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FILED
YAMHILL COUNTY, OREGON
1993 APR 22 AM 8:23
CHARLES STERN
COUNTY CLERK
DENNY

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

93-256

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance)
Amending the Yamhill County)
Comprehensive Plan Map and)
Zoning Map to Change, on a)
1.18 acre portion of Tax Lots)
5423-1400 and 1401, the Plan Map)
Designation From Agriculture/)
Forestry Large Holding to Quarry,)
and the Zone Map Designation)
from AF-20 to MR-2; Planning)
Docket PAZ-1-93; Applicant Martin)
and Wright Paving Co.; and)
Declaring an Emergency.)

ORDINANCE 552

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board"), sat for the transaction of county business in special session on April 21, 1993, Commissioners Debi Owens and Dennis L. Goecks being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. Martin and Wright Paving Company ("Applicant") has applied to the Department of Planning and Development for a Comprehensive Plan Map amendment from Agriculture/Forestry Large Holding to Quarry and a zone map amendment from AF-20 to MR-2 on a 1.18 acre portion of Tax Lots 5423-1400 and 1402 identified on the attached Exhibit "B" and the entirety of Tax Lots 5423-1402 and 5424-1001.

B. On March 4, 1993 the Yamhill County Planning Commission held a public hearing to consider the application and thereafter voted to recommend denial of the application in whole; and the Board thereafter voted to review the application on its own motion.

C. On April 7, 1993 the Board held a public hearing on the application and voted unanimously to take the following action:

(1) Grant tentative approval for a plan map amendment and a zone map change for the 1.18 portion of Tax Lot 5423-1400 and 1401 identified on the attached Exhibit "B" from Agriculture/Forestry Large Holding to Quarry and AF-20 to MR-2; and

(2) Remand the remainder of the application to the Planning Commission for reconsideration in light of the mutual request of the applicant and opponents at the April 7, 1993 public hearing as explained in Exhibit "A".

D. The findings and conclusions attached hereto as Exhibit "A" and by this reference incorporated herein provide a justification for the Board's action of April 7, 1993.

E. 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,

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 1.18 acre portion of Tax Lot 5423-1400 and 1401 identified on 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 on the 1.18 acre portion of Tax Lot 5423-1400 and 1401 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. Except as affected by sections 1 through 3 of this Ordinance, the remainder of Planning Docket PAZ-1-93 is remanded to the Yamhill County Planning Commission for reconsideration in light of the joint request of the applicant and opponents as described in Exhibit "A".

Section 5. 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 21st day of April, 1993.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS



CHARLES STERN
County Clerk

Debi Owens
Chairman DEBI OWENS

By: *Jaynie Mitchell*
Deputy JAYNIE MITCHELL

Dennis L. Goecks
Commissioner DENNIS L. GOECKS

FORM APPROVED BY:

John M. Gray, Jr.
JOHN M. GRAY, JR.
Yamhill County Counsel

(Not Available for Signature)
Commissioner TED LOPUSZYNSKI

EXHIBIT "A"
Ordinance 552
Findings for Approval

BOARD HEARING: April 7, 1993

FINAL DECISION: April 21, 1993

DOCKET: PAZ-1-93

REQUEST: Comprehensive Plan map amendment from Agriculture/Forestry Large Holding to Quarry and zone change from AF-20 Agriculture/Forestry to MR-1 Mineral Resource for expansion of an existing quarry. Based on stipulation of applicant at Board hearing on April 7, 1993, zone change request was modified to MR-2.

APPLICANT: Martin & Wright Paving Co.

TAX LOTS: 5423-1400, 1401 and 1402 and 5424-1001. The Board's decision as set forth in this ordinance approved the request only to the 1.18 acre portion of Tax Lots 5423-1400 and 1401 identified in Exhibit "B" to this ordinance. The subject 1.18 acres is located to the northwest of the existing MR-1 property and is known as the "Sly property." Except as to the property affected by this ordinance, the remainder of the application was remanded to Planning Commission.

LOCATION: North of and adjacent to Amity Road (State Highway 153) approximately three miles east of Amity.

PROPERTY OWNERSHIP:

The tax lots on the east side are owned by the applicant. The property on the west side is owned by Richard Sly.

FINDINGS FOR APPROVAL:

A. Background Facts

1. Lot Size: The tax lots on the east side total 13.5 acres, and the property on the west side is 1.18 acres, for a total of 14.68 acres. This decision changes the plan and zone designation for the Sly property (1.18 acres) only.

2. Access: Amity Road, a state highway
3. On-Site Land Use: The subject property is in the Amity Hills. The property is on a south-facing slope with an elevation of about 400 feet above sea level at Amity road, rising to over 600 feet at the northwest corner. The land is in a fairly narrow valley. The areas proposed for the zone change are in woodlot use on the east and unmanaged scrub land on the west. There is an existing quarry on Tax Lot 5423-1500 (identified in the county inventory as the Anderson-A site), which is not in the area subject to this request.
4. Surrounding Land Use: The area is in mixed farm and forest use. Farm uses are predominantly livestock in the immediate vicinity, but orchards and field crops are raised in the general area. On the east side, adjacent use is woodlot. There are 14 dwellings within one-quarter mile and three within 500 feet of the proposed zone change area, according to the county address map. There is land about 1000 feet north of the existing quarry site zoned for mineral resource use, but staff does not know whether the site is currently being utilized for rock extraction.
5. Surrounding Zoning: All adjacent land is zoned AF-20 Agriculture/Forestry. There is farmland in the area zoned EF-40 Exclusive Farm Use. The quarry site to the north is zoned MR-1 Mineral Resource.
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 predominant being Stony land (Class VI). Others soils are Jory and Yamhill (Class IV due to slopes of over 20 percent).
7. Taxes: Farm deferral, except Tax Lot 5424-1001, which is on forest deferral.
8. The proposed expansion of the site includes new excavation on most of the proposed zone-change area. The south end of Tax Lot 5424-1001 is proposed for stock piling of crushed rock. Crushing activities will remain in the present location in the bottom of the old pit.
9. The existing quarry is identified on the acknowledged county inventory of aggregate sites as the Anderson-A site (No. 65). The analysis of the site during the inventory process (Exhibit C) concluded, "This quarry site has a stable record of good quality rock production" and indicated estimated rock reserves at 2,000,000 cubic yards at that time (Exhibit C, page 2). The analysis also anticipated the need for

additional land to the north of the high wall (Exhibit C, pages 2 and 3) ; the portion of this request to the northwest of the existing MR-zoned land includes that area.

10. During the April 7, 1993 hearing, the applicant indicated a willingness to rezone the existing quarry site to MR-2 (and thus prohibit a hot-batch operation on site) and decrease the area of expansion on the property to the east. County legal counsel advised the Board that the Board had no jurisdiction in the present proceeding to change the zone designation of the existing MR-1 quarry, and that another application would be necessary. The Board elected to consider the request as the the Sly property, but to remand consideration of the remainder of the application to be considered by the planning commission simultaneously with consideration of a new application by the applicant to rezone the existing quarry to MR-2.

B. Oregon Revised Statute and Administrative Rule Provisions and Analysis

1. Both areas of property subject to this request are currently zoned AF-20, an exclusive farm use zone. 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 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.
2. Statewide Goal 5 reads:

To conserve open space and protect natural and scenic resources.

Mineral and aggregate resources are specifically recognized 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. Most of the area subject to this request is proposed for excavation. The Sly property was predicted to be needed in 1981 at the time of the earlier inventory.
4. OAR 660-16-000(2) also requires a determination of the quality and quantity of the resource. This analysis has been accomplished for the existing quarry (see Exhibit C to application). 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 infer 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. The Anderson-A quarry is in the first group. The site was estimated to have 2,000,000 cubic yards in reserve 10 years ago (Finding A.9); about 490,000 cubic yards had been removed in the 30 years before analysis. It is unlikely that those reserves are contained entirely within the existing MR-zoned area because the line was drawn fairly tightly around the existing operation. This, combined with the forecast in 1981 that expansion to the north would be required, leads staff to the finding that there is significant aggregate resource on the portion of the zone change area northwest of the existing quarry.

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 (see application's Exhibit C, page 1). That appears to still be the case. No significant farming activity takes place immediately adjacent to the subject property. Rock crushing will take place in the same location as it is currently. The new location of excavation would be closer to some residences, but farther from others. The earlier analysis indicated there had been complaints to the county regarding heavy traffic and blasting but none recently at that time. There have been no complaints in recent years.
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.

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

Regarding the economic consequences of residential use on the quarry, the operation may be required to run in a different manner than if no residences were nearby, but that situation would be the same with or without the requested zone change. 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 MR zone requires buffering vegetation and setbacks from zone boundaries and existing dwellings. Noise and dust impacts will be substantially the same as the current operation produces. Regarding environmental effects, one reason for the requested zone change indicated to staff is that in order to quarry more rock from the existing area, the operator would be required to go below the groundwater table, and thus potentially impact water resources. Some dewatering is already taking place, and the water is or was being disposed of into a county road ditch. DOGAMI has already instructed the operator to revise their water disposal practices.

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. 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.
8. Oregon Revised Statutes Section 215.296 requires that the use not:

- (a) Force a significant change in accepted farming 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 letter from the owner of the northwestern property proposed for zone change (see Exhibit D to application) stated that he runs cattle on his property, does not use the subject land, and does not object to the request. The property on the east is surrounded by forest land. Buffer requirements in the MR zone should alleviate any potential conflict with these criteria.

C. 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. 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 sites are predominantly Class VI soil, although there are areas of Class IV 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 Comprehensive Plan commits the county to protect both farm and aggregate resources, so a determination regarding which use should prevail in this circumstance must be made. The inventory findings state there is a considerable quantity of rock at the site suitable for fill, embankment, and topping (Exhibit C, page 2). The areas that could be considered farmland are steep (Finding A.6) and mostly wooded. Livestock graze the Sly property, but it is not considered high quality farm ground. The good quality of the rock compared to the relatively low quality of the land

for farming make it reasonable for the Commission to find that the balance tips in favor of the aggregate.

3. Regarding criterion (b), the application states that alternative sites are not available (Exhibit A, page 5, Section I). The applicant stated that their needs are site-specific, and alluded to the site having a certain type of rock not readily available.
4. Regarding the appropriateness of the request, the northwest portion of the zone change is a relatively small expansion at the existing quarry site. This expansion will permit benching of a high wall in the quarry, making it safer for workers and residents of the adjacent property. Much of the available rock is apparently located in the eastern portion of the zone-change area. The fact the quarry already exists without apparent conflict also provides evidence the use is appropriate.
5. Regarding criterion (d), since the proposal is to expand the existing quarry, it is perhaps better-suited than alternative sites where no quarry exists. The application states, "There are no other sites in the county which would accomplish this need." The need referred to is "spec.-quality rock" but the special qualities are not described.
6. Regarding criterion (e), no exception is required.
7. YCZO Section 404.09 lists zone change criteria specific to the MR zone. These criteria are:
 - (a) That 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.
8. Based on the information in the Goal 5 analysis (Exhibit C), the request complies with criterion (a) above.
9. Criterion (b) is similar to the OAR requirements discussed in Findings B.5 through B.7 of this report. The economic,

social, environmental, and energy consequences of the request are addressed in Finding B.6.

10. 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. These standards will apply to the new area, should the request be approved.
11. The YCZO contains two Mineral Resource zones: the MR-1 and the MR-2. The applicant initially requested the MR-1 zone, but stipulated to a modification of the request to MR-2 at the April 7, 1993 hearing. 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).

CONCLUSIONS FOR APPROVAL:

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 AF-20 Agriculture/Forestry to MR Mineral Resource. The Board believes the plan amendment/zone change is presently appropriate for the Sly property only.
2. The existing quarry is a significant aggregate resource listed on the county inventory of aggregate sites.
3. The inventory site does not include the area subject to this request.
4. The economic, social, environmental, and energy consequences of approval of the request have been considered and have been found to support the Board's action.
5. Although the request apparently conflicts with the Yamhill County Comprehensive Plan goal of conserving farmland, the beneficial aspects of the project considering other Plan

policies balance the negative effects. The request is consistent with the intent and purposes of the goals and policies of the Plan when considered as a whole.

6. The request is appropriate insofar as the quarry is already operating, and impacts will be substantially the same as existing conditions.
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.
9. The site is within two miles of planted vineyards, so the MR-1 zone is inappropriate. Also, the applicant has stipulated to a modification of the application to MR-2.

DECISION:

The Board grants a plan map amendment from Agriculture/Forestry Large Holding to Quarry and a zone map amendment from AF-20 to MR-2 on that 1.18 acre portion of Tax Lots 5423-1400 and 1401 as identified on the attached Exhibit "B". The remainder of the planning docket is remanded to the Yamhill County Planning Commission in accordance with the implementing ordinance.

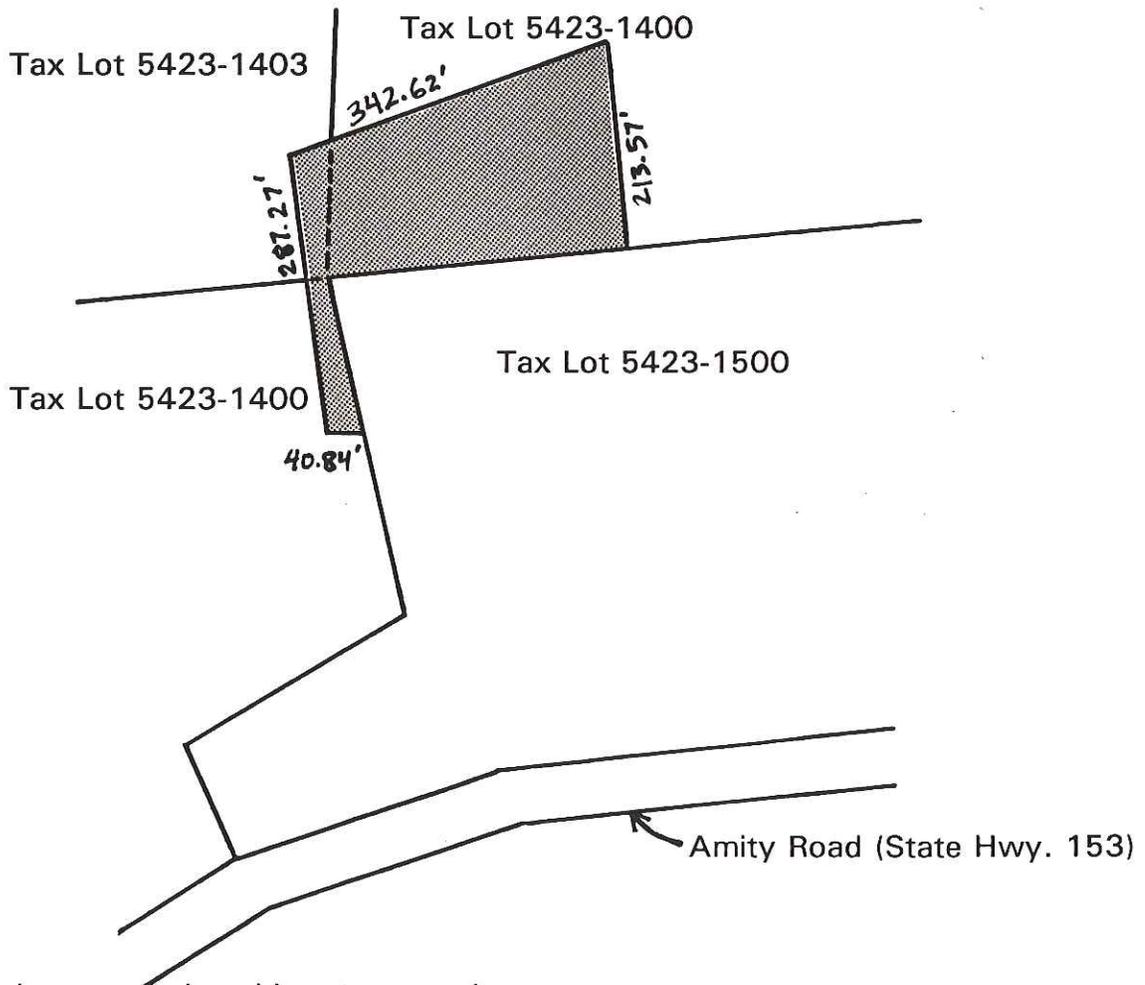
EXHIBIT "B" FOR ORDINANCE 552

COMPREHENSIVE PLAN AND ZONING MAP AMENDMENT

TO CHANGE THE COMPREHENSIVE PLAN
MAP DESIGNATION FROM
"AGRICULTURE/FORETRY LARGE HOLDING"
TO "QUARRY" NAD THE ZONE
FROM AF-20 AGRICULTURE/FORESTRY
TO MR-2 MINERAL RESOURCE



Scale - 1" = 200'



Shaded area only is subject to amendment

Map prepared by Yamhill County Department of Planning and Development