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KAREN [illegible]
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 ROBERT L. COATS FOR A COMPREHENSIVE PLAN AMENDMENT TO ADD A 36.03 ACRE AGGREGATE RESOURCE SITE TO THE WASCO COUNTY COMPREHENSIVE PLAN AND APPLY A MINERAL AND AGGREGATE OVERLAY ZONE TO THE SITE, ON A 2,436.72 ACRE PARCEL IN THE "A-1(80)" EXCLUSIVE FARM USE ZONE (FILE #CPA-96-101-WAA18-P)	) 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 April 14, 1996, the applicant, Robert L. Coats, submitted an application for a Comprehensive Plan Amendment to add a 36.03 acre aggregate resource site to the Wasco County Comprehensive Plan and apply the Mineral and Aggregate Overlay Zone to the site, on a 2,436.72 acre parcel in the Exclusive Farm Use zone (File #CPA-96-101-WAA18-P). The proposed operation is on a portion of the subject property located on the south side of State Highway 293 (Lower Antelope Road), approximately 2 miles north and east of its intersection with U.S. Highway 97 at Willowdale, and further described as Township 8 South, Range 15 East W.M., Section 26, Tax Lot 2900; and

IT FURTHER APPEARING TO THE COURT: That on Monday, June 17, 1996, at 3:00 p.m., in the Columbia Gorge Community College, Boardroom #1.162, 400 E. Scenic Drive, The

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Dalles, Oregon, the Wasco County Planning Commission met to conduct a legally notified legislative public hearing on the above matter. Those members of the Commission present were determined to be qualified to hear the matter. Chairman Dan Ericksen 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, and based upon the full record and evidence and testimony presented, voted 7-0 to forward a Recommendation (Exhibit A) to the Wasco County Court to approve the Comprehensive Plan Amendment to add a 36.03 acre aggregate resource site to the Wasco County Comprehensive Plan and apply the Mineral and Aggregate Overlay Zone to the site, on a 2,436.72 acre parcel described as Township 8 South, Range 15 East W.M., Section 26, Tax Lot 2900, subject to ten conditions; and

IT FURTHER APPEARING TO THE COURT: That on 10:00 a.m. on July 3, 1996, in the County Courtroom, Room 202, of the Wasco County Courthouse, The Dalles, Oregon, this Court met to conduct a legislative 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 then continued the hearing to Wednesday, July 17, 1996, at 2:15 p.m.; and

IT FURTHER APPEARING TO THE COURT: That on Wednesday, July 17, 1996, the Court received all testimony and evidence submitted subsequent to the July 3, 1996, hearing, and

closed the hearing for further input. The Court then deliberated, resulting in a 3 to 0 vote to approve the request by Robert L. Coats for a Comprehensive Plan Amendment to add a 36.03 acre aggregate resource site to the Wasco County Comprehensive Plan and apply the Mineral and Aggregate Overlay Zone to the site. Based upon the full record and evidence and testimony presented, the Court, 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 legislative hearings and in conformity with said requirements as set forth in the Wasco County Comprehensive Plan.

2. Two members of the County Court were present. The two members were qualified to sit as decision-makers after full disclosure was made and the matter of qualifications was discussed by the Court. Commissioner Ericksen had voted on this request as a Planning Commissioner, however he was allowed to vote on this hearing due to the "Rule of Necessity";

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 June 17, 1996.

5. The Court finds that the proposed aggregate extraction site is capable of producing roughly twelve times the 250,000 cubic yards required to qualify as a significant site under the County's Ordinance. The Court further finds that Mr. Coats has extensive experience in road construction in the Central Oregon area over the past 40 years. This, combined with his and Mr. Priday's willingness to invest money in a rock pit of this size is a reliable guide to the significance of the resource site.

6. The Court understands and accepts that the 250,000 cubic yard threshold quantity was established as the threshold for Goal 5 significance in Wasco County based on conversations with DOGAMI. Essentially, DOGAMI explained that the regional geology is such that Columbia River Basalt flows on the surface were few and far between in areas that were likely to be available for mining, i.e., close to highways, near the surface, etc., and that, accordingly, a relatively low threshold had to be set in order to allow a sufficient number of sites to be located and protected.

7. The Court determined that the applicant substantiated the quality and quantity of rock to be extracted in accordance with standard professional evaluations. The Court notes that Mr. Coats is a Civil Engineer, and has extensive experience in locating previously unknown sources of rock that will meet Oregon Department of Transportation specifications, and that the number and location of the test pits are in accordance with Mr. Coats' normal practices in his 20 or so other sites in the Central Oregon area and in accordance with the standards used by the Wasco County Road Department.

   The Court also observes that a highly specific comparison of each site with every other site is not required, since the Goal 5 rule allows the County to rely on "available information" and to make comparisions with "other examples" in the jurisdiction. The Court places great reliance on the opinion of the County Road Department of the value of this resource site.

8. The Court acknowledges that private driveways or easement roads are not listed as sensitive uses in the County's Comprehensive Plan and that adjacent landowners ability to develop such uses within the buffer will not be affected by application of the buffer protection to the aggregate source.

9. The Court recognizes that development standards listed in Section 3.835 of the Wasco County Land Use and Development Ordinance will be applied to the proposed development in an administrative review to be processed following establishment of significance. These standards set forth requirements for hours of operation and site access more specific than conditions # 9 and #10 of the Planning Commissions' Recommendation.

CONCLUSIONS OF LAW

1. The Wasco County Court acknowledges and accepts all original findings and conclusions made by the Planning Commission in their June 17, 1996, Recommendation.

2. The Court concludes that evidence in the record substantially demonstrates that the proposed rock pit will not force a significant change nor increase the cost of accepted farm or forest practices on surrounding lands developed for farm or forest use.

3. The Court also concludes that the quantity of rock reported to be available (over 3 million cubic yards) is clearly a significant quantity to Wasco County and has been demonstrated by engineering reports to exceed ODOT specifications and the quality threshold for significance established and acknowledged in the County's Ordinance.

4. The Court determines that application of the 750 foot buffer area shall in no way limit adjacent landowners ability to develop and use lawfully established private drives and easement roads.

5. To ensure standards applied in Section 3.835 govern without dispute, the Court concludes that conditions # 9 and #10 of the Planning Commission's Recommendation shall be deleted.

NOW, THEREFORE, IT IS HEREBY ORDERED: That the Wasco County Court grants the request by Robert L. Coats for a Comprehensive Plan Amendment to add a 36.03 acre aggregate resource site to the Wasco County Comprehensive Plan and apply the Mineral and Aggregate Overlay Zone to the site, on a 2,436.72 acre parcel described as Township 8 South, Range 15 East W.M., Section 26, Tax Lot 2900, subject to the following conditions and protections:

1. All landowners within ½ mile of the extraction area will be notified of mining and processing operations before the beginning of each operation following a shutdown of 30 days or more.

2. New conflicting noise and/or dust sensitive uses, such as single-family dwellings, shall not be allowed within 750 feet of the extraction area unless the applicant has signed a waiver of remonstrance precluding protest of any surface mining activities, or unless, prior to granting final approval to site the new conflicting noise and/or dust sensitive use within 750 feet of the extraction area, the applicant shows that the proposed use will not cause the mining operation to violate DEQ noise control standards and ambient air quality emission standards as measured at the proposed use.

3. No conflicting uses, such as dwellings, shall be allowed within 250 feet of the extraction area.

4. Mining and processing operations (including noise and dust generated) shall be consistent with Oregon Department of Environmental Quality statutes and regulations and applicable county ordinances.

5. Reclamation will meet Oregon Department of Geology and Mineral Industries (DOGAMI) requirements, the Oregon Department of Fish and Wildlife (ODFW) recommendations contained in that letter dated April 22, 1996, or any others adopted by the DOGAMI Reclamation Plan and Operating Permit, and applicable county ordinances. Erosion control will be accomplished through the DOGAMI Reclamation Plan and Operating Permit.

6. Visual impacts shall be mitigated by concurrent reclamation under jurisdiction of DOGAMI.

7. Establishment of a riparian buffer zone along Antelope Creek will meet DOGAMI requirements and ODFW recommendations contained in that letter dated April 22, 1996.

8. Should any cultural resources be discovered, all ground disturbing activity shall cease immediately and the Tribe(s) and the County Planning Office shall be notified in order to allow for an evaluation by a professional archaeologist to insure protection of cultural resources and

for designating immediately an alternative area for excavation that does not contain cultural resources.

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

DATED this 17th day of July, 1996.

WASCO COUNTY COURT

John Mabrey, Judge

Scott McKay, Commissioner

Daniel W. Ericksen, Commissioner

Approved as to Form:

Bernard L. Smith
Wasco County District Attorney

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