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SEP 16 1993

IN THE COUNTY COURT OF THE STATE OF OREGON WASCO CO. CLERK KL  
IN AND FOR THE COUNTY OF WASCO

SEP 16 3 24 PM '93

IN THE MATTER OF AN AMENDMENT )  
TO THE MINERAL AND AGGREGATE )  
OVERLAY ZONE OF THE LAND USE AND )  
DEVELOPMENT ORDINANCE ) ORDINANCE  
FOR WASCO COUNTY, OREGON )

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 February 3, 1982, the Wasco County Court unanimously passed and adopted a Comprehensive Plan and implementing ordinances for Wasco County;

IT FURTHER APPEARING TO THE COURT: That on August 25, 1983, the Land Conservation and Development Commission (LCDC) reviewed the Wasco County Comprehensive Plan and found Wasco County to be in compliance with the Statewide Land Use Planning Goals, with the exception of certain subareas identified as Seven Mile Hill and Rancho Rajneesh. On July 20, 1984, LCDC again reviewed the Comprehensive Plan for the Seven Mile Hill area, and found the Plan and Map changes to be in compliance with Statewide Land Use Planning Goals; and

IT FURTHER APPEARING TO THE COURT: That on Monday, August 16, 1993, the Wasco County Citizens Advisory Group met jointly with the Wasco County Planning

930351 (7)

Commission and held a public hearing on the proposed legislative amendments to the Mineral and Aggregate Overlay Section to revise the review process and procedure for applying the overlay zone of the Wasco County Land Use and Development Ordinance; and

IT FURTHER APPEARING TO THE COURT: The Wasco County Planning Commission considered the recommendation of the Wasco County Citizen's Advisory Group, and made a recommendation to the Wasco County Court to adopt the aforementioned proposed legislative changes to the Wasco County Land Use and Development Ordinance as amended.

IT FURTHER APPEARING TO THE COURT: That on September 15, 1993, at 10:00 a.m., in the County Courtroom of the Wasco County Courthouse, The Dalles, Oregon, this Court met to review the above recommendation and the members of the Court were determined to be qualified to hear the matter;

IT FURTHER APPEARING TO THE COURT: That the Court considered the recommendation of the Wasco County Planning Commission, heard all interested parties and reviewed all written comments, and then closed the hearing. The Court then announced it would deliberate, and based upon the evidence, the County Court, being fully apprised in the premises;

NOW, THEREFORE, THE WASCO COUNTY COURT ORDAINS AS FOLLOWS: The Wasco County Land Use and Development Ordinance be amended, as

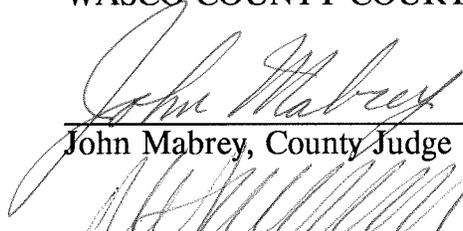
proposed by the Wasco County Commission, to revise the review process and procedure for applying the Mineral and Aggregate overlay zone of the Wasco County Land Use and Development Ordinance (Attachment A).

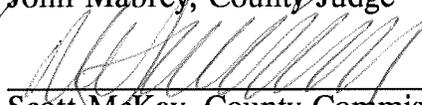
**EMERGENCY CLAUSE:** Insomuch as this ordinance amendment is necessary for the immediate preservation of health, safety and welfare, an emergency is hereby declared to exist and this Ordinance amendment shall be in full force and effect immediately upon its adoption by the County Court.

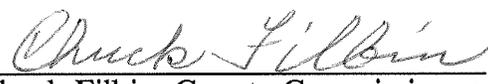
Regularly passed and adopted by a unanimous vote of the County Court of the County of Wasco, State of Oregon.

DATED this 15th day of September, 1993.

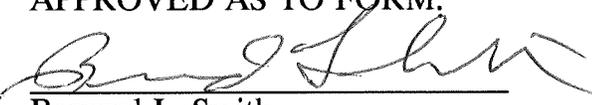
WASCO COUNTY COURT

  
\_\_\_\_\_  
John Mabrey, County Judge

  
\_\_\_\_\_  
Scott McKay, County Commissioner

  
\_\_\_\_\_  
Chuck Filbin, County Commissioner

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Bernard L. Smith  
Wasco County District Attorney

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SECTION 2.060 Application

Application for development approval shall be made pursuant to applicable sections of this Ordinance on forms provided by the Planning Director.

An application shall be considered complete when it contains the information required by these regulations, and addresses the appropriate criteria for review and approval of the request and is accompanied by the required fee, unless waived by the County Court, pursuant to Section 2.070.

A. The Director shall have the authority to review the following applications for Administrative Action, and shall follow the procedure provided by this Ordinance to accomplish such review. Matters required by this Ordinance that are not subject to other provisions of this Ordinance include, but are not limited to:

1. Conditional Use Review (Chapter 5)
2. Administrative Variances (Chapter 7)
3. Temporary Use Permits (Chapter 8)
4. Approval of a Non-Farm/Non-Forest Dwelling on Substandard Lot-of-Record in the "A-1" Exclusive Farm Use Zone and the "FF" Forest-Farm Zone, (Chapter 11)
5. Partition, Replat and Lot Line Adjustment Approval, except as provided for in section 2.060 B.10 (Chapter 21) (Revised 1-92)
6. Site Plan Reviews (Chapters 3 and 20) (added 2-89)
7. Uses Permitted Subject to Standards (Chapter 3) (added 7-89)
8. Similar use. (Added 5-93)
9. Significance Determination for Aggregate Overlay (Chapter 3, Section 3.815)

B. The following matters shall be heard by the Planning Commission, pursuant to Sections 2.080, 2.090, 2.130, 2.140, 2.150, and 2.190 of this Ordinance:

P930351 (7)

ATTACHMENT "A"  
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1. Quasi-Judicial Plan Amendment
2. Zone Change and Ordinance Amendment (Chapter 9)
3. Subdivision (Chapter 21)
4. Planned Unit Development (Chapter 18)
5. Mobile Home Parks (Chapter 16)
6. Recreational Vehicle Parks (Chapter 17)
7. Division of Non-Resource Land in Designated Resource Areas (Chapter 10)
8. Variance (Chapter 6) (Revised 1-92)
9. Private Road Approval (Chapter 21) (Revised 1-92)
10. Preliminary Partitions involving private or public road approval. (Revised 1-92)
11. Recommendation to the County Court on street dedications (Chapter 21). (Revised 1-92)
12. Revocation of Conditional Use Permits (Chapter 5) (Revised 1-92)
13. Appeals of Decision of Director made pursuant to Section 2.060 (A) ~~(1), (2), (3), (4) & (5)~~, and any ministerial action of the Director. (Revised 1-92)
14. Matters which the Director elects not to review, pursuant to Section 2.060 (A) ~~(1), (2), (3), (4), (5), (6), (7), and (8)~~. (Revised 1-92, 5-93)
15. Recommendation for implementation of Aggregate Overlay Zone (Chapter 3, Section 3.800)

SECTION 2.070 Filing Fees

- A. Any application filed with the Planning Department shall be accompanied by the appropriate filing fee to reimburse the County for processing costs attendant upon the application.
- B. Fees shall not exceed the actual or average cost of providing the service. (added 2-89)

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2 of 4

SECTION 3.815 Procedure for Applying the Overlay Zone

A. Determination of Significant Site. The County Planning Director or the Director's designee shall analyze available information relating to the location, quality and quantity of mineral and aggregate deposits. A decision of significance shall be determined as described pursuant to Section 2.060 (A)(9) of this Ordinance, based on the following:

Information to demonstrate the significance of a resource shall include:

1. A survey map, or other legal description that identifies the location and perimeter of the mineral and aggregate resource; and
2. Information demonstrating that the resource meets or can meet two of the following minimum requirements:
  - a) Abrasion: Loss of not more than 35% by weight;
  - b) Oregon Air Degradation: Loss of not more than 35% by weight;
  - c) Sodium Sulphate Soundness: Not more than 17% by weight.

Information may consist of laboratory test data or the determination of a certified, licensed or registered geologist, or other qualified person; and

3. Information demonstrating that the quantity of the resource indicates at least 250,000 cubic yards of reserve.
- B. Other mineral resources. Significance of non-aggregate resources shall be determined on a case-by-case basis after consultation with DOGAMI.
- C. Based on the analysis of information relating to the location, quality and quantity of the mineral and aggregate resource, the county shall determine the status of the resource site. Each site considered by the County shall be placed in one of three categories based on the following criteria:

F. Waiver of Remonstrance and Indemnity.

1. The owner of a proposed new Sensitive Use shall sign and record in the County Deed Records an Aggregate Operation Easement, Waiver of Remonstrance and Indemnity which shall declare that the applicant and his successors or heirs will not now or in the future complain about the allowed surface mining activities on the adjacent surface mining site.
2. The Aggregate Operations Easement and Waiver of Remonstrance and Indemnity shall run with the land, until such time as the site is exhausted and the site is reclaimed in accordance with the approved reclamation plan or the operator releases these restrictions, easements or waivers or remonstrance and indemnity.
3. It shall be a requirement of the mineral and aggregate operator to release any restrictions, easements or waivers of remonstrance and indemnity.

SECTION 3.850 Designation of Overlay Zone

The Mineral and Aggregate Overlay Zone may be applied through ~~the initial legislative planning process,~~ the plan update process, or through individual application for an ~~Comprehensive Plan amendment and Aggregate Overlay zone/Comprehensive Plan amendment change~~ pursuant to Section 2.060(B)(15) of this Ordinance. The approving authority shall approve the overlay zone designation if the provisions of Chapter 3, Section 3.800 - 3.850 of this Ordinance have been met.

The boundary of the Overlay Zone shall be all property contained in the Mineral and Aggregate Extraction Area and Mineral and Aggregate Impact Area.

SECTION 3.855 Termination of Mineral and Aggregate Overlay Zone

The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the Zone Change process when:

- A. The owner of the Mineral and Aggregate resource site submits evidence showing a significant resource no longer exists on the site; and