

WASCO COUNTY PLANNING COMMISSION

March 3, 2015

**Hearing begins at 3:00 p.m.
Columbia Gorge Discovery Center
Lower Level Classroom
5000 Discovery Drive
The Dalles, OR 97058**

WORK SESSION MINUTES

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Russell Hargrave
Vicki Ashley
Taner Elliott
Mike Davis
Brad DeHart
Jeff Handley
Andrew Myers (arrived after roll call)

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Kenneth McBain

WASCO COUNTY PLANNING OFFICE STAFF PRESENT

Angie Brewer, Interim Planning Director
Dawn Baird, Associate Planner
Brenda Jenkins, Planning Coordinator

II. PUBLIC COMMENT: Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda.*

No public comment was received.

III. PLANNING COMMISSION WORKSESSION:

Aggregate Training:

Associate Planner Dawn Baird presented an overview of the regulatory process for new aggregate sources (see Attachment #1 for presentation handouts).

Robert's Rules:

Director Angie Brewer asked whether the Commission had previously received copies of Robert's Rules or any related training. After discussion, the Commission directed Staff to purchase a Robert's Rules handbook for each Commission member.

National Scenic Area 101:

Director Angie Brewer presented high-level training on rules, regulations, and process of the National Scenic Area as it is implemented in Wasco County (see Attachment #2 for PowerPoint presentation).

Comprehensive Plan and LUDO Update Process Discussion – Part II:

To allow adequate time for discussion, the Commission decided to push this agenda item to the April 7, 2015 meeting. In preparation of that meeting, Commissioner Davis will draft a narrative of the process and forward it to Director Brewer for her review. Director Brewer will work with Chair Hargrave to make any necessary revisions before forwarding the final narrative to the rest of the Commission for their review. The goal is to

adopt a formal process narrative at the April 7, 2015 meeting that can be provided to the County Board of Commissioners.

IV. OTHER BUSINESS:

No other business was discussed.

V. PLANNING DIRECTOR COMMENTS:

Director Brewer provided a brief overview of recent research and presentations provided at the request of the County Board of Commissioners to evaluate how the Planning Department can work more collaboratively with other County departments to better meet our program goals (including customer service). Director Brewer also noted that she will soon be updating the annual Wasco County Planning Department Strategic Plan.

Work session adjourned at 5:10 pm.

Russell Hargrave, Chair
Wasco County Planning Commission

Angie Brewer, Interim Planning Director
Wasco County Planning & Development

SECTION 3.800 DIVISION 5 - MINERAL AND AGGREGATE OVERLAY

Purpose: The purpose and intent of the Mineral and Aggregate Overlay Zone is:

1. To allow the development and use of mineral and aggregate resources;
2. To provide uniform standards for extraction and processing of mineral and aggregate resources;
3. To balance conflicts between mining operations and new and existing surrounding conflicting uses;
4. To ensure the rehabilitation and restoration of mining sites; and
5. To protect mineral and aggregate resources for future use consistent with Comprehensive Plan goals and policies and Statewide Planning Goal 5.

SECTION 3.805 Definitions

Conflicting Use - As used under OAR 660-16-005, a conflicting use is a use which if allowed, could negatively impact a County resource site. Where conflicting uses have been identified, Goal 5 resource sites may impact those uses. These impacts must be considered in analyzing the economic, social, environmental and energy consequences (ESEE).

It is the responsibility of the County to identify conflicts within significant Goal 5 resource sites. This is done primarily by examining the uses allowed in the underlying zoning districts in which the resource site is located. For purposes of this Chapter, another Goal 5 resource located on or adjacent to a significant site may be considered a conflicting use if that resource could be adversely affected by mining or processing activities, or force a change in mining or processing at the site.

ESEE Analysis - Refers to the County's response to the requirements in OAR 660-16-005 and 660-16-010 which direct local jurisdictions to analyze the Economic, Social, Environmental and Energy (ESEE) consequences of (a) allowing mining on a significant site, and (b) allowing conflicting uses to displace mining on a significant site.

The ESEE analysis is part of the County Process.

It is the function of the ESEE analysis to resolve conflicts between the significant mineral and aggregate site(s) and any other identified conflicting uses, including those occurring as a result of any other applicable provisions in the Comprehensive Plan and this ordinance. The ESEE analysis documents the County's decision to prohibit, restrict or fully allow conflicting uses on or near the inventoried resource site(s).

The County Process:

- A. Shall identify the resource site's Extraction and Impact Areas as defined in Section 3.810 of this Chapter; and
- B. May describe site-specific development standards, including, but not limited to, setbacks, screening, road grading, and other requirements to protect and resolve conflicts with the inventoried resource site(s).

The County Process is referred to in this ordinance by reference under several subsections.

Extraction Area - The area within which mineral and aggregate extraction, processing and storage may take place under the provision of this Chapter.

Impact Area - An area surrounding the extraction area within which sensitive uses are limited or regulated.

Mineral and Aggregate - Includes soil, select fill, coal, clay, stone, sand, gravel, aggregate, pumice, cinders, metallic ore, and any other inorganic solid excavated from a natural deposit in the earth for commercial, industrial or construction use.

Mining - The excavation of sand, gravel, clay, rock, or other similar surface or subsurface resources. Mining does not include: a) excavations conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstructing or maintaining access roads, b) excavation or grading conducted in the process of farm or cemetery operations, c) excavation or grading conducted within a road right-of-way or other easement for the primary purpose of road construction, reconstruction or maintenance, or d) removal, for compensation, of materials resulting from onsite construction for which a development permit and construction time schedule have been approved by the County.

Noise or Dust Sensitive Use - A conflicting use which is primarily used for habitation. Residential structures, churches, hospitals, schools, public libraries, and campgrounds are considered noise or dust sensitive uses during their period of use. Forest uses and farm uses are not noise or dust sensitive uses unless determined through the County process to the effect that they satisfy this definition in more than an incidental manner.

Processing - Includes, but is not limited to, extraction, washing, crushing, milling, screening, handling, conveying, batching and blending into asphalt or portland cement, and transportation of mineral and aggregate materials.

Restrictive Covenant - An enforceable promise, given by the owner of a parcel whose use and enjoyment of that parcel may be restricted in some fashion by mining

occurring on another parcel, not to object to the terms of a permit issued by a local government, state agency or federal agency. The restrictive covenant shall be recorded in the real property records of the County, shall run with the land, and is binding upon the heirs and successors of the parties. The covenant shall state that obligations imposed by the covenant shall be released when the site has been mined and reclamation has been completed.

Screened Uses - (a) Noise sensitive uses or other uses determined to be conflicting uses through the County process, and (b) scenic viewpoints or other areas designated as significant Goal 5 resources.

Sensitive Use - A use or structure considered sensitive to dust, odor, vibration and/or noise, such as a residence, school, park, or hospital. Industrial, agricultural and forestry activities are not sensitive uses unless the activity includes an accessory residential use.

Significant Resource Site - Includes resource sites which meet or exceed location, quality and quantity criteria set forth under Section 3.815 of this Chapter and are so designated by the County through a legislative or quasi-judicial process.

Site Plan - The site plan shall include surveys, maps, diagrams, narratives and other materials as may be necessary to describe the placement of and use of all improvements, equipment, fixtures, mitigation measures, landscaping and vehicles on site.

SECTION 3.810 Application of Overlay Zone

The provisions of this Chapter shall apply to all lands designated Significant Mineral and Aggregate Overlay. Nothing in this Chapter shall constitute a waiver or suspension of the provisions of any underlying zone or concurrent overlay. Any conflicts between the provisions of the Chapter and the provisions of other chapters of this Ordinance, Comprehensive Plan Goals and Policies and the Statewide Planning Goals shall be resolved through the County process.

Only sites deemed significant resource sites shall be zoned Mineral and Aggregate Overlay. Mining and processing activities at sites not zoned Mineral and Aggregate Overlay may be allowed after conditional use approval under the criteria of Chapter 5 of WCLUDO. All sites which have not been evaluated for significance shall be classified "Potential Sites" on the County inventory until information is available to determine if the site is significant or not significant.

The Mineral and Aggregate Overlay consists of two distinct areas: the Extraction area and the Impact area.

- A. Extraction Area. The Mineral and Aggregate Extraction Area shall be applied to any site which has been identified as a significant resource. The area may consist of one or more tax lots or portion(s) of single tax lots, and may be applied to contiguous properties under different ownership. The size of the Extraction Area shall be determined by the ESEE, but there shall be a minimum distance of 750' between any existing Sensitive Use to the extraction area boundary on the effective date of this ordinance.

This distance may be decreased through the ESEE analysis prior to application of the Overlay, based on the type of mineral or aggregate resource to be extracted as well as physical features of the area. However, in no case shall the Extraction Area boundary be less than 100 feet from the Sensitive Use.

- B. Impact Area. The Mineral and Aggregate Impact Area shall be applied to properties or portions of properties adjacent to and immediately surrounding an Extraction Area. The width of the Impact Area shall be determined through the ESEE analysis prior to application of the Overlay designation, based on the type of mineral or aggregate resource to be extracted as well as physical features of the area. The minimum width of the impact area shall be 750' from the Extraction Area boundary unless findings developed through the County process can show justification for a change.

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: (Amended 9-93)

Information to demonstrate the significance of a resource shall include:

1. A survey map, assessor's/tax lot map(s) or other legal description that identifies the location and perimeter of the mineral and aggregate resource; and (Amended 7-94)
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 that the site meets at least one of the following two criteria (Amended 7-94):

- a. Is located within an ownership or long-term lease containing reserves in excess of (Amended 7-94 and 1-95) 100,000 tons (69,000 cubic yards); however, an aggregate site is not significant if the criteria in either paragraphs (1) or (2) of this subsection apply, except for an expansion area of an existing site if the operator of the existing site on March 1, 1996, had an enforceable property interest in the expansion area on that date:

(1) The site is not significant if more than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps on the date of this rule; or

(2) The site is not significant if more than 35 percent of the proposed mining area consists of soil classified as Class II, or of a combination of Class II and Class I or Unique soil on NRCS maps available on the date of this rule. (Amended 11-96)

- b. Is located on property owned by, or under long-term lease to a city, county, or state jurisdiction for the primary purpose of excavating, or processing of aggregate or stone materials for road maintenance or road construction. (Amended 7-94)

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:

1. If the resource site meets the definition of a significant site, the county shall include the site on an inventory of "Significant Sites", or
2. If information is not available to determine whether or not the resource site meets the definition of a significant site, the County shall include the site on an inventory of "Potential Sites." Sites shall remain on the "Potential Sites" inventory until such time as information is available to determine whether or not the site is significant; or
3. If the resource site does not meet the definition of a significant site, the county shall include the site on an inventory of "Non-significant Sites'.

- D. Identify Impact Area. For each significant site, the Impact Area shall be identified and mapped. The Impact Area shall include the Extraction Area.
- E. Identify Conflicting Uses. For each significant site, conflicting uses shall be identified. The identification of conflicting uses shall include uses in existence at the time of review, as well as the potential conflicting uses. Identification of potential conflicting uses shall be accomplished by analyzing the uses allowed in the underlying zone(s).
- F. Analysis of ESEE consequences. For each significant site where conflicting uses have been identified, an ESEE analysis shall be performed.
1. The ESEE analysis shall determine the relative value of use of the mineral or aggregate resource site as compared to existing or potential conflicting uses.
 2. The ESEE analysis shall be limited to uses identified pursuant to subsection E. of this section, and County resources.
 3. The ESEE analysis shall consider opportunities to avoid and mitigate conflicts. The analysis shall examine:
 - a. The consequences of allowing conflicting uses fully, notwithstanding the possible effects on mining;
 - b. The consequences of allowing mining fully, notwithstanding the possible effects on conflicting uses;
 - c. The consequences of protecting conflicting County resources, and permitted conflicting uses within the zone.

SECTION 3.820 Exemptions

The following activities at significant sites are exempt from the development standards of Section 3.853. Operators or land owners have the burden of qualifying for any exemption.

- A. Pre-existing or nonconforming use.
- B. Mining less than 1000 cubic yards of material or excavation preparatory to mining of a surface area of less than one acre.
- C. Excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of on-site access roads or grading operations conducted in the process of farming.

- D. Excavation or grading operations conducted in the process of farming, forestry or cemetery operations.
- E. On-site road construction or other on-site construction or nonsurface impacts of underground mines conducted by a landowner or tenant on the landowner or tenant's property.

SECTION 3.825 Pre-Existing and Nonconforming Uses

Mineral and aggregate sites which have a valid County or Department of Geology and Mineral Industries permit on the effective date of this Chapter shall be considered pre-existing sites. Pre-existing sites may continue to operate under the conditions of approval unless the conditions are removed or modified through the County process.

Expansion of a mineral and aggregate activity on a pre-existing site beyond the boundaries of the surface mining area covered by the County permit, or any activity requiring a new or amended County permit, shall require compliance with Section 3.835 - Development Standards.

Within an Extraction Area, existing mining activities that do not conform to the standards of Section 3.830 Permitted Uses - Extraction Area, may continue as nonconforming uses existing on the date the Mineral and Aggregate Overlay zone is applied to the property.

The use of any building, structure, or land lawfully established within the Mineral and Aggregate Resource Overlay Impact Area prior to the application of the overlay to the property may continue. Expansion of the size or use of the structure or activity shall comply with Section 3.845 - Impact Area Uses and Standards.

SECTION 3.830 Permitted Uses - Extraction Areas

The following uses may be permitted in the Extraction Area subject to Site Plan approval in accordance with Section 3.840:

- A. Any permitted use allowed in the underlying zone, may be allowed subject to the underlying zone criteria and as otherwise authorized through the ESEE analysis.
- B. Conditional uses shall be reviewed against the approval criteria of Section 3.845.
- C. Mining or extraction of rock, clay, soil, sand, gravel, or other mineral or aggregate material.
- D. Stockpiling and storage of mineral and aggregate materials.

E. Processing of:

1. Materials, including crushing, washing, milling, screening, sizing, or batching of portland cement; and
2. Batching or blending of mineral and aggregate into asphaltic concrete, except within 2 miles of a planted commercial vineyard.

F. Buildings (not including residences), structures and equipment directly related to the above permitted aggregate uses.

G. Storage of transportation equipment or storage of machinery or equipment used in conjunction with the on-site mineral and aggregate activity.

H. Sale of products extracted and processed on-site from a mineral and aggregate operation.

SECTION 3.835 Development Standards - Extraction Area

A development plan shall be submitted to the Wasco County Planning Department for any permitted activity allowed in Section 3.830. The following requirements apply to mining and processing unless other standards are adopted in the County process. Such standards shall be clearly identified in the ESEE analysis. The applicant shall demonstrate that the following standards or site specific replacement standards adopted in the County process, are met or can be met by a specified date.

A. Screening

1. Mining Activities to be Screened.

- a. All excavated areas except areas where reclamation is being performed, internal on-site roads existing of the effective date of this ordinance, new roads approved as part of the site plan review, material excavated to create berms, and material excavated to change the level of the mine site to an elevation which provides natural screening;
- b. All processing equipment;
- c. All equipment stored on the site.

2. Types of Screening.

- a. Natural Screening. Existing vegetation or other landscape features which are located within 50 feet of the boundary of the site, and which screen the view of mining activities from screened uses, shall be preserved and maintained.
- b. Supplied Screening. Supplied vegetative screening is screening that does not exist at the time of the site plan review. Plantings used in supplied screening shall not be required to exceed a density of alternating rows of conifer trees six feet on center and a height of six feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.

B. Access

1. On-site roads used in mining, and access from the extraction site to a public road shall be designed and constructed to accommodate mining vehicles and equipment, and shall meet the following standards.
 - a. All access roads intersecting a paved county road or state highway shall be paved thirty feet from the paved county road or state highway unless the applicant demonstrates that other specified methods of dust control will effectively eliminate dust rising from access roads;
 - b. All on-site roads within the Extraction Area, and access roads, shall be constructed and maintained in a manner so that all applicable DEQ standards for vehicular noise control and ambient air quality are met or can be met by a specified date;
 - c. All on-site roads within the Extraction Area, and access roads, shall be paved at all points within 250 feet of a noise or dust sensitive use existing on the effective date of this ordinance.
2. Improvements to substandard public roads outside of the Extraction Area may only be required as necessary to comply with a road improvement program adopted as part of transportation element of the Comprehensive Plan. Payment for public road improvements shall not be a condition of approval for mining at significant sites.
3. Improvement fees in lieu of improvements of public roads, county roads and state highways may be required when the Planning Director or hearings body, in consultation with the appropriate road authority, determines that the increased traffic on the roads resulting from the surface mining activity will damage the road sufficiently to warrant off-site improvement. If the fee in lieu of improvements is required, the amount of the fee shall reflect the applicant's pro-rata share of the actual total cost of the capital expenditure of the road construction or reconstruction

project necessitated by and benefiting the surface mining operation. Discounts for taxes and fees already paid for such improvements, such as road taxes for vehicles and for property already dedicated or improved, shall be applied.

4. An effective vehicular barrier or gate shall be required at all access points to the site.

C. Hours of Operation

1. Drilling and blasting shall be restricted to the hours of 9:00 am to 5:00 pm, Monday through Friday. No blasting or drilling shall occur on Saturdays, Sundays, or any specified legal holiday.
2. Mineral and aggregate extraction, processing and equipment operation within 750' or as established by the ESEE analysis of any Sensitive Use existing of the effective date of this ordinance is restricted to the hours of 7:00 am to 6:00 pm, Monday through Friday. All other sites are limited to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.

D. Environmental Standards

1. DEQ Standards. Mineral and aggregate extraction, processing and other operations shall conform to all the applicable environmental standards of the County and applicable DEQ air quality and emissions standards. The applicant shall provide a copy of an approved DEQ permit(s) prior to commencement of the operation.

- E. Equipment Removal. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.

F. Performance Agreement

1. The operator of a mineral and aggregate site shall keep applicable DOGAMI permits or exemption certificates in effect.
2. The mining operator shall carry a Comprehensive General Liability policy covering mining, processing and incidental activities during the term of operation and reclamation, with an occurrence limit of at least \$1,000,000.00.

- G. Significant Resource Area Protection. Conflicts between inventoried mineral and aggregate resource sites and significant fish and wildlife habitat, riparian areas and wetlands, significant scenic viewpoints or vistas, and ecologically and scientifically

significant natural areas protected by the Significant Resource Areas Overlay Zone in accordance with Section 3.910 (Natural Areas Overlay) and 3.770 (Cultural, Historical and Archeological Overlay) of this Ordinance and identified on the Significant Resource Areas Map, shall be balanced as determined by the program and as determined by the County process.

H. Site Reclamation.

1. No mining shall commence without providing the County a copy of a DOGAMI operating permit, approved reclamation plan, or exemption certificate.
2. A reclamation plan shall be submitted concurrently with the development plan required in Section 3.835. The reclamation plan shall include a schedule showing the planned order and sequence of reclamation, shall assure that the site will be restored or rehabilitated for the land uses specified in the underlying zone including subsequent beneficial uses identified through the County process.
3. The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County. When notified by DOGAMI that an operator has applied for approval of a reclamation plan and issuance of an operating permit, the County shall, in turn, notify DOGAMI if local site plan approval is required.
 - a. If site plan approval is required, the County shall require that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the operating permit until after site plan approval has been granted.
 - b. If site plan approval is not required, the County shall notify DOGAMI that no land use approval is required, and the County will review the proposed reclamation plan during DOGAMI's notice and comment period.

I. Water Management

1. All surface water shall be managed to provide protection against sediment discharge into streams, rivers and lakes. Existing natural drainage on the site shall not be changed in a manner which interferes with drainage patterns on adjoining property, or which drains waste materials or waste water onto adjoining property or perennial streams. Where the mineral and aggregate operation abuts a lake, river, or perennial stream, all existing vegetation within 100 feet of the mean high water mark shall be retained unless otherwise authorized in accordance with the ESEE analysis and the development plan.
2. All water required for the mineral and aggregate operation, including dust control, landscaping and processing of material, shall be managed: (a) in a manner which meets all applicable DEQ water quality standards and DOGAMI requirements, or (b) shall be legally available and appropriated for such use. The applicant shall

provide written documentation of water rights from the State Department of Water Resources and/or local water district prior to the commencement of any site operation.

- J. Flood Plain. Any extraction Area located wholly or in part in a Flood Hazard Area shall receive approval in accordance with Chapter 22 of this Ordinance prior to any site operation.
- K. Compliance with Special Conditions. The applicant shall demonstrate that all special conditions or requirements adopted as part of the County process have been satisfied or will be satisfied by a specified date.
- L. Security. Fencing of site boundaries shall be required on the boundary between a significant site and a parcel zoned to allow dwellings as an outright permitted use. Fencing shall be a cyclone type fence, shall be earth tone color, and shall be a minimum of six feet high.

SECTION 3.840 Application Process

Final development plan approval is required prior to the beginning of any mineral and aggregate activity listed in Section 3.825 (A), and before any expansion of a pre-existing or nonconforming site. The applicant shall provide the following at the time of application:

- A. A site plan demonstrating that the development standards required in Section 3.835 can be met, and any requirements adopted as part of the County process, including:
 - 1. Screening and Fencing;
 - 2. Access;
 - 3. Hours of Operation;
 - 4. Environmental Standards;
 - 5. Equipment Removal;
 - 6. Performance Agreement;
 - 7. Significant Resource Area Protection;
 - 8. Site Reclamation;
 - 9. Water Management; and
 - 10. Flood Plain.
- B. A map or diagram showing the location and setbacks of all proposed mineral and aggregate activities and operations and the location and distance to all Sensitive Uses within the Impact Area.
- C. The County shall approve, conditionally approve, or deny a site plan based on the ability of the site plan to conform to the standards of Section 3. 835 and any other requirements adopted as part of the County process.

- D. If the County determines that the site plan is substantially different from the proposal approved in the County process, the application shall be denied or conditioned to comply with the decision adopted as part of the County process, or the applicant may choose to apply for a Comprehensive Plan amendment whereby the original decision reached through the County process will be re-examined based on the revised site plan.

Section 3.845 Impact Area - Uses and Standards

- A. Any permitted use allowed in the underlying zone may be allowed in the Impact Area subject to the underlying zone criteria and as otherwise authorized by the County process.
- B. Uses allowed Conditionally.
 - 1. Any conditional use in the underlying zone(s) which are not noise sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the underlying zone criteria.
 - 2. Noise sensitive uses and conflicting uses shall be reviewed as conditional uses subject to criteria D, Approval Criteria.
- C. Prohibited Uses. Uses identified through the County process as incompatible with mining shall not be permitted within the Impact Area.
- D. Review Criteria. To approve uses allowed conditionally in the Impact Area the applicant must demonstrate compliance with the following criteria:
 - 1. The proposed use will not interfere with or cause an adverse impact on lawfully established and lawfully operating mining operations;
 - 2. The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this chapter, or the terms of a state agency permit. The applicant for a new noise sensitive use shall submit an analysis prepared by an engineer or other qualified person, showing that applicable DEQ noise control standards are met or can be met by a specified date by the nearby mining operation.
 - 3. Any setbacks or other requirements imposed through the County process have been met or can be met by a specified date.

E. Approval Conditions.

1. Compliance with subsection D of this section may be satisfied through the imposition of clear and objective conditions of approval.
2. Approval of any conflicting use in the impact area shall be conditioned upon execution of a restrictive covenant in favor of the mining operator. The restrictive covenant shall incorporate all approval conditions and an agreement not to object to the conduct of lawful operations conducted at the nearby surface mine.

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 plan update process, or through individual application for an Aggregate Overlay zone/Comprehensive Plan amendment 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. (Amended 9-93)

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
- B. The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and
- C. The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.

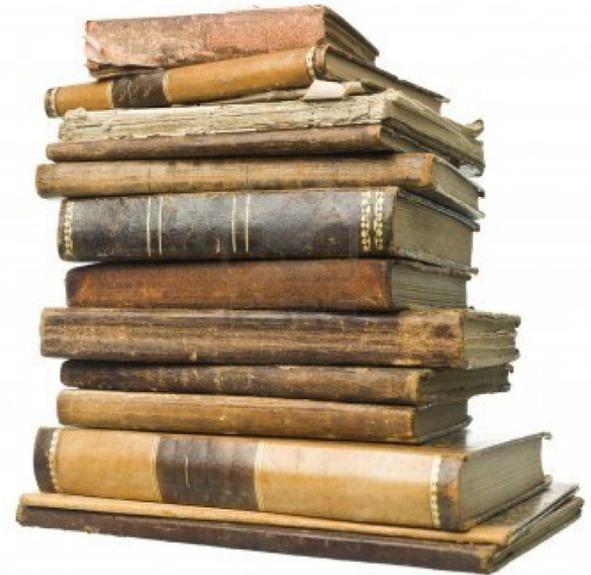
NSA 101

**An introduction
to the Columbia River Gorge
National Scenic Area**

Wasco County Planning Commission Meeting
March 3, 2015 - Angie Brewer

Overview of Today's Discussion:

- Brief History
- Goals of the NSA Act
- Development of the Comprehensive Plan
- Implementation
- Current Rules and Regulations



A Brief History:

- National Scenic Area Act passed in 1986
 - Signed by President Reagan, adopted by Congress, implemented by a bi-state compact signed by Oregon and Washington
 - Created two agencies:
 - U.S.F.S. Columbia River Gorge National Scenic Area Office
 - Columbia River Gorge Commission
- National Scenic Area Act identifies:
 - 4 Treaty Tribes
 - 13 Urban Areas
 - Designated Special Management Areas
 - Remaining lands are General Management Areas

Please see www.gorgecommission.org for the full NSA Act

Columbia River Gorge National Scenic Area



Disclaimer: The Columbia River Gorge National Scenic Area/ Columbia River Gorge Commission data, information, and maps are provided "as is" without warranty or any representation of accuracy, timeliness or completeness. This information is intended for general planning purposes and is not intended for site specific planning or analysis. Original data was compiled from various sources. Spatial information may not meet National Map Accuracy Standards. The user acknowledges and accepts all limitations, including the fact that the data, information, and maps are dynamic and in a constant state of maintenance, correction and update.

The Numbers:

- 292,500 acres
- 85 miles long
- 3 railroads
- 2 hydroelectric dams
- 2 Federal Highways
- 4 treaty tribes
- 2 states
- 6 counties
- 13 urban areas
- 5 State Highways
- Columbia River (2nd largest river)
- 3 wild and scenic rivers
- 55,000+ permanent residents
- Millions of seasonal tourists
- Dozens of endangered species

Goals of the NSA Act:

- (1) to establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and
- (2) to protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with paragraph (1).

Implementation:

- **Final Interim Guidelines (1987)**
 - Implemented by USFS and Gorge Commission
- **Management Plan for the CRGNSA (1992)**
 - Prepared and managed by the Gorge Commission and U.S. Forest Service NSA Office
 - Applies to all six counties
 - Process for updates and amendments
- **County Ordinances (1993-1995)**

Wasco County adopted an NSA ordinance in 1994
- **Local and Regional Interpretations**
- **Appeals heard by Gorge Commission**

Regulatory Structure:

- Maps – some created by Congress; some by staff
- Land Use Designations & Zoning
 - GMA/SMA/Urban Areas
 - Agriculture, Forest, Residential, Open Space, Recreation, Commercial
 - Identifies allowed development for each zone
- Minimum Parcel Sizes
 - Protect commercial scale agriculture & forestry
 - Protect natural resources
 - Protect characteristic landscapes
- Resource protection provisions (the SNCR's)
 - Treaty rights, scenic, natural, cultural, recreation, & community impacts
 - Design guidelines

NSA Application Process:

- Federal projects = federal review by U.S.F.S. CRGNSA
- Non-federal projects = County review (or Gorge Commission)
 - Most ground disturbance and changes to use require review
 - Expedited Review & Full Review
 - Small-Scale Use & Large-Scale Use
 - Public Notice and Opportunity for Appeal
- Regional Projects = coordinated review with all three
- All County reviews coordinated with Gorge Commission and U.S. Forest Service CRGNSA Office staff
 - USFS and CRGC staff provide technical assistance as needed
 - Open space plans managed by USFS
 - Shared NSA archaeologist
 - Regional monitoring for consistency & cumulative effects

Wasco County NSA Application Process:

- NSA land use application form required
 - Typically a more detailed review, requires more staff time, and as a result, costs more for permit fees.
- Outreach to partner agencies and treaty tribes
- Public notice
- Staff report and notice of decision
- Adhere to Oregon state timelines wherever possible
 - Timelines depend on the scope of the project.
- Administrative decision or Planning Commission decision
- Appeals heard first by the Planning Commission, then by the Board of County Commissioners, and then by the Columbia River Gorge Commission.

Review of Resource Impacts:

- Scenic
 - Visually subordinate
 - Not visually evident
- Natural
 - All wetlands and water bodies
 - Sensitive wildlife and plants
- Cultural
 - Archaeological, historic and traditional cultural properties
- Recreation
 - Public, private, commercial, recreation resorts
- Treaty Rights
 - All treaty rights protected by the NSA Act

Resources:

- Wasco County's National Scenic Area LUDO
 - http://co.wasco.or.us/planning/nsa_ludo.html
- Columbia River Gorge Commission
 - www.gorgecommission.org
- U.S.F.S. Columbia River Gorge National Scenic Area Office
 - www.fs.usda.gov/crgnsa
- Your Planning staff!
We are here to help.

