

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

93-417

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 10.2 acre portion)
 of Tax Lots 5423-1402 and 5424-1001, 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); Amending the)
 Zoning Map to Change, on Tax Lot 5423-1500,)
 the Zone Map Designation from MR-1 to MR-2)
 (Planning Docket Z-2-93); Applicant Martin)
 and Wright Paving Co.; Declaring an Emergency)

ORDINANCE 555

FILED
 YAMHILL COUNTY, OREGON
 1993 JUN 25 PM 3:34
 CHARLES STEPHEN
 COUNTY CLERK

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board"), sat for the transaction of county business in special session on June 23, 1993, Commissioners Debi Owens, Dennis L. Goecks and Ted Lopuszynski being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. On April 21, 1993 the Board adopted Ordinance 552. Ordinance 552 granted some, but not all, of a request by Martin and Wright Paving Company ("Applicant") in Planning Docket PAZ-1-93. Ordinance 552 granted 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 a map attached as Exhibit "B" to the ordinance. At the same time, the Board remanded to the Planning Commission the applicant's request for a similar plan amendment and zone change on Tax Lots 5423-1402 and 5424-1001.

B. On May 6, 1993, the Planning Commission reconsidered the application as to Tax Lots 5423-1402 and 5424-1001. The applicant had amended the request by decreasing the total amount of acreage sought for the plan and zone map change by withdrawing the north 200 feet of Tax Lots 5423-1402 and 5424-1001 in order to provide an additional buffer between quarry activities and adjoining property owners. At the same time, the Planning Commission considered the applicant's request in Planning Docket Z-2-93 for a zone map amendment from MR-1 to MR-2 on an existing 16.13 acre quarry site known as Tax Lot 5423-1500. The Planning Commission unanimously recommended that the Board change the plan map and zone map designations as requested on Tax Lots 5423-1402 and 5424-1001. The Planning Commission also unanimously approved the zone map change from MR-1 to MR-2 on Tax Lot 5423-1500. Thereafter, the Board voted to review both docket items in a single public hearing on June 9, 1993. On June 9, 1993, the Board held a joint public

hearing on PAZ-1-93 and Z-2-93 and voted unanimously to uphold the Planning Commission's actions on PAZ-1-93 and Z-2-93.

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 June 9, 1993. 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 that portion of Tax Lots 5423-1402 and 5424-1001 identified on Exhibit "B". The Comprehensive Plan Goal 5 Inventory is amended to include the identified property.

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 that portion of Tax Lots 5423-1402 and 5424-1001 identified on Exhibit "B".

Section 3. 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 entirety of Tax Lot 5423-1500 as identified on Exhibit "B".

Section 4. The findings attached as Exhibit "A" and incorporated herein by this reference are adopted in support of this ordinance.

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 23rd day of June, 1993.

ATTEST

CHARLES STERN
County Clerk

By: Jaymie Mitchell
Deputy JAYNIE MITCHELL

YAMHILL COUNTY BOARD OF COMMISSIONERS

Debi Owens
Chair DEBI OWENS

Dennis L. Goecks
Commissioner DENNIS L. GOECKS

FORM APPROVED BY:

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

Ted Lopuszynski
Commissioner TED LOPUSZYNSKI

EXHIBIT "A"
Ordinance 555
Findings for Approval

**PLANNING
COMMISSION
HEARING:**

May 6, 1993

BOARD HEARING:

June 9, 1993

**BOARD FINAL
DECISION:**

June 23, 1993

DOCKETS:

(a) PAZ-1-93 (except for that portion affected by Ordinance 552)

(b) Z-2-93

REQUESTS:

(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 for expansion of a quarry (Docket PAZ-1-93)

(b) Zone change from MR-1 to MR-2 on the existing quarry site (Docket Z-2-93).

APPLICANT:

Martin & Wright Paving Co.

TAX LOTS:

Docket PAZ-1-93: 5423-1402 and 5424-1001
Docket Z-2-93: 5423-1500

LOCATION:

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

FINDINGS:

A. Background Facts

1. The request is in two parts. The first is a new visitation of a portion of the request made under Docket PAZ-1-93 for expansion of the Anderson-A quarry, considered by the Planning Commission on March 4, 1993. The Board of Commissioners considered this request on April 7, 1993, and approved a portion of the request while remanding the remainder to the Planning Commission. (Ordinance 552, April 21, 1993.) The applicant has amended the earlier application by removing the north 200 feet of Tax Lots 5423-1402 and 5424-1001 from the request, and requesting an MR-2 designation rather than MR-1.

The applicant also made a separate request for a zone change from MR-1 to MR-2 on the existing quarry (Tax Lot 5423-1500). This request (Docket Z-2-93) is also addressed in these findings. Both docket items were heard in a joint public hearing on June 9, 1993.

2. Lot Size: Docket PAZ-1-93 - approximately 10.2 acres
Docket Z-2-93 - 16.13 acres

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 about 600 feet at the northwest corner. The land is in a fairly narrow valley. The areas proposed for the Plan amendment are in woodlot use, while the straight zone change area is in quarry use.
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.
5. **Surrounding Zoning:** All adjacent land is zoned AF-20 Agriculture/Forestry. There is farmland in the area zoned EF-40 Exclusive Farm Use.
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:** Tax Lot 5423-1402 - Farm deferral
 Tax Lot 5424-1001 - Forest deferral
 Tax Lot 5423-1500 - Industrial
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. "Portable concrete batching or portable hot-mix batching plants" are permitted in the MR-1 zone, but not the MR-2. The only consequence of the zone change on the existing quarry is that this use would no longer be permitted outright; conditional use approval would be required.
10. 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 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. The analysis also anticipated the need for additional land to the north of the high wall; the portion of this request to the northwest of the existing MR-zoned land includes that area.

B. Oregon Revised Statute and Administrative Rule Provisions and Analysis

1. The area of property subject to the Plan amendment request is 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.10). 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 for either request; the applicant decided to request the zone change along with the Plan amendment rather than pursue a conditional use permit. Only the Comprehensive Plan amendment portion of the request is considered in Section B of this report.

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 northwestern portion was predicted to be needed in 1981 at the time of the earlier inventory. The applicant informed staff that a previous owner of the property on the east side of the existing quarry was evaluated for its suitability for extraction. It was found to be suitable, and the applicant concurs. The quantity of rock estimated to be at the site supports this finding (see Finding B.4 for further discussion).
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. 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.10); 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. 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. The revised request results in the new excavation area being 200 feet farther from a residence to the northeast than the original proposal.
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, although in different areas. 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 property 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 requests 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 expansion site is 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. The areas that could be considered farmland are steep (Finding A.6) and mostly wooded. 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.

The existing quarry site has been committed to that use for a number of years, so it has been previously committed to non-farm use.

3. Regarding criterion (b), the application states that alternative sites are not available. The applicant stated at the earlier hearing that the site has a quality of rock not readily available. Regarding the zone change on the existing quarry, the issue is not what uses would be permitted, but which would no longer be allowed. Changing the zone so that batching is no longer permitted outright would not conflict with criterion (b) above.
4. Regarding the appropriateness of the request, available rock is located in the Plan amendment area. Its location next to an existing quarry also leads to a finding that the area is appropriate. Regarding the zone change of the existing quarry, the area is in some ways undesirable for a batch plant, so the MR-2 zone would be more appropriate than the existing MR-1 designation.
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." At the previous hearing, the applicant explained that the quality of rock available at the subject site is very high, and not readily available, even at other existing quarries.

Regarding the zone change on the existing quarry, again, it is not the uses permitted by the new zone that are at issue, but rather one permitted in the existing district. Changing the zone so there is one less permitted use will not conflict criterion (d).

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, 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. The amended application, comprised of less land than the original request, was revised in order to reduce conflicts with adjacent uses.
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.

CONCLUSIONS:

1. One 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-2 Mineral Resource. The second is for a zone change from MR-1 to MR-2.
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 the Plan amendment request.
4. The request is appropriate insofar as the quarry is already operating, and impacts will be substantially the same as existing conditions.
5. There are no areas that will accommodate the expansion area that do not require a zone change.
6. The Comprehensive Plan recognizes a need to develop aggregate resources.
7. The Comprehensive Plan amendment request is consistent with Statewide Goal 5, the goals and policies of the Yamhill County Comprehensive Plan, and the zone change criteria of the Yamhill County Zoning Ordinance.
8. The zone change request is consistent with the zone change criteria of the Yamhill County Zoning Ordinance.

DECISION:

The requested plan amendment/zone change on Tax Lots 5423-1402 and 5424-1001 (Docket PAZ-1-93) and zone change on Tax Lot 5423-1500 are hereby granted.

EXHIBIT "B" FOR ORDINANCE 555

COMPREHENSIVE PLAN AND ZONING MAP AMENDMENT

TO (A) CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM "AGRICULTURE/FORESTRY LARGE HOLDING" TO "QUARRY" AND THE ZONE FROM AF-20 AGRICULTURE FORESTRY TO MR-2 MINERAL RESOURCE AND (B) CHANGE THE ZONE FROM MR-1 TO MR-2 MINERAL RESOURCE FOR CERTAIN LANDS IN THE COUNTY

