

FILED

92-918

FOR THE COUNTY OF YAMHILL

1992 DEC 23 PM 1:48

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

COUNTY CLERK

In the Matter of an Ordinance )  
 Amending the Yamhill County )  
 Comprehensive Plan Map, Plan )  
 Inventory of Aggregate Sites, and )  
 Zoning Map, to Change, on a )  
 51.46 Acre Portion of Tax Lot )  
 5412-300, the Plan Map )  
 Designation From "Agricultural/ )  
 Forestry Large Holding" to "Quarry" )  
 and the Zone Map Designation )  
 from "EF-40 Exclusive Farm Use and )  
 "AF-20 Agriculture/Forestry" )  
 to "MR-2 Mineral Resource" for )  
 Expansion of an Existing Quarry; )  
 Docket PAZ-05-92; Applicant )  
 C.C. Meisel Co., Inc.; and )  
 Declaring an Emergency. )

ORDINANCE 547

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board), sat for the transaction of county business in special session on December 23, 1992, Commissioners Ted Lopuszynski, Debi Owens, and Dennis L. Goecks being present.

WHEREAS, on September 30, 1992, C.C. Meisel Co., Inc. ("Applicant") applied to the Department of Planning and Development for a Comprehensive Plan Map amendment from Agricultural/Forestry Large Holding to "Quarry" and a zone map amendment from "EF-40 Exclusive Farm Use" and "AF-20 Agriculture/Forestry" to "MR-2 Mineral Resource" on the 51.46 acre portion of Tax Lot 5412-300 identified on the attached Exhibit "B"; and

WHEREAS, on November 5, 1992 the Yamhill County Planning Commission held a public hearing to consider the application and thereafter voted unanimously to recommend to the Board that the Comprehensive Plan Map and Official Zoning Map be amended to grant the application; and

WHEREAS, on December 9, 1992 the Board held a public hearing on the application and voted unanimously to grant tentative approval to the application; and

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

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

92-918

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS as follows:

Section 1. The Yamhill County Comprehensive Plan Map is hereby amended as specified in the attached Exhibit "B", made a part of this ordinance by reference, to reflect a plan map designation of "Quarry" for the 51.46 acre portion of Tax Lot 5412-300 identified on Exhibit "B". The subject property is hereby added to the Comprehensive Plan inventory of aggregate mining sites pursuant to OAR 660-16-000(5)(c).

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 on the 51.46 acre portion of Tax Lot 5412-300 identified on Exhibit "B".

Section 3. The findings attached as Exhibit "A" and incorporated herein by this reference are 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 23rd day of December, 1992.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN  
County Clerk

Not available for signature

Chairman TED LOPUSZYNSKI

By: *Coral Ann White*  
Deputy JAYNIE MITCHELL

*Debi Owens*  
Commissioner DEBI OWENS

FORM APPROVED BY:

*John C. Pinkstaff*  
JOHN C. PINKSTAFF  
Assistant County Counsel

*Dennis L. Goecks*  
Commissioner DENNIS L. GOECKS

cc\qlu92345.001

ORDINANCE

Exhibit "A"

Findings for Approval

Date of Approval by Planning Commission: November 5, 1992  
Date of Preliminary Approval by Board of Commissioners December 9, 1992  
Date of Adoption of Implementing Ordinance and Final Decision: December 23, 1992

DOCKET: PAZ-5-92

REQUEST: Comprehensive Plan map amendment from Agriculture/Forestry Large Holding to Quarry and zone change from EF-40 Exclusive Farm Use to MR Mineral Resource for expansion of an existing quarry

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

TAX LOT: 5412-300

LOCATION: East of and adjacent to Starr Quarry Road approximately one-half mile south of the Stockhoff Road intersection.

FINDINGS:

A. Background Facts

1. Lot Size: The subject tax lot is 97 acres. The request applies to a portion of this lot.
2. Access: Starr Quarry Road, a paved county road.
3. On-Site Land Use: The area proposed for the zone change is in farm and woodlot use. Most of the property is relatively flat and is in farm use. Approximately the eastern third of the tract is a wooded west-facing hillside. There is an existing quarry on the property, but not in the area subject to this request. There are two dwellings on the property, one of which is on the County Inventory of Historic Resources (No. I-149). The elevation of the zone-change area ranges from less than 170 feet above sea level along Starr Quarry Road to about 350 feet at the east line.
4. Surrounding Land Use: The surrounding area to the north and west is on the valley floor and the use is characterized by large-scale agriculture with sparse residential development. According to the rural address maps, there are four dwellings within about one-half mile to the north and west. To the east, there is another quarry adjacent to the existing Starr Quarry, with farms on the

east side of the hill. There are no dwellings within one-half mile to the east. To the south of the proposed zone-change area, approximately 1000 feet of the subject parcel is already zoned MR, and is composed of a wooded hillside with a small field along Starr Quarry Road. Farther to the south, there is a rural residential subdivision (Woodland Heights). There are 64 parcels in this subdivision, and 48 currently support one or more dwellings. There is also rural residential use along Walnut Hill Road south of Woodland Heights. The closest of these dwellings is over one-quarter mile away. There are no dwellings within 500 feet of the proposed zone change.

5. Surrounding Zoning: Land to the east and south of the area subject to this request is zoned MR-1 Mineral Resource. To the north and west, zoning is EF-40 Exclusive Farm Use.

6. Soils: Sheet 43 of the Yamhill County Soil Survey indicates that the soils on the subject 51 acres are comprised of Willakenzie silty clay loam with a 30 to 45 percent slope on the hill in the east side of the zone-change area. This is rated Class VI for suitability for cultivation. The flat portions of the property, composing the northwestern two-thirds of the property is a mix of Dayton silt loam (Class IV), Amity silt loam (Class II) and Woodburn silt loam (Class II). This area is predominantly Woodburn and Amity.

7. Taxes: Farm deferral.

8. The proposed use of the more level portions of the zone change area is for set-up of the rock crusher and stockpiling of rock and spoils. The area on the slope to the east may be eventually quarried. Much of the hill is already zoned MR Mineral Resource; approval of the request would give the entire hill that designation.

9. The existing quarry on the property is on the county inventory of aggregate sites (No. 60). This inventory was accomplished in 1981 and 1982.

#### B. Applicable Oregon Revised Statute and Administrative Rule Provisions and Analysis.

1. The property is currently zoned EF-40 and AF-20, which are both exclusive farm use zones. Those zones allow, as a conditional use:

"Operations conducted for ... exploration, mining, and processing of aggregate and other mineral or subsurface resources ...".

Section 202 of the Zoning Ordinance defines "mineral resource site/operation" as:

"A tract of land from which mineral resources are removed, excavated, stockpiled, or processed for sale and

intended for use off-premise as commercial or industrial products ...".

Consequently, the use proposed for the subject property - crushing and stockpiling rock (Finding A.8) - is considered part of the quarry operation.

Oregon Revised Statute (ORS 215.298(2)) requires that a permit for aggregate mining in exclusive farm use zones be issued only for "a site included on the inventory in an acknowledged comprehensive plan." The proposal is for expansion of the operation at an inventoried site (Finding A.9). The new area is not currently part of the inventory site. The Plan amendment portion of this request is to add the new acreage to the county aggregate inventory.

The Board finds that no aggregate excavation activities will be conducted on the subject site and that the aggregate resource activities will be limited to crushing and processing. The only excavation activities will continue to take place on the nearby existing quarry on the property referred to in finding A.9, which is already on the county inventory of aggregate sites (No. 60).

The Board finds that the portion of the property which is the subject of this application should be added to the inventory because it will constitute an extension of the existing "mineral resource site/operation" which is defined by Section 202 of the ordinance to include mineral resources which are "stockpiled and processed". The zone change is not required; the applicant decided to request the zone change along with the Plan amendment rather than pursue a conditional use permit.

1.1 ORS 215.283(2)(b)(B) allows the establishment within an exclusive farm use zone of operations conducted for mining of aggregate and other mineral and other subsurface resources subject to ORS 215.298.

ORS 215.296(1) requires that a use allowed under ORS 215.283(2) may be approved only where a finding is made that the use 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.

The Board finds that the use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use based upon testimony of the farmer of the adjacent land (Stockhoff), who grows field crops (wheat and corn) that he does not object to the proposed operation.

The Board also finds that the use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use based upon testimony of the farmer of

the adjacent land (Stockhoff), who grows field crops (wheat and corn) who did not oppose the proposed operation.

2. Statewide Goal 5 reads:

"To conserve open space and protect natural and scenic resources."

Mineral and aggregate resources are specifically identified in the Goal as being a natural resource to be identified and protected. Oregon Administrative Rules (OAR) Chapter 660, Division 16, describes the requirements for complying with statewide Goal 5. This division requires that Goal 5 resources be inventoried by the county and determined to be "significant" or "not significant" based on the "location, quality, and quantity" of the resource site. Only significant sites are required to be placed on the inventory. The specific rule provisions that address these requirements are considered in the following findings.

3. OAR 660-16-000(2) requires determination of the location of the resource. Although most of the area proposed for the zone change is not targeted for aggregate extraction, the associated activities (crushing and stockpiling rock) are part of the operation and must therefore be included as part of the inventory site. A map has been provided (Exhibit A, page 19). The Board also finds that the impact area is the same as the boundaries of the resource site.

4. OAR 660-16-000(2) also requires a determination of the quality and quantity of the resource. This analysis has been accomplished for Starr Quarry (Exhibit C). Since the proposed zone change is to include mostly ancillary uses and only a small area, if any, that would potentially be used for extraction, further quantity and quality analysis is not required.

When the original inventory was completed, whether a site was considered "significant" was not stated using that term. However, from the range of actions taken, it is possible to deduce the intent of the decision-makers. The following designations were given to various aggregate sites:

- Quarry plan designation/Mineral Resource zone
- Quarry plan designation/Exclusive Farm Use zone
- Agriculture/Forestry plan designation/Exclusive Farm Use zone

It appears the first two categories were considered significant, and the final group not significant. Starr Quarry is in the first group.

5. OAR 660-16-005 requires identification of uses that may conflict with a significant inventoried site. During the original analysis, the only potential conflicting use identified was

residential use (Exhibit C, page 2). The earlier analysis concluded there had been no actual conflict, although there was a potential, especially with blasting. The proposal would result in a new location of rock crushing and stockpiling. This new location would be closer to some residences, but farther from the Woodland Heights subdivision to the south. There are residences to the south of the subject site which are more than 500 feet from the property and which are outside the impact area of this resource site. There are no conflicting uses upon the site and there are no conflicting uses within the impact area of the site.

However, even assuming that the residences outside the impact area could be considered potential conflicting uses, the residents who originally opposed the application (Chet and Linda Mazgay, based on concerns about noise, dust, property values roads and blasting stemming from another operation) subsequently said they did not oppose the application if the operation conformed to applicant's representations that there would be no increased traffic and that the subject operation would be conducted in a manner similar to the applicant's other aggregate operations so as to mitigate potential noise, dust, blasting, and visual screening concerns.

Therefore, the Board finds that there are no actual conflicting uses and no potential conflicting uses relative to this application.

6. OAR 660-16-005(2) requires that, if conflicting uses are identified, the economic, social, environmental, and energy consequences of the conflicting uses must be determined. This requires review of these consequences of the quarry on the conflicting use and of the conflicting use on the quarry.

For the reasons stated in paragraph B.5. above, the Board finds that there are no conflicting uses identified. However, if it is assumed that the residences outside the impact area are conflicting uses, then the Board finds as follows:

(a) Impacts of residential use on the revised quarry operation:

Regarding the economic consequences of residential use on the quarry, the operator does not use explosives in the mining operation, at least partly due to the proximity of the subdivision to the south, possibly increasing the cost of operation. This would be the case with or without the zone change, however. No environmental or energy consequences of residential use on the quarry operation have been identified. The social impacts of residential use include possible complaints regarding the method of operation of the quarry (e.g. early hour noise, excessive dust, truck traffic). Again, these impacts are likely to be the same with or without the requested zone change and alteration of the operation.

(b) Impacts of the revised quarry operation on residential use:

No energy or economic impacts have been identified. Regarding social (including aesthetic) impacts, the proposed new crusher/stockpile location would be more visible from Starr Quarry Road than the existing set-up, which is on the floor of the quarry. All of the residents of Woodland Heights use Starr Quarry Road. The applicant has, however, stated a berm would be constructed around the perimeter of the impacted area, which would shield it from view. In addition, provisions of the Zoning Ordinance require a planting of natural vegetation around mining operations. No information regarding whether truck traffic would change has been submitted, except that the application states there will be no changes in land use except for moving the crusher/stockpile location. The area eligible for excavation would be expanded because the MR zone currently does not extend to the bottom of the slope. Regarding environmental consequences, the operation will be run in a manner similar to the existing conditions, but in a different location. There is expected to be a similar amount of dust and noise, and they will be carried on farther from the potentially conflicting subdivision.

7. OAR 660-16-010 requires the county to develop a program to resolve conflicts by (1) protecting the resource site, (2) allowing conflicting uses fully, or (3) limiting conflicting uses. For the reasons stated in paragraph B.5. above, the Board finds that there are no conflicting uses identified. To the extent that any conflicting uses may potentially arise in the future, the Board finds that the resource site shall be protected against all conflicting uses by the MR-2 zone and that all conflicting uses on the site (which is also the impact area) shall be prohibited.

The Board finds that this is consistent with the County's previous action in which the county, during the original aggregate inventory process, protected some resource sites via the MR zone designation, and allowed other uses in some cases by zoning the site exclusive Farm Use (see also Finding B.4). The decision of the county was to protect this quarry from on-site conflicting uses.

#### C. Applicable Ordinance Provisions and Analysis.

1. The zone change portion of the subject request must comply with the standards and criteria in the *Yamhill County Zoning Ordinance* (YCZO) Section 1208.02. These provisions are:

(a) That the proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan.

(b) That 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.

(c) That 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.

(d) That other lands in the county already designated for the proposed use are either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors.

(e) That the amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable.

These criteria are addressed, respectively, in Findings C.2 through C.6, below.

2. The Board finds the proposed change is consistent with the goals, policies and provisions of the Comprehensive Plan as required by Section 1208.02(a). Regarding Comprehensive Plan goals and policies, the land is currently planned and zoned for farm use. Policy II.A.1.a states:

"Yamhill County will provide for preservation of farm lands 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 financial incentives."

In addition, Policy II.A.2.a states:

"Yamhill County will continue to preserve 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."

The site is predominantly Class II soil. However, Policies II.F.1.a. and b. state:

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

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."

The Board finds the foregoing policies are guidelines and not mandatory approval criteria. The inventory findings state there is a considerable quantity of rock at the site suitable for fill, embankment, and base (Exhibit C, page 2, Nos. 2 and 4). Most or all of the area suitable for excavation is already zoned MR, and there is a need for a processing area. The application implies that having the crusher and stockpiles in the quarry will restrict orderly expansion of the excavated area. Most of the proposed zone-change area is in Amity and Woodburn soils (Woodburn is prime farmland). The applicant has stated that due to topography and poor drainage, it is not very good farmland, and rents for only \$35.00 per acre per year. However, to the extent some far value will be lost, such farm value will be restored pursuant to the reclamation plan contained in the DOGAMI permit (Ex A-10).

3. The Board finds that there is a demonstrable need for uses to be allowed in the MR-2 zone as required by Section 1208.02(b). Alternative sites are not available (Exhibit A, page 5, Section H). The Comprehensive Plan recognizes a general need for aggregate resources, and the Board finds this site relates to fulfilling those specific needs.

4. The Board finds that the proposed change is appropriate considering the surrounding land uses, density, and pattern of development in the area, any changes in the county and the availability of sources as required by Section 1208.02(c). The rearrangement of the use will move part of the operation farther from a sensitive area, Woodland Heights subdivision, but closer to another, Starr Quarry Road. The immediate vicinity of the subject property is sparsely populated, but the road provides access for at least 48 residences in Woodland Heights, as well as others on Starr Quarry and Walnut Hill Roads. The use should not have a significant detrimental effect on the road, however, insofar as the quarry is already operating at the site. Needed public facilities and services are available to the site.

5. The Board finds that there are no other lands in the county designated, available, or as well-suited for the use as required by Section 1208.02(d) because the proposed use will be to support the existing quarry, there are no other lands currently on the aggregate sites inventory that would satisfy the applicant's needs. The area to the south of the proposed zone-change area is already designated MR and would be eligible for the use, but, due to topography and the existence of development, this area is not suitable for stockpiling and truck traffic.

6. The Board finds that the amendments is consistent with Oregon Administrative Rules as required by Section 1208.02(e). See Findings B-1 to B-6. No exception is required.

7. YCZO Section 404.07 lists standards that operators of aggregate quarries within the MR zones are required to observe. These operating standards regulate setbacks, screening, on-site roads, blasting hours, and reclamation. Noise and dust standards rely on

state regulations. The Board finds that these standards will apply to the new area, should the request be approved.

8. The YCZO contains two Mineral Resource zones: the MR-1 and the MR-2. The applicant has requested MR-2. The existing site is zoned MR-1. The only distinction between the two zones is that the MR-1 allows "portable concrete batching or portable hot-mix batching plants" while the MR-2 does not. ORS 215.301 states:

"No application shall be approved to allow batching and blending of mineral and aggregate into asphalt cement within two miles of a planted vineyard ...".

The quarry is within two miles of vineyards in the Amity Hills, according to the map *Vineyards of Yamhill County* (Oregon Grape Press, 1990). Consequently, the Board finds that the zoning designation of the subject property should be MR-2.

9. One of the dwellings on the subject property is on the county inventory of historic resources. Section 7(1) of the county Historic Preservation Ordinance states:

"No person shall alter a landmark or any significant resource in an historic district nor shall any new building or structure be constructed in an historic district or on a landmark site unless approval is first obtained under this section. In addition, no major public improvements shall be made on a landmark site or in an historic district unless approved by the (Historic Landmarks) Commission."

Whether a new structure will be built on the land subject to this zone change request has not been mentioned by the applicant. The boundaries of the "landmark site" have also not been defined. It construes the language "landmark site" as meaning the area immediately around the landmark, and not the entire parcel on which it sits. The proposed quarry operation would be separated from the historic landmark by a road and topography, and is therefore construed to be off the site. Because of this, combined with the absence of a request for a new building or structure, the Board finds that the request is not required to be forwarded to the Historic Landmarks Commission.

#### D. CONCLUSIONS.

1. The request is for an amendment to the Yamhill County Comprehensive Plan map from Agriculture/Forestry Large Holding to Quarry and a zone change from EF-40 Exclusive Farm Use and AF-20 Agriculture/Forestry to MR Mineral Resource.

2. Starr Quarry is a significant aggregate resource and is on the county inventory of aggregate sites.

3. The site already on the inventory does not include the area subject to this request.

4. The economic, social, environmental, and energy consequences of approval of the request are similar to those that are likely to result from continuation of the operation in its existing arrangement.

5. The request is consistent with the intent and purposes of the goals and policies of the Comprehensive Plan when considered as a whole.

6. The request is appropriate insofar as the quarry is already operating, and will need to be rearranged as areas get mined out. The surrounding area is sparsely populated, and part of the activities that create off-site impacts will be moved farther from the residential subdivision to the south.

7. There are no areas that will accommodate the proposed uses that do not require a zone change.

8. The Comprehensive Plan recognizes a need to develop aggregate resources.

#### DECISION

Based on the above findings, analysis, and conclusions, the application by C.C. Meisel Co., Inc. is granted to change the Plan Map designation from "Agriculture/Forestry Large Holding" to "Quarry" and the zone map designation from "EF-40" and "AF-20" to "MR-2" for a portion of Tax Lot 5412-300 and the subject property be added to the Comprehensive Plan inventory of aggregate sites.

cc\plan\meisel\wod