plants and manufacturing. We find that these are the types of structures that would be subject to the height restrictions and setback standards. Because these uses will not be allowed on the site, we conclude, therefore, that this criterion is met.

(c) **Criterion:** Section 404.07: Operating Standards.

A. *Operating Setbacks.*

1. *Extraction shall not be conducted within twenty-five (25) feet of any zoning district boundary; and shall not be conducted closer than five hundred (500) feet from any dwelling existing at the time of adoption of this Ordinance.*

2. *Processing activities shall not be conducted within five hundred (500) feet of any LDR, VLDR, or AF-10 zoning district boundary; or within two hundred fifty (250) feet of any other zoning district boundary. In no case shall processing and other processing-related activities be conducted closer than five hundred (500) feet from any dwelling existing at the time of adoption of this Ordinance.*

Finding: We find that the nearest houses to the subject property are the houses of Mr. Hodgson and Mr. Sly, which are each approximately 500 feet from the edge of the proposed

MR-2 zone and the Huff residence near the extreme southern tip of the site. We further find that the applicant has requested an MR-2 zoning designation, which will not allow any batching or manufacturing activities on the subject property. Based upon these facts, we find that with a condition of approval requiring extraction activities to be at least 25 feet from the property boundary (except adjacent to the existing quarry, which is also zoned MR) or 500 feet from the nearest existing residence, whichever is most restrictive, that the standards of this section can be met. These requirements are formally imposed on the applicant as conditions or approval of this application as part of the program to meet Goal 5. We conclude, based upon such conditions, that these criteria have been met.

(d) **Criterion:** Section 404.07: Operating Standards

B. *Screening.*

Adequate screening with indigenous planting shall be preserved or established to block the view at the site from any public road, residential zoning district and from any existing dwelling located within one thousand (1,000) feet of the site prior to establishment of the MR district. Existing trees and other natural vegetation shall be preserved and maintained at the perimeter of the site to provide screening. This landscaping, fencing for safety purposes, berms, or other similar devices shall be submitted as a site plan for Commission approval.

Finding: We find, from an inspection of the maps, including the consolidated USGS topographic map, the composite photographs of the site and also from our visit to the site, that the northern portion of the subject property generally slopes gently from the west to the east, and that the southern portion of the property slopes from north to south, and further find that existing vegetation provides screening in the many areas of the property. We further find that the applicant proposes to leave the existing screening and establish berms and planted screen buffers of fast growing indigenous trees around the edges of the subject parcel in advance of extraction to allow time for the plantings to create effective screening. The applicant asks for a condition of approval requiring it to establish such screening within the buffer area around the perimeter of the site. We find that the subject property is visible from public road segments, including Three Trees Lane, Lafayette-Hopwell highway, and Burch Hill Road, from three zoning districts other than the adjacent MR-1 zone (AF-20 to the east, west and southwest, AF-10 to the north, and EF-40 to the southeast) and from several residences that are within 1,000 feet of the property. We interpret this section of our code to require the preservation of existing vegetation or the planting of new vegetation to create a vegetative barrier between the site and public roads, residential zones and residences within 1,000 feet of the site. We do not interpret the code to require that the vegetative barrier completely hide the site from the view of these other locations or screen out all evidence of the use of the MR property for rock extraction. We further find that such a requirement would be unrealistic and impractical given the variety of topography to be expected for rock extraction sites and the limited ability of vegetation to screen all impacts. Accordingly, we interpret the code to require that some vegetative screening be maintained or established to provide a reasonable buffer for the use of the MR site. We further interpret the screening provision to provide

practical screening, but not to require screening that makes the site "invisible" from long distance or from topographic vantage points. We find that the applicant's proposal meets this requirement of the code. In light of the vegetation already established, and our interpretation that the screening requirement is designated to help reduce the view of the quarry activities themselves (as opposed to the undeveloped land), we find that the applicant need not establish any additional vegetative screening at the time of our decision. We do, however, find that additional vegetation must be established prior to the start of extraction activities, and therefore impose a condition of approval as part of the program to meet Goal 5 that requires the preservation of existing vegetation within the outer 25 feet of the subject property (except bordering the existing quarry), and also requires that vegetation be planted prior to the quarry operating on the site. We further find that given the applicant's proposal to preserve or establish the vegetative screen around the entire perimeter of the property (except where bordering the adjacent existing quarry), we have been able to adequately consider the locational factors relating to the screening, and that no additional site plan is required. We conclude, based upon the above findings, that this criterion has been met and that the imposition of the afore-discussed condition of approval will insure appropriate compliance.

(e) Criterion: Section 404.07: Operating Standards

C. *Environmental Standards.*

1. *All excavation, including blasting, processing, maintenance and truck traffic shall be conducted in a manner that minimizes the adverse effect to persons and activities on adjoining property due*

to noise, dust, odor, vibration or surface water pollution or erosion.

2. Any mining operation shall not exceed Department of Environmental Quality noise emission, air contamination and water quality standards. Additionally, appropriate federal environmental quality permits shall be obtained for each site.
3. Excavation which results in ponding shall be deep enough to prevent stagnation and development of mosquito-breeding areas or shall be backfilled with a material that will not impair groundwater quality.

Finding: We find that the applicant proposes to extract the rock from the subject site by first removing and storing the topsoil overburden and saving it in berms for future reclamation use, and then extracting the rock in a westwardly direction from the existing quarry using conventional mining techniques. We find that the applicant has proposed to work with the Department of Geology and Mineral Industries ("DOGAMI") and the Water Resources Department to assure that significant groundwater resources encountered on the site, if any, will be isolated and protected. We find that material may be weighed at the existing scale house and may exit the site along the existing paved access road and the existing county and state road network. We find that prior to operations on the subject property, the applicant will be required to obtain an operating permit and reclamation plan approval from the Oregon Department of Geology and Mineral Industries. This plan will meet all the necessary requirements

for slopes and quarry stability and will establish a plan for reclaiming the site for farm/forest purposes.

We find that the applicant has submitted evidence to show that its proposal will mitigate the impacts of its operation. With regard to noise, we find that the noise sources that will be created by the proposed use of the property will be equipment operation, the proposed air-track drill and blasting. We find that the applicant is proposing to use measured powder charges and sequential blasting, which meet DEQ noise standards at its other quarries. With regard to the air-track drilling, which we find to be the loudest noise source, we find that a study done by acoustical engineers with regard to air-track drilling at a quarry site in Washington County demonstrates that DEQ standards can be met at the site by the proposed rock extraction use. We find this evidence convinces us that the operation at the subject property can meet noise standards. We further find that specialized mufflers and deflectors are available to reduce noise. We find that the noise impacts will be further mitigated by the screening from adjacent properties provided by the face of the quarry and berms and vegetation that the applicant will construct around the perimeter of the site, and the topography of the site, which itself screens several of the nearer residences. Although we find evidence in the record from Mr. Duple testifying that the operation will have difficulty in complying with DEQ noise standards, we find that his calculations did not correctly calculate the noise level increase over the ambient level because they did not take into account the existing operation at the adjacent Stephens Quarry, nor did he consider special matters or deflection devices in his calculations. We incorporate by reference our findings related to Goal 6, below, in this regard. From a review of all the evidence in the record, we find that the proposed operation will minimize its adverse noise effects on adjacent properties.

With regard to air emissions and dust effects, we find that the private access road to the existing quarry is paved, and that the applicant proposes to water the interior truck paths on the site with an existing water truck as needed to eliminate dust. We find further that equipment at quarries operated by the applicant comply with DEQ air quality standards, and that its adjacent Stephens Quarry operation has had no DEQ citations in the last eight years. Although Mr. Simons testified regarding the possibility of air pollution problems, we find his testimony to not be credible for the reasons set forth in our analysis of Goal 6, which we incorporate herein. Based upon all of the testimony in the record regarding dust and air quality, we find that the proposed operation will minimize its adverse effects on adjacent properties.

With regard to odor impacts of the operation, we find that the rock proposed to be extracted from the site does not have any odor, and that the extraction and crushing operations associated with the extraction will not create any odor and thereby cause an adverse impact on adjoining properties.

With regard to vibration, we find that there will be no significant adverse effects, and incorporate by reference our discussion of the report of Dr. Feves and our analysis under Goal 6.

With regard to surface water pollution or erosion, we find that the applicant has a National Pollutant Discharge Elimination System permit from DEQ at the adjacent quarry, and that it has a record of complying with those permits. We incorporated our findings and conclusions on this issue from our discussion of Goal 6, below. In addition, we find that the berms and vegetative screening that will be preserved and established around the perimeter of the site will help to control offsite surface water impacts. For all these reasons, we find that there will be minimal, if any, adverse impact from surface pollution or erosion on persons or activities on adjoining property.

Based upon the above findings, we conclude that the criteria in Environmental Standard 1 have been met.

We find that the applicant has a record of compliance with applicable DEQ permits and standards in the past at its sites. We find that operations at this site will be substantially the same as the applicant's other sites (e.g., blasting, crushing, etc.) and, therefore, the applicant's method of operation at other sites would be effective in meeting applicable standards at this site. Accordingly, we find that the applicant's operation can meet applicable DEQ noise, air and water standards. We find further that DEQ has been delegated authority to enforce these standards and that no federal standards apply. We conclude, therefore, that Environmental Standard 2 has been met.

We find further that the applicant will be storing the topsoil overburden for eventual placement on the quarry floor after extraction is complete, and will plant the area subsequently for farm/forest production. We find that the applicant will be required by DOGAMI to reserve topsoil for reclamation. We further find that DOGAMI will require a bond for reclamation and that DOGAMI has enforcement authority to ensure compliance. We find that the applicant has also stated that it will work with DOGAMI and the Oregon Water Resources Department to look for opportunities to create recharge basins on the site, consistent with the overall use of the site for farm/forest uses. Other than the potential for these artificially created recharge basins, we find that there are no other ponds on the site such that water stagnation is not an issue. We conclude, therefore, that Environmental Standard 3 is met.

Based upon all of the above findings, we conclude that the Environmental Standards criteria have been met.

(f) Criterion: Section 404.07: Operating Standards

D. Roadways.

In the MR District for all mineral resource sites approved by the Board, all access to a mineral resource site shall be by a route or routes approved by the Board and shall be constructed and maintained in such a manner as to eliminate, as far as practicable, noise or dust which adversely affects persons living in the vicinity, or crops or livestock being raised in the vicinity.

Finding: We find that the access to the subject property will be through the private access road currently serving the existing quarry. We further find that this access road is paved and that the interior truck paths on the existing site will be watered as needed with an existing water truck to eliminate dust. We further find as is discussed above under the finding for Environmental Standard No. 1 that the proposed operation will be designed in a way that minimizes noise and dust which might otherwise adversely affect persons living in the vicinity or crops or livestock being raised in the vicinity. We find that the use of the open quarry face and trees and berms along the perimeter of the site to reduce noise and dust impact as well as the use of water devices to reduce dust are, in our opinion, reasonable techniques to reduce the off-site noise or dust impact of the operation. We find these techniques eliminate such impacts as far as practicable. We do not agree with the opponents who claim that dust and other impacts cannot be adequately controlled. We incorporate by reference our discussion of Goals 11 and 12, below, and hereby approve the use of the access described in our discussion of those goals as the access for the

proposed use. We find that a private, paved road with limited access will eliminate, as far as practicable, adverse effects from truck traffic on persons, crops and livestock in the vicinity. Based upon the above, we conclude that this criterion has been met.

(g) Criterion: Section 404.07: Operating Standards

E. *Site Operation and Safety.*

All excavation, processing and stockpiling of mineral resources shall take place under conditions which will provide for the reclamation of the site for future uses and will protect the safety of the public.

1. *Blasting shall be restricted to the hours of 7 am 6 pm, Monday through Saturday. No blasting shall occur on Sundays or holidays. In the event the operator cannot comply with this restriction due to unforeseen circumstances, the operator may exceed the limitations set forth above; provided that in no event shall the owner or operator blast outside the restrictions set forth above more than four (4) times in any one (1) calendar year.*
2. *Prior to a blasting operation, the operator shall be responsible for notifying adjacent property owners as to the date and approximate time of the blasting activity.*

Finding: With regard to the first part of this criterion, we find that the applicant will be required to, prior to operations on the expansion site, obtain an operating permit and reclamation plan approval from the Oregon Department of Geology and Mineral Industries to provide for the site to be reclaimed for farm/forest purposes (including Christmas trees) that we have determined is an appropriate farm and forest land use for the site. We find that appropriate bonds will be required as part of the reclamation permit process with DOGAMI. We find that such a reclamation plan is a precondition to obtaining an operating permit from DOGAMI and that consequently, no excavation, processing and stockpiling on the expansion site will take place prior to the preparation of such reclamation plan. We further find that DOGAMI is the regulatory agency with the greatest expertise regarding such reclamation plans and that a plan prepared for its approval and under its regulatory requirements will protect the safety of the public. We conclude therefore, that this criterion has been met.

With regard to the blasting requirements of this section, we find that the applicant has agreed to comply with the hours of restriction and prior notice requirements of these approval criteria. These requirements will be included as conditions of approval of this request as part of the program to meet Goal 5 and will apply to all excavation, processing and stockpiling on the subject parcel. We conclude that these blasting requirements can be met by the proposed use and the inclusion of conditions of approval in this decision, ensures compliance. Accordingly, we conclude that this criteria has been met.

(h) Criterion: Section 404.07: Operating Standards

F. Land Reclamation.

1. Any parcel or site used as a mineral resource site for which a reclamation plan is required by the Department of Geology and Mineral Industries (DOGAMI) shall be reclaimed in accordance with the site operation and reclamation plan on file with and approved by the County.
2. The approved reclamation plan shall be implemented in accordance with a schedule contained therein showing the planned order and sequence of said reclamation.
3. The approved reclamation plan shall require all excavations to be backfilled, contoured or terraced or put to a use shown on the reclamation plan which is compatible with the final depth and slopes within the excavation site.
4. The approved reclamation plan shall require topsoil to be saved and stored in such a manner as to prevent erosion, and that said topsoil shall be replaced to at least the depth of the original overburden, or to a depth adequate to achieve the approved reclamation use.

5. *The approved reclamation plan may, in the County's discretion, provide for reclamation of portions of the site prior to total exhaustion of the resource found on the site.*

Finding: We find, as discussed in the previous finding, that the applicant shall obtain approval of a reclamation plan from DOGAMI prior to the start of operations on the site. We find that the reclamation use we have identified (farm/forest propagation) is achievable at the site, that the applicant will stockpile topsoil as required to meet the plan, and that the site can be contoured or terraced, in compliance with DOGAMI rules to meet the reclamation goals we have established. We find that under DOGAMI rules, reclamation can be sequenced, or an operator can bond a larger amount of acreage as a site is enlarged to ensure reclamation. We find the DOGAMI rules are sufficient to meet and enforce the requirements of this section and conclude that they are satisfied.

- (i) **Criterion:** Section 404.07: Operating Standards

G. Performance Agreement.

Pursuant to the requirements of this Section and any conditions imposed hereunder, the applicant shall enter into a performance agreement with the County, using the applicant's performance agreement with DOGAMI as a minimum standard. Should the Board find that the DOGAMI performance agreement for a specific site is inadequate, the Board shall modify it accordingly.

Finding: We find that this requirement clearly contemplates a performance agreement at the time that the applicant enters into a performance agreement with DOGAMI, which will be at the

time an operating permit is issued. We have reviewed DOGAMI's rules and find that the bonding requirements of that agency are sufficient to meet the requirements for this site. We have also imposed additional performance guarantees. Accordingly, we conclude that this criterion has been met.

(j) Criterion: 404.08 Application for Zone Change to MR District

In addition to the Type C application procedure set forth in Section 1301, and subject to the amendment review criteria listed in Section 1207, application for an MR zone shall contain:

- A. The documentation, as applicable, required for any application for a site design review as set forth in Section 1101;
- B. Plans showing the location, area, dimensions, acreage and legal description of the parcel to be developed or used, together with north point, scale, date of application, and all intended uses, including estimates of the total volume of the resource to be mined and initial contours for the proposed site.
- C. Provisions for landscaping and screen-planting of all parts of the site;

- D. Provisions for preventing the collection and stagnation of water at all stages of the operation;
- E. Plans, profiles and cross-sections of all access roads; and
- F. Plans for the reclamation of the site.
- G. All plans prepared and submitted shall be prepared at a scale no smaller than one (1) inch to two hundred (200) feet, with five (5) foot contours, and such information shall be furnished for a distance beyond the site sufficient to determine the impact of the operation on adjacent and surrounding lands.

Finding: We find that the requirements of this criteria are procedural requirements relating to the process used in considering evidence and evaluating the information submitted about an application. These requirements are designed to allow us to adequately consider the application against the applicable approval criteria. We find the process and hearings held before the Planning Commission and us followed the relevant Type C application procedures. We interpret the application submission requirements to allow latitude in submittal requirements to reflect different situations, as long as the information in the record is sufficient for us to properly evaluate the proposal. In this instance, for example, where the subject site will be excavated except for an outer perimeter, and where access to the site has access through an existing road used for an existing quarry, we find that there is no need for the full complement of

detailed site plans that might be otherwise needed for an application involving a variety of uses on a property. We find that for this application the maps and plans that have been submitted, in combination with the narrative descriptions of the proposed activity, hearing testimony and our site visit, have given us sufficient information to evaluate the proposal before us against the applicable approval criteria. Accordingly, we find that these submissions are sufficient to meet the applicable documentation requirements of Section 1101, and the additional documentation requirements of this criterion. We find that this is particularly true since we interpret our code to refer to plans in a broad sense to include narrative discussions as well as drawings. Based upon the above, we find and conclude that adequate site information has been provided to evaluate the site, roads for the site, reclamation and landscaping and screening around the perimeter of the site. Accordingly, we conclude that this criterion has been met.

(k) Criterion: 404.09 MR Zone Change Criteria

Approval of a zone change to the MR District shall be based upon satisfactory compliance with the requirements set forth in subsection 404.08 and the amendment review criteria listed in Section 1207; and the following criteria:

- A. *That a sufficient quality and quantity of mineral resource exists at the proposed site to fulfill a market need.*
- B. *That approval of the zone change will not cause immediate or long-term land use conflicts that cannot be satisfactorily mitigated. If conflicts*

are identified, findings shall be made concerning the economic, social, environmental and energy consequences of allowing the MR use; and a determination shall be made that the benefits to the public outweigh the detriments suffered as a result of said conflict.

Finding: We have concluded that the application complied with the requirements of Subsection 404.08 in our previous finding and incorporate that finding herein by reference. We have also made extensive findings related to the market need in our findings directed to Section 1208.02, below. We incorporate those findings herein by reference. We find that the reference in this criterion to compliance with the amendment review criteria in Section 1207 should actually be a reference to Sections 1207 and 1208, since zone district boundary changes can be made through both legislative (covered by 1207) and quasi-judicial (covered by 1208) boundary change procedures. We further find that the applicant has complied with the requirements in 1208, as demonstrated by our findings for that criterion, discussed below. We find, additionally, that the criteria in subsections "A" and "B" of this criterion are adequately addressed by the findings we have made with regard to Statewide Planning Goal 5, below. We incorporate those findings herein, as though fully set forth. We further find that the rock resource on this site is extremely important to the immediate and long-term well-being of the residents of Yamhill county. We find that it is essential to preserve high quality rock resources for the present and future use of county residents. We find that this site provides extremely important benefits to the citizens of the county and protecting the health, safety and welfare of resources of the county by providing a ready supply of rock for a variety of purposes, including home and highway construction. We further find, consistent with our conflict identification and

ESEE analysis, below, that the conflicts at the site are minimal and can be mitigated to avoid significant adverse effects on existing and future land uses in the general area of the proposed use. Accordingly, we conclude that the benefits to the public outweigh the detriments that may accompany the proposed use. Based on all these factors, we conclude that this criterion has been met.

2. Section 1007--OFF-STREET PARKING AND LOADING

Criterion: 1007.01 Purpose and Scope

The off-street parking and loading requirements of this section shall apply to those uses specifically listed in this section. A dwelling which is not a duplex or multi-family dwelling shall not be subject to the requirements of this section; however, a minimum off-street parking area sufficient to accommodate two (2) cars shall be provided for each such dwelling. The requirements for any use not specifically listed in this Section but which may require off-street parking and loading facilities shall be determined by the Director based upon the requirements for comparable uses listed herein. At the time of construction of a new building or structure, or at the time of enlargement or change in use of an existing building or structure within any zoning district, off-street parking spaces shall be provided as specified herein, unless greater requirements are otherwise established. Where square feet are specified, the area measured shall be the gross floor area of the building or structure primary to the functioning of the particular

use of the parcel, but shall exclude space devoted to off-street parking or loading.

Finding: We find that the intent of the Off-Street Parking and Loading requirements of the code is to assure that when property is used (particularly dwellings and structures), its use is designed in a way that includes sufficient provision for the onsite parking and loading needs that can be reasonably expected to accompany that use. We find that the provisions of Section 1007 of the code focus on dwellings and structures, and do not specifically address nonstructural uses such as the quarry use proposed by the applicant. We find, however, that under Section 1007.01, the Director is to determine the appropriate standards for uses not specifically listed in the code. We find that this quarry operation is such an unlisted use, and consequently make the following determination and findings regarding the appropriate parking and loading requirements for this proposal, which we make following consideration of the other uses listed in Section 1007. Since the quarry use is not specifically listed in Section 1007, this determination and these findings are sufficient to address all the code's parking and loading requirements applicable to this application.

We find that the existing Stephens Quarry site is adjacent to the proposed use and has sufficient space to meet the off-street parking and loading needs of both the existing quarry and the 80-acre use proposed in this application. We find that the applicant's existing quarry has sufficient space to meet the parking and loading needs of the trucks, equipment, stockpiles, crusher, truck loading, weighing and maneuvering areas needed for the operation of the proposed use. We find, from a review of the maps and photographs of the site in the record and from our site visit, that the existing quarry has large areas adjacent to the access road to the site that are available for use for parking and for loading, and find that such areas are large enough to

provide needed parking and loading room for the proposed use. We find and conclude that these areas are sufficient size and space.

We further find that the access road to the existing site is paved, and that the applicant has proposed to rock portions of the site for all weather use, as the quarry develops. We find that the applicant will also moisten the interior truck paths as needed to control dust, control water flow to comply with DEQ requirements, and insure that any artificial lighting is directed away from residences. We find that these measures address the issues covered by the design requirements of Section 1007.02B in a manner appropriate for the proposed use at this site. •

We find that there is no specific number of off-street parking or loading that should be required at the site. Given the demonstrated ability of the adjacent site to meet its needs in the past, and the great amount of space available, we find that there is easily sufficient space to accommodate the needs of the operation, its employees, and the vehicles that may enter and leave the site. We further find that since the subject property is adjacent to the rock extraction area on the existing quarry site, that it is appropriate to allow parking and loading requirements to be met at the existing quarry, and in fact to allow the location of the areas in which these requirements are met to change over time as the location of the activities changes on the site. Based on these factors we conclude that this criterion has been met.

3. Section 1101--SITE DESIGN REVIEW

Finding: Although opponents to the application argue that this section of the code is an applicable approval criterion, we find that Section 1101.01 provides that Section 1101 "shall apply to all development in all Commercial, Industrial, and Public Facilities Districts, all development in the PRO District, and all other uses as may be required by this ordinance in the AF-10,

VLDR and LDR Districts." The application before us is not for development in any one of those named Districts, consequently we find that Section 1101 is not an approval criterion applicable to this application.

4. Section 1207--LEGISLATIVE AMENDMENTS

Finding: Although opponents argue that this section of the code is an applicable approval criterion, we find that Section 1207 pertains to Legislative amendments to the code. The application before us is a quasi-judicial amendment to the code, proposed by the applicant and processed under Section 1208. We further find that Section 404.09 of the code should refer to both Section 1207 and 1208 as potential applicable amendment review criteria, and so interpret our code. We find, consequently, that Section 1207 is not an approval criterion applicable to this application.

5. Section 1208--QUASI-JUDICIAL ZONE DISTRICT BOUNDARY CHANGES

(a) **Criterion:** Section 1208.01: General Requirements

A quasi-judicial zone map change is processed as follows:

- A. *An amendment may be initiated by the Board, the Commission, or by application of an owner of land.*
- B. *An application for such a change by an owner of land shall be made in accordance with the Type C application procedure.*

- C. Such amendments shall be made only by the Board, after review and recommendation by the Commission, and after public hearings have been held by both the Commission and Board, pursuant to Section 1402 of this Ordinance.

- D. Approval for a boundary change shall include findings satisfying the criteria in 1208.02 or 1208.03 as appropriate, and addressing applicable Comprehensive Plan goals and policies.

- E. Changes to the applicable zoning maps shall be made and become effective upon filing with the County Clerk.

Finding: We find that the requirements for this criterion are procedural requirements relating to the county's consideration of quasi-judicial zoning district map changes. We find that the application was initiated by the land owner in accordance with Type C procedures, and that our decision is being made following properly noticed Planning Commission and Board hearings on the matter. We further find that these Findings and Conclusions address the approval criteria applicable to the application, including the criteria in 1208.02 and the applicable Comprehensive Plan goals and policies. We conclude, therefore, that this criterion has been met.

(b) **Criterion:** Section 1208.02 Review Criteria

- (1) A quasi-judicial change to a zoning map may be authorized, pursuant to Subsection 1208.01, provided that the request satisfies all applicable requirements

of this ordinance, and also provided that the applicant demonstrates compliance with the following criteria, except as provided in Subsection 1208.03.

Finding: We find that this Findings document fully addresses and demonstrates compliance with the approval criteria that are applicable to the requested zoning map change, including the criteria in this Section 1208.03. We further find that Subsection 1208.03 does not apply to this application because this request does not involve a change to an Exclusive Farm Use, Agriculture/Forestry or Forest zone, nor does it involve a change in the minimum lot size or land. Based on all these factors, we conclude, therefore, that this criterion has been met.

(2) A. *The proposed change is consistent with the goals, policies and any other applicable provisions of the Comprehensive Plan.*

Finding: In these Findings, we have addressed compliance with the applicable provisions of the comprehensive plan. We incorporate all our findings related to the county's comprehensive plan as though fully set forth herein, and conclude that those provisions are met. Based upon all our findings we conclude that this criterion has been met.

(3) B. *There is an existing, demonstrable need for the particular uses allowed by the requested zone, considering the importance of such uses to the citizenry or the economy of the area, the existing market demand which such uses will satisfy, and the availability and location of other lands so zoned and their suitability for the uses allowed by the zone.*

Finding: We find that the subject property provides one of the few sites in the county with rock of sufficient quality to meet federal highway standards and requirements. We find that there is a long lead time necessary for obtaining approval of new sites and additional time necessary after approval to prepare a site for extraction. We further find that the costs to run a quarry are enormous, and operators and lenders require a significant rock reserve to insure an adequate amortization period for the expensive equipment and costs. We find that these are operational characteristics of the rock industry that create a significant lead time for opening up a quarry site and that the industry must anticipate site development in order to be able to continuously meet existing market need. We find that the applicant is the largest producer of rock in the county and that the applicant has only a small amount of rock at existing sites to meet existing market need. Because of the operational requirements of the rock industry described above, we find that this site is needed now. We find this is particularly true given the significant growth in the county and the significant increase in production that the applicant has experienced over the last few years. We find that to provide continuity in servicing the existing and demonstrated market need for rock, this site is needed now.

We find that rock resources are important to the county. We have recognized that importance in our comprehensive plan. We also recognize and find that rock resources are used for road and construction projects, forest uses, residential uses and agricultural uses, and are critical to the growth of the county in terms of jobs, infrastructure, homes and transportation. We find that protection of, and provision for, the appropriate development of rock resources therefor is very important to the well-being of county residents and to the county economy.

We find that the applicant has expended significant effort to locate alternative rock sites in the county that are already zoned for mineral extraction, but that no available site so zoned has been found with the high quantity of quality rock that this site has, or the immediate ability to prepare and use the site. We further find that the siting of rock quarries is difficult and that there are increasing conflicts in the rural areas of the county because of the growth the county has experienced. Based on our experience with other rock quarries, we anticipate that our decision in this matter will be appealed and that it may be years before all legal actions are finally decided. We find that this is further support for conclusion that approval of the site is needed now to meet existing market demands. We further find that the applicant's main alternate quarry, the Starr Quarry, has only a few years' supply left. We further find that preparations for mining the 80-acre site will begin immediately as an expansion of the adjacent Stephens Quarry. To allow for a continuous supply, we find that the site is needed now.

Based upon the above, we find that there is a demonstrated need for additional high quality rock in the county such as the rock that would be made available by our approval of this application. We conclude, therefore, that this criterion has been met.

(4) C. The proposed change is appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have occurred in the vicinity to support the proposed amendment and the availability of utilities and services likely to be needed by the anticipated uses in the proposed district.

Finding: We incorporate herein by reference our definition of "surrounding land" set forth in our discussion of ORS 215.296, and find that this definition is appropriate for the "area" referred to in this standard. We find that the area surrounding the subject property is used for rural residences, for farming and forestry uses, and for other quarry operations. We find that these uses are low density and rural in nature and that the proposed use is of the same type as presently exists in the mix of uses on surrounding lands. We further find that the existing Stephens Quarry has been actively used for more than 20 years, and is part of the existing pattern of development in the area. We further find that many of the residential uses have been established during the period of time that the Stephens Quarry has been in operation, and find that the density on surrounding lands has developed with knowledge of the nearby quarry operations as part of the land use pattern in the area.

We further find that the utilities needed for operation of the site are presently available at the existing site and can be easily extended. We incorporate by reference our findings related to Goals 11 and 12, below.

We find that this is a request for additional mining area adjacent to an existing mining and processing site. We find that the existing quarry is part of the pattern of use in the surrounding area. We find that the use that is proposed on the subject property is a use that is already part of the pattern in the area and, therefore, the use is appropriate in the area. We find that a quarry use is appropriate in an area of existing quarries. We find that the siting of quarries is becoming increasingly difficult as the number of potential conflicts increase with the county's growth. In light of our finding that there is a need for this rock in the county, we find that an area adjacent to an existing quarry is a factor that leads us to conclude that the new quarry is appropriately sited. We find that such request is an appropriate way to create additional rock

availability for the county in an area already exposed to potential quarry impacts. We find and conclude that the application before us is appropriate given the surrounding land uses (which include an existing quarry), density and development in the area, and conclude, therefore, that this criterion has been met.

(5) D. *Other lands in the County already designated for the proposed uses are either unavailable or not as well-suited for the anticipated uses due to location, size or other factors.*

Finding: We find that the applicant operates other sites and has searched for alternative, comparable sites in the county but has been unable to find any that are as well suited for development as this site. Other sites do not have high quality rock, have insufficient quantity to make the project feasible, or contain more conflicting uses than this site. We recognize that this site does have some nearby homes. But we find that the residences are all approximately 500 feet from the boundaries of the subject property, and that, as discussed elsewhere in these findings, the impacts on these residences can be mitigated. We find, further, that other sites designated for rock extraction in the county are already being used for rock extraction, and that the issue before us is the need for a new and continuing supply of rock. We find that we cannot obtain such a new and continuing supply from areas already designated because of the inherently consumptive nature of rock extraction; we find that we must continually look for new sites to meet the county's ongoing need for rock. For all these reasons, we conclude that this criterion has been met.

(6) E. The amendment is consistent with the current Oregon Administrative Rules (OAR's) for exceptions, if applicable.

Finding: We address the relevance of an exception to this application in our finding for Statewide Planning Goals 2, 3 and 4, below, and conclude that no exception is needed for the proposed use. Based upon that finding, which we incorporate herein, we conclude that this criterion has been met.

6. APPROVAL CRITERIA FOR A CONDITIONAL USE IN THE AF-20 DISTRICT

We find that the proposed use is not being requested under a conditional use application and, therefore, find and conclude that the conditional use standards do not apply in this matter. However, the use requested by the applicant is approvable in the AF-20 zone through a conditional use request. In the event the conditional use standard would, for any reason, be deemed to apply, and further, to demonstrate that the use could be approved under existing zoning, we make the following findings related to Sections 403.04, 403.07, 1201 and 1202 of the Yamhill County Zoning Ordinance.

(a) **Criterion:** 403.04 Conditional Uses

The following uses are allowed in the Agriculture/Forestry District upon conditional use approval. Approval of these uses is subject to the Conditional Use criteria and requirements of Section 1202 of this ordinance and any other provisions set forth below. Applications shall be reviewed under the Type B procedure of Section 1301:

H. *The following mineral, aggregate, oil, and gas uses, subject to the standards of Section 404:*

2. *Operations conducted for mining, crushing or stockpiling of aggregate and other mineral, and other subsurface resources subject to ORS 215.298.*

Finding: We find that Section 403.04H.2. of the code allows extraction operations such as that proposed by the applicant as a conditional use in the AF-20 District. We find further that the code makes approval of such a conditional use subject to compliance with the conditional use criteria and requirements of Section 1202, the standards of Section 404, and the standards of Section 403.07. We find that compliance with these additional criteria, requirements and standards is demonstrated elsewhere in these findings. We further find that the Type C application procedure under which this application has been considered meets and exceeds the Type B application procedure that is required for a conditional use review, and that following the Type C procedure is sufficient to comply with the requirement to follow a Type B procedure. Consequently, based upon the findings referred to above, which we incorporate herein, we conclude that this criterion has been met.

(b) **Criterion:** 403.07 Additional Standards for Approval of Conditional Uses

A. *In the Agriculture/Forestry District, prior to establishment of a conditional use, the applicant may be required to demonstrate compliance with the following criteria in addition to other requirements of this ordinance:*

1. The use will not force significant change in accepted farming practices on surrounding lands devoted to farm or forest use.
2. The use will not significantly increase the cost of accepted farming practices on lands devoted to farm or forest use.

Finding: We incorporate by reference our findings, analysis and conclusions related to ORS 215.296, as though fully set forth herein. We find that this provision in our code is exactly the same as the state statute, which we have found to be satisfied by the proposed use. Accordingly, we find and conclude that this standard is met.

1202. CONDITIONAL USE CRITERIA AND REQUIREMENTS

(c) Criterion: 1202.01 Purpose

The purpose of a conditional use is to provide for those uses which possess unique and special characteristics making impractical their inclusion as outright permitted uses in the underlying zoning district. Such uses shall not be incompatible with the type of uses permitted in surrounding areas. Location and operation of designated conditional uses shall be subject to review and authorized only by issuance of a conditional use permit.

Finding: We find that this Purpose section is intended to introduce and explain the context of the conditional use criteria and requirements in Section 1202. We further find that the

Purpose section does not create any substantive requirements that are not elsewhere present in the code. We find that the code has already identified, in the specific uses listed as conditional uses in each district, those uses that "possess unique and special characteristics making impractical their inclusion as outright permitted uses in the underlying zoning district." We find that the compatibility of a conditional use with the type of uses permitted in surrounding areas is assured by compliance with the conditional use review criteria of Section 1202.02, the findings for which are discussed below. We also find that the additional approval criteria applicable to a conditional use sufficiently address locational and operational issues associated with the conditional use. We find that we have addressed all of the approval criteria applicable to approval of the proposed use of the subject property elsewhere in these findings, and have found that these criteria have been met. In summary, we find that this Purpose section does not establish any independent, substantive approval criteria for a conditional use. We further find, based upon our findings for the conditional use approval criteria discussed elsewhere, which we incorporate herein, that this criterion, to the extent that it may be an approval criterion, has been met.

(d) 1202.02 Review Criteria

(1) Criterion: 1202.02

A conditional use may be authorized, subject to the Type B application procedure set forth in Section 1301, upon adequate demonstration by the applicant that the proposed use will be compatible with vicinity uses, and satisfies all relevant requirements of this ordinance and the following general criteria;

Finding: We find, as we discussed in our finding for Section 403.04 and which we incorporate herein by reference, that the Type C procedure under which this application was considered, also meets the requirements for the type B procedure required for conditional use review. We further find that all other relevant requirements of the ordinance have been addressed and found to be met elsewhere in these findings, including an adequate demonstration that the proposed use will be compatible with uses in the vicinity (which is found in the findings for Section 1202.02F. below). We conclude, therefore, that this criterion has been met.

(2) **Criterion:** 1202.02A

- A. *The use is listed as a conditional use in the underlying zoning district;*

Finding: We find, as discussed in the findings for Section 403.04H.2., which we incorporate herein, that the proposed rock extraction and processing is a conditional use in the AF-20 zone. We conclude, therefore, that this criterion has been met.

(3) **Criterion:** 1202.02B

- B. *The use is consistent with those goals and policies of the Comprehensive Plan which apply to the proposed use;*

Finding: We find that compliance with the applicable goals and policies of the Comprehensive Plan are discussed below in this Findings document. Based upon those findings, which we incorporate herein, we conclude that this criterion is met.

(4) Criterion: 1202.02C

C. *The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features;*

Finding: We find that the subject parcel is an 80-acre parcel immediately adjacent to an existing 40-acre quarry which is owned by the applicant and which already contains the improvements (e.g., access road, power) needed to operate the subject parcel. We find, as is more fully discussed in the ESEE and associated findings, that the parcel contains a significant quantity of high quality rock that will provide an important source of supply of rock to meet the current and expected future demand that will occur as the county grows. We find that there are a number of nearby residences whose owners have expressed concern about this application. We find, however, that these parcels are relatively limited in number and are already located near one or two quarries that currently operate in the vicinity. We further find, from the maps and photographs of the site submitted by the applicant and from our site visit, that the site contains a partial tree and shrub border that the applicant proposes to retain and supplement with additional trees and earth berms, that will help screen the site from surrounding properties. We further find from those same sources that the topography of the site also acts to screen the property and the operations that will be conducted on it from some surrounding parcels. We find that the site's screening potential, the fact of the existing quarry adjacent to the site and another existing quarry nearby to the southeast, and the significant quantity and quality of the rock resource present, combine to make this site a suitable one for rock extraction. We conclude, therefore, that this criterion has been met.

(5) Criterion: 1202.02D

D. *The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district;*

Finding: We find that for the purposes of this subsection that the surrounding area is the impact area considered in the ESEE analysis and findings for ORS 215.296, below. We further find that character of that area will not be altered in any significant way as a result of the approval of this application. We find that the surrounding area contains Stephens Quarry and that in the general vicinity there are two quarries. In our ESEE findings and our findings for the operating standards for the Mineral Resource District (Section 404.07 of the code) we conclude that the potential impacts on the surrounding properties will be mitigated by screening and other mitigating measures such that the ultimate impact on adjacent properties will be minimal. We also find that a significant factor in analyzing the characteristics of the area is that the properties in the surrounding area are already in an area that contains an existing quarry. We find, as a consequence, that approval of the proposed use will not substantially change the character of the area since the character already includes quarry use. Based upon the above, and the findings for the ESEE and compliance with the approval criteria for Section 404, which we incorporate herein, we find that the proposed use will not alter the character of the surrounding area and further find that the proposed use will not substantially limit impair or prevent the use of the surrounding properties for the uses permitted in the underlying zone because the effects of the proposed use will be mitigated in a way that

makes the effect on the surrounding properties minimal. For the preceding reasons, we conclude that this criterion has been met.

(6) Criterion: 1202.02E

E. The proposed use is appropriate, considering the adequacy of public facilities and services existing or planned for the area affected by the use; and

Finding: We incorporate by reference our findings related to statewide Goals 11 and 12, below. We find that electrical power is already present on the adjacent site and that no other public facilities will be needed for the operation of the quarry since the limited water needs can be supplied by onsite wells (under statutory exception), or a water truck and a water storage tank. We find that septic systems similar to those used by residences in the area or porta-potties will adequately serve the sanitary needs of the employees on the site. We further find that access to the existing quarry is by a private access road which is paved and designed for heavy truck use, and that the access road connects to Walnut Hill Road which access is appropriate under the county's comprehensive plan and zoning standards. Based upon the above, we find that the public facilities and services are adequate for the proposed use, and that the proposed use is, therefore, appropriate given the available services. We conclude, therefore, that this criterion has been met.

(6) Criterion: 1202.02F

F. The use is or can be made compatible with existing uses and other allowable uses in the area.

Finding: We find that for the purposes of this criterion the relevant area for consideration is the area 1,000 feet beyond the subject property, which is also the area determined to be the impact area for our ESEE for the proposed use of the site, discussed under our findings for Goal 5. We find that this area includes property zoned AF-10, AF-20, EF-40, and MR. We find that our ESEE analysis concluded that the only uses allowed in these zones which potentially conflict with the proposed quarry use are three groups of uses, the dwelling group, the park group and the habitat group. We incorporate by reference our ESEE findings, below. We find further that the general conflicts identified in the ESEE are conflicts involving noise, vibration, dust, water and visual impacts. In the ESEE we concluded that the impacts of the proposed operation are not substantial, and conditions we impose substantially reduce the impacts of the proposed use on existing and potential uses in the impact area. We further conclude that the benefits of the proposed use outweigh the adverse impacts. We find that the compatibility test of the present criterion is related but not identical to the balancing test under Goal 5 which was used in the ESEE. We interpret "compatible" as used in this section to mean capable of existing together where no conflict prevents use of property for an allowed use. Under this interpretation, we find that the proposed use is or can be made compatible with existing uses and other allowed uses in the area. This finding is based upon our conclusions discussed in the ESEE and in our findings demonstrating compliance with the operating standards of Section 404.07 of the code, and our findings that the proposed mitigation measures and conditions of approval of the proposed use will ensure a minimal level of adverse impacts on adjoining property. Based upon these findings and conclusions, which we incorporate herein, we find that uses in the various zones are capable of existing together and that no conflict from the

proposed use prevents use of property in the surrounding area that are allowed under existing zoning. Accordingly, we conclude that this criterion has been met.

(e) Criterion: 1202.03 Conditions of Approval

In approving an application for a conditional use, the decision-making body may impose conditions to protect the area surrounding the proposed use and to preserve the basic purpose and intent of the underlying zoning district. These conditions may include, but are not limited to, the following:

- A. Increasing the required parcel area or yard dimensions;
- B. Limiting the height, size, or location of buildings and structures;
- C. Controlling the location and number of vehicle access points;
- D. Increasing the road width;
- E. Increasing the number of required off-street parking or loading spaces;
- F. Limiting the number, size, location or lighting of signs;

- G. Requiring fencing, screening, or landscaping to protect adjacent or nearby property;
- H. Prescribing exterior finish for buildings or additions thereto;
- I. Designating areas and prescribing improvements for open space; and
- J. Prescribing a time limit within which to fulfill any established conditions.

Such conditions may be set forth in a formal affidavit executed by the applicant and Yamhill County. Said affidavit shall be recorded in the deed and mortgage records of Yamhill County.

Finding: We find that this provision of the code allows us to attach conditions to a conditional use approval. We find that we have appended conditions to our approval consistent with this section. We further find that specific types of conditions suggested in this section are not required and that the imposition of such conditions is discretionary. We have used our discretion to impose conditions related to certain aspects of the operation (e.g., reclamation and screening) which we find important to protect the surrounding area. This section also allows, but does not require, affidavits for conditions. Because of the applicant's good standing in the community, we find that formal affidavits for the conditions are not necessary.

(f) **Criterion:** 1202.05 General Requirements

Any conditional use authorized pursuant to this ordinance shall be subject to the following additional requirements:

- A. *A conditional use shall be subject to the standards of the zoning district in which it is located except as these standards have been modified in authorizing the conditional use. No modification of a zoning district standard shall have the effect of rezoning the property.*

Finding: We incorporate by reference our discussion of the AF-20 additional approval standards, above. We find that because we are not approving a dwelling, the dwelling-related standards of the AF-20 zone (e.g., height, setbacks, etc.) do not apply. We further find that the use that is proposed is permitted conditional use in the AF-20 zone, subject to the standards of Section 404 of the code and the additional standards of Section 403.07 of the code. With regard to the latter, we incorporate our findings related to ORS 215.296, and accordingly, conclude that the additional standards are met. With regard to the former, we incorporate our findings related to the standards of Section 404, above, and, accordingly, conclude that the 404 standards are met. We find that we are not permitting any dwellings and, therefore, the dwelling-related standards of Section 403.11 of the code do not apply. We find that the parcel is 80 acres in size and therefore exceeds the minimum parcel size of 20 acres. We find that we are not creating any new parcels and, therefore, the lot line adjustment and depth-to-width standards do not apply. We find that the proposed use does not have a "yard," a term in our code that is associated with

dwelling or other structures that we are not permitting on the site. Accordingly, we find that the yard setback provisions do not apply. We find that the parcel coverage is not applicable because the parcel is greater than one acre in size. We find that the paved access road meets all the access requirements. Because the road does not serve a dwelling for the proposed use, we find that there is no minimum width standard. However, we find from our view of the site that the road has adequate width for the proposed use, is appropriately constructed for heavy quarry use, has adequate vertical clearance, has adequate turnaround area at the Stephens Quarry, has adequate turnouts, and is relatively flat and does not exceed the grade standard. We find that the 80-acre parcel does not have a corner where any type of road intersection occurs, and therefore, the clear-vision area standards do not apply. We find that no structures in excess of 4-1/2 stories (45 feet) are requested as part of the proposed use and, therefore, the height standards are met. We find that no accessory structures, swimming pools, kennels, trailers or manufactured dwellings are permitted as part of the proposed use. We find that the berms and perimeter vegetation, that we have required as a condition, are permitted along the edge of the AF-20 zone. For all these reasons, we conclude that the accessory use standards of this section are met. We incorporate our findings related to parking and loading areas, above, and, based on those findings, conclude that the off-street parking standards are met. Based on all these findings and conclusions, we find that the standards and limitations of the AF-20 zone are met by the proposed use.

B. YAMHILL COUNTY COMPREHENSIVE PLAN CRITERIA

1. Section I.B--RURAL AREA DEVELOPMENT, GOAL 1 AND POLICIES b, c, AND d

(a) **Criterion:** Goal 1 Goal Statement

To provide an adequate amount of land, development areas and sites to accommodate those uses which are customarily found in rural areas or require or are better suited to rural locations, without compromising the basic goal relating to urban containment and orderly urban development.

Finding: We find that extraction of rock resources, because of the location of the resource and because it is a land use which potentially conflicts with typical urban uses, is a rural use. We incorporate herein by reference our findings related to Goals 11, 12, and 14, below. We further find that there is a shortage of extraction sites in the county, and that additional sites are needed to meet current and projected demand for rock. We find, therefore, that by creating an additional source of rock the proposed use will meet this goal by providing land to accommodate a use customarily found in, and better suited to, rural locations. We further find that because it is a rural use, it does not conflict with any policy of maintaining urban uses in urban areas. We conclude, therefore, that this criterion is met.

(b) **Criterion:** Policy b

All proposed rural area developments shall be based on a reasonable expectation of the demands for the use of such land or facilities within a reasonable period of time and no large-scale development shall be approved without:

- 1) *The submission and approval of a layout and design concept, with provision for the staging and servicing of all phases of the development;*

- 2) *The approval of all federal and state agencies relative in any applicable health, safety and environmental controls; and*

- 3) *An adequate demonstration of the financial capacity and responsibility of the proponents to complete the development and provide for operation and maintenance services.*

Finding: We interpret the language of this comprehensive plan policy related to "rural area developments" to apply to residential-type developments on rural lands. This policy was adopted to apply to subdivision-type developments on rural lands so that they would be completed once they were started. The term "rural area developments" in this policy is not intended to apply to rock quarries like the one that is the subject of this application. However, in the event this policy would be deemed to apply in this matter, we make the following findings.

We find that in our findings for Section 1208.02B of the zoning ordinance, we discussed in detail the demand for the rock resource that will be supplied by the subject property. We incorporate those findings, herein. We find, as we discussed in our findings for Section 404.08, that the applicant has provided sufficient information to allow us to evaluate the compliance of the proposed use with the applicable approval criteria, including this criterion. We further find, as discussed in our findings for Section 404.07, that there are sufficient safeguards in the requirements of our code and the conditions of approval we impose, to assure compliance with all applicable governmental

requirements (including federal and state health, safety and environmental controls) and financial performance by the applicant. We further find that the applicant, C. C. Meisel, is the largest producer of rock in the county and is a long-time employer in the county. We further find that C. C. Meisel has spent considerable sums to provide information related to groundwater and rock on the site. We find these to be adequate demonstrations of financial capability and responsibility for the proposed use. We conclude, therefore, that this criterion has been met.

(c) Criterion: Policy c

All proposed rural area development and facilities:

- 1) *Shall be appropriately, if not uniquely, suited to the area or site proposed for development;*
- 2) *Shall not be located in any natural hazard area, such as a floodplain or area of geologic hazard, steep slope, severe drainage problems or soil limitations for building sub-surface sewage disposal, if relevant;*
- 3) *Shall be furnished with adequate access and an adequate individual or community water supply, if required; and shall not be justified solely or even primarily on the argument that the land is less costly than alternative better sites or that federal or state aid is available in the form of subsidized water supply or sewage extensions from nearby urban centers.*

Finding: As with our previous findings, we interpret the term "rural area development" in this policy to apply to rural residential developments, and find and conclude that this policy does not apply to the proposal before us. However, in the event the policy would be deemed to apply, we make the following findings.

We find that in our findings for Sections 1208.02B and D, we found that the subject site can satisfy a demonstrated need for rock in the county. We have also concluded in our findings that the location of the subject property next to an existing quarry site makes this site appropriate for the proposed development. We further find that access to the subject property will be from the existing private driveway on the adjacent existing quarry. We incorporate herein our findings under Goals 11 and 12. We find that the necessary access and services are already provided to the adjacent quarry and that these services may be used by the proposed quarry, or easily extended to the proposed quarry. We find that the subject property is not located in a natural hazard area, and that the proposed use of the subject property does not involve the building of structures or the need for subsurface sewage disposal. We find that adequate water for the proposed use can be available from an on-site well (under statutory exemption) or that adequate water can be trucked in and stored on site. We further find that the proposed site does not have any of the limiting factors listed in part (2) of this standard. We conclude, therefore, that the elements of this criterion are met.

(d) **Criterion:** Policy d

No proposed rural area development shall require or substantially influence the extension of costly services and facilities normally associated with urban centers, such as municipal water supply and sanitary sewerage or power, gas and telephone services, nor

shall it impose inordinate additional net costs on mobile, centralized public services, such as police and fire protection, school busing or refuse collection.

Consistent with our findings above, we interpret the comprehensive plan term "rural area development" not to apply to the proposed use under consideration. However, in the event this policy would be deemed to apply, we make the following findings.

Finding: We find that the proposed use will allow for expansion of the existing quarry. We find that the existing quarry has been in use for over 20 years and the services to the existing quarry are already in place. We find that the proposed use will not require the extension of any urban services and will not create any appreciable demand on other mobile, centralized public services. We incorporate by reference our findings under state-wide Goals 11, 12, and 14 in this regard. We conclude, therefore, that this criterion is met.

2. Section I.F--Economic Development, Goal 1 and Policies a and b

(a) **Criterion:** Goal Statement

To maintain a rate and pattern of economic growth sufficient to prevent recurring high levels of unemployment and under-employment in the county, balance the real property tax base of the various cities, and strengthen local economic bases.

Finding: In our findings for Section 1208.02B, we concluded that approval of this application would allow the subject property to be mined for its high quality rock, which is needed

to support development in the area. We incorporate these findings herein by reference. We find that such support of development contributes to the support of economic development that is the intent of this policy. We further find that although this site is currently needed, it will provide a supply of rock into the future and thereby assist in providing employment for the applicant's workers in the future and, therefore, contribute to economic growth and employment in the county. We conclude, therefore, that this criterion has been met.

(b) Criterion: Policy a.

Yamhill County will, in cooperation with the cities, the local chambers of commerce and affiliated industrial promotion groups, and State agencies concerned with State and regional economic development, encourage a diversified employment base, the strengthening of trade centers, and the attraction of both capital and labor intensive enterprises, consistent with the needs of each community and the county as a whole.

Finding: We find that this policy requires the county to "encourage" certain actions, but that "encouraging" action does not create a mandatory approval criterion that must be met for us to approve the application. We further find, however, that even if this were a mandatory approval criterion, that, as discussed under the findings above for the Economic Development Goal Statement and statewide Goal 9, below, approval of this application will foster economic growth in the area, which will allow the economic benefits intended by this policy. We incorporate these findings herein by reference. We conclude,

therefore, that this criterion is not applicable, but that in the event it is deemed to apply, it is met.

(c) Criterion: Policy b

b. Yamhill County will encourage economic development projects which do not conflict with the predominant timber and agricultural character of the county.

Finding: We find that this policy requires the County to "encourage" certain action, but that "encouraging" action does not create a mandatory approval criterion that must be met for us to approve the application. We further find, however, as is more fully discussed in our findings for Statewide Planning Goals 3 and 4, that approval of this application will not conflict with farm or forest practices, and consequently with the timber and agricultural character of the county. In addition, we find that the proposed use is an interim use that will use a gradually increasing area. We find that significant portions of the site will remain available on a decreasing basis for timber and agricultural uses, such as the managed tree stand in the middle of the 80-acre site. We further find that the site shall be reclaimed to farm/forest uses upon completion of the rock extraction and that this will ensure that the site will contribute to the agricultural and timber economy. We conclude, therefore, that this criterion is not applicable to the application, but that even if it is, it has been met.

3. Section I.H--Industrial Development, Goal 1 and Policies a, b, c, e, g, and I

As a general matter, we interpret the Goal Statement of this section of the Comprehensive Plan to apply only to industrial uses within the urban areas of the county. We find that the use before us is a natural resource use that has been requested to be

located in a natural resource district included in Section 400 of the Zoning Ordinance. As such, we find and conclude that these goals and policies are not applicable to the present application. However, in the event they would be deemed applicable, we make the following findings for the Goal Statement and policies a, b, c, e, g and i.

(a) Goal Statement

To concentrate industries of similar types, service needs, and performance characteristics within designated areas of each of the existing urban centers; to encourage adequate land for new industrial development within urban growth boundaries; to encourage the relocation of existing industries from undesirable locations in order to eliminate land use conflicts; to attract new industries in accordance with the need to achieve a more balanced local property tax and employment base, while maintaining a high standard of environmental quality; and to protect the stability and functional aspect of industrial areas by protecting them from incompatible uses.

Finding: We find that the first portion of this goal does not apply to this application because, as we discussed in our findings for the Rural Area Development Goal, the proposed quarry use is a rural use, and concentration in an urban center is not an appropriate consideration for this application.

We find that the second portion of this goal involves "encouraging" actions (which does not create a mandatory approval criterion), and also involves development within urban growth boundaries which is not relevant to this application. We find,

therefore, that the second portion of the goal is not applicable to this application.

We find that the third portion of this goal also involves "encouraging" actions, which does not create a mandatory approval criterion. We find that even if this were a mandatory approval criterion it would not apply to this application because this portion of the goal involves relocation of existing industries from undesirable locations to avoid land use conflicts. Since we have found, in our findings for Rural Development Policy c and our findings for Section 1202.02, which we incorporate by reference herein, that the subject property is a very appropriate location for the proposed use, this is not an undesirable location. We find, therefore, that the third portion of the goal is not applicable to this application, but in the event it is deemed to be applicable, it is met.

We make the following findings for the fourth portion of the goal, involving the attraction of new industry while maintaining a high standard of environmental quality, in the event it is deemed to apply. We have concluded in our findings for the Economic Development Goal Statement and for statewide Goal 9, that the proposed use of the subject property will foster economic growth consistent with the intent of this portion of the goal. We also concluded in our findings for Section 404.07C and for the Goal Statement and the policies of the Air, Water and Land Resources Quality Goal of the Comprehensive Plan, and our findings for statewide Goal 6, that with the methods of operation proposed by the applicant and the conditions of approval that we will impose on the use of the property, adverse impacts on environmental quality will be minimal, if any. We conclude, therefore, that this portion of the criterion has been met.

The fifth portion of the goal involves the protection of industrial areas from incompatible uses. We find that if this is deemed to be an applicable criterion, that it would be met, since, as is discussed in the findings relating to the program we

are adopting under our Statewide Planning Goal 5 analysis, we are approving the use of the subject property in a way that provides some protection for the proposed use, but also some protection for surrounding, potentially impacted uses. We conclude, therefore, that this portion of the criterion is met to the extent that it is applicable.

(b) Criterion: Policy a

Heavy industrial uses with seasonal or high nuisance characteristics will be encouraged to locate or relocate only in or immediately adjacent to urban areas where all required services are available, well removed and shielded from existing or projected residential development; and conversely, that prime heavy industrial sites will be identified and protected from encroachment of other urban uses pending acquisition and development.

Finding: We find that the first portion of this policy involves "encouraging" actions, which does not create a mandatory approval criterion. We find that even if this were a mandatory approval criterion it would not apply to this application, because this portion of the policy involves location or relocation of heavy industrial uses with high nuisance characteristics to urban areas or adjacent to urban areas well removed from residential development. We have found, in our findings for Rural Development Policy c and our findings for statewide Goals 11, 12, and 14, that the proposed use is a rural use and is in a very appropriate location. We have also found in our findings that with the methods of operation proposed by the applicant and the conditions of approval that we will impose the proposed use will have only minimal adverse impacts on

surrounding properties, that this use will not create the nuisance to which this portion of the policy is directed. We conclude, therefore, that the first portion of the policy is not a mandatory approval criteria, but to the extent that it is deemed applicable to this application, it is met.

We find that the second portion of the policy involves the protection of heavy industrial uses from encroachment of other urban uses. We find that our approval does provide protection for the site as part of the balancing that we have done in our Goal 5 analysis and the program to protect the resource that we have developed, as discussed in our ESEE findings and findings for compliance with the Statewide Planning Goals. We conclude, therefore, that the second portion of the policy has been met.

(c) Criterion: Policy b

To the greatest extent possible, industrial areas will be located within urban growth boundaries. Those industrial areas located outside urban growth boundaries will be compatible with the industrial development goal and will be located where they can be adequately served by necessary major utility lines, including electric power substations and transmission lines, trunk sewer lines, trunk water lines, and where appropriate, trunk gas lines.

Finding: We find, as we discuss in our findings for the Rural Development Goal, that the proposed use is a rural use, and appropriate at its proposed rural location. In our other findings, we have found that the proposed use meets the Industrial Development Goal and applicable policies and we incorporate these findings herein. We also incorporate by

reference our findings under Goals 11 and 14 herein. Based on all these findings, we conclude that this criterion has been met.

(d) Criterion: Policy c

Industrial uses which are incompatible with surrounding residential or commercial development and cannot bear the cost of abating their incompatible characteristics, whether related to performance or appearance, will be encouraged to locate or relocate only within urban centers, where contact with residential development is, or will be at a minimum, and where all services are immediately available.

Finding: We find that this policy involves "encouraging" actions, which does not create a mandatory approval criterion. We find that even if this were a mandatory approval criterion it would not apply to this application because, as we have found, the incompatible characteristics of the proposed operation will be mitigated by the applicant by virtue of the applicant's methods of operation and our conditions of approval. We conclude, therefore, that this criterion is not a mandatory approval criterion, but it is met in the event it is deemed applicable.

(e) Criterion: Policy d

Industrial uses which are compatible with surrounding residential development and are willing to bear the cost of maintaining high performance characteristics and attractive site and building layout and design, will be encouraged to locate or relocate in designated

industrial parks and that such parks and their staged development will be subject to planned unit development agreements.

Finding: We find that this policy involves "encouraging" actions, which does not create a mandatory approval criterion. We conclude, therefore, that this is not a mandatory approval criterion.

(f) **Criterion:** Policy e

Industrial uses will be located so that adequate buffer space is provided between incompatible land uses.

Finding: In our findings for Section 1202.02, we found that the proposed use is compatible with uses in the surrounding area. Consequently, we find that this criterion is not applicable to the proposed use. However, in our findings relating to buffers, discussed in our findings for the Operating Standards of Section 404.07 and in our ESEE analysis, we concluded that the buffers that will be provided by the proposed use will be adequate to minimize the impact of the proposed use on surrounding properties. Based upon these findings, we find that even if this criterion is applicable to the proposed use, it has been met. Based upon these findings, we conclude that this criterion is met.

(f) **Criterion:** Policy g

Agricultural, forestry and mineral resource-oriented industry will be accommodated in areas close to the resources utilized, provided that such industrial uses are compatible with any nearby urban development, city

water supply and sewerage are not required, and waste discharges constitute no threat to the environment.

Finding: We find that this proposed use is for the extraction of a mineral resource, which by necessity is located at the source of the resource. We further find that the proposed extraction does not require on-site public water or sewerage, and that there will be no waste discharges threatening the environment. We incorporate our findings under statewide Goals 6, 11, 12 and 14 herein. We also find that there is no nearby urban development, although there is some nearby rural residential use with which we have found in our findings for Section 1202.02F that the proposed use will be compatible. We conclude, therefore, that this criterion has been met.

(g) **Criterion:** Policy i

Industrial development will utilize the transportation system in an efficient and safe manner and reduce energy consumption by identifying for industrial development areas with alternative transportation opportunities, and by locating employment opportunities close to public transportation and, where appropriate, in community areas.

Finding: We find that the location of this proposed use is largely dictated by the location and availability of the mineral resource that it will extract consistent with our findings related to policy g, above. We also find that the Comprehensive Plan Goal for Mineral and Aggregate Resources requires the protection of mineral resource sites. In making the necessary balance between these goals and policies, we give the higher priority to locating mineral extraction sites at the best suited

sites, as long as such a location does not result in an unsafe transportation situation. We find this balance is met for this property because the site is well suited for the proposed use and has no significant traffic safety problems associated with it. We incorporate our findings under Goal 12, below, in support of this finding. We further find that opponents in the application attempted to show that the truck access to Walnut Hill Road was unsafe by using a videotape. We find that the tape is not persuasive for a number of reasons. First, the video itself seems to have been taken with a magnified lens and the "near miss" is difficult to judge. Second, we have reviewed maps at the area and actually visited the site. We find that the Walnut Hill access point has a broad paved surface and provides an adequate view for turning. Third, the access has been in use for a number of years serving the existing quarry and can continue to be used for the existing quarry. We were not presented with any evidence, other than the video, that the existing use has caused unsafe traffic conditions. For all these reasons, we find the transportation access to be safe. We conclude, therefore, that this criterion has been met.

4. Section II.A--Agricultural Lands, Goal 1 and Policies a and h and Goal 2, Policies a and b

(a) **Criterion:** Goal 1 Goal Statement

To conserve Yamhill County's farmlands for the production of crops and livestock and to ensure that the conversion of farmland to urban use where necessary and appropriate occurs in an orderly and economical manner.

Finding: We find, as is discussed in our findings for the Statewide Planning Goals, that the subject property primarily

contains Class IV, V and VI farmland and is currently being used for unmanaged pasture, an untended grape patch and some timber production. We further find that while the proposed use of the subject property will require that the property be used on a declining basis for the production of crops or livestock as mining is developed on site, it will not prevent such uses on adjacent lands. We find that the topsoil will be saved and reused as part of the reclamation of the property to farm/forest uses. We also find that the rock which will be extracted from the site will be available for uses that support and foster agricultural uses, including the production of crops and livestock. We find, too, as we have discussed in our other findings, that this site is well suited for the proposed mineral use. We find, in balancing the other goals and policies of the Comprehensive Plan with this goal, that this goal does not prohibit the use of farmland for rock uses because that would be inconsistent with state statute. Rather, the goal requires us to conserve farmland; that is, not needlessly waste or convert farmland without appropriate reasons. We find that the rock on the site is significant and in balancing the need for rock and the need to conserve farmland, we conclude that in this particular instance, the balance favors protection of the rock resource. Our balancing decision is aided by our findings and conclusions that the rock use is an interim use and that the site will be fully reclaimed to farm/forest uses. We further find that the proposed use does not convert agricultural land to urban uses, as we have concluded that the rock use is a rural use. For these reasons, we conclude that this criterion is met.

(b) Policy a

Yamhill County will provide for the preservation of farmlands through appropriate zoning, recognizing comparative economic returns to agriculture and

alternative uses, changing ownership patterns and management practices, changing market conditions for agricultural produce, and various public financial incentives.

Finding: We find that this policy is implemented through the zoning district designations for farmland in the county and the zoning requirements regulating the use of such land, and that therefore this criterion is not directly applicable to an individual application such as the one before us. We find also that elements of these zoning ordinance requirements have been considered as part of our evaluation of this application, and that we have found that those requirements have been met to the extent that they are applicable. We conclude, therefore, that this criterion, to the extent that it is applicable to this application, has been met.

(c) Policy h

No proposed rural area development shall substantially impair or conflict with the use of farm or forest land, or be justified solely or even primarily on the argument that the land is unsuitable for farming or forestry or, due to ownership, is not currently part of an economic farming or forestry enterprise.

Finding: Consistent with our findings above, we interpret "rural area development" in the Comprehensive Plan to refer to residential-type developments on rural land. Accordingly, we conclude that this policy is not applicable. However, in the event it would be deemed applicable, we make the following findings.

We find that in our findings for Statewide Planning Goals 3 and 4, we found that the proposed use will not significantly adversely effect farm or forest uses. We conclude that because the proposed use will not have a significant adverse effect on farm or forest uses, that it will not impair or conflict with farm or forest uses as contemplated by this criterion. We further found in our ESEE analysis and in our findings for Section 1208.02 that the subject property is well suited for a quarry given the location of the adjacent existing quarry and the high quality and quantity of rock, and the ability to mitigate any adverse impacts on surrounding properties. We incorporate this analysis herein. We further find that the site will be fully reclaimed to farm/forest uses. We find that these reasons for choosing to approve the application do not rely on the unsuitability or nonuse of the property for farming. We conclude, therefore, that this criterion is met.

(D) Goal 2, Policies a and b

2. To conserve Yamhill County's soil resources in a manner reflecting their suitability for forestry, agriculture and urban development and their sustained use for the purposes designated on the county plan map.

Policy a.

Yamhill County will continue to preserve those areas for farm use which exhibit Class I through IV soils as identified in the Capability Classification System of the U.S. Soil Conservation Service.

Policy b.

Yamhill County will continue to support ASCS soil conservation measures and SWCD best management practices designed to protect and improve forest and agricultural land productivity and to prevent unnecessary losses through excavation, stripping, erosion and sedimentation.

Finding: We find this goal and policy statements are designed to conserve county soil resources for the proposed designation on the county's Comprehensive Plan map, to preserve areas of farm use which exhibit soil classifications I through IV, and to support soil conservation measures and the best management practices to protect and improve forest agricultural land productivity. We find that these goals and policies must be read in conjunction with the other goals and policies of our comprehensive plan which, among other things, direct us to protect significant mineral and aggregate resources. We further find that these goal statements and policies must also be read in conjunction with state law which permits mineral and aggregate uses to occur on farm and forest lands. We find that in our ESEE analysis below, we have balanced competing interests of soil resources and the uses of those soil resources support (e.g., forestry and agricultural), with the need to preserve and protect rock resources where they are located. We find that our ESEE balancing analysis leads us to the conclusion that at this particular site, the rock resource should be protected. We further find that in protecting the rock resource, we have required the county's soil resources be conserved and protected so the site shall be reclaimed to farm/forest uses. We have required topsoil to be saved in a manner that the site can be reclaimed to farm/forest uses. We find that the reclamation plan for the site is feasible and appropriate. We find that the

reclamation plan that we require (banking topsoil and redistribution of the topsoil over the quarry site for farm/forest uses) is a best management practice and is a practice that continues to support soil conservation measures and prevents unnecessary loss to the excavation stripping that might be associated with the proposed rock use on this site. For all these reasons, we find that the goal statements and policies are met.

5. Section II.B--Forest Lands, generally, including Policies c, d, and e

(a) Criterion: Goal Statement .

To conserve and to manage efficiently the county's forest and range resources, thereby ensuring a sustained yield of forest products, adequate grazing areas for domestic livestock, habitat for fish and wildlife, protection of forest soils and watershed, and preservation of recreational opportunities.

Policies c, d, and e.

c. Yamhill County will encourage afforestation of margin agricultural lands in the county.

d. Yamhill County will provide for the preservation of forest lands through appropriate zoning, and provide for maintenance of commercial-sized forest units in an 80-acre minimum lot size.

e. Yamhill County recognizes that areas of the county are characterized by such a mixture of farm and forest use that the agricultural lands and forest lands goals of this Plan are both applicable. Farm and forest

resources within these areas shall be protected through mixed-use zoning that recognizes both types of use. Any proposal to change the zoning designation of a parcel from a farm or forest classification to a mixed-use zone shall include a demonstration that the use of the parcel is such a mixture that neither the farm nor forest land goals can be exclusively applied.

Finding: We find that the county's forest lands goal statement and the identified policies require the county conserve and efficiently manage the county's forest range resources to ensure sustained yield of forest products, adequate grazing areas, habitat, and protection of forest soils and watershed and recreation opportunities. In addition, we find that the policies "encourage" forestation of marginal agricultural land, provides the county to preserve forest lands through appropriate zoning, provides for the maintenance of commercial-size forest units through 80-acre minimum lot size, and provides for the protection areas characterized by a mixture of farm and forest uses through mixed-use zoning which recognizes both types of uses.

We find that the proposed use does not change the zoning designation of a parcel from farm or forest to a mixed-use zone. We find that these goal statements and policies must be read together with our other goal statements and policies in the comprehensive plan, including those which require the preservation of significant mineral and aggregate resources. We incorporate by reference herein our ESEE findings and findings made with regard to the underlying Goal 4. We find that in our balancing and competing uses for this particular site, the balance weighs in favor of protecting the mineral and aggregate resource. We further find that the mineral and aggregate resource uses is an interim use and that we have required conservation of soil and the reclamation of the site to farm forest uses which will contribute to a sustained yield of forest

products, potentially provide grazing areas for livestock, habitat, water shed, and recreational opportunities. We further find that the site is 80 acres in size and will remain 80 acres in size after it is reclaimed for farm/forest uses. We further find that the required reclamation plan encourages reforestation of this particular parcel. For all these reasons, we find and conclude that this goal statement and policies are met.

6. Section II.C--Water Resources, Goal 1 and Policies a, h and i

(a) Criterion: Goal Statement

To conserve and to manage efficiently our water resources in order to sustain and enhance the quantity and quality of flows for all consumptive and non-consumptive uses, and to abate flood, erosion and sedimentation problems.

Finding: We incorporate by reference herein our findings with regard to Statewide Goals 5 and 6, below. We find that the proposed use will not have a significant adverse effect on water quality and quantity, and, therefore, our decision to approve the proposed use will conserve and efficiently manage water resources in a manner that sustains and enhances the quality and quantity of water resources. We are persuaded by the testimony that the proposed use can be developed without significant adverse effects on water quantity or quality. We find that water will not be wasted by the proposed use and that the development on the site for rock extraction can occur while at the same time safeguarding water resources. We have placed conditions on our approval (e.g., advanced air-track drilling) which will assure that groundwater resources will be protected. We further find that the reclamation of the site may include groundwater recharge

areas which will serve to enhance groundwater resources. We further find that erosion and sanitation controls are in place at the existing quarry and will be required to accompany the proposed use on the adjoining 80 acres. We further find that reclamation of the site is required, including banking and redistribution of topsoil and replanting the site for farm/forest uses. For all these reasons, we find and conclude that this goal statement is met.

(b) **Criterion:** Policy a

Yamhill County will cooperate with federal and state agencies, the cities of the county, and the local soil and water conservation district to identify, conserve and develop water resources on a long-range, multiple-use basis in response to need, with full consideration given to the benefits, costs, potential uses and the carrying capacity of the resource.

Finding: We find that the focus of this policy is the governmental coordination and cooperation in the protection of water resources. We incorporate our Goal 6 and ESEE findings herein. We find, that this policy does not apply directly to individual applications, but rather it applies through provisions of the zoning ordinance which address water resource protection. We find that we have considered such protection in our ESEE analysis and our findings for the Section 404.07 operating standards. We further find that we have worked closely with state agencies, particularly DOGAMI and the Water Resources Department, in identifying and protecting water resources at this site. We further find that our approval considers and protects the long-range use of water resources in the surrounding area. We further find that the proposed use will not have a significant

adverse affect on water resources in the surrounding area and, therefore, will not effect the carrying capacity of the resource. We conclude, therefore, that this criterion is not directly applicable to the application before us, but that the criterion's objectives have been met.

(c) Criterion: Policy h

Yamhill County will encourage the prudent use of all county resources and support the development of water conservation techniques and practices.

Finding: We find that the first portion of this policy, because it merely "encourages" an action, is not a mandatory approval criterion. We find further that the applicant, in recognition of the water issues that relate to the application, has provided a special study. Based on this study, we have conditioned the proposed use with special techniques to protect the water resource. We have discussed this issue more fully in our findings for Goal 6, below, and incorporate those findings herein. We find that the applicant's investigations relating to water reserves, and its proposal to protect the supply and avoid any impacts on surrounding properties, represents a reasonable conservation technique and prudent use of the water. We further find that reclamation of the site may include water recharge areas which we find to be a beneficial water conservation and protection technique. We conclude, therefore, that this criterion, to the extent that it is applicable to the application before us, has been met.

(d) Criterion: Policy i

Where conflicting uses are identified or intended, in specific proposals or programs, the economic, social,

environmental and energy consequences of the conflicting uses shall be determined and used as a basis for decision-making.

Finding: We find that our ESEE analysis considered the consequences of conflicting uses in relation to the proposal for the subject property, and that the ESEE analysis served as the basis for our program to balance the uses and allow our approval of the application with conditions. We incorporate an ESEE analysis herein. We conclude, therefore, that this criterion has been met.

7. Section II.D--Fish and Wildlife, Goal 1 and Policies a, b, c, and d

Goal Statement:

To conserve the fish and wildlife habitat of Yamhill County with a view to maintaining an optimum ecological balance, enhancing the sport fishing and hunting resource of the county, and protecting endangered species.

(a) **Criterion:** Policies a, b, c and d

a) Yamhill County will cooperate with the Oregon Fish and Wildlife Department, the Yamhill County cities, the U.S. Agricultural Stabilization and Conservation Service, the Bureau of Reclamation, and the soil and water conservation districts of the region to identify, conserve, and protect fish and wildlife habitat; determine areas of critical imbalance and threats to particular species; and formulate and implement

measures for the improvement of existing habitat and the creation of new habitat where needed.

b) Yamhill County will recognize the need to conserve and protect fish and wildlife habitat in its plan implementation measures; and the following will be considered in any public or private land use determination subject to county review; the impact of harvesting forested areas where there is no forest management plan for regeneration of the forest lands; the filling or drainage of swamps or marshes; the damming of rivers and streams; the location and construction of highways and utility transmission lines; and any other land development activities which significantly interfere with the vegetation or soil cover or drainage patterns in critical habitat areas.

c) All identified sensitive wildlife areas will be classified as exclusive agriculture, forest land or open space. No major land use change, including but not limited to road construction and recreational developments will be permitted without approval of measures to limit undesirable impacts on sensitive wildlife areas.

d) Habitat of all species indicated as endangered, threatened, or vulnerable will be preserved. Nesting sites of endangered bird species will be protected and buffered from conflicting uses.

Finding: We find that this goal statement requires conservation of fish and wildlife habitat with a view to maintaining an optimum ecological balance, enhancing sport fishing and hunting resources, and protecting endangered species. We find that the proposed uses on the site for which there are no specific identified fish and wildlife habitat. We find that there is anecdotal evidence from the opponents that bluebirds have been seen in the general area. However, we also find that there is a letter in the file from the State Fish and Wildlife Agency indicating that this is the "type of" habitat used by bluebird species, but that the letter states there is no evidence that the bluebird actually uses this particular site. We find the state agency comments to be in the nature of an expert opinion and are persuaded that just because that is the "type of" habitat used by bluebirds, that bluebirds are not necessarily present on the site. Furthermore, in the Goal 5 balancing we performed related to rock resource and potential conflicting uses (including wildlife and habitat uses), we have determined that the potential adverse effects on wildlife habitat are minimal and that the proper decision is to balance in favor of protecting the rock resource. We incorporate our ESEE findings below which more fully discuss this issue. We find that there are no endangered species on this site nor any sport fishing on this site. We find that there is hunting in the general area, but that there are also residences in the area which limit hunting opportunities. We also find that the site will be used for rock extraction on an increasing basis which means the site is available on a declining basis for hunting or habitat purposes. We further find that the site is required to be returned to farm/forest uses which provide opportunities for habitat and hunting. For all these reasons, we find and conclude that this goal statement is met.

We find that policies a, b, c and d of the fish and wildlife portion of our comprehensive plan require the county to cooperate with various governmental entities to conserve and protect fish

and wildlife habitat and determine areas of critical imbalance for particular species and to address improvement of existing habitat and creation of new habitat. We find that we have received input from the State Fish and Wildlife Department with regard to our decision. As stated above, we have balanced that input and considered it as part of our analysis in which we have determined that the balance tips in favor of protecting the rock resource. We find that any reclamation requirements that we have imposed provide opportunities for improvement of the habitat and creation of new habitat based on the farm/forest uses to which the site must be reclaimed.

We find that these policies also require us to consider the impact of harvesting forested areas where there is no forest management plan. While trees on the site may be harvested in anticipation of development of the site for the proposed rock use, we find that our reclamation plan required return the property to farm or forest uses, including the propagation and harvesting of trees. We find that we have considered this in our decision. We further find that the area of the proposed use does not involve the drainage or filling of swamps or marshes, the damming of rivers and streams, or the construction of any development to be critical to the habitat area.

We find that the policies also require that sensitive wildlife areas will be classified as exclusive agriculture, forest land or open space. However, we find that the proposed use is not located on any identified, sensitive wildlife map or inventoried as such. We further find that the policies under this goal statement require the habitat of all species indicated as endangered, threatened or vulnerable will be preserved and buffered from conflicting uses. We find that this property is not identified in any county plan document or is habitat for any type of threatened or endangered species. Accordingly, we find that this policy is not applicable to the proposed use as there is no identified habitat on the proposed site.

8. Section II.E--Open Space, generally

Finding: We find that the opponents to the proposed use generally indicate that the open space requirements of the county's comprehensive plan are applicable to the proposed use. We find to the extent that any parcel in the county is undeveloped, it can be argued that it serves as open space, and, therefore, it can be further argued as a general matter, open space is implicated by any development action. However, we find that the proposed use is not on a site that has been identified for open space preservation by the county in its land use regulations. Accordingly, we find and conclude that the open space goal and policies do not apply. In the event they would be deemed to apply, we make the following findings.

We find that the proposed use will maintain open space because no structures will be developed and because the site will be reclaimed to farm/forest uses in the future. We further find that in our ESEE analysis, we have balanced open space resource as part of our analysis, and incorporate that finding and analysis herein. We further find that our decision on the proposed use prevents the construction of any permanent structures on the site and requires the site to be returned to farm/forest uses which are consistent to open space and improve the potential for recreation in the rural environment. We further find that after the proposed rock extraction is completed, the site will be available for inclusion into an open space network, if that is appropriate for the site. We further find that the decision we have made on the proposed use has no effect on the type of special assessment incentive program designed to secure and preserve the elements of an open space network. For all these reasons, we find that to the extent the open space goal statements and policies in the comprehensive plan are applicable, they are met by the proposed use.

9. Section II.F--Mineral and Aggregate Resources

(a) Criterion: Goal 1 Goal Statement

To protect mineral deposits from urban encroachment, provided that such deposits are not located on land identified for urban and rural residential development by the Comprehensive Plan and Plan Map; to ensure that all extraction of mineral resources takes place under conditions which foster compatibility with existing surrounding land uses; and to provide for the restoration of extraction sites for future agriculture, open space, recreation or other appropriate uses.

Finding: We find that the first portion of this goal statement is intended to protect mineral deposits in rural areas from the encroachment of urban uses except where the mineral deposits are located on land identified for urban and rural residential development. We find that the subject property is currently zoned AF-20. We find that while this zoning district permits certain rural residential use, such residential development is very restricted and, therefore, the zone is not identified for residential development. We find that the AF-20 is identified by the county as a residential resource district, not as a rural residential district. We find, consequently, that the subject property is not intended by this goal statement to be given special protection for residential uses. To the contrary, we find that this is a natural resource zone where the proposed rock extraction use is permitted. We further find that Policies c and d under this goal address more specifically the compatibility between mineral resource and adjoining residential use, and that those policies and our findings for them show how

this goal is implemented and met for the subject property by means of a balancing of the protection for mineral aggregate and rural residential uses on adjoining property.

We find that the second portion of this goal statement relates to the regulation of mineral resource extraction to foster compatibility with existing surrounding uses. As we have discussed in our findings regarding compatibility under code Section 1202, which we incorporate herein by reference, the methods of operation proposed by the applicant, in combination with the conditions of approval that we will impose as part of this decision, will result in only a minimal impact on the surrounding properties, and that with such a minimal impact, we find that our approval fosters compatibility.

Finally, as is discussed more fully in the findings for code Section 404, we find that the site will be reclaimed for farm/forest use following the extraction activities, and that specific plans for such reclamation will be submitted to and approved by DOGAMI prior to the start of the operation on the subject site. We find that this is an appropriate use for the property following completion of the extraction.

Based upon the above findings, we conclude that this criterion has been met.

(b) Criterion: Policy a

Mineral and aggregate resources will be recognized as a nonrenewable resource important to the growth and development of the county and of the surrounding region.

Finding: We find that in 1982 the County, pursuant to Statewide Planning Goal 5, conducted an assessment of the mineral and aggregate resources in the County and adopted an inventory of significant resource sites and a program for protecting those

sites. We further find that as part of these findings we have supplemented that previous assessment and are amending the Comprehensive Plan to add the subject property onto the inventory of significant mineral and aggregate sites and are also adopting a program for the allowing the extraction of rock from this site in a way that balances the need for the rock with the protection of surrounding properties. We find that mineral and aggregate resources play a vital role in the growth and development of the county and the region, and that there is a need for the protection of these sites to insure that such nonrenewable resources are available to support the growth and development. Based upon these findings, we conclude that this criterion has been met.

(c) Criterion: Policy b

Yamhill County will continue to cooperate with State and federal agencies within the region to identify lands that are, can, or should be utilized for sources or processing of mineral aggregates; will determine present and future needs; and will formulate and implement necessary measures for the protection of such sources or sites; and sites that are found to be compatible with the Plan goals will be recognized through appropriate plan designations and zone districts on the Plan and zone maps.

Finding: We find that the county in 1982 conducted a Goal 5 analysis that assessed the lands available for mineral aggregate sources and production, and adopted an inventory of such sites and a program to protect those sites in the comprehensive plan and zoning ordinance. We also find that the process we have gone through for the subject property, culminating in these findings,

supplements that earlier process, and further assesses the need for mineral and aggregate resources, the availability, and appropriate measures to insure that needed sites are given reasonable protection. We further find in the process to review this proposed use and develop a program to meet Goal 5, we have asked for comments and used relevant information and advice supplied by appropriate governmental agencies. Based upon these findings, we conclude that this criterion is met.

(d) Criterion: Policy c

Areas designated by the Comprehensive Plan for urban and rural residential development or other conflicting uses will continue to be protected from incompatible mining activities through appropriate zoning and review measures.

Finding: We find, as is discussed more fully in the ESEE analysis and discussion of consistency with the Statewide Planning Goals, which is incorporated herein, that although some lands in the surrounding area are zoned for potential rural residential development, that these lands will be protected from incompatible mining activities by virtue of the mitigation measures proposed by the applicant for the operation of the site and the conditions of approval that we will impose as part of our approval. We further find that the adjacent AF-10 rural residential zone permits mineral resource extraction subject to the criteria established in Section 404 of the code, which we have concluded are met by the proposed use. We find that our zoning ordinance standards, which we have previously addressed in the finding, provide appropriate review and protection reclamations for protecting areas designated for rural residential development. Accordingly, we find that our zoning

ordinance properly implements this plan policy. Based upon all these factors, we conclude that this criterion has been met.

(e) Criterion: Policy d

Areas designated by the Comprehensive Plan for mineral resources will continue to be protected from incompatible urban and rural residential development and other conflicting uses through appropriate zoning and review measures. If such development is approved, adequate setbacks and use limitations will be applied to the development to minimize conflicts with adjacent future mining operations.

Finding: We find that by approving this application we allow extraction and processing of rock. We find that this extraction must occur pursuant to the standards of the MR-2 district and protect such uses from incompatible adjacent uses. We further find, however, as is more fully discussed in the ESEE analysis that is part of these findings, and which we incorporate herein, that with the methods of operation that will be a part of the proposed operation and the conditions of approval that we will impose as part of our approval of the application, any conflicts between the proposed operation and adjacent rural residential uses will be minimized. We further find that as part of our program to meet Goal 5, we have imposed limitations on future residential uses that will minimize conflicts with future mining operations. We conclude, therefore, that this criterion has been met.

(f) **Criterion:** Policy e

Where a property has been identified as having important mineral and aggregate resources and is identified as farm or forest land in the Comprehensive Plan, and conflicts exist between competing uses, consideration of the economic, social, environmental and energy consequences shall be a part of the aggregate site designation and zoning process.

Finding: We find that the subject property is identified as farm/forest land in the Comprehensive Plan, and has important mineral resources which conflict with a limited number of competing uses. We further find that the analysis that is required by this policy is included as a part of these findings in the discussion of compliance with the Statewide Planning Goal 5, which we incorporate herein. We conclude, therefore, that this criterion is met.

(g) **Criterion:** Goal Statement 2

To ensure that irreparable environmental damage or the creation of safety hazards does not result from mining, quarrying or extractive activities; and to ensure that reclamation of mining, quarrying and extraction sites is accomplished according to an approved reclamation plan.

Finding: We find that this policy is implemented through the provisions of the Mineral Resource District of our zoning ordinance, particularly in the operating standards requirements of Section 404.07. We further find that in our findings above relating to that section, which we incorporate herein, we have

concluded that with the methods of operation proposed by the applicant. We further find that program to meet Goal 5 and the conditions of approval we will impose with our approval of the application, the mineral resource district operating standards can and will be met. We incorporate our findings under Goals 6 and 7, below. We find that no significant environmental impacts will be created, no safety hazards will be created, and the site will be properly reclaimed. We conclude, therefore, that this criterion is met.

(h) Criterion: Policy a

All requests for mining, quarrying, and extractive operations will be required to prepare and submit detailed plans of the site operation and plans for reclamation to ensure proper continued operation and final closure of the development. Approval of the request may occur only after the posting of all necessary performance bonds and submittal of all applicable plans.

Finding: We incorporate by reference herein our findings under Sections 1007 and 404.08 above. We find that site operation or reclamation plan, including the extensive narrative text, have been submitted. We further find that on review of the proposed use, we have applied conditions of operation which we find will ensure proper continued operation of the proposed use. We further find that we have required specific reclamation and conditions which we find to be sufficient for the purposes of final closure of the proposed use. We incorporate our findings with regard to Section 404.07, above, and conclude that the appropriate performance bonds will be provided for the site.

Based on all these factors, we find that the requirements of this policy are met.

(i) Criterion: Policy b

Yamhill County will cooperate with State regulatory agencies in support of the reclamation or restoration of all lands subject to mining, quarrying, and extractive activities; and assurance will be required at the outset of the development by the posting of adequate performance bonds.

Finding: We find that this policy is implemented through the Mineral Resource District zoning requirements, and that Section 404.07F covers requirements for land reclamation, including requirements for coordination with DOGAMI's required reclamation plan, and that Section 404.07G covers requirements for performance agreements. We find that we have concluded in our findings for these sections above, that the relevant approval criteria are met. We further find that the county has fully cooperated with, and been greatly assisted by, state regulation agencies, including DOGAMI and the Water Resources Department. We find that this cooperation has supported our operational and reclamation decisions regarding the proposed use. We conclude, therefore, that this criterion is met.

(j) Criterion: Policy c

All requests for operations within any stream bed will require the approval of appropriate governmental agencies.

Finding: We find that there are no stream beds on the subject property, and that, therefore this criterion is not applicable to this application.

(k) **Criterion:** Policy d

Operating standards adopted for mineral resource sites will be designed to the greatest extent possible to protect air and water quality, soil resources and natural vegetation from deterioration or irreparable environmental damage.

Finding: We find that this policy does not directly apply to an individual application, but generally requires the county to adopt operating standards, which it has done in Section 404 of its code. We find, therefore, that this criterion is not applicable to this application. In the event this standard is deemed to apply, we find that this policy was met through the adoption of the standards in Section 404.07 (particularly Section 404.07C) of the zoning ordinance, which establish the operating standards that apply to uses in the mineral resource district. We incorporate our findings under Goal 6. We find that appropriate operational and reclamation standards have been imposed. We find that these standards can be met and that we have conditioned the proposed use to ensure compliance with operational and reclamation standards. We conclude, therefore, that if this is deemed an approval criterion, it is met.

10. Section II.G--Ecologically and Scientifically Significant Natural Areas, generally

Findings: Opponents to the proposed use argue that the county's comprehensive plan criteria for ecologically and scientifically significant natural areas apply. We find that the

site is not designated either as an ecologically or scientifically significant natural area. Accordingly, we find and conclude that this goal statement and policies do not apply. In the event they are deemed to apply, we incorporate our Goal 5 findings herein and conclude that the standards are met.

11. Section II.H--Outstanding Scenic Views and Sites, generally

Findings: Opponents to the proposed use argue that the county's comprehensive policies related to outstanding scenic views and sites apply to the proposed use. We find that the site in which the proposed use will occur is not an identified scenic resource in the county. We further find that the approval criteria of Section 404 requires review of the site be screened. We have found that the site can be adequately screened, and incorporate our screening analysis herein. We also have required a condition for berming and planting along the perimeter of the proposed use. For all these reasons, we find and conclude that this goal statement and policies are not applicable, but in the event they are deemed applicable, the county has taken appropriate steps to protect the scenic views for future generations.

12. Section III.A--Transportation, Goal 1 and Policies b, c, d, e, j and o

(a) **Criterion:** Goal Statement

To provide and encourage an efficient, safe, convenient and economic transportation and communication system, including road, rail, waterways, public transit and air, to serve the needs of existing and projected urban

and rural development within the county, as well as to accommodate the regional movement of people and goods and the transfer of energy, recognizing the economic, social and energy impacts of the various modes of transportation.

Finding: We incorporate herein our findings and conclusions related to Goals 11 and 12. We find that the proposed use of the subject property will have a minimal effect on transportation and communication systems. We find that the quarry on the subject property will be adjacent to an existing quarry use, and will use the private drive and county and state roads that the existing operation currently uses with no problems of safety or convenience. We further find that the proposed quarry, like the existing quarry, will have no need for any additional communication systems. We find that the transportation and communications systems to be used by the proposed quarry are efficient, safe, and convenient given the nature and scope of the proposed use of the property, and that the goal does not require more for an individual application. We conclude, therefore, that this criterion is met.

(b) Policies b, c, d, e

b) All transportation-related decisions will be made in consideration of land use impacts including but not limited to adjacent land use patterns, both existing and planned, and their designated uses and densities.

c) Yamhill County will cooperate and establish close liaison with the State Department of Transportation, the cities of the county, the Tri-County Metropolitan Transportation District of Oregon (Tri-Met), the

Southern Pacific Railroad, the Federal Aviation Administration, Federal Highway Administration, and private utility companies operating in the county, in respect to matters relating to the location, design and programming of roads, railroads, public transit facilities, airports, transmission lines, pipelines, waterways, energy corridors and communication facilities to guide and accommodate the emerging development patterns of the county.

d) Yamhill County will, in cooperation with the State Highway Division and the cities of the county, establish a comprehensive list of recommended road improvements throughout the county, establish a suitable review mechanism for arriving at and amending priorities on a continuing basis and work towards the creation of an on-going capital improvement program closely coordinated with all agencies of government responsible, including cities for road location, construction, finance and maintenance.

e) Yamhill County will cooperate with and support the State Highway Division, the Mid-Willamette Valley Council of Governments, and any other county or regional transportation agency in an effort to establish a viable and productive regional transportation planning process and operations system geared to identifying, prioritizing and resolving both present and future transportation needs, with special reference to our county and regional network.

Finding: We find the opponents to the proposed use argue that policies b, c, d and e are applicable to our decision. With regard to policy b, we find that we are not making a transportation-related decision. Rather, we are approving a single proposed use. We find that a transportation-related decision would be a decision to build a highway, bridge or similar facility. In the event this is deemed to be a transportation-related decision, we find that an adequate supply of high quality rock is necessary to provide and encourage an efficient, safe, convenient and economic transportation system. We also find that we have considered land use impacts for adjacent land use patterns, both existing and planned densities in the area. We find that there are rural densities and the proposed use will provide no change in the pattern of the use in the surrounding area. We find that we have considered these factors in our decision and, therefore, this policy is met.

Policy c requires us to cooperate and establish a liaison with various entities related to programming and designing roads. We find that nothing in our decision involves the design, programming or location of roads and, therefore, determine that this policy is not applicable.

Policy d requires the county to cooperate with other entities to establish a list of recommended road improvements. We find that the road improvements are adequate for the proposed use. We find that nothing in our approval of the proposed use changes or affects any list of recommended road improvements throughout the county.

We find that policy e requires the county to cooperate and support various governmental entities in an effort to establish regional transportation planning processes. We find that in this manner we have approved a single use that does not implicate or affect the transportation planning process, including identification, prioritization, or resolution of transportation needs. We find that the only way our approval of the proposed

use affects this policy in any way is that the rock from the site will be available to provide raw materials for transportation facilities that are needed in the future.

(c) **Criterion:** Policy j

Yamhill County will require new development to:

- 1) *Limit access points on highways designated as arterials when alternative access points are feasible.*
- 2) *Provide a frontage setback requirement of 50 feet from the public right-of-way of all designated arterials within the county for commercial and industrial development; and*
- 3) *Minimize direct access points onto arterial right-of-ways by encouraging the utilization of common driveways.*

Finding: We find that access for the proposed use of the subject property will be through an existing private road with access onto Walnut Hill Road, which is a county road but not an arterial. We find that applicant has not requested access on the south side of the property to the Burch Hill Road. We find that the applicant has limited its access points to an existing access point used by the Stephens Quarry. We find that this access point is safe, convenient and efficient, and incorporate our findings with regard to Goals 11 and 12 in support of this conclusion. We find to the extent that a frontage setback requirement of 50 feet would be deemed to apply on the southern

portion of the property which abuts Burch Hill Road, we hereby require that as a condition of approval. Because we find that direct access points are minimized and access is limited in an intelligent and safe way, that the provisions of this criterion are met.

(d) Criterion: Policy o

All transportation-related decisions will be made in support of the efficient and economic movement of people, goods, and services throughout the region, and will be based on the location and adequacy of facilities for such goods and services.

Finding: Consistent with our findings in policy b, above, we find that the decision that we are making to approve the proposed rock use is not a transportation-related decision. In the event that approval of the rock use would be deemed to be a transportation-related decision, we find that rock materials in Yamhill County move most efficiently and economically by truck. We find that the location and adequacy of transportation facilities to move product by truck from this proposed use are excellent. We incorporate our findings with regard to Goals 11 and 12 in support of this conclusion. Accordingly, to the extent that this criterion is applicable, it is met.

13. Section IV.A--Public Facilities and Services, Goal 1 and Policies b, c, j, and o

(a) Criterion: Goal Statement

To development a timely, orderly and efficient arrangement of public services and facilities to serve

as a framework for urban and rural development, including public lands and buildings, parks and recreation areas and facilities, schools, police and fire protection, domestic water supply, sanitary and storm sewerage and other drainage facilities, and power, gas and telephone services.

Finding: We incorporate our findings related to Goals 11 and 12, below. We find that the proposed use will not require the extension of any public services or facilities, and consequently will not affect the timely, orderly and efficient arrangement of such services. We find that the services to be used at the site are adequate and appropriate for the nature and scope of the proposed use. We conclude, therefore, to the extent that it is applicable, that this criterion is met.

(b) **Criterion:** Policies b, c, j

b) *Public facilities and services for rural areas will be provided and maintained at levels appropriate for rural use only.*

c) *In recognition of the necessity to promote the conservation of energy, Yamhill County will assume a demonstrative role through the application of energy conserving practices that will support the development and operation of an efficient arrangement of public facilities and services within the county.*

j) *Yamhill County will cooperate with other interested agencies to identify, acquire and/or reserve in advance through appropriate open space zoning designations*

suitable watershed areas and reservoir sites to serve the domestic water needs of the emerging urban and rural development areas of the county.

Finding: Opponents to the proposed use argue that policies b, c and j are applicable. Policy b provides that public facilities for rural areas will be provided and maintained for rural level use only. We incorporate our findings with regard to Goals 11, 12 and 14. We find this is a rural use and that only rural level services and public facilities are proposed. Accordingly, we conclude to the extent this criteria is applicable, it is met.

Policy c requires the county to assume a demonstrative role in the application of energy conserving practices. We interpret this provision to mean that when the county is pursuing a land use action (e.g., building or constructing a bridge or relocating a highway) that the county project be used to demonstrate energy conserving practices. Because we find that the county is not undertaking a project in this matter, we find that the policy is not applicable.

Policy j provides that the county will cooperate with interested agencies to identify, acquire and/or preserve watershed areas and reservoir sites. We find that the proposed use may be reclaimed as a groundwater recharge area if that use is consistent with farm/forest uses. We find that the area is predominantly zoned for agricultural uses and the limited dwellings permitted in these areas are served primarily by wells. We have found that the proposed use will not significantly affect groundwater resources in the area and have provided specific conditions to ensure that groundwater resources are protected. For all these reasons, we find that the extent that this criterion is applicable, it is met.

Groundwater supplies will be protected from critical draw-downs or disrupted flows occasioned by surrounding land use development or activities, such as mining and logging where municipal watersheds exist; surface water supplies will be protected from unusual increases in turbidity and sedimentation caused by farming, logging, mining, excavation or grading; and both ground water and surface water supplies will be protected from contamination by subsurface sewage disposal systems, sewage lagoons, sanitary landfill sites and other sources of pollution.

Finding: Based on the evidence in the record, we find that groundwater supplies will be protected in both quality (e.g., turbidity sedimentation contamination) and quantity (e.g., critical draw-downs or disrupted flows). We also find that surface water quality and quantity will not be significantly affected by the proposed use. We incorporate our findings and analysis in Goal 6, below in support of these findings. We further find that policy refers to significant problems with water quality (e.g., critical draw-downs or unusual in turbidity). We are persuaded that water impacts, if any, would be minor and nonsignificant. We have further conditioned our approval in a manner that protects water quality and water quantity. Accordingly, we find and conclude that this standard is met.

14. Section IV.B--Parks and Recreation, generally

Finding: Opponents argue generally that the goal statements and policies of the parks and recreation portion of the county's comprehensive plan apply to the proposed use. We find that this part of the comprehensive plan states a general goal that the

county should provide adequate recreational opportunities to meet existing and projected needs and to cooperate to identify these opportunities in the development for the benefit of the citizens of the county. We find that the proposed use we have approved is neutral with regard to recreation opportunities. We find that it is not on any identified park plan, open space or scenic resource inventory, nor has it been identified as a needed recreation resource for urban or rural populations in the county. We find that because it is private property, access to the site could be presently denied to any person, by fencing or other means. We find that approval of the proposed use will not change the possibility that individuals could be denied access to the site for recreational purposes. We further find that nothing in the reclamation plan that we have ordered prohibits the site for being used in the future for recreational opportunities. For all these reasons, we find and conclude that this goal statement and policies are met.

15. Section V.A--Air, Water, and Land Resources Quality, Goal 1 and Policies a, b, and c

(a) Criterion: Goal 1 Goal Statement

To conserve and to protect natural resources, including air, water, soil and vegetation and wildlife, from pollution or deterioration which would dangerously alter the ecological balance, be detrimental to human health, or compromise the beauty and tranquillity of the natural environment.

Finding: We find that in our findings under Goals 5, 6 and 7 in our ESEE analysis for the proposed site, we have evaluated the potential impact of the proposed use on the

environment, and found that the impact would be minor and could be largely mitigated by the methods of operation proposed by the applicant and the conditions of approval that we will impose on the use. We incorporate these findings herein by reference. Based upon these findings, we conclude that this criterion has been met.

(b) Criterion: Policy a

Yamhill County will cooperate with the State Department of Environmental Quality in enforcing state and federal regulations designed to achieve high air quality.

Finding: We incorporate herein our findings related to Goal 6. We find that Section 404.07C of our zoning ordinance requires that all mining operations comply with state and federal air quality standards. In our findings for this Section above, we found that the proposed mining operation can comply with these standards. We further find that we will continue to monitor compliance with these standards as part of our continuing responsibility for enforcing the requirements of our ordinances, and have the power and obligation to force compliance with the standards if the applicant should fail to comply. We find that DOGAMI has adequate enforcement power and will have appropriate performance agreements to ensure compliance with its operating permit and reclamation plan. We further find that DEQ has adequate enforcement authority to require compliance of quality standards. Based upon these findings, we conclude that this criterion has been met.

(c) Criterion: Policy b

Yamhill County will, in making land use decisions relative to industrial or other uses likely to pose a

threat to air quality, consider proximity of the proposed use to residential areas and meteorological factors such as seasonal prevailing wind direction and velocity.

Finding: We incorporate by reference herein findings with regard to Goal 6, below. We find that the only potential air quality issue at the site is dust. We further find that applicant has a paved access road, has a water truck available to moisten quarry surfaces, uses water bars on its crushing equipment, and has a DEQ air quality permit with which it maintains compliance. We find that these reclamations are adequate to protect nearby residences from air quality problems regardless of the nature of prevailing winds. For all these reasons, we find that the proposed use will not pose a threat to air quality.

(d) **Criterion:** Policy c

Yamhill County will cooperate with the State Department of Environmental Quality in implementing noise control regulations.

Finding: We find that opponents argue that policy c is applicable to this proposed use. We find policy c requires the county to cooperate with DEQ in implementing noise control regulations. In our findings, we have previously determined that noise generated from the site will be within DEQ standards. We incorporate these findings herein by reference. We find that we have a condition of approval of the proposed use upon continued compliance with DEQ's standards which we find and conclude can be met by the proposed use. We find that through applying DEQ standards on a continuing basis, the county cooperates and

continues to cooperate with DEQ in implementing noise regulations. Accordingly, we find that this standard is met to the extent that it is applicable.

16. Section VII.A--Citizen Involvement, generally

Finding: We find that the opponents argue that the citizen involvement portion of the county's comprehensive plan is applicable in this matter. We incorporate our findings herein with regard to Statewide Goals 1 and 2, below. We find that the county has had numerous hearings before the Planning Commission and Board of Commissioners, and that all interested citizens have been allowed numerous opportunities to participate in the process. Accordingly, we conclude to the extent that it is applicable, that the citizen involvement policies and provisions of the comprehensive plan are satisfied.

17. Section VII.B--Review and Update, generally

Finding: We find that the opponents argue that the reviewed and update provisions of the comprehensive plan policy are applicable in this matter. We find that this is not a periodic review or major undertaking and updating of the comprehensive plan. We find that our comprehensive plan and zoning ordinance allow for amendment in response to specific applications. We find that we have reviewed the proposed use in light of the changing needs for aggregate supply in the county and changing conditions in the area. We further find that we have coordinated the planning efforts with the governmental regulatory agencies. We find our actions in this matter to be consistent with review and update of the comprehensive plan with respect to changing needs and conditions. Accordingly, we conclude that this provision is met to the extent that it is applicable.

3. Statewide Planning Goals Approval Criteria

We find that in order to approve the application before us we must amend our Comprehensive Plan to add this site to the County Goal 5 significant resource inventory of mineral and aggregate sites, and conduct an ESEE analysis and prepare a program to protect the site. The determination of the significance of the site, the ESEE analysis and our rationale and decision on the program are discussed below. We find that this discussion includes findings relating to the compliance of the proposed use with the Statewide Planning Goals, and that these findings are sufficient to demonstrate compliance with the goals for the purposes of the comprehensive plan amendment. We further find that our analysis of each goal is intended to be an analysis of each goal on a stand-alone basis for the purpose of the comprehensive plan amendment, as well as an analysis of the goal as required in the Goal 5 process.

SITE LOCATION OF THE MINERAL AND AGGREGATE RESOURCE

The Goal 5 resource under consideration is immediately adjacent and west of an existing MR-1 zone, known as Stephens Quarry. The site is located approximately three miles east of the city of Amity on the north side of Amity Road (State Highway 153). The site is identified as Tax Lot 5423-1202 and is an 80-acre rectangular trapezoid, approximately 1,000 feet in width and approximately 3,600 feet in length. The site is approximately ten miles southeast of the city of McMinnville. The expansion area is 80 acres in size and is graphically depicted on the map attached as "Exhibit B" to these findings.

IMPACT AREA FOR THE MINERAL AND AGGREGATE RESOURCE

We find that it is necessary and appropriate to establish an impact area around the site. We have reviewed maps of the site and surrounding area and reviewed the materials of the record in determining the impact area. In addition, our view of the site provided us with a realistic basis upon which to gauge the potential range of impacts from the operation. When

establishing the impact area, we have kept in mind that the proposed 80-acre site is immediately adjacent to the existing Stephens Quarry, an approved mining site, where batching and processing is permitted. Based on the topography of the site and the type of use that will be present on the site, we have determined that an impact area of 1,000 feet from the outside perimeter of the 80-acre parcel is appropriate. Our reasons for establishing an impact area of this size are set forth below.

A primary reason for adopting the 1,000-foot impact area is related to the potential noise impacts from a rock mining and crushing operation. As discussed below in these findings, we incorporate our reasoning with regard to the objections raised by the opponents related to noise. Part of the evidence we rely on to reach that conclusion is the report of Van Goolik/Oliver Associates. We find that a rock drill, one of the noisiest pieces of equipment used on a quarry site, did not meet DEQ standards at a residence located approximately 300 feet from the drill (at a different site) without buffering or other noise reduction devices. We find that the same study indicates that a residence located at 1,300 feet away easily met DEQ standards. We note that there was a reduction over the 1,000 foot difference in the range of 15db in the L-10 sound level, and an 18db reduction in the range of the L-50 rating in the study. While we do not assume that these reductions are proportional, we find that 1,000 feet of distance reduces noise impacts substantially. We also find that noise impacts from an unmuffled or unblocked source at 300 feet might be outside DEQ standards. While we find that there are muffling and blocking noise-reduction strategies that the applicant can use at the proposed site, we determine that the impact area, based on noise considerations, should be greater than 300 feet, and we conclude that 1,000 feet is appropriate in this instance.

In addition to the noise considerations, testimony related to water impacts of concern to the opponents also

supports our determination that the appropriate impact zone for the proposed use is 1,000 feet. We find that the Newton report, which we find persuasive in this regard, indicates that the Hodgson residence to the north (approximately 500 feet from the boundary of the 80-acre parcel) should be protected by the 500-foot distance for adverse water effects, if any, related to the quarry. We find that the same report indicates that the Sly well, also approximately 500 feet from the perimeter edge of the 80-acre quarry site, appears to be hydrologically isolated from the quarry. We find, based on the Newton report, which we find credible and persuasive, that the wells to the south of Burch Hill and Amity Roads appear to be hydrologically separated from the quarry area by a ground water divide. From these facts, we find that potential hydrological impacts, if any, from the proposed site will be limited to a distance of less than 500 feet from the perimeter of the 80-acre parcel. To be conservative for purposes of defining an impact area, we have doubled this distance. We note that the impact area of 1,000 feet will include numerous wells (e.g., Huff, Sly, Hodgson) in the area, and will also include the Breeding spring, to the west of the site. We find that the impact area we have chosen serves as an appropriate area for our analysis because it is of sufficient size to allow us to discuss and consider the potential impacts that have been raised in the hearing and thereby allow us to analyze both conflicting uses from the impacts related to developing the Goal 5 resource, and to protect the resource itself from encroachment of future conflicting uses. Based on the evidence in the record, we find that 1,000 feet will accomplish both of these purposes with regard to the water impacts.

Finally, the report of the geophysicist, Dr. Michael Feves, which we find persuasive, indicates that to avoid vibrations that would fracture weathered basalt (which is similar in strength to gypsum wallboard used in housing), a scaled

distance must be used. We find that using the scaled distance established by Dr. Feves, a blast using 100 pounds of explosive per delay should be at least 100 feet from the ground water source or by analogy, the gypsum wallboard source, to avoid damage. We find that houses in the area are located significantly farther from the site than 100 feet. We also find that ground vibration diminishes with distance. For the purpose of establishing an impact area, we will use 1,000 feet, ten times the distance indicated by Dr. Feves as a sufficient distance to dissipate blasting impacts. Again, we do not find that blasting impacts will travel 1,000 feet. However, for the purposes of establishing an impact area, we believe it is appropriate to include a distance that is substantially greater than the reach of the potential impacts. Based on all these factors, we find that the impact area for the proposed use is 1,000 feet from the outside perimeter of the 80-acre parcel under consideration in this matter. We have attached a map as "Exhibit B" to show the location of the impact area.

QUALITY OF THE MINERAL AND AGGREGATE RESOURCES

We find that extensive test drilling has occurred on the site. We further find that rock samples have been evaluated from the adjacent Stephens Quarry area and from the 80 acre proposed site. We find that based on these rock quality tests, the rock from the basalt deposit on site has been found to exceed the requirements of the Oregon Department of Transportation for construction purposes. We further find that the test drillings conducted throughout the site had a penetration rate of less than one foot per minute, and we find that this shows the hardness of the rock. We also find that cuttings from the test drillings throughout the site show a blue-gray color which is a prime indicator of quality rock. We find that these facts are confirmed by a certified engineering geologist.

We find that the opponents attempted to establish an argument that only the rock around a particular monitoring well (MW-4) was high quality and the rest of the site did not have quality rock. We find that this theory is incorrect and in direct contradiction to the rock drilling evidence and by evidence presented by a certified engineering geologist. Both the geologist and the rock driller concluded that drilling confirmed the lateral extent of the rock throughout the property and the high quality throughout the proposed site. We further find that the applicant, one of the largest rock producers in the county, and having experience with numerous rock sites in the county, found the rock on site to be of the highest quality. Because of the applicant's experience, we find this testimony to be persuasive. We further find that applicant's competitors in the rock business in the county testified to the quality of the rock from the proposed site. We find the evidence presented by the geologist, applicant, competitors, and the rock driller to be persuasive and we find that high quality rock is located at the site.

Our examination of the quality factor requires a consideration of the relative value of this resource site compared with other examples of the same resource at least within Yamhill County. Testimony provided to us at our public hearings consistently indicated that the rock at this quarry site is the best in the county. We find this testimony to be persuasive. While there are other sites in the county that may have good quality rock, we find that this particular resource is of very high quality and the relative value of the site is high in comparison to other mineral and aggregate resources in the county. We find that we are not required to do a detailed statistical ranking of quality test scores of the proposed 80-acre site as compared to other rock resources in the county. We are required to provide general consideration of the resource's relative value by looking at the quality of the rock

from the proposed 80-acre site and determining that is of high quality compared to other resources in the county. Our analysis of quality factor (including testimony that we received about the quality of the rock and the fact that this site sits adjacent to an existing high quality quarry), together with the fact that there are excellent roads and transportation links that serve this proposed site, leads us to find and conclude that the proposed 80-acre expansion site is a superior quality choice.

QUANTITY OF THE MATERIAL AND AGGREGATE RESOURCE

We find that a certified engineering geologist has estimated, based on borings throughout the 80-acre expansion area, that there are approximately 8 million cubic yards of rock available for extraction on the site. We find this to be persuasive and credible evidence. Even if a significant portion of the rock on the site would need to be preserved *in situ* in order to protect ground water resources, we still find that the site is significant in terms of the quantity of rock available. Testimony from the Department of Geology and Mineral Industries indicated that even with mining restrictions related to protection of ground water resources, there is still a large quantity of rock available for extraction on the site.

SIGNIFICANCE DETERMINATION FOR MINERAL AND AGGREGATE RESOURCES

Based on our review of the facts in the record and our analysis of the site's close proximity to the market areas in Yamhill County (its location), the high quality of the rock (among the best in Yamhill County), and the large quantity of resource (approximately 8 million cubic yards at the site), we find and conclude that this site is significant and important and must be included in the County's plan inventory. We amend the County's inventory list to add the entire 80-acre site as a high quality and large quantity mineral and aggregate resource site that is significant.

IDENTIFICATION OF CONFLICTING USES FOR MINERAL AND AGGREGATE RESOURCE

As part of the process to be followed under statewide planning Goal 5, we must identify uses which may conflict with the inventoried 80-acre resource site. Conflicting uses are those which, if allowed, could negatively impact the Goal 5 resource site. In order to effectively discuss whether an existing or potential use will conflict with the Goal 5 mineral and aggregate use, it is necessary to evaluate whether effects from the mineral and aggregate use would adversely affect uses in the area and, conversely, whether effects from uses in the area will adversely affect the resource use. The entire 80-acre parcel, and most of the property in the surrounding area, is zoned AF-20, a farm/forest use zone within Yamhill County. To the north, portions of the general area are zoned AF-10, an agricultural/forestry small holding district. Immediately to the east of the site is existing Stephens Quarry which is zoned MR-1. To the southeast of the site is a quarry generally referred to as the Anderson Quarry, which is zoned MR-2. To the south of the site is property zoned EF-40, an exclusive farm use district. We find that the site and land within the impact area encompasses four zones; the AF-20 zone, the AF-10 zone, the EF-40 zone, and the MR zones. We find that we are required to examine the uses allowed in each of these zones to determine if conflicts will arise between and among the allowable uses and the mineral and aggregate use.

Goal 5 resource extraction sites are generally accompanied by some degree of noise, dust, vibration, and site alteration. We find that for a use allowed in any existing zones within the impact area to be a conflicting use, it must be demonstrated that such use is or could be sited on the property within the impact area and, if sited, would adversely affect or be adversely affected by the Goal 5 mineral and aggregate use.

In the four zones within the impact area, we find that the county code describes numerous permitted uses and conditional uses. The AF-20 zone lists 24 permitted uses and 27 conditional uses. The AF-10 zone lists 12 permitted uses and 13 conditional uses. The EF-40 zone lists 21 permitted uses and 17 conditional uses. Many of the AF-10 uses parallel the uses listed in the AF-20 and EF-40 zone. The MR zones lists several uses as well. We find that the permitted uses listed in these zones can be grouped into associated uses which have similar impacts on the mineral and aggregate use or could expect similar types of effects from the mineral and aggregate use.

1. Mineral and Aggregate and Related Uses. The MR zones and the AF-10, AF-20 and EF-40 zones provide for mineral and aggregate uses and/or geothermal uses. We find that these uses, with the exception of the geothermal uses, are the same uses that are proposed on the 80-acre site for which Goal 5 protection is requested. We find that the mineral and aggregate uses, if allowed in adjoining zones, would create the same impacts that would be generated by the proposed use on the 80-acre parcel at issue. In addition, we find that geothermal uses also have similar types of conflicts, including noise, dust, vibration and alteration of the landscape. Because of the similarity of the effects of all these uses, we find that they could exist side by side and not have adverse effects on each other. Accordingly, we conclude that they are not conflicting uses.

2. Farm Uses. The Zoning Ordinance lists numerous farm uses that are allowed in the EF-40, AF-20, AF-10 and MR zones, including the growing of crops, raising of livestock, farm accessory uses, irrigation, building of wineries, horse boarding, and other similar farm activities. We find that these farm activities are included in Sections 402.02, 402.03, 402.04, 403.02, 403.03, 403.04, 404.03, 404.04, 501.02 and 501.03 of the Yamhill County Zoning Ordinance.

We adopt by reference herein as though fully set forth our findings and conclusions with regard to ORS 215.296. In those findings, we conclude that the proposed use will not significantly increase the cost of accepted farming and forest practices on surrounding land, and will not force significant changes in accepted farming or forest practices on surrounding land. We find that our conclusion regarding the lack of increase costs and/or forced changes in accepted farming practices is significant in our determination of whether or not there are conflicts between the proposed mineral and aggregate use and the farming uses of adjoining properties. We find that significant increases in farming costs and significantly forest changes and farming practices constitutes a good definition of a "conflict" with farm uses under the Goal 5 rule. Because there will be no significant increase in cost or forced change in accepted farming practices, we find and conclude that farming on adjacent properties does not conflict with the proposed aggregate use.

We have divided up our discussion of conflicts for farm uses between those farm uses that occur actually on the site and those farm uses that occur on adjacent properties. Our analysis of farm uses that occur on the site are contained in our discussion of statewide planning Goal 3. Discussion in this particular portion of the findings is related to those farm uses which exist, or could exist, on adjacent or surrounding properties.

4. Dwellings, Schools, Churches and Related Structures. We find that the EF-40, AF-20 and AF-10 zones permit a variety of dwellings, and other similar types of noise sensitive structures, including schools, labor camps, home occupation, subdivisions, mobile home storage, infrastructure for subdivisions, secondary dwellings, day care, cemeteries, and other types of structures and uses that are predominantly designed for human habitation or human use and may be noise sensitive in nature. Wineries are included in this group to the

extent that they would be deemed noise-sensitive due to human occupation (we generally do not find conflicts with winery operations--e.g. crushing, fermenting, bottling--and the proposed rock use). We find that home occupations could occur in any of these residences. These uses are contained in Sections 402.02, 402.03, 402.04, 403.02, 403.03, 403.04, 404.02, 404.03, 501.02 and 501.03 of the Yamhill County Zoning Code. We find that there are existing dwellings at or near the 1,000-foot perimeter of the impact area. We find that it is possible, although unlikely, for a new residence, school, church, cemetery or other similar noise-sensitive use to be constructed near the proposed site. This is particularly true given that the Oregon Administrative Rules state that property zoned for agricultural use may not have public or private schools (including all buildings essential to the operation of a school), and churches and cemeteries in conjunction with churches, allowed on property within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660, Division 4. We find that this property is within three miles of Amity's Urban Growth Boundary. We find that it is possible for noise from the rock use to interfere with this group of noise-sensitive uses, and we conclude that existing and future uses in this category surrounding the site have the potential to conflict with the mineral and aggregate use of the site, and visa versa.

4. Utilities Facilities. We find that utilities facilities, transmission lines, transmission towers, reservoirs, and other types of utility uses are allowed in the EF-40, AF-10 and AF-20 zones. We find that these uses are found in Sections 402.02, 402.04, 403.02, 403.04, and 501.03 of the Yamhill County Zoning Ordinance. We find that utility facilities, including transmission lines of various types and towers, are unmanned, fixed facilities. We find that these types of facilities are not used for human habitation nor are they oriented toward general public use. As such, we find that these

uses are not sensitive to the potential impacts generated by aggregate sites, including noise, dust, vibration and traffic. We further find that these types of static uses do not directly impact aggregate use in any negative way nor do they require restrictions on the aggregate use to protect the utility use. Accordingly, we conclude that the uses in this group do not conflict with the mineral and aggregate use of the site.

5. Roads and Highways. We find that the EF-40, AF-10 and AF-20 zones provide for a number of transportation uses, including road uses, airports and aids to navigation. These uses are listed in Sections 402.02, 402.04, 403.02, 403.04 and 501.03. Under our discussions of Goal 11 and Goal 12 of these findings, we discuss the infrastructure and transportation systems in the general area. We incorporate that discussion herein by reference. We find it extremely unlikely at the proposed site, because of its remote location on the hill and adjacent to a rock quarry, could be used for road, highway transportation, and particularly for airport uses. We find that road and highway uses allowed in the EF-40 and AF-20 zones relate to construction and modification of public roads and related facilities. We find that these are uses which would not be adversely affected by the impacts of an aggregate site because they have no special requirements or sensitivities that could be adversely affected by an aggregate operation. We further find that these construction and road-related uses have characteristics similar to those to the aggregate operations (e.g., traffic, vibrations and noise), but they do not directly impact a rock use in any negative way. We find that restrictions on rock resources are not required to protect road uses, and visa versa. We find that the provisions of the Yamhill County Ordinance related to roads and highways within EFU land must be consistent with the provisions of ORS 215 which limit the uses to passing lanes within existing rights-of-way, nontravel lanes due to construction or modification, temporary detours are minor betterments to existing highway-

related facilities. We find that there are no existing highway-related facilities (e.g., weigh stations, rest areas) along the roads around the site. We find no evidence of any rights-of-way that encroach upon the site nor do we have any evidence of any future need for modifications or future detours of roads in the areas on the site or within the impact areas. We further find that the topography of the site and the topography of the impact area physically prevents the use of the area for airport or airport-related uses. We further find that aids to navigation are similar in nature to utility structures in that they are static structures that are not designed for human habitation. Based on our analysis of these types of uses, we find that they do not adversely affect the rock use nor would the rock extraction and processing operations adversely affect this group of uses. For all these reasons, we conclude that the uses in this group do not conflict with the rock use of the site.

6. Horse Breeding, Boarding and Kennels. We find that these uses are in the AF-10 and AF-20 zones in Yamhill County. We find that these uses are included in Sections 403.02, 403.04, 501.02, and 501.03. We find that these types of uses are generally not sensitive to noise or other affects potentially generated by a rock operation. We have concluded, based on record evidence which we find persuasive, that noise will be within DEQ requirements, outside vibration will not be significant, and that noise generated by the site will be controlled within DEQ standards. Because these are the main impacts of the rock operation, we find that these types of impacts will not affect horse breeding, boarding, or kennels, and conclude that aggregate use is not in conflict with these uses. We also find that kennels, in particular, create a significant amount of noise. Therefore, noise is not of particular concern with a kennel operation. We further find that the normal operation of a horse breeding and kennel operation, including feeding and exercising the animals, and other activities, would

not have an impact on the rock extraction operation that has been proposed. Based on all these factors, we find and conclude the uses in this group do not conflict with the mineral and aggregate uses on the site.

7. Firearms Facilities. We find that firearms facilities are permitted in the AF-20 zone (see County Code Section 403.04). We find that training facilities are places where firearms are discharged and there is significant noise and concussion created by the firing of the guns. Because we find that the firearms training facility would have these types of impacts, which are similar to the potential impacts from the rock operation, we find and conclude that the mineral and aggregate operation would not conflict with the firearms training facility nor would the firearms training facility conflict with the mineral and aggregate use on the site.

8. Habitat-Related Uses. We find that habitat-related uses are permissible in the EF-40, AF-10 and AF-20 zones. We find that these are uses that are allowed under Sections 402.02, 402.04, 403.02, 403.04, and 501.02. We find that these habitat-related uses include wetlands, fish and wildlife preserves, and related habitat uses. While we find that the reclamation of the rock site may provide habitat values, we find that there may be at least a temporary conflict with on-site habitat and the possibility that rock extraction activities would adversely affect adjacent areas which can be used for habitat uses in this group. Similarly, if adjacent areas would be fully protected for habitat, this might restrict mineral and aggregate operations. The primary nature of the conflict which we have observed would be noise produced from the operation which might conflict with habitat-related uses. Accordingly, we find and conclude that there is at least a potential conflict between the proposed use and habitat-related uses in this group.

9. Parks, Resorts and Golf Courses. We find that the group of uses related to parks, golf courses and destination

resorts are permitted in the EF-40, AF-10 and AF-20 zones. We find that these uses are allowed in Section 402.04, 403.02, 403.04 and 501.02. We find that these uses are primarily recreational in nature and that the potential impacts from a mineral and aggregate operation (including noise, dust and vibration) could potentially present a conflict with these types of recreational uses. Wineries are included in this group to the extent they are considered park-like uses (e.g. picnicking). While we find that it is unlikely that surrounding land would be developed as a golf course or destination resort, it is possible park uses could be established and that if fully protected for park land, could be an adverse effect on the operation of the rock quarry. We note that statewide Goal 8 prohibits destination resort siting within 24 air miles of an urban growth boundary and that the city of Amity's boundary is approximately three miles away. For these reasons, we find that uses in this group potentially conflict with the mineral and aggregate operation that is proposed.

10. Forest-Related Uses. We find that these include harvesting of trees, auxiliary uses, conservation uses, and such structural uses as fire towers, processing uses, forest camps, scaling and weighing stations, and research and experiment facilities accessory to forest operations. We find that these uses are set out in Sections 402.02, 402.04, 403.02, 403.04, 404.03 and 501.02. We find that these uses are primarily related to the growing and harvesting of timber. We find that the growing and harvesting of timber, particularly the harvesting, has many of the same impacts that potentially accompany mineral and aggregate operations, including noise, dust, and vibration. We find that all of the other forestry uses must be accessory to forestry practices, including harvesting, and therefore this group of uses is generally subject to and compatible with many of the same types of operational effects as mineral and aggregate operations. Because we find that the types of affects that would

be produced by the forest uses in this group and the rock quarry use are similar in nature, we find and conclude the forest uses in this group would not adversely affect the rock extraction operations, nor would rock extraction operations adversely affect the forest uses in this group.

As set forth above, most of the existing uses are potentially allowed uses in the area surrounding the site as determined by review of the Yamhill County Zoning Ordinance are uses that are not sensitive to the typical adverse affects of a quarry operation (e.g., noise, dust, vibration) and, therefore, are not adversely affected by the rock quarry that has been proposed. Similarly, because the uses are not sensitive to the potential external affects of the rock quarry operation, no particular limitation on the quarry operation would be required in order to allow these other uses to fully and properly function. Therefore, we conclude as specifically set forth above, that most of the uses are not conflicting uses. However, we have identified the group of uses related to farm dwellings, group of uses related to habitat, and the group of uses related to parks, golf courses and resorts to be conflicting uses.

ESEE ANALYSIS

Because we have identified conflicting uses (e.g., groups related to residential uses, churches, schools and day care centers; parks, playgrounds, golf courses and other recreational uses; and habitat uses), we will proceed to a consideration of the ESEE impacts of the proposed aggregate site and the conflicting uses. As part of our ESEE analysis, we will also analyze the applicability and requirements of the statewide planning goals.

1. ECONOMIC CONSEQUENCES ANALYSIS.

a. Impacts on the Resource of Allowing Conflicting Uses.

If any one of the conflicting uses in the groups identified above (hereinafter referred to as the Farm Dwelling group, the Habitat group and the Parks group) is allowed in close proximity to the Goal 5 mineral and aggregate resource, we find it could potentially have a significant adverse economic effect on the resource. For example, if a farm dwelling, resort, camp ground, habitat preserve or other noise-sensitive use in the three conflict groups were located adjacent to the quarry, we find that this may require a change in quarry operations to allow the two uses to co-exist. At best, the cost of mining and processing, and, therefore, the cost of the final product, would be increased because of the additional cost and expense necessary to reduce adverse effects on the conflicting use. Compliance with applicable environmental regulations, such as noise regulations, might also be rendered more difficult at the site. We find it likely that the unrestricted allowance of uses within the conflicting use groups near or on the extraction area would result in a significant shrinking of the area within which quarry activities take place, and a consequent loss of a significant portion of the resource. We find, that it would be extremely difficult, if not impossible, to design an extraction plan which would allow fullest utilization of the resource on that portion of the proposed quarry site if conflicting uses were allowed to locate in close proximity to the site. As set forth in our discussion of Goal 6, which we incorporate herein by reference, we find that protection of groundwater might cause operational restrictions on the rock resource, which could have economic effects related to reductions in the amount of material that could be extracted. As set forth in our discussion of Goal 9,

which we incorporate herein by reference, we find that the impacts of conflicting uses potentially could have a significant adverse economic effect on the quarry site, and potentially the County could lose a valuable and important source of aggregate material.

b. Impacts on Conflicting Uses of Allowing the Resource Use.

We find, with regard to impacts on conflicting uses generally, that these impacts will be significantly reduced or eliminated due to the particular methods of extraction used (e.g., controlled blasting, advanced drilling to protect groundwater, and the use of berms and vegetative screens) and the topographic features of the site.

More specifically, with respect to dust impacts, we find that extraction and processing operations and associated vehicle movement will not have significant impacts on conflicting uses because: (1) equipment on the site will have DEQ permits, which mandate the control of dust from quarrying activities; (2) the company has a water truck which can be used to reduce dust impacts; and (3) the access road to the processing area is paved and maintained to reduce road dust emissions from traffic to and from the site. In addition, we find that agricultural and residential uses in the general area have co-existed with the Stephens Quarry operation without any significant dust problems.

With respect to noise impacts, we find that noise levels at nearby existing residences will comply with DEQ noise standards. We find that DEQ standards are appropriate standards by which to judge noise impacts on the potential conflicting uses in the three conflict groups as the regulations are designed to protect noise sensitive properties, including places of human habitation. Our analysis of the noise impacts requires us to consider conflicting evidence in the record. We find that

opponents to the site hired Mr. Duple, a noise consultant. Mr. Duple prepared a report and, in testimony before us, indicated that it would be difficult, while not impossible, under DEQ noise standards on the 80-acre direction area. However, we find that under questioning at the hearing, Mr. Duple admitted that he failed to take into consideration existing the MR-1 zone immediately adjacent to the proposed 80-acre expansion area and the types of uses that are permitted as right, in that zone, including crushers, batch plants, rock drills, and other equipment. We have reviewed the DEQ noise regulations and understand that the ambient noise level from which the degradation standards which Mr. Duple feared would be violated must include a consideration of existing noise sources in the area. We find that Mr. Duple failed to consider existing zoning on an adjacent piece of property, and the existing uses on that property, when determining the ambient statistical noise level in the area and in reaching his conclusion that the L-10 or L-50 levels would be increased by more than 10dba in one hour. We further find that a rock drill located on the extreme western edge of the existing Stephens Quarry and a rock drill located on the extreme eastern edge of the proposed 80-acre parcel under consideration in this land use decision would produce the same level of noise. Accordingly, we find that the rock drill located on the Stephens Quarry site would necessarily increase the ambient statistical level for the purpose of judging the noise to be allowed by a rock drill on the proposed 80-acre expansion site. We find that Mr. Duple's calculations also did not take into consideration special matters or deflection devices that could be used to reduce noise. Because Mr. Duple failed to consider these matters, we do not consider his testimony persuasive. C.C. Meisel provided a study from an acoustical engineer to another C.C. Meisel property specifically listing the noise produced by a rock drill and providing us with information, which we find persuasive, that the noise produced by the rock

drill exceeded DEQ limits at a house located 300 feet away, but would be significantly below DEQ requirements to a house located further away. We find this information supports C.C. Meisel's statements and meets DEQ noise standards. We find those statements credible. We further find that even though he found fault with the application, Mr. Duble suggested several other alternatives such as screens, berms and special buffers, which would decrease the level of noise from activities on the proposed expansion area.

Based on all of these factors, we find and conclude that while noise conflicts are possible, there will be no significant noise impact from activities at the quarry site on the groups of conflicting uses we have identified.

With respect to vibration impacts, we find that the report of geophysicist Michael Feves, which we find to be credible and persuasive, concludes that ground vibrations from quarry blasting can be controlled through the careful calculation of distance and powder charges to protect on-site water resources. In addition, we find that typical quarry blasting at a distance of 500 feet produces vibrations similar to an individual walking. We find this is the professional judgment of a registered engineer who has significant experience in quarry operations. We find it to be a persuasive position. Accordingly, we find that vibration from the quarry site will not produce significant conflicts with the groups of conflicting uses we have identified.

With respect to traffic concerns expressed by the opponents, we incorporate our findings under Goals 11 and 12, below. We find and conclude that traffic concerns will not be a source of significant conflict.

With respect to water quality and quantity impacts, we incorporate by reference our analysis under Goal 6 below. We are persuaded that the quarry operation can occur without significant adverse impact on the water resources of the area, both ground

and surface water, and find and conclude that water issues do not present a significant conflict for the existing uses in the area or the potential uses from the three conflict groups that could be located in the general area.

With respect to site alteration and visual impacts, we find that the topography and location of the site reduce and minimize the visual impact of the site. The northerly portion of the site is below the crest on the ridge to the west and is below the crest on the site to the south. We find that the site is buffered on the east by the existing quarry and by a hill. While the site can be seen, we find that other quarries exist in the area and also can be seen. We further find that the closest residences to the proposed quarry argued that their property values would decrease because of the quarry. We find that these residences already are located near the existing Stephens Quarry and that the expansion area does not present a significantly different situation from existing conditions. We find this to be particularly true given that batch plants are a permitted and existing use at the Stephens Quarry, but are not allowed on the proposed 80 acres. Based upon the above findings, we conclude that the aggregate site will have no significant adverse impact on conflicting uses due to site alteration or visual impacts.

We find that, as discussed above, there are significant factors that reduce or eliminate noise, dust, vibration, traffic, water quality, water quantity, site alteration and visual impacts, such that the rock use would not result in any significant loss of economic or property value or any significant increased financial burden on any uses in the area due to operations at the proposed 80-acre site. We conclude that the evidence before us demonstrates that the Goal 5 resource site can be developed without significant adverse economic effects on existing or potential uses adjacent to the proposed use.

2. SOCIAL CONSEQUENCES ANALYSIS.
**a. Impacts on the Resource of Allowing
Conflicting Uses.**

We find that social impacts on the resource could be created through the placement of restrictions on the operation (e.g. those related to noise or water concerns) in order to reduce its impacts on adjoining uses. We find that these restrictions could result in modifications to the operation that could potentially increase the cost of aggregate extraction. We find that the most probable social impact of fully allowing conflicting uses near the resource site would be to prevent or limit the site's use. If conflicting uses were allowed near the resource site, it is possible that the resource could not be used because existing regulations controlling the operation of the site, particularly noise standards, might be difficult to meet at the site. We find that this would result in the increase in price of aggregate materials or the loss of at least a portion of a high quality and quantity aggregate source. We find that aggregate materials have high social utility for constructing infrastructure as well as residential, commercial and industrial facilities. We find that an increase in the price of or decrease in the supply of a high quality and quantity source such as that at the proposed site would have the negative social impact of increasing the prices of homes, highways and other products which depend on aggregate materials. This would limit the county citizens' ability to afford these products and consequently reduce their standard of living.

**b. Impacts on Conflicting Uses of Allowing the
Resource Use.**

In considering the social impacts on conflicting uses, we refer to and incorporate our discussion under the Economic prong of this ESEE analysis. In addition, we find that if the

impacts associated with the proposed rock operation are not properly controlled, there could be a social impact on residences near the mineral and aggregate resource. We further find that it is possible to have an impact on the habitat and parks groups described above. For example, it is possible that the quarry could adversely affect a future park or habitat preserve. This could create adverse social consequences. However, given the nature of the site, its location, its surrounding uses and its topographic features, we find these social effects to be highly unlikely.

With regard to the primary potential social impact (adverse effect on the dwelling group), we find that there are several dwellings located within the 1,000-foot impact area around the perimeter of the proposed site. However, we further find that evidence in the record shows that noise, dust, vibration, and other impacts will not cause significant adverse impacts on nearby residential uses. We find that the record demonstrates through credible and persuasive evidence that DEQ noise standards, which are designed to protect residences and human health, can and will be met by the operation at all residences in the area. We further find that steps can and will be taken to significantly reduce noise and dust from the operation. We further find that the access road to the site is paved, which virtually eliminates dust from this source. We find that persuasive evidence demonstrates that vibration will not cause significant problems. We find that persuasive evidence demonstrates that there will be no significant problems with water quality or quantity.

Based on all these facts, we find and conclude that there would be very limited adverse social impacts on conflicting uses from protecting the site as a Goal 5 resource site.

3. ENVIRONMENTAL CONSEQUENCES ANALYSIS.**a. Impacts on the Resource of Allowing
Conflicting Uses.**

We find that the identified conflicting uses would not have an adverse environmental impact on the aggregate resource unless the conflicting uses were allowed in close proximity to the resource site. In this event, the impacts on the resource would be severe in that the resource could not be used or its use would be severely restricted due to increased difficulties with environmental compliance due to the proximity of conflicting uses.

We incorporate by reference our discussion under the Economic and Social prongs of our ESEE analysis and conclude that the conflicting use groups generally would not have a significantly negative environmental effect on the proposed use.

**b. Impacts on Conflicting Uses of Allowing the
Resource Use.**

We find that typical rock operations may have environmental impacts on conflicting uses located nearby. These impacts may include noise, dust, vibration or water effects associated with the operations. With regard to noise, we find that DEQ standards can be met at the site and that these standards will serve to protect conflicting uses. With regard to dust impacts, we find that the paved access road and the availability of a water truck for dust suppression greatly reduce dust concerns. We further find that the existing Stephens Quarry has operated, and will continue to operate, without significant dust problems to uses in the area. As explained below, we find the testimony of opponent's consultant, Mr. Simons, is not credible on the dust issue. With regard to vibration, we find that expert information in the record convinces us that vibration will not be a significant problem at the site. We further find that mandatory reclamation of the site will be used to enhance

environmental values at these sites upon completion of operations.

During the hearing process, concerns were raised regarding water quality and quantity issues. We find that these are significant environmental issues that were addressed in great detail during this process. Consistent with our analysis of statewide Goal 6, which we incorporate herein by reference, we find that the arguments made by the opponents and their consultant, Mr. Allison, are not persuasive. We are persuaded by the evidence presented by Mr. Newton and Mr. Bruce, the Oregon Water Resources Department, and the Oregon Department of Geology and Mineral Industries with regard to the environmental impacts of the proposed use on water quality and quantity in the area. Based on the persuasive and credible analysis presented by these parties, we find and conclude that there will not be any substantial adverse environmental effect on water resource quality or quantity that is caused by the proposed use. We find that the water resources in the area will continue to be available to conflicting uses, such as dwellings, without any significant loss of quality or quantity.

4. ENERGY CONSEQUENCES ANALYSIS.

a. Impacts on the Resource of Allowing Conflicting Uses.

Allowing noise, dust or vibration sensitive uses too close to the site could alter the manner, location and extent of extraction activities and could result in a greater use of energy by the operator. In addition, allowing conflicting uses near the resource site would limit the amount of the resource recoverable, potentially creating greater energy impacts, especially the use of fuel by haul trucks, as aggregate material would be required to be brought to the market area from more distant locations.

b. Impacts on Conflicting Uses of Allowing the Resource Use.

We find that allowing the aggregate use on the site would not increase or decrease energy consumption for the identified conflicting uses. Therefore, we conclude there are no identified energy impacts on the conflicting uses.

Our discussion of the ESEE consequences has focused on allowing conflicting uses of property which adjoins and surrounds the proposed resource site. We recognize that if any of the uses listed as allowable uses in the EF-40, AF-10 and AF-20 portions of the County Zoning Ordinance were allowed on the site, those uses would cause a conflict, and vice versa. We have chosen to focus our analysis on the more probable situation, where uses may locate near the resource site, thereby creating conflict between the use and the resources. However, we recognize that to fully discuss the issue, we must also look at the possibility of conflicting uses that would negatively impact Goal 5 resource (and vice versa) if those conflicting resources were located on the Goal 5 resource. We first note that with regard to Goal 3, Goal 5 and Goal 6 issues, we have made extensive findings regarding the on-site conflicts between the mineral and aggregate resource and other resource uses such as farming, wildlife habitat, and water. We incorporate our analysis under those provisions herein by reference. We have identified group uses allowed in the County's EF-40, AF-10 and AF-20 zones which we find would conflict with the mineral and aggregate resource (and vice versa) if the use were directly on top of the resource. We believe that the economic, social, and environmental and energy effect of such a location of conflicting uses upon the resource site be virtually the same as those we have discussed for identified conflicting resources on adjoining property. For example, a location of any conflicting resource on the Goal 5 resource (e.g., a dwelling) would have adverse economic impacts (the Goal 5 resource probably could not be used), adverse social

impacts (the Goal 5 resource could probably not be used), adverse environmental resources (the Goal 5 resource could not be used), and adverse energy consequences (the Goal 5 site could not be used and rock would travel from more distant sites consuming more fossil fuel).

Similarly, there would be obvious difficulties and conflicts between the conflicting uses if our decision was to fully allow a resource use when the conflicting use was located upon that resource use. For example, adverse economic impacts to a conflicting use on the site (such as a dwelling) could include prohibition of further use or removal of the use from the site. Adverse social impacts could include prohibition of further use of the site, the removal from the site, and the consequences of relocating a conflicting use to a different area. Similarly, there would be potential environmental consequences such as noise immediately adjacent to a use located on top of an extraction site. Finally, there would be potential energy consequences accompanying the removal of a conflicting use from a fully allowed resource site.

Because there are no specific conflicting uses on the site, we chose not to emphasize this portion of our ESEE analysis. However, we believe that the Goal 5 rule requires us to address this possibility. We find that we have not been presented with any "use-on-resource" conflicts, except those identified and discussed below. In our decision, we have avoided any future problems by protecting the mineral and aggregate through this process from future conflicting on-site uses.

We find that as part of our analysis, we must address the applicability and requirements of other statewide planning goals and their economic, social, environmental, and energy consequences as part of our analysis. We address each of these goals individually below. We note that our discussion of the statewide goals has two purposes. First, because we are granting a comprehensive plan change, we must address the goals. Our

analysis and discussion below is for this purpose. Second, as part of the Goal 5 balancing process, we must take the goals into consideration. Our discussion, below, is intended to accomplish both purposes.

GOAL 1

Goal 1 requires the development of a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process. We find that Yamhill County has an acknowledged Comprehensive Plan and Zoning Ordinance and that these documents provide specific mechanisms for citizen involvement for a group and individual basis. We find that in this particular land use case, there were numerous hearings before the Yamhill County Planning Commission and several hearings before the County Board of Commissioners. We find that public notice was provided and significant numbers of individuals participated in the process both in support of the application and in opposition to the application with both written and oral testimony. We find that the procedures followed were in compliance with Yamhill County's acknowledged land use regulations and that such regulations provided ample opportunity for citizen involvement in all phases of this application and, accordingly, we conclude that our decision complies with statewide Goal 1.

GOAL 2

Goal 2 requires that land use planning process and policy framework be established as a basis for all decision and actions related to land use and also requires that there is an adequate factual basis for decisions and actions in the land use planning process. We find that Yamhill County has an acknowledged Comprehensive Plan and Zoning Ordinance which guides the planning process in the county. We find that we are permitting one specific use under our plan and ordinance--rock

extraction and related crushing activities--and no others. As set forth in these findings, we find that the requirements of the County's Comprehensive Plan and Zoning Ordinance have been satisfied by the proposed application. As further set forth in these findings, we find that the proposed application complies with the statewide planning goals and also complies with applicable provisions of state statutes which have been identified to apply in this particular case. We incorporate by reference all of our findings on these matters herein. Because we find that the decision complies with all of the statewide planning goals, we find that an exception under statewide Goal 2 is not required. For all these reasons, we conclude that our approval in this matter complies with statewide Goal 2.

GOAL 3

The purpose of Goal 3 is to preserve and maintain agricultural lands. We find that farm uses under the goal include those set forth in ORS 215.203, but that counties may authorize nonfarm uses defined by LCDC rule when such uses will not have significant adverse effects on accepted farm or forest practices. We find that the provisions of OAR 660-33-120 specifically provide mining, crushing, processing, or stockpiling of aggregate--the uses we approve in this matter--are allowed uses in exclusive farm use (EFU) zones subject to the standards of ORS 215.296. We have extensive findings with regard to ORS 215.296 in these findings, and incorporate those findings herein by reference as though fully set forth. We have also made findings with regard to ORS 215.298 and incorporate those findings herein by reference.

We find that the property for which the use is requested is presently zoned AF-20, a zoning designation which permits agricultural uses. We find much of the adjacent and surrounding land has a similar zoning designation, again permitting agricultural uses. Based on our analysis of the

record presented to us in this matter, we reach the conclusion that the proposed land use action is consistent with Goal 3 and satisfies the requirements of Goal 3. We base this conclusion on the following findings and analysis.

First, as set forth in these findings and incorporated herein by reference, we have determined that the proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use nor will the approved land use act significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. Consistent with this analysis, we find that aggregate mining, crushing, processing, stockpiling are all uses permitted on EFU land under ORS 215.283(2). We find that when such uses will not cause significant adverse effects on surrounding farmlands, as we have found to be the case in this instance, those uses are permitted in EFU zones. We have specifically found that the proposed use complies with ORS 215.296, and incorporate that analysis herein by reference. Because we have concluded that there are no significant adverse effects on accepted farm and forest practices, we may, consistent with Goal 3, permit this use.

Second, we find that the MR-2 zone which we have approved generally allows only those uses that are permitted in EFU areas under state statute. We further find that we have attached a condition to our approval, implemented through a limited land use overlay, which prevents the property from being used for dwellings, hatch plants or manufacturing uses (e.g., tile or concrete products) which are not EFU allowed uses. We interpret Section 904 of our zoning code to permit the use of a limited land use overlay when establishing Goal 5 resource protection. We find that the farm uses allowed under the new MR-2 zone are substantially the same as the farm uses allowed in the AF-20 zone, with the exception of certain uses allowed on farmlands (e.g., dwellings, schools, churches, farm worker

housing, winery) that we find to be in conflict with the mineral and aggregate uses. We find that a single parcel may not support both conflicting farm uses (e.g., the dwelling group, the park group and the habitat group) and rock uses because of the potential conflicts between the uses. Because our decision is to allow mineral and aggregate use, we find that we would not, and could not, allow uses from the three conflicting groups on the property. We therefore find that as a practical matter, choosing to allow the mineral and aggregate use necessarily disallows the other uses and prevents them from being used on the same farm parcel. Similarly, we find that other uses allowed by statute on farmlands, including golf courses, airport, road modifications, cannot under any reasonable set of circumstances be expected to be allowed on this particular parcel. The topography of the parcel is varied and it is inconceivable to us that the 80-acre parcel could be used for road transportation, airport, or a golf course. We find that the uses that are allowed in the AF-10, AF-20, and EF-40 zones, but are not allowed in the MR-2 zone, either directly conflict with the use we have selected for this property or could not be located on the property for reasons of topography. Accordingly, we find and conclude that practical farm uses for this farmland parcel are not limited by the designation of the property as MR-2. Accordingly, we find the new zoning designation we have applied function like a mineral and aggregate overlay on the underlying EFU zone and is consistent, in this situation, with the farm goal. We further find that the zoning which we have approved (MR-2) allows only uses which are permitted by state statute in EFU zones, including farm use. We further find and conclude that the land use approval we have granted is consistent with the purpose and intent of an EFU zone.

Third, we find that the existing AF-20 zone--an EFU zone in Yamhill County--permits the proposed use as a conditional use. We also find that Goal 3 recognizes that counties may allow

such uses (defined in ORS 215.283, including rock extraction) on farmland consistent with the purpose of Goal 3. In our findings, which we incorporate herein by reference, we have explained our reasoning why the proposed land use action complies with the conditional use criteria in the underlying zone. We incorporate those alternative findings herein by reference. That the application could have proceeded as a conditional use on EFU land, consistent with the existing zone, and that the goal specifically recognizes rock extraction as a use on farmland, consistent with Goal 3, is convincing rationale to us that the proposed land use action is consistent with Goal 3 and its command to preserve and maintain agricultural lands.

Fourth, we find that the proposed mineral and aggregate use of the property is an interim use. We find that consistent with State statute, our decision requires the property to be reclaimed to specific and defined uses upon completion of the aggregate extraction on site. While the record reflects that the length of time of the gravel operation will be on the site is dependent on market forces, it is clear to us that the mineral and aggregate use is not--and cannot be--a permanent use. Mineral and aggregate mining by its very nature is extractive and consumptive and cannot continue indefinitely on a single parcel of land. Recognizing this, we have required that the property be reclaimed for purposes of propagation and harvesting of forest product. Our reason in requiring this condition is that propagation and harvesting of forest product is a specific and outright allowed use for both farm and forest zones under a recent Oregon Supreme Court decision. The required form of reclamation (the propagation and harvesting of farm/forest products) is intended to be broad enough to include exclusive use of the land upon reclamation for growing cultured Christmas trees as defined in State statute, an outright permitted farm use. We find from the testimony of the Oregon Department of Geology and Mineral Industries, that the reclamation we have required is

feasible and appropriate for this site, to be particularly persuasive. We find that sufficient top soil is available, that the top soil can be saved, that the top soil can be replaced on the property, and upon the replacement of top soil, the site can and will be planted for propagation of harvesting of forest products, including agricultural Christmas trees. We view the extractive mineral and aggregate use as an interim use between the existing potential farm/forest uses that could occur on the property at the present time, and the future farm/forest uses (outright uses on the EFU zones) which we have required must occur on the property in the future.

We find that the interim nature of the rock use is highlighted by the fact that significant portions of the property will be available on a declining basis and will continue to be available for pastures, trees and other farm uses until that position of the approved site is prepared for mining. Again, we find that market forces will dictate the amount of land that is necessary to be used at any one time for rock extraction. However, we find that the applicant's proposal is to prepare only small amounts of the parcel, as needed, for rock production. We find that this leaves the remainder of the parcel available for farm uses, including but not limited to, the pasture and tree growing uses on the property at the present time. We find that this property will continue to be available on a declining basis until the mining is completed on the property at which time reclamation to a farm or forest use must occur. As such, we find that the proposed mining use is consistent with ongoing farm uses and, therefore, consistent with statewide Goal 3.

Fifth, the opponents have argued that an exception from Goal 3 is necessary in this instance. Consistent with LUBA precedent, we find and conclude a land use action requires an exception only if the proposed use is not potentially permitted in exclusive farm use zones under ORS 215.213 and ORS 215.283. As explained above, we specifically find that the proposed use is

permitted under ORS 215.283 subject to standards which we have concluded are met in this case. Accordingly, we conclude that an exception is not required in this matter.

We find that the lot size of this parcel (80 acres) complies with the minimum suggested in Goal 3. We find that we are not allowing an urban use nor permitting extension of services. We further find, incorporating our analysis under Goal 6, that we have considered the carrying capacity of the air, land and water resources and that the proposed use will not exceed the carrying capacity of such resources.

Based independently on each of these reasons, we find and conclude that the proposed use is consistent with statewide Goal 3, that the requirements of statewide Goal 3 are met by the County's approved land use action, and that Goal 3 weighs in favor of the County's decision in this matter.

GOAL 4

Goal 4 directs the conservation and maintenance of the state's forest land base and the state's forest economy. It provides for the conservation of forest land to make economically efficient forest practices, and to assure the growing and harvesting of tree species as the leading use on land consistent with sound management of soil, water, air, and fish and wildlife resources. The goal also provides for consideration of recreational opportunities and agriculture. We find that because Yamhill County's AF-20 zone is a combined agricultural and forest zone, we must address Goal 4 as part of our approval process.

We find that mineral and aggregate extraction and processing are allowed on mixed farm/forest land under state statute. In addition, we find that the Goal 4 Administrative Rule also allows for mining and processing of mineral and aggregate resources under standards addressed below. We further find that the underlying zone in this matter, the AF-20 zone in Yamhill County, also allows mineral and aggregate mining and

processing as a conditional use and that the zone, because it is a mixed farm/forest zone, permits rock mining under the specific standards of ORS 215.296. We incorporate by reference herein our discussion of the AF-20 standards, which we find are met. We incorporate our analysis and discussion of Goal 3 herein by reference. In accordance with LUBA precedent, a county land use decision requires an exception to a goal only if the use authorized by the county is not a use potentially permitted in the zone (in this case, a farm/forest zone) under statute. Because both statute and regulation provide for the use that we are approving (either as a farm zone or as a forest zone), and because we have adopted a limited use overlay to prohibit dwellings, batch plants, and manufacturing uses, we conclude, based on the findings below, that the proposed use meets Goal 4's requirements concerning the use of forest land for forest uses and that Goal 4 mitigates in favor of protecting the site for rock extraction.

We find that the proposed use will not have any effect on accepted farming or forest practices on agricultural or forest lands. We incorporate herein by reference our discussion of ORS 215.296. In our findings related to ORS 215.296, we concluded that there would be no significant increase in cost nor any significant forced change in any accepted farming or forest practice on surrounding lands.

Although the Goal 4 Administrative Rule does not require it, in the event it would be deemed necessary, we adopt our definition of "surrounding lands" for agricultural uses for the purpose of our discussion of whether or not the proposed use would force a significant change in or a significant increase in the cost of accepted farm or forest practices on agricultural or forest lands under the regulation.

We find that from our view of the property and from the record, that there are trees growing to the east of the 80-acre site (on the Sly property) and the southern portion of the

80-acre site itself. We find that these consist primarily of stands of Douglas Fir trees of various heights and maturities. We find that these trees have coexisted with the existing mineral and aggregate extraction and processing uses on the adjoining site. In addition, we find there is nothing in the nature of mineral and aggregate extraction which adversely affects forest operations on surrounding properties. Our view of the site revealed to us that the trees to the south of the proposed site and those on the southern portion of the 80-acre tax lot are healthy and growing, and we find that the adverse effects associated with the existing mineral and aggregate extraction and processing, noise and dust, do not appear to have had any significant adverse effect on the growing of these trees.

We also find that the typical effects from a rock operation (e.g., noise, dust, vibration) do not significantly increase the cost of forest practices which in and of themselves create many of the same impacts. If anything, we find that the internal pathways that must be built on the mineral and aggregate site to extract the rock resource may assist adjoining property owners in harvesting timber by providing alternative means of access for this purpose. We find that mineral and aggregate extraction is a use with similar characteristics to harvesting of trees and we find that there will not be any interference between these two uses. We have given considerable thought into what types of changes or what types of increase of costs could be incurred by forest practices on adjacent lands, and we are unable to think of any. We find that common sense dictates that mineral extraction and processing uses will not have significant effects to forest uses on surrounding lands.

We find that rather than increasing fire hazards, risks to fire personnel, and fire suppressions costs, the proposed use will decrease these hazards and risks. We find that until an area is actually stripped for mining, it will remain essentially in its present condition. We find that this creates no increase

in fire hazards, fire suppression costs, or risks to fire suppression personnel over existing conditions. More importantly, we find that once land is stripped for rock extraction, top soil and vegetation are removed and fire hazards and risks are greatly reduced because less flammable material is available on the site. Our view of the existing operations and the photos in the record demonstrate that the extracted existing active quarry site is flat rock with minimal vegetation and provides a significant nonvegetative buffers between vegetation outside the quarry. We find that this type of operation is common for rock extraction and is the type the operators have indicated that they will continue. Accordingly, we find the physical attributes of a quarry tend to reduce fire hazard, and thereby help reduce fire suppression costs and help reduce risk to fire suppression personnel. In addition, we find that the access that is used to extract the rock can serve as access for fire fighting purposes, again decreasing the costs of fire suppression and the risks to fire suppression personnel.

In our decision, we list conditions which accompany our approval. One of those conditions requires that the property be reclaimed to allow it to put the land back into production the propagation and harvesting of forest products. We find that this reclamation plan is feasible. Particularly persuasive in this regard is the testimony of the Department of Geology and Mineral Industries which stated that sufficient top soil was available for reclamation of this type and that the reclamation would be successful as demonstrated by reclamation in similar situations. Because the area can be reclaimed to forest uses, we find and conclude that the mineral and aggregate use is an interim use and that the land will be returned to forest production on a permanent basis. We also find that not all of the area will be stripped at once for mining purposes and that portions of the property that are presently being used to grow forest products may continue to do so until that particular portion of the

property is cleared for extraction purposes. We find that there is an interim window when forest uses on the site will be interrupted, but that this site will be permanently returned to forest production uses. These findings persuade us that approval of the mineral and aggregate use is consistent with conservation of forest lands under a long-term planning perspective.

As part of our condition that the property be returned to productive forest (or agricultural) uses, we require that the applicant provide a written statement to be recorded with the county, prior to beginning extractions on the expansion parcel, which recognizes the rights of adjacent nearby landowners to conduct forest operations consistent with the Oregon State Forest Practices Act and rules enacted thereunder.

Goal 4 also requires that uses on forest land be consistent with sound management of soil, air, water, and fish and wildlife resources. We incorporate by reference herein our findings related to Goal 6 in which we concluded that no significant adverse effect to land, air or water resources would occur. We further find that we have required a reclamation plan which will manage soil resources in a manner that allows them to be replaced on the site to return the site to forest uses through reclamation. We further find that the reclamation condition we have attached to our approval allows groundwater recharge areas to be established as part of a reclamation if consistent with return of the land to forest propagation. We find this advances with the purposes of Goal 4. We find these reclamation requirements to be consistent with Goal 4. We further find that air and water resources on the site will be protected, consistent with the needs and requirements of maintaining productive forest land.

We incorporate by reference herein our discussion under Goal 5 below related to fish and wildlife resources. We find that there are no identified fish resources on the site that would be adversely affected by the proposed use. We further find

that operations on the site will not affect groundwater or surface water in a way that would affect downstream fisheries resources, if any, due to the operations of the use that we have approved. We further find that the area is not an identified wildlife habitat area and no specific wildlife resources are identified by the Yamhill County Comprehensive Plan or any planning documentation. However, we also find that restoration and reclamation of the site to forest uses will provide habitat that can be available for wildlife uses in the future.

We incorporate our analysis under Goal 3, above, with regard to Goal 4. We find that the MR-2 zone will function like a mixed farm/forest zone, in this particular instance, because the sole use we allow in the MR-2 zone (rock extraction and crushing) is an allowable use in the existing AF-20 zone and we have conditioned our approval and use a limited use overlay to prevent uses which would not be allowed in the AF-20 zone. In addition, we find that the rock use is an interim use that will displace forest uses and a declining basis until it must be reclaimed to farm/forest uses.

For all these reasons, we find and conclude that the land use action we have taken meets the requirements conserving forest lands and maintain the forest lands base to protect the state's forest economy consistent with sound management of soil, water, air, and fish and wildlife resources. Because we find that Goal 4 is satisfied, we find that it mitigates in favor of protecting the site from mineral and aggregate use.

GOAL 5

Goal 5 requires the conservation of open space and protection of natural resources. We find that in addition to mineral and aggregate resource, the only other potential Goal 5 resources on the site or in the area are groundwater and open space. We find that there are no identified fish or wildlife habitat, no identified outstanding scenic views or sites, no

ecological or scientific significant natural areas on the site or in the general area of the site, nor any convincing evidence that any such resources exist on or near the site.

Opponents to the application offered testimony in an attempt to establish that bird habitat resources were on site or in the area. We find that the Oregon Department of Fish and Wildlife provides a letter indicating that this is the "type of habitat" that would be used by western bluebirds. However, we find this does not identify the site or area around the site as habitat or an ecologically significant natural area. We have reviewed our Comprehensive Plan, background documents, and land use regulations and find that they have no reference to wildlife habitat or significant ecological areas on or near the site. We find that there is no evidence supporting the assertions and we do not include the site on any county inventory for these purposes. In the event the area would be deemed to be habitat or an ecologically significant area, or in the event it is determined that the county should have discussed these matters in the Goal 5 balancing process, we find, alternatively, that we do not have adequate location, quality or quantity information about habitat or ecological areas and we, therefore, "1-B" the resource by placing it on a "potential inventory." In the event this alternative analysis is required, the county will complete the Goal 5 process for these resources on or before the county's next periodic review.

In addition, some opponents argue that the area had outstanding scenic views and sites. Each member of the County Commission made a visit to the site and we were able to assess views of the site as well as from the site. We note that the Comprehensive Plan, background documents and land use regulations of the County do not list this area as a scenic view or scenic view site. We further find that in large part, the northerly portion of the 80-acre parcel is below the elevation of the Sanders property, adjacent to the west, and slopes downward into

the existing quarry area. While it is possible at this time to see this site from some of the surrounding properties (considering that vegetation has not yet been planted along the perimeter of the 80-acre site), the site clearly does not constitute an outstanding scenic view. The southerly portion of the 80 acres can be seen from hills to the south, but we find that many views from the south also contain a view of the existing Anderson quarry approximately 1,200 feet to the east. We, accordingly, do not include the site on the county inventory for scenic views. In the event the area would be deemed to be habitat or an ecologically significant area, or in the event it is determined that the county should have discussed these matters in the Goal 5 balancing process, we find, alternatively, that we do not have adequate location, quality or quantity information about habitat or ecological areas and we, therefore, "1-B" the resource by placing it on a "potential inventory." In the event this alternative analysis is required, the county will complete the Goal 5 process for these resources on or before the county's next periodic review.

For all these reasons, we conclude that the pertinent Goal 5 resources for our analysis are the rock resource, the ground water resource, and the open space resource.

We incorporate our discussion above in which we conclude that we have sufficient location quality and quantity regarding the rock resource and that the rock resource is significant. We find that our decision protects this significant rock resource.

With regard to groundwater, we incorporate our findings related to Goal 6, below. We find that we have general locational information about the resource which allows us to make a determination that the resource will not be harmed. However, we find that we lack specific data with regard to the quality and quantity of the water resource. Without this information, we are unable to complete the Goal 5 process and list the resource at

this site as a "1-B" resource. The Goal 5 process will be completed on or before the date of the county's next periodic review, or sooner if the necessary information becomes available. We note that we have, using locational information, specifically protected the groundwater resource, including that near Monitoring Well #4, through the use of conditions. We further note that the general information we have indicates that groundwater on most of the 80-acre site generally is present at depths significantly below the elevation at which rock extraction will occur. Consistent with our findings below, we conclude that we have taken adequate steps to insure that groundwater resources, prior to their full consideration, are not significantly adversely affected by the proposed rock use.

With regard to open space, we find nothing in the record to suggest that this land is necessary or desirable for open space. Accordingly, we do not include it on the inventory. In the event the area would be deemed to be necessary or desirable open space or in the event it is determined that the county should have discussed open space matters in the Goal 5 balancing process, we find, alternatively, that we have locational information, but that we lack data to allow us to compare the site's quality with other potential resources in the county, and to compare the resources' relative abundance. Without this information, we are unable to complete the Goal 5 process for the potential open space resource and list the resource as "1-B." The Goal 5 process for open space will be completed by the county's next periodic review, or sooner if the necessary information becomes available. We further find that if the site were deemed to be a significant open space resource, our approval of the rock site preserves open space. We find that our approval does not permit any permanent structures which would interfere with the future use of the area as open space. We further find that rock extraction requires open space during the extractive activity (i.e., buildings and fences and other manmade structures

would interfere with rock extraction and are not allowed onsite). We further find that our reclamation plan requires that the site be returned to farm/forest production that is consistent with open space. Accordingly, we conclude that our program to achieve the goal does not foreclose protection for open space purposes.

For all these reasons, we find that we have analyzed and balanced Goal 5 uses, identified significant resources, identified conflicts, analyzed the ESEE consequences of our action and adopted a program to achieve the goal, all as required by Goal 5. Accordingly, we conclude the goal is met and that the goal permits and encourages the action we have taken in this case.

GOAL 6

Statewide planning Goal 6 is directed to maintain and improve the quality of air, water and land resources of the state. With regard to air quality, we find that the opponents attempted to make a case that the applicant, C.C. Meisel, has failed to maintain compliance with air quality standards. It offered the testimony, both oral and written, of Mr. Simons, an air quality consultant. We find Mr. Simons' testimony to be unpersuasive. Mr. Simons offered a very technical analysis in which he attempted to suggest that C.C. Meisel could not be in compliance with its air quality permit. However, in a hearing before us, Mr. Simons was directly asked several times whether or not any DEQ enforcement action for a permit violation had been pursued against C.C. Meisel since 1988. Mr. Simons avoided the question, but ultimately admitted that there had been no DEQ enforcement action against C.C. Meisel since 1988. We find this to be a significant factor which detracts from the credibility and persuasiveness of Mr. Simons' argument. We find that C.C. Meisel has the appropriate DEQ air quality permits. We find that C.C. Meisel operations throughout the county are in compliance with those permits as evidenced by the lack of enforcement action

by DEQ since 1988. We find that DEQ certainly has the ability to take enforcement actions as the record shows DEQ citations against C.C. Meisel prior to 1988. However, we find that C.C. Meisel's history of compliance with DEQ regulations since 1988 persuades us that C.C. Meisel operations are conducted and will be conducted on the site in compliance with DEQ standards. We further find that DEQ standards are designed to protect human health and the environment and find that compliance with DEQ standards provides an accurate basis for us to determine the air quality in the State of Oregon will be maintained and improved.

We find that protection of water resources was an aspect of this particular application which received intense scrutiny from both sides. We find that the opponents presented specialized testimony on water issues through Mr. Allison and that the applicant presented expert testimony through Mr. Newton and Mr. Bruce. We find that the State Water Resources Department, through Mr. Norton, and the State Department of Geology and Mineral Industry through Mr. Schnitzer, also provided us with significant information with regard to water resources. There were numerous other individuals who testified with regard to water resources, primarily neighbors who were concerned that there would be an adverse effect on their wells and water supply if the proposed application were allowed to proceed. After considering all of the evidence presented in the matter and carefully weighing the testimony, we have reached the conclusion that the proposed application will not adversely affect water resources in the area because most extraction will occur above the identified location of water resources, and because mining will be conducted with an advanced air-track drill program to locate, isolate and protect water resources. Accordingly, the proposed application is consistent with the statewide goal which requires the maintenance and improvement of water resources in the state. In reaching this conclusion, the most persuasive

evidence presented to us was the thorough data presented by Mr. Newton and Mr. Bruce, of David Newton and Associates.

We find that after initial concerns regarding water resources were raised, C.C. Meisel requested additional time to do a water study. We find that the study was critiqued by neighbors and critiqued by state agencies. We further find that after these critiques, additional information was sought through a series of test drills on the site. We find that this test drilling established with reasonable clarity the location (although not the quality or quantity) of the water bearing structure on the proposed site and C.C. Meisel then modified its proposal to leave the water bearing structure in place. We find there was some controversy with regard to the exactness of the data and the amount of information provided. We find that hydrogeology is not an exact science. We find that the evidence developed does not have exact quality, quantity and location data. Nonetheless, it gives us a reasonable understanding of the location of water resources on the proposed site and surrounding area. We further find that the representatives at the Water Resources Department and the Department of Geology and Mineral Industries testified that the site could be mined without harm to water resources using reasonable techniques. While we find that state agencies cannot provide us with a guarantee that there would be no adverse affect on water resources, we find that a guarantee is not a proper basis on which to make a determination in this matter. As a county, we must make decisions based on reasonable information before us. On balance, the information before us convinces us that the mining as proposed by C.C. Meisel will not interfere with water resources and, therefore, will maintain and improve the quality of the water resources of the state. We have attached a condition to our approval which will assist the County in monitoring the activities on site to ensure that water resources, which we have determined will not be

adversely affected by the application, will be properly safeguarded while operations are ongoing.

We find that many of the neighbors, including Mr. Sly, Mr. Moraru, the Wheeler family and the Sanders family, and others expressed concern that wells or springs serving their properties would be interfered with or adversely affected by the proposed use. We listened carefully to their testimony, the testimony of their expert, Mr. Allison, the testimony of Mr. Newton and Mr. Bruce, and the testimony of the representatives of state agencies. We find the report of David Newton to be thorough and comprehensive. We find that the Newton data was derived after a significant amount of test drilling and after many hours spent on the site assessing the conditions on the site. We find Mr. Newton's conclusion was that the proposed quarry is in a discharge area and water has historically and normally discharged to surface systems in the area of the quarry. We find that the opponents' consultant, Mr. Allison, had not physically been present on the site, did not have the first-hand benefit of drilling knowledge, and did not even have an initial opinion about whether or not the area in which the quarry is located is a point where groundwater naturally discharges to surface systems. He later offered such an opinion in writing, but we find the presentation of Mr. Newton and Mr. Bruce to be persuasive and it convinces us that the water resources site will be maintained and improved. We are further persuaded by the testimony of the State Agency representative who determined the site could be conditionally mined without significant adverse affect on the water resources in the area.

With regard to water quality issues, we find that the neighbors raised a series of arguments that activities on the site would adversely affect groundwater quality. These included arguments that sedimentation would get into the aquifer, that chemicals could get into the aquifer, and that existing and proposed mining operations would not protect the quality of

subsurface water and surface water. We find that there have been some difficulties at the site with regard to surface storm water drainage in recent months, but that these difficulties occurred during record breaking rains and unprecedented floods in Yamhill County. In fact, we find that during one of the hearings on this land use application, we received briefings from our emergency managers regarding the flood of historic magnitude. We find and conclude that under these extreme situations, it is difficult to control all storm water runoff. We find it significant that DEQ and DOGAMI visited the site during this period and that DEQ did not issue a storm water violation notice, although there was corrective action requested by DOGAMI with regard to reclamation matters at the existing quarry. We further find it significant that C.C. Meisel took extraordinary steps with hay bales and other erosion controlling devices to attempt to control storm water during extreme flood conditions.

We further find that although the opponents allege contamination of surface water on the existing Stephens Quarry site near the weigh station from existing industrial operations, water tests show no contamination. We further find that the applicant has a closed system portable oil unit that is available for use for equipment on the site and will protect ground water and surface water from industrial contaminants.

For all these reasons, we find and conclude that the proposed application will not adversely effect the quality or quantity of water resources in the area and, therefore, conclude that the requirements of Goal 6, to maintain and improve the quality of water resources in the state, have been satisfied.

With regard to the quality of land resources in the state, we find that the proposed site will be reclaimed for propagation and harvest of forest products, including Christmas trees. We find that top soil will be saved for this purpose and that the reclamation to productive forest uses (timber production) and agricultural uses (Christmas tree production) is

feasible and appropriate for the site. We are particularly persuaded by the testimony of the Department of Geology and Mineral Industries which indicated that reclamation for this site as we have required is appropriate and feasible. We find and conclude that reclamation will provide protection for land resources in the state.

We further find that rock resources are locationally specific and they constitute an important land resource of the state. We find that this particular site has some of the highest quality rock in Yamhill County and it is close to market area. We find that it is particularly appropriate to protect the extraction of this rock resource while ensuring that reclamation will occur to a series of forest/farm uses in the future. We find and conclude that this use of land and reclamation meets the highest purposes of Goal 6 which are designed to maintain and improve the quality of land resources of the state. For all these reasons, we find and conclude that the proposed application meets the requirements of statewide land use planning Goal 6, and that Goal 6 mitigates in favor of the proposed use.

GOAL 7

Goal 7 requires that life and property be protected from natural disasters and hazards. We find that there are no identified natural hazards on this site. We find that the site in general has a small amount of soil overburden which overlies a significant deposit of basalt rock. We find that the proposed operation will be required to have a reclamation permit from the Department of Geology and Mineral Industries. We find that part of this reclamation permit requires stabilization of overburden and control of the heights of extraction faces within the quarry. We find that these are adequate safeguards to ensure that the quarry itself will not become a hazard. Although we see evidence of undefined surface water runoff on the site, we see no evidence that the proposed site would be subject to stream flooding (there

are no streams on the proposed site), erosion (steps shall be taken under the DOGAMI regulations to control overburden and erosion), landslides (slope control by DOGAMI will eliminate slide potentials), earthquake potential, weak soils or any other specific hazard. Based on all of these findings, we conclude that the proposed application will not adversely affect life or property with regard to natural disasters and that our approval protects life and property from natural disasters and hazards. Accordingly, our decision complies with Goal 7, and Goal 7 weighs in favor of protecting the site for mineral and aggregate uses.

GOAL 9

Goal 9 requires that adequate opportunities throughout the state be provided for a variety of economic activities vital to the health, welfare and prosperity of the state's citizens. We find that the proposed application provides significant benefit to the economy of both Yamhill County and the State. We find that mineral and aggregate resources are generally scarce in Yamhill County and that rock resources of the quality available on this site are rare in the county. We find that rock is an essential building block for the county and state economies as it is necessary for infrastructure projects (streets, roads, sewers, etc.) and is an essential construction material in the residential, commercial and industrial sectors. We find that rock is required for base purposes for all types of buildings and that rock is incorporated in construction through concrete, base materials, access roads and in many other ways. We find that rock products are essential to a healthy growing economy in the county and the state. We further find that this particular site has a large quantity of high quality rock material that will be available to the county for a significant period and, therefore, will be a significant economic asset to the county. We find that C.C. Meisel has a work force and payroll that are important in the county, and preserving a stable source of rock supply for the

company will assist in protecting jobs and payroll and thereby aid the economy of the county. We find that failure to preserve high-quality rock sites that are favorably situated to serve market areas can ultimately lead to higher prices and undependable levels of supply. We find that this could directly or indirectly increase the costs of roads in the county, the affordability of homes in the county, and the amount of tax revenue that must be used to purchase road construction and repair materials. We find that protecting this particular site protects a resource with the ability to serve Yamhill County with quality rock material that is important to the County's economic well-being. We further find that the site will be available for other types of economic uses (e.g., agricultural and forestry uses) on a declining basis while the rock operation is ongoing. We further find that once the rock operation has been completed at the site, the site will be reclaimed in a manner that allows the propagation and harvesting of forest/farm resources including timber and Christmas trees. We find that this site will remain available to assist in the improvement of the economy through forest and farm uses in the future.

For all these reasons, we find and conclude that Goal 9 is met and that our approval of the site will have a positive effect on the economy of the county and state. We conclude that Goal 9 strongly supports the protection and use of this resource site consistent with our decision.

GOAL 11

We find that the opponents argue that Goal 11 has applicability in this matter. Goal 11 generally provides that jurisdictions should plan and develop timely, orderly and efficiently arrangements of public facilities and services to serve as a framework for urban and rural development. We do not believe that the proposed use requires a significant level of public services and we do not believe that Goal 11 applies to our

decision. Nonetheless, in the event the goal would be deemed applicable, we make the following findings.

We find that the proposed use is a rural use for a number of reasons. First of all, rock extraction is a locationally specific use and rock extraction must occur where the resource is located. In Yamhill County, we find that rock resources are primarily and predominantly found in rural areas. We find that nearly all of the rock extraction activities within the county are located outside urban growth boundaries. We further find that this particular operator normally has its crushing and processing operations at the point of gravel extraction. We find that this is common with rock operators in the county. We find that some of the product that will be produced from the site will be used in the urban area, but we find that where the material is ultimately used, does not, in and of itself, define whether the activity itself is urban or rural in nature. For example, agriculture is a rural land use even though most food is consumed by urban residents. Because we find that rock resources in the county are predominantly located outside the urban areas and that processing activities normally occur at the site where the rock is located, we find and conclude that the proposed use is a rural development.

We find that the adjacent site is presently served by electrical power and that no changes need to be made to make sure of the availability of electrical service to the proposed site. We further find that adequate water is available on the site from an onsite well within statutory exemption or adequate water can be trucked to the site.

We find that the proposed site is served by a private, paved access road which connects to Walnut Hill Road. We find that after traveling a short distance on Walnut Hill Road (approximately one-quarter of a mile) access is gained to the Lafayette-Hopwell state highway. We find the opponents provided a videotape taken with a telephoto lens and other evidence and

tried to make the argument that access from the paved access road to Walnut Hill Road was not safe. We also find neighbors raised concerns regarding school bus safety. Our view of the site and evidence in the record convinces us that this is not the case. We find that the intersection of the access road and Walnut Hill Road is gated. The gate is set back from the road a significant distance, clearly enough to allow entering or exit trucks to get completely off the road in the event the gate is closed. We further find that the access point itself is broad and paved and provides an adequate and safe place for trucks to gauge oncoming traffic on Walnut Hill Road and safely enter Walnut Hill Road. We find that the nearby intersection with the state highway is protected by a stop sign. Accordingly, we find and conclude that transportation infrastructure in the area is sufficient for the proposed rural use.

Because we find the proposed use is rural use, we find that port-a-potties or other subsurface sewage disposal is adequate to serve the needs of the employees who will be on site. We find that this subsurface sewage disposal is used for residents in the general area and is sufficient for the purposes of the proposed use.

We find that transportation, water, sewage and electricity are the facilities and services which we determine to be suitable and appropriate for the needs of rural uses in the area. We further find that adequate levels of these services are presently available to serve the proposed rural use. Based on all these factors, we find, to the extent that it is applicable, that Goal 11 is met by the proposed use, and the goal mitigates in favor of the proposed use.

GOAL 12

Statewide Goal 12 requires the provision and encouragement of a safe, convenient and economic transportation system. We find that rock is a key raw material that is used to

produce transportation facilities such as roads, railroads, sidewalks and bikeways. We find that protection of adequate supplies of rock resources significantly advances the county's ability to have raw material available for construction of these types of transportation systems. We find that it is in the best interests of the citizens of the county to have mineral and aggregate resources available to assist in the development of transportation systems.

As indicated in our findings of Goal 11 above, we find that the proposed use is a rural use and requires a rural level of facilities, including transportation facilities. We find that the internal access road to the site is a paved road. We find that where the access road intersects Walnut Hill Road, there is a large paved pad that allows trucks exiting the site to safely stop and view oncoming traffic. The pad also allows trucks entering the site to pull completely off the road in the event the gate to this which guards the private access road is closed. We further find that it is a short distance, approximately one-quarter mile, from the access road to the intersection of the Lafayette/Hopwell state highway. The state highway provides transportation distribution to other roads and highways in the county. We further find that the existing Stephens Quarry has been in use for a number of yers and that truck traffic from this use has been safely accommodated on the existing road network in the area. We find that the use we have approved will continue to be safely and economically served by the existing transportation systems in the county. Based on these factors, we find and conclude that adequate transportation facilities are in place for the proposed use and that these transportation facilities are safe, convenient and economic for the proposed use. Accordingly, we find and conclude that statewide planning Goal 12 is satisfied and that Goal 12 weighs in favor of our decision to protect the proposed gravel site.

GOAL 13

Goal 13 requires the County to analyze any energy considerations for the proposed land use with an eye toward conserving energy. We find that the proposed site is immediately adjacent to an existing site which is zoned and planned for mineral resource use. We find that the applicant has operated crusher and batch plants under permitted uses on the adjacent site. We find that the availability of additional rock resource immediately adjacent to the existing batch plant and processing plant site will reduce the amount of truck transportation for rock resource because there is processing capability immediately adjacent to the proposed site. We find that reducing truck transportation saves energy because rock resources are moved in Yamhill County primarily by truck.

We further find that the site is located reasonably close to the McMinnville market area where a portion of the rock production is used. We find that locating rock sites that are reasonably close to a major market area in the county reduces the amount of transportation necessary to move rock material to where it will be used and, therefore, saves energy. We further find that close access to the state highway provides an excellent transportation facility for the distribution of rock from the quarry. We find that the state highway tends to make truck transportation more efficient because state highways are generally designed for more efficient travel (e.g., fewer stops, easier curves, etc.), as opposed to most county roads. We find that the availability of the state highway will help reduce energy use by delivery trucks. We find that nothing has been brought to our attention in this proceeding that would lead us to conclude that any portion of the activity at this site would increase the need for energy consumption as a result of the approval that we have granted.

For all these reasons, we find and conclude that the requirements of Goal 13 are met and that Goal 13 weighs in favor of our decision to protect the mineral and resource site.

GOAL 14

Opponents argue that Goal 14 has applicability to this proposed use. Goal 14 provides for an orderly and efficient transition from rural to urban land use. As we have previously discussed under Goal 11 above, we find that the proposed land use is a rural use, typically located on rural lands in Yamhill County. We find that rock extraction sites in the county typically require large acreages and that a large size parcel is not consistent with urban uses. We further find that in Yamhill County, most processing occurs at the site where extraction takes place, and in Yamhill County, extraction takes place predominantly in rural areas. We find that the material is used both in urban and rural areas, but that the end use of the product itself is not determinative whether the use is rural or urban in nature. Rather, we find that the practice in Yamhill County is that rock extraction and processing sites are located in rural areas and that the activity is predominantly rural in character. Based on all of these factors, we find and conclude that gravel extraction and processing activity is a rural resource activity and nothing in this process or in our decision permits a change in any use from rural to urban. Accordingly, we find and conclude that Goal 14 does not apply in this matter.

STATUTORY REQUIREMENTS

We find that the proposed use is a specific use listed in ORS 215.283(2)(b) and that mining, crushing, stockpiling and processing of aggregate and other mineral resources are permitted under this section subject to the requirements of ORS 215.298. We find that ORS 215.298 requires a permit for mining more than 1,000 cubic yards of material or excavation preparatory to mining

of a surface area of more than one acre. We find that the proposal before us is for permission to extract rock on an 80-acre parcel and a permit is necessary. We find that our approval in this matter is a permit as contemplated under ORS 215.298. We further find that a permit may be granted only for a site included on an inventory in the County's acknowledged Comprehensive Plan. We find that as part of our decision, we have so included this 80-acre parcel on Yamhill County's Comprehensive Plan. We find that the remaining provisions of ORS 215.298 define the term "mining" and do not have any direct bearing on the action which we take. Because we have included this 80-acre site on the Comprehensive Plan inventory and because we are granting a permit through this action, we conclude that the requirements of ORS 215.298 are satisfied.

For mining, crushing, processing, and stockpiling of aggregate or other mineral resources to be allowed on EFU land, we find that the provisions of ORS 215.296 must be addressed and satisfied. Those two provisions provide that a local government may approve the mining, processing, crushing and stockpiling use only where it finds that the uses will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

As a starting point in our analysis, we incorporate herein our findings and analysis under statewide Goals 3 and 4, above. We find that the statute requires a significant forced change in accepted farm practices on surrounding lands or a significant increase cost of accepted farm practices on surrounding lands. We believe that the use of the word "significant" in the statute limits rather than supplements the farmland protection that the statute affords. We believe that

ORS 215.296 recognizes that not every increase in cost or forced change in accepted farming practices is prohibited. Rather, to be significant, increased cost or forced change must, by itself or cumulatively, cause an important material, substantive, meaningful or serious change in accepted farming practices or increase in cost of accepted farming practices.

We do not limit the term "surrounding lands" to the parcels that are immediately adjacent to the 80-acre application site. Rather, surrounding lands as we use it in our findings refers to those lands within 1,000 feet of the outside perimeter of the 80-acre parcel under question. In determining what would constitute surrounding lands for purposes of analyzing the requirements of the state statute, we considered various distances from the perimeter of the proposed 80-acre parcel (e.g., 1,000 feet, one-quarter mile (1,320 feet), two thousand feet, and one-half mile (2,640 feet from the perimeter)) as an appropriate area to be designed "surrounding lands." From our review of the topographical maps of the area, other evidence, and our view of the site, we find that best definition for surrounding lands in this particular instance is the 1,000 foot distance, synonymous with the impact area, around the perimeter of the 80-acre parcel. We reach this conclusion based on the following factors.

We find that the 1,000-foot perimeter takes in all the different zones that are present in the general area, including the AF-20, AF-10, MR, and EF-40 zones. We further find that the topography of the 1,000-foot perimeter area is similar in nature to the topography of the general area, including property within a one-half mile perimeter. We further find that the kinds of agricultural/forestry uses that are common in the general area are found within the 1,000-foot impact area/surrounding lands area. For example, from the record and our site view, we find that there agricultural/forestry uses within the 1,000-foot perimeter of the site, including Christmas tree production,

timber production, pasture land, an unattended vineyard on a portion of the 80-acre parcel and domestic livestock production. We find these to be typical uses in the general area. We note that in the general area to the north is a larger vineyard and to the east are filbert and cherry orchards. Although these are outside the 1,000-foot perimeter, we also consider them to be typical of the types of farm crops, and corresponding farm practices which could be used within the impact area/surrounding lands area, as we have defined that term for this particular application. Because we find that quarry impacts will not extend beyond 1,000 feet, and have established this distance as the impact area, we further reason that surrounding lands, for purposes of analyzing changes to accepted farming and forestry practices, should be limited to those areas where an impact from the operation could occur. We find and conclude that this should be the 1,000-foot perimeter.

We incorporate by reference herein our analysis of conflicting uses and our analysis of Goal 4 in these findings. We find that forest practices occur in the general area. These practices are predominantly related to timber production. We find that on the 80-acre parcel, there is an existing stand of managed timber and on the parcels to the south, there are standing Douglas Fir trees and deciduous trees. We find that to the north of the parcel there are also trees, but these appear to not to be managed or dense enough for intensive commercial harvest. We find that the appropriate forest practices in the area are the planting and growing of trees for commercial harvest. As we have previously concluded with regard to Goal 4, and in our conflict identification and ESEE analysis, we do not believe that there is any significant conflict between the accepted forest practices and the mineral and aggregate use that we have approved in this application. Because we find no conflict, we also find that allowing the mineral and aggregate use to occur will not force any significant change in accepted

forest practices on surrounding lands nor will it increase the cost of accepted forest practices on surrounding lands. We find that those lands will still be available for the planting and harvesting of trees in the event that the landowners so choose to pursue these activities. We find that the mineral and aggregate activity to be approved on the 80-acre parcel will simply have no effect on forest practices on surrounding lands.

With regard to farm practices on surrounding lands, we find that the crops we have listed and observed in the area are typical of the crops that are grown or could be grown on surrounding lands. We find that the farm practices related to these crops include planting, growing, harvesting and irrigation of the crops as well as grazing and raising of livestock. We have analyzed the potential impacts of the proposed use (e.g., noise, dust and vibration) and find that those impacts will not cause significant conflicts on surrounding land uses. We incorporate our conflict analysis herein. Because we find that the types of activities that will occur in the rock operation do not create conflicts, we conclude that quarrying activities are essentially neutral to farm practices. We find and conclude, therefore, that the rock operation will not force a significant change in accepted farm practices on surrounding lands nor significantly increase the cost of accepted farm practices on surrounding lands. Our determination with regard to farm and forest practices is demonstrated to us most clearly by the fact that there is an existing mineral and aggregate operation, which has processing uses including batch plants immediately adjacent to the proposed 80-acre parcel. This existing operation is clearly part of the surrounding land pattern and we find that landowners in the area are still able to raise crops and livestock notwithstanding the presence of the mineral and aggregate use. This further strengthens our conclusion that the proposed use will not adversely affect accepted farm or forced practices in any significant way.

Neighbors brought to our attention during the hearing their concern that there would be adverse affects on the water supply in the area. Because we find that a standard farming practice is irrigation, we believe it is important to address this issue. We incorporate by reference herein our findings under Goal 6. In our analysis of Goal 6, we found that the proposed use will not adversely affect the quality or quantity of groundwater or surface water in the general area. Because we have reached the conclusion that there will be no adverse affect on the groundwater from the proposed operations, and because we have conditioned the operation in a manner that will protect groundwater resources consistent with our conclusion, we find and conclude that the proposed use will not force any significant change in accepted farm or forest practices on surrounding land or significantly increase the cost of accepted farm practices on forest land.

Based on all these factors, we find and conclude that the standards of ORS 215.296 are met by this application.

We find that opponents argue that several sections of ORS 197.175(2) are applicable approval criteria in this matter. ORS 197.175(2) concerns procedural requirements related to a local government's adoption of comprehensive plans and land use regulations. We do not believe that these are approval criteria for this decision. Nonetheless, we find that we have exercised our planning and zoning responsibilities in a manner that are consistent with the statutory requirements of ORS 197.175(2).

Opponents also argue that provisions of ORS 197.610-625 are applicable to the proposed use. These statutory provisions are post-acknowledgment procedures related to amendment of local land use regulations. We find these are not substantive approval criteria for the proposed use. Nonetheless, we find and conclude that we have reached our decision in compliance with the post-acknowledgment procedures set forth in ORS 197.610-625.

Opponents argue that ORS 197.732 applies as a substantive decision criteria in this matter. This statutory provision relates to goal exceptions. As we have previously concluded in these findings, the proposed use does not require a goal exception and, therefore, we find the provisions of ORS 197.732 are not applicable.

Opponents also argue that the provisions of ORS 215.203 apply to this proposed use. We find that ORS 215.203 contains EFU definitions, including definitions of "farm use," "current employment," "accepted farm practice," and other terms. We do not find this section to provide any substantive approval criteria. In any event, we have made detailed findings with regard to farm uses both with regard to the provisions of our Comprehensive Plan and Zoning Ordinance and statewide goals and statutes.

Petitioners also argue that ORS 215.243 is applicable in this matter. This statutory section sets out general agricultural land use policies which we do not find to be substantive approval criteria that are applicable to this proposed use. In any event, we find that ORS 215.243 must be read together with provisions of ORS 215.283(2) which specifically provides that the use we have approved may be permitted on EFU lands, when substantive standards are met. We have addressed all applicable substantive standards and, accordingly, find and conclude that ORS 215.243, to the extent that it has a substantive applicability to the decision that we have made, is met.

Finally, petitioners argue that ORS 215.253 is applicable approval criteria for our decision in this matter. This statutory provision generally prevents local governments from enacting regulation that would restrict or regulate farm practices and structures. We have made significant findings in this matter, which we incorporate herein by reference, to demonstrate our belief that the proposed use will not have a

significant adverse effect on farm practices or farm costs. Because we find that the proposed use will not create any significant adverse effects on farming or forest activities, we conclude that the proposed use will not restrict or regulate farm structures or farm practices as contemplated by the statute. We find that the decision we have made is to allow a use (mineral and aggregate mining and processing) which is recognized as an appropriate use on EFU lands by state statute. We find that our decision is to approve permissible land use, not to restrict or regulate farm structures or farm practices. In the event any portion of our decision would be deemed a restriction on farmland, we further find that in protecting the mineral and aggregate resource on the site, we are protection a valuable asset necessary for the current and future health, safety and welfare of our citizens, as described in these findings. For all these reasons, we find that to the extent it is deemed applicable, the requirements of ORS 215.253 are met by the proposed application.

PROGRAM TO MEET THE GOAL

We find that Goal 5 requires the county to develop a program to achieve the goal. We find that there is adequate information on the location, quality and quantity of the rock resource, and that we have determined it to be a significant resource. As such, we have included it on the comprehensive plan inventory, identified conflicting uses, considered and analyzed the economic, social, environmental and energy (ESEE) consequences of the conflicting uses, the impacts between Goal 5 resources and the conflicting uses, and have determined to protect the resource site by limiting conflicting uses. Under the program, we designate mineral and aggregate extraction and related uses which are allowed on the site subject to the conditions listed below. To assist us in reaching our conclusions and the resolution of conflicts we identified, we

have performed an analysis of the ESEE factors and discussed each factor in detail. Based on the ESEE analysis, it is our decision to protect the mineral and aggregate resource. The basic elements of the programs for protection are set out below.

A. Based on the ESEE and the ESEE conclusions, the requested Goal 5 mineral and aggregate resource site is designated for protection (a "3-C" determination under OAR 660-16-010(1)) in the Yamhill County Comprehensive Plan text and map, and placed on the Yamhill County rock inventory. These ESEE findings are incorporated into the comprehensive plan as part of the background materials thereto.

B. A limited use overlay is hereby placed on the 80-acre parcel to impose the following conditions:

1. The site shall be reclaimed to support the propagation of forest products. Reclamation shall be completed on any 20 acre portion of the site that has been mined but has been inactive for more than 10 years. Reclamation shall conform to the requirements of the Oregon Department of Geology and Mineral Industries. Groundwater recharge areas may be developed if consistent with the reclamation of the site for the propagation of forest products.

2. Extraction of the site shall be accompanied by advanced air track drilling to identify and delineate substantial perched zones. The methodologies for the advanced air track drilling program will be developed with the concurrence of the Oregon Department of Geology and Mineral Industries and the Oregon Water Resources Department. Based on air track drilling data, setbacks shall be established, with the concurrence of the Oregon Department of Geology and Mineral Industries and the Oregon Water Resources Department, to protect substantial perched zones that are encountered.

3. C.C. Meisel shall preserve existing vegetation within the extraction setback area along the border of the quarry and shall plant vegetative screening along the borders of the expansion site prior to quarry operations on the site. The applicant shall work with the Department of Geology and Mineral

Industries to store overburden and topsoil in berms along the edge of the site and plant the berms with a vegetative screen, if appropriate.

4. No asphalt batch plant, concrete pipe or similar manufacturing, or watchman's hut shall be allowed on the expansion site. Any such activities shall be confined to the MR-1 area of the existing Stephens quarry.

5. The setback requirements, environmental standards, screening standards and operation and safety standards set forth in Section 404.07 of the Yamhill County zoning ordinance are hereby imposed as conditions of approval.

6. The operator shall record a written statement that it recognizes the rights of adjacent landowners to conduct forest operations consistent with the Oregon State Forest Practices Act and the rules enacted thereunder. The written and recorded statement shall be recorded prior to the beginning of operations on the expansion site.

7. The applicant shall enter into an agreement and provide surety acceptable to the County Counsel which assures conformance to the standards set forth in YCZO Section 404.07, and insurance acceptable to the County Counsel to cover damages to, and replacement of, any domestic water supplies in the area which are caused by the subject mineral resource operations.

a. The amount of the surety shall be set by the County Counsel, in consultation with the Planning Director, but in no event shall the amount of the surety be less than \$500,000. The surety shall be in effect until the completion of mineral resource operations on the property. The County shall have the ability to draw against the surety in an amount necessary to correct any violations of YCZO Section 404.07. Disputes arising with respect to claims against the surety shall be resolved by binding arbitration pursuant to ORS Chapter 36.

b. The amount of insurance shall be set by the County Counsel, in consultation with the Planning Director, but

in no event shall it be less than \$1 million per claim and \$3 million in aggregate claims.

8. Upon completion of mineral and aggregate activities on the site, the site shall be reclaimed for agricultural/forest uses, including the propagation and harvesting of timber.

C. With regard to properties within the impact zone surrounding the 80-acre site:

1. The proposed mineral and aggregate use is defined as a "resource use" under Yamhill County Ordinance No. 541 adopted by the Board of Yamhill County Commissioners on November 4, 1992 by Board Order No. 92-04. The activities included within "resource use" definition of that ordinance shall include the mineral and aggregate extraction, stockpiling and processing, uses that approved herein.

2. The ability of the applicant to conduct its "resource use" in the 80-acre zone shall not be diminished by activities on surrounding properties. Accordingly, consistent with Ordinance No. 541, the county shall take no enforcement action against the resource use approved herein based on complaints by any conflicting use, as identified in these findings, that is located in the impact area after the date of this approval.

3. For the purposes of this land use action, we interpret the term "generally accepted" as that term is used in Ordinance No. 541, to include any mining practice or facility which is conducted or used in compliance with applicable state and federal laws, but, for purposes of determining compliance, any conflicting use listed in these findings, that is constructed after the date of our approval in this matter will be excluded. By this, we interpret our ordinance to mean that future uses that would be located in such proximity to the approved mineral and aggregate use, and, that would cause the mineral and aggregate use to fall

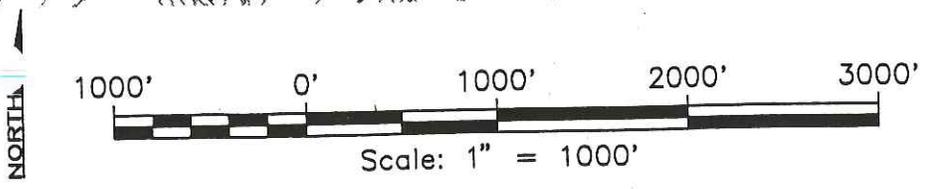
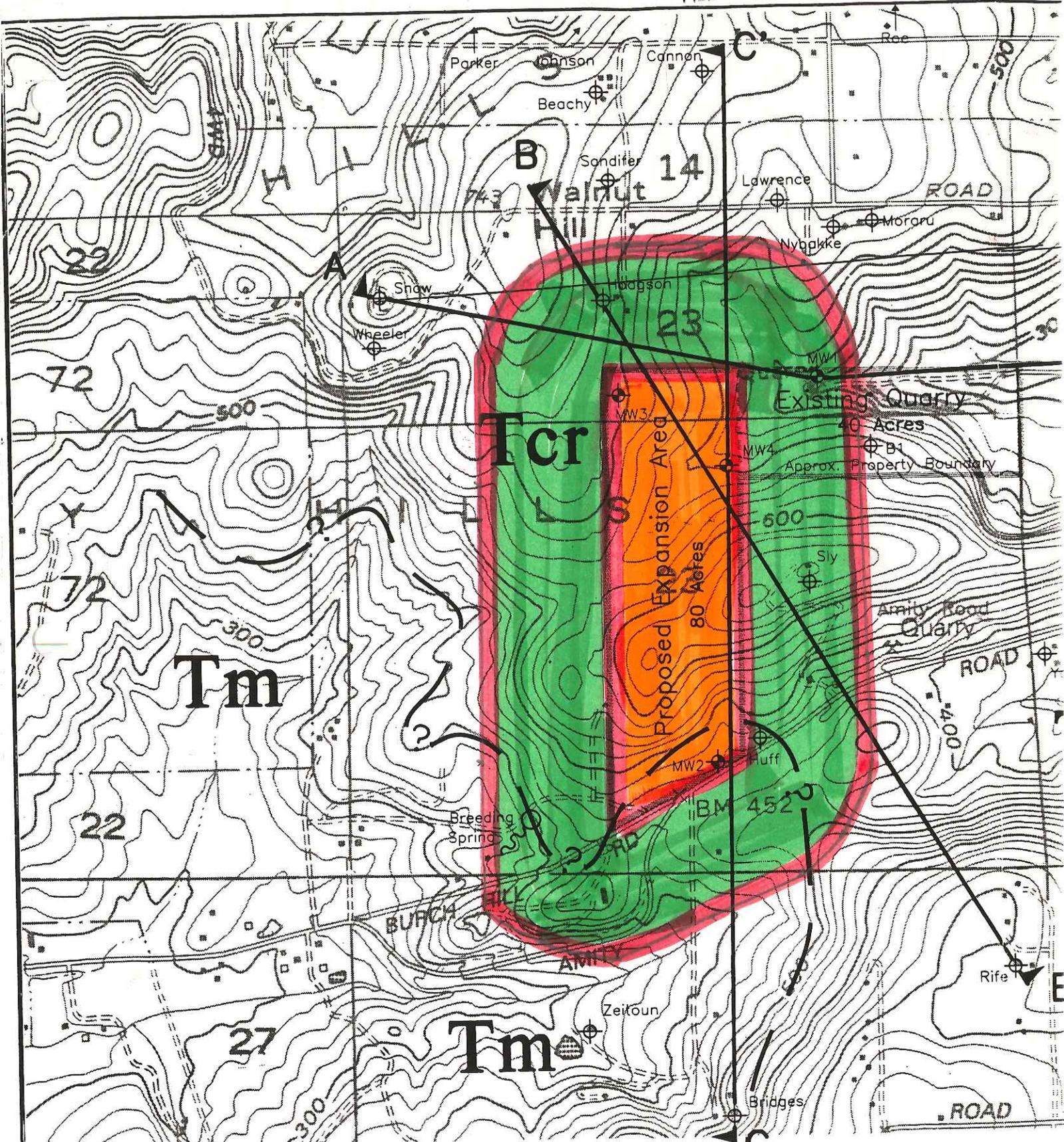
out of compliance with applicable laws or regulations, shall not be used as a basis for finding that any practice used by the mineral and aggregate operation, that was in compliance with applicable state and federal laws prior to the construction of the building or use, does not continue to be a "generally accepted" practice.

4. It is, and shall be, the policy of the county with regard to the 80-acre Goal 5 resource site that we approve herein, that noise, dust, vibration and other effects of the mineral and aggregate use shall not be considered a nuisance for any conflicting use as defined in these findings, that is constructed within the impact area after the date of this approval. The county shall inform the Oregon Department of Environmental Quality of the policy and shall also inform any regulatory or judicial body of the policy upon request of the applicant.

5. The county shall notify all property owners within the impact zone of the provisions of this subpart (c) through means reasonably calculated to give notice, and which may include, but are not limited to, mailing such notice, posting notice in the Planning Department's tax lot file, and/or posting notice in the Assessor's Records.

6. The county shall make a permanent notation of the applicability of Ordinance No. 541 and the Program to Meet the Goal, on the county's Comprehensive Plan maps, zoning maps and records, county assessor's maps and records, and any other county records reasonably calculated to apprise owners and future purchasers of the existence of the ordinance and program to meet the goal.

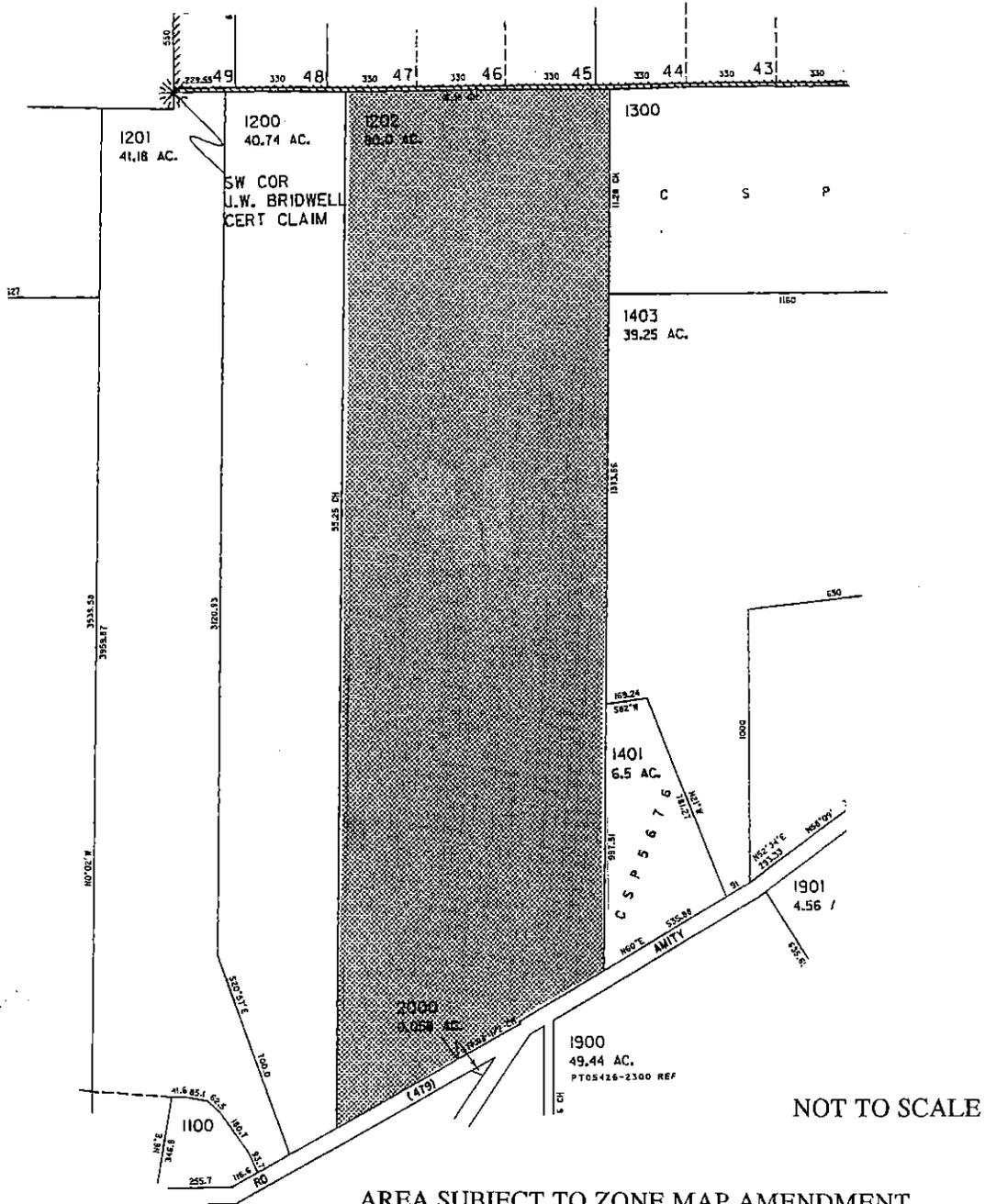
7. Prior to the issuance of building, occupancy or similar permit for any of the uses described in these findings as a conflicting use, the property owner(s) shall execute an "Affidavit of Mining/Resource Use" in the form attached hereto as Exhibit C, and such Affidavit shall be recorded in the real property records of the county.



 Approved Goal 5 Resource
 Impact Area
 Exhibit "B" -1 of 2
 Ordinance 614

EXHIBIT "B" FOR ORDINANCE No. 614

ZONING MAP AMENDMENT
TO CHANGE THE ZONING MAP
DESIGNATION FROM
"AF-20" AGRICULTURE/FORESTRY LARGE HOLDING
TO "MR-2" MINERAL RESOURCE



NOT TO SCALE

AREA SUBJECT TO ZONE MAP AMENDMENT
TAX LOT 5423-1202

PREPARED BY YAMHILL COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT

AFFIDAVIT ACKNOWLEDGING MINING/RESOURCE USE

FILM 60 PAGE 1743

Type or print all property owners names

I/we the undersigned do hereby affirm:

THAT I/we are the owner(s) or contract purchase(s) of the property described as follows, to-wit:

That the subject property is located near an area designated by Yamhill County for mining/resource uses. It is the county policy to protect mining operations from conflicting land uses in such designated areas. Accepted mining practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the mining operator's responsibility to modify accepted practices to accommodate the owner or occupants of the above described property, with the exception of such operator's violation of state law. However, with regard to state noise laws and regulations, a mining operation in compliance with noise standards prior to the construction of the new noise sensitive use referred to in this affidavit and within the defined impact zone of a protected Goal 5 mineral and aggregate resource shall be deemed by the undersigned to remain in compliance with state noise laws, requirements and standards..

That this affidavit is to complete the requirements for approval by Yamhill County in Docket No. _____ for the placement of a use on the above described property, and shall run with the land and is intended to, and hereby does, bind my/our heirs, assigns, lessees and successors.

In Witness Whereof, the said party has executed this instrument this ____ day of _____, 19__.

State of Oregon

County of _____

The foregoing instrument was affirmed before me this ____ day of _____, 19__.

Notary Public
My commission expires: _____

RECORDERS USE ONLY