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THE DALLES OR.

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KAREN R. LEBRETON
COUNTY CLERK

IN THE COUNTY COURT OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF THE DECISION ON THE REQUEST BY DEAN PHETTEPLACE FOR A COMPREHESIVE PLAN AMENDMENT TO ADD A 24.3 ACRE AGGREGATE RESOURCE SITE TO THE WASCO COUNTY COMPREHENSIVE PLAN ON A 174.96 ACRE PARCEL IN THE "A-1 (160) EXCLUSIVE FARM USE ZONE (FILE # CPA-98-103-WAA1)	)	ORDINANCE

NOW ON THIS DAY, the above-entitled matter having come on regularly for consideration, said day being one duly set in term for the transaction of public business and a majority of the Court being present; and

IT APPEARING TO THE COURT: That on 25 June 1998 the applicant, Dean Phetteplace, submitted an application to obtain a Comprehensive Plan Amendment to add a 24.3 acre aggregate resource site to the Wasco County Comprehensive Plan on a 174.96 acre parcel in the Exclusive Farm Use zone (File # CPA-98-113-WAA1). The applicant simultaneously submitted an application for a Conditional Use Permit (File # CUP-98-113-WAA1) to allow extraction, crushing, and screening of aggregate on the same site. The proposed operation is on a portion of the subject property located on the east side of Three Mile County Road, approximately 9/10 of a mile south of its intersection with Dry Hollow Road, and is further described as Township 1 North, Range 13 East W.M., Tax Lot 1000; and

P980282 (11)

IT FURTHER APPEARING TO THE COURT: That on Tuesday, 4 August 1998, at 3:00 p.m., in the Columbia Gorge Community College, Boardroom #1.162, 400 E. Scenic Drive, The Dalles, Oregon, the Wasco County Planning Commission met to conduct a legally notified quasi-judicial public hearing on the above matter. Those members of the Commission present were determined to be qualified to hear the matter. Chairperson Sandee Burbank read the rules of evidence and opened the hearing. The Commission reviewed the record, heard the staff report, and received all testimony and evidence, then closed the public hearing. The Commission then deliberated, resulting in a 7 - 0 vote to approve the Conditional Use Permit and forward a Recommendation (Exhibit A) to the Wasco County Court to approve the Comprehensive Plan Amendment to add a 24.3 acre aggregate resource site to the Wasco County Comprehensive Plan on a 174.96 acre parcel described as Township 1 North, Range 13 East W.M. Tax Lot 1000, subject to nineteen conditions listed in CUP 98-113-WAA1; and

IT FURTHER APPEARING TO THE COURT: That on Tuesday, 2 September 1998, at 11:00 a.m., in the County Courtroom, Room 202, of the Wasco County Courthouse, The Dalles, Oregon, this Court met to conduct a quasi-judicial public hearing on the above matter. The members of the Court were determined to be qualified to hear the matter; and

IT FURTHER APPEARING TO THE COURT: That the Court reviewed the record of the Planning Commission, heard the Staff Report and received testimony and evidence from the parties and closed the hearing for further input. The Court then deliberated, resulting in a 3 to 0 vote to approve the request by Dean Phetteplace for a Comprehensive Plan Amendment to add a 24.3 acre aggregate resource site to the Wasco County Comprehensive Plan. Based upon

P980282 (11)

the full record and evidence and testimony presented, the Court, being fully appraised in the premises, did hereby make the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Proper notice was given and the hearing was held in accordance with procedural rules for quasi-judicial hearings and in conformity with said requirements as set forth in the Wasco County Comprehensive Plan.

2. Three (3) members of the County Court were present and were qualified to sit as decision-makers after full disclosure was made and the matter of qualifications was discussed by the Commission.

3. In making its decision, the Court recognizes the procedural and legal requirements of the Wasco County Comprehensive Plan and the Wasco County Land Use and Development Ordinance and weighed fully each requirement in arriving at its decision.

4. The Court acknowledges and accepts the Findings of Fact in the Recommendation made by the Wasco County Planning Commission, dated 10 August 1998.

5. The Court understands that by approving the request to add a 24.3 acre site to the Comprehensive Plan Aggregate Inventory List, the applicant has fulfilled the first of nineteen conditions of Conditional Use Permit 98-113-WAA1A passed by Wasco County Planning Commission Resolution 98-104 on 10 August 1998. The Conditional Use Permit will allow extraction, crushing, and screening of aggregate on the same area of Township 1 North, Range 13 W.M., Tax Lot 1000 that Comprehensive Plan Amendment 98-103 will add to the Wasco County Comprehensive Plan Aggregate Inventory List.

CONCLUSIONS OF LAW

1. The Wasco County Court acknowledges and accepts all original findings and conclusions made by the Planning in their 10 August 1998 Recommendation.

NOW, THEREFORE, IT IS HEREBY RESOLVED: That the Wasco County Court grants the request by Dean Phetteplace for a Comprehensive Plan Amendment to add a 24.3 acre aggregate resource site to the Wasco County Comprehensive Plan on 174.96 acre parcel described as Township 1 North, Range 13 East W.M., Tax Lot 1000; subject to the nineteen conditions in Conditional Use Permit 98-113-WAA1 listed below:

1. The applicant is required to receive approval by the Wasco County Court to include the identified extraction area as a potential site on the Wasco County Comprehensive Plan "Potential Site" inventory list prior to commencing aggregate extraction operations (#CPA 98-103-WAA1-58P).

2. The applicant shall provide an approved reclamation plan and an operating permit from DOGAMI to the Wasco County Planning Department prior to commencing aggregate operations. The reclamation plan shall include a drainage/erosion control plan for Three Mile Creek.

3. The stream setback shall be no less than 100 feet (or as recommended by DOGAMI permit whichever distance is greater) and all existing riparian vegetation shall be protected and maintained.

4. In the event that DOGAMI does not require a reclamation plan, Wasco County Planning shall require a reclamation plan that shall be of the general quality required by DOGAMI. This reclamation plan shall be submitted to and approved by planning staff prior to commencement of aggregate extraction operations.

5. To ensure the extraction area maintains the rural character of the area the applicant shall conduct reclamation concurrently with aggregate extraction operations.

6. Crushing and extraction of aggregate shall be limited to 7:30 a.m. - 5:30 p.m. Monday through Friday. Hauling of aggregate and equipment maintenance shall be limited to official daylight hours Monday through Saturday.

7. Aggregate operations shall not exceed 55 DBA at the subject parcel's property line.

8. The applicant shall minimize, to the greatest extent practicable, dust created by aggregate operations on the subject parcel. Dust abatement shall consist of, but not be limited to, spraying water on all areas likely to cause dust.

9. To further address dust abatement, if the applicant engages in any aggregate crushing on the subject parcel he shall obtain a permit from the Department of Environmental Quality.

10. The applicant shall ensure that the pipeline which runs through the extraction area providing water to the parcel to the north and west is not damaged by operations. In the event that the pipeline is damaged during aggregate extraction, the applicant shall repair the pipeline as soon as possible so as not to cause the two properties with the water rights any negative impacts due to a lack of water.

11. The applicant shall submit a water supply plan to the Planning Department for approval prior to commencement of operations.

12. Prior to commencement of aggregate activities the applicant shall provide a letter to the planning department obtained from Wasco Electric Cooperative which indicates their concurrence that the proposed aggregate operation will not negatively impact their power lines or that an arrangement has been made acceptable to both parties in regards to the power lines.

13. Prior to commencement of aggregate operations the applicant shall submit a detailed plan of improvements to the extraction area access road where it meets Three Mile County Road. The plan shall be approved by the Department of Public Works and include:
    -The dimensions of the increase in width and entrance radius
    -Where the fence will be relocated, including distances, to allow for trucks to park while opening and closing gate
    -200 foot sight distance area where brush will be cleared
    -Sight line distances

14. Prior to commencement of aggregate operations the applicant shall have the existing road approach permit for the subject parcel amended to include the improvements listed in condition 13 above.

15. Trucks hauling loads from the extraction site shall be adequately contained or covered to prevent rock spillage onto the roadway. In addition, any significant amount of rock detectable at that intersection of the access road and Three Mile Road shall be cleared by the applicant regularly to insure traffic safety.

16. The applicant shall remove the 24.3 acre proposed extraction site from agricultural tax deferral if this request is approved.

17. While the existing manufactured home remains within the extraction area the applicant shall maintain a 50 foot buffer around its perimeter to ensure its safety from any negative effects associated with aggregate operations.

18. Due to the existence of geological hazards located on the subject parcel, prior to commencing any aggregate extraction operations, the applicant shall obtain a written report by an engineering geologist or an engineer who certifies they are qualified to evaluate soils for suitability. The written report shall certify that the development proposed may be completed without threat to public safety or welfare.

19. The operator of the pit shall provide a "Stop sign" at the entrance to Three Mile Road and "Truck Crossing" signs facing both sides of oncoming traffic on Three Mile Road when operations are being conducted.

980282 (11)

Regularly passed and adopted by the County Court of the County of Wasco, State of Oregon

DATED this 16th day of September, 1998.

WASCO COUNTY COURT

John Mabrey, Judge

Scott McKay, Commissioner

Dan Ericksen, Commissioner

Approved as to Form:

Bernard L. Smith
Wasco County District Attorney

P980282 (11)

IN THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF THE REQUEST BY DEAN PHETTEPLACE OBTAIN A CONDITIONAL USE PERMIT TO ALLOW EXTRACTION, CRUSHING AND SCREENING OF AGGREGATE ON 24.3 ACRES OF A 174.96 ACRE PARCEL IN THE A-1 (160) EXCLUSIVE FARM USE ZONE (FILE # CUP 98-113-WAA1-58P)	)	RESOLUTION 98-104

NOW ON THIS DAY, the above-entitled matter having come on regularly for consideration, said day being one duly set in term for the transaction of public business and a majority of the Commission being present; and

IT APPEARING TO THE COMMISSION: That on 25 June 1998 the applicant, Dean Phetteplace, submitted an application to obtain a conditional use permit to allow extraction, crushing and screening of aggregate on 24.3 acres of a 174.96 acre parcel in the A-1 (160) Exclusive Farm Use zone (File #CUP 98-113-WAA1-P). The proposed operation is on a portion of the subject property located on the east side of Three Mile County Road, approximately 9/10 of a mile south of its intersection with Dry Hollow Road, and further described as Township 1 North, Range 13 East W.M., Tax Lot 1000; and

IT FURTHER APPEARING TO THE COMMISSION: That on Tuesday, 4 August 1998, at 3:00 p.m., in the Columbia Gorge Community College, Boardroom #1.162, 400 E. Scenic Drive, The Dalles, Oregon, the Wasco County Planning Commission met to conduct a legally notified quasi-judicial public hearing on the above matter. Those members of the Commission present were determined to be qualified to hear the matter. Chairperson Sandee

P980282 (11)

EXHIBIT A
1 of 5

Burbank read the rules of evidence and opened the hearing. The Commission reviewed the record, heard the staff report, and received all testimony and evidence, then closed the public hearing. The Commission then deliberated, resulting in a 7 - 0 vote to approve the Conditional Use Permit; and Based upon the full record and evidence and testimony presented, the Commission, being fully apprised in the premises, did hereby make the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Proper notice was given and the hearing was held in accordance with procedural rules for quasi-judicial hearings and in conformity with said requirements as set forth in the Wasco County Comprehensive Plan.

2. Seven (7) members of the Planning Commission were present and were qualified to sit as decision-makers after full disclosure was made and the matter of qualifications was discussed by the Commission.

3. In making its decision, the Commission recognizes the procedural and legal requirements of the Wasco County Land Use and Development Ordinance and weighed fully each requirement in arriving at its decision.

4. The Commission recognizes and adopts the findings of fact in the Staff Report presented to them and made a part of this record at the hearing held on 4 August 1998.

CONCLUSIONS OF LAW

1. The Commission adopts the Conclusions of Law as set forth in the Staff Report dated 28 July 1998.

2. The applicant met the burden of proof, demonstrating the willingness and ability to accept and carry out conditions required in the staff report prepared by staff and amended by the Planning Commission in order to address all applicable criteria.

NOW, THEREFORE, IT IS HEREBY RESOLVED: That the decision of the Wasco County Planning Commission is final, and approval allow aggregate extraction, crushing, and screening from an inventoried site on property described as Township 1 North, Range 13 East W.M., Tax Lot 1000 is hereby issued with the following conditions and protections:

1. The applicant is required to receive approval by the Wasco County Court to include the identified extraction area as a potential site on the Wasco County Comprehensive Plan "Potential Site" inventory list prior to commencing aggregate extraction operations (#CPA 98-103-WAA1-58P).

2. The applicant shall provide an approved reclamation plan and an operating permit from DOGAMI to the Wasco County Planning Department prior to commencing aggregate operations. The reclamation plan shall include a drainage/erosion control plan for Three Mile Creek.

3. The stream setback shall be no less than 100 feet (or as recommended by DOGAMI permit whichever distance is greater) and all existing riparian vegetation shall be protected and maintained.

4. In the event that DOGAMI does not require a reclamation plan, Wasco County Planning shall require a reclamation plan that shall be of the general quality required by DOGAMI. This reclamation plan shall be submitted to and approved by planning staff prior to commencement of aggregate extraction operations.

5. To ensure the extraction area maintains the rural character of the area the applicant shall conduct reclamation concurrently with aggregate extraction operations.

6. Crushing and extraction of aggregate shall be limited to 7:30 a.m. - 5:30 p.m. Monday through Friday. Hauling of aggregate and equipment maintenance shall be limited to official daylight hours Monday through Saturday.

7. Aggregate operations shall not exceed 55 DBA at the subject parcel's property line.

8. The applicant shall minimize, to the greatest extent practicable, dust created by aggregate operations on the subject parcel. Dust abatement shall consist of, but not be limited to, spraying water on all areas likely to cause dust.

9. To further address dust abatement, if the applicant engages in any aggregate crushing on the subject parcel he shall obtain a permit from the Department of Environmental Quality.

10. The applicant shall ensure that the pipeline which runs through the extraction area providing water the parcel to the north and west is not damaged by operations. In the event that the pipeline is damaged during aggregate extraction, the applicant shall repair the pipeline as soon as possible so as not to cause the two properties with the water rights any negative impacts due to a lack of water.

11. The applicant shall submit a water supply plan to the Planning Department for approval prior to commencement of operations.

12. Prior to commencement of aggregate activities the applicant shall provide a letter to the planning department obtained from Wasco Electric Coop which indicates their concurrence that the proposed aggregate operation will not negatively impact their power lines or that an arrangement has been made acceptable to both parties in regards to the power lines.

13. Prior to commencement of aggregate operations the applicant shall submit a detailed plan of improvements to the extraction area access road where it meets Three Mile County Road. The plan shall be approved by the Department of Public Works and include:
    -The dimensions of the increase in width and entrance radius
    -Where the fence will be relocated, including distances, to allow for trucks to park while opening and closing gate
    -200 foot sight distance area where brush will be cleared
    -Sight line distances

14. Prior to commencement of aggregate operations the applicant shall have the existing road approach permit for the subject parcel amended to include the improvements listed in condition 11above.

15. Trucks hauling loads from the extraction site shall be adequately contained or covered to prevent rock spillage onto the roadway. In addition, any significant amount of rock detectable at that intersection of the access road and Three Mile Road shall be cleared by the applicant regularly to insure traffic safety.

16. The applicant shall remove the 24.3 acre proposed extraction site from agricultural tax deferral if this request is approved.

17. While the existing manufactured home remains within the extraction area the applicant shall maintain a 50 foot buffer around its perimeter to ensure its safety from any negative effects associated with aggregate operations.

18. Due to the existence of geological hazards located on the subject parcel, prior to commencing any aggregate extraction operations, the applicant shall obtain a written report by an engineering geologist or an engineer who certifies they are qualified to evaluate soils for suitability. The written report shall certify that the development proposed may be completed without threat to public safety or welfare.

19. The operator of the pit shall provide a "Stop sign" at the entrance to Three Mile Road and "Truck Crossing" signs facing both sides of oncoming traffic on Three Mile Road when operations are being conducted.

Regularly passed and adopted by the Planning Commission of the County of Wasco, State of Oregon.

DATED this 10th day of August, 1998.

Sandee Burbank

Sandee Burbank, Chairperson
Wasco County Planning Commission

Dotty DeVaney, Planning Director