

**UMATILLA COUNTY BOARD OF COMMISSIONERS
LAND USE HEARING, MINUTES**

March 29, 2023

8:30 a.m., Room 130, Umatilla County Courthouse
Pendleton, Oregon

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Commissioners Present: Chair Dan Dorran, Vice-Chair John Shafer and
Commissioner Cindy Timmons

County Counsel: Doug Olsen

Members and Guests Present: Bob Waldher, Umatilla County Community Development
Director, Megan Davchevski, Umatilla County Planning
Division Manager, Andrew Stamp, Vial Fotheringham, LLC,
Terry Clark, Carla McLane, Carla McLane Consulting, Wes and
Shelley Walker, Bob Coleman, Brie Van Cleave, Stone Ridge
Contracting, Wade Aylett Jr., Rock It LLC, Jeff Hines, H&S
Incorporated, Craig Coleman, Ordnance Brewing

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The meeting was called to order at 8:30 a.m. by Chair Dorran. Chair Dorran stated that they would be holding testimony to 10 minutes with a one-minute warning. Land use hearing can be adverse and there will be zero tolerance for personal or negative comments or personal jabs towards each other, counsel, or staff. He read the opening statement.

Chair Dorran called for the staff report. Megan Davchevski, Umatilla County Planning Division Manager presented the staff report. The applicant requests to establish a new aggregate site, add the site to the Umatilla County Comprehensive Plan list of Goal 5 protected Large Significant Sites, and apply the Aggregate Resource (AR) Overlay Zone to the entire quarry site. The property site is comprised of several tax lots and is approximately 225 acres and zoned Exclusive Farm Use (EFU). The subject property is south of the Interstates 82 and 84 Interchange, southwest of the Westland Road Interchange and south of Stafford Hansell Road. The proposal, if approved, would add this site as a large significant site onto the County's Goal 5 inventory of significant sites. The applicant desires to excavate aggregate, batch that aggregate for various commercial and industrial projects, stockpile unused aggregate material for current and future use, and process the aggregate into both asphalt and concrete. Both sand and gravel materials are available on this site. The criteria of approval are found in Oregon Administrative Rule 660-023-0040 - 0050, 660-023-0180 (3), (5) and (7), and Umatilla County Development Code (UCDC) Section 152.487 - 488. The Umatilla County Planning Commission held a public hearing on this matter on Thursday, October 20, 2022. Testimony was provided by the applicant and their consultant, several project opponents (including neighboring and nearby aggregate operators), and a representative from Oregon Water Resources Department. Several documents, not included in the original October hearing packets, were introduced into the record and are included as Exhibits A - E. Upon request from the applicant the Planning Commission continued the hearing to Thursday, December 15, 2022. The applicant's request for a continuation was due to issues raised by neighboring landowners and other aggregate producers. Public hearings were held before the Planning

Commission on October 20, 2022, December 15, 2022 and January 27, 2023. The Planning Commission met on January 27, 2023, with a 7-1 vote, recommended approval of the Girth Dog PAPA request to add the proposed site to the County's list of large significant resource sites, apply the AR overlay zone and approve the site for aggregate mining. The recommendation included a modification of subsequent condition #2 and the addition of subsequent conditions numbered 8 - 13. The Board of Commissioners must also hold a public hearing(s) and decide whether or not to adopt the proposed amendments. The Board may decide to accept and adopt the Planning Commission's findings and recommendation, or determine new findings with a decision to approve or deny the Post-Acknowledgement Amendment Application (PAPA). The Board's decision is final unless timely appealed to the Land Use Board of Appeals (LUBA).

Chair Dorran called for abstentions, bias, conflict of interest, declaration of ex-parte contact & objections to jurisdiction. Commissioner Timmons stated she was part of the land use hearing on October 20th, 2022 and she is here now as a Commissioner.

The following declaration is required to be read prior to the following of the hearing. Chair Dorran shared the agenda identifies the applicable, substantive criteria for evaluating the request. Staff will review these criteria. All testimony and evidence must be directed towards these criteria. Failure to raise an issue with sufficient detail to afford the decision making body and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeal based on that issue.

Called meeting to order at 8:40am

Proponent(s)

Carla McLane, Carla McLane Consulting, 170 Van Buren Dr, Umatilla, OR, representing Craig Coleman, Girth Dog, LLC. Craig Coleman, applicant, 7188 Wilson Lane Boardman, OR. McLane. Ms. McLane summarized the letter that Sara Stauffer, Exhibit P, submitted last week on behalf of the applicant for the law that is applicable. Aggregate is a common activity in Eastern Oregon. Many issues have been raised during the hearings the letter addresses those. The key point that we want to make is issues related to commercial needs are not relevant to your review of the application. The market doesn't help make a land use decision. Issues related to other potential aggregate sites is not relevant to the county review of the application. This pertains to property to the west of this site that has been deemed significant by the county in the late 1990's but was not approved for mining. The mineral rights and surface rights are owned by different parties.

The application that Mr. Coleman has submitted is more comprehensive than other recent sand and gravel applications and includes traffic analysis and other analysis that based on the issues raised. There are other state standards that are applicable and will be applicable to this process once land use achieved. In Oregon, state agencies are required to follow a state agency coordination process and land use is usually the first process to go through the steps and following will be the DOGAMI, DEQ, water resources and those issues will follow and the applicant is aware of those and has every attention of doing that. A letter, Exhibit K, submitted by Bill Porfily indicates the process and indicates that there is water available but it does have to go through a process and we anticipate that to happen and once we have this land use approval in hand those steps will begin and so will the DEQ permitting and the DOGAMI permitting. Then not only the county but those agencies will continue to have review and input in the activities that will happen once the operation is up in running. There has some been some questions about the site and where mining will start. The updated site plan provided, Exhibit Q, initially

they were going to dig a hole in the first ten acres outside of that hole. We will place the equipment temporarily on ground level and once that hole is built the equipment will be placed in the hole and will stay in that site as required by the County approval with the recommendation by the planning commission for the life of the pit. Inside of that hole will be the concrete and asphalt plants, stockpile site and the crusher site. We also provided in final submittal, Exhibit Q, about other state agencies and what their roles are and the compliance issues that will be applicable.

Craig Coleman, applicant, 7188 Wilson Lane Boardman, OR. Carla has summed it up pretty well. He stated that this has been a learning experience in this permitting process. Most of the opposition has been from the competition. We are trying to do everything that we are supposed to do. Carla has a track record applications and has done four of them by know. Trying to get it passed and away we go.

Jeff Hines, H&S Incorporated, PO Box 322 Echo, OR, Met Craig and Bob Coleman a few years ago. He is a rock producer and in the contracting business. Since he has moved to Umatilla County he has acquired several jobs and some of them have been for Amazon. They had approached him for rock and the existing rock producers had given them prices but they had approached him. He has worked in Morrow County with the company that has hauled rock to Umatilla County and using these sources. The sources that we are using are quite some distance farther than Boardman, Oregon where these projects are, so we are burning more fuel and going through bigger steps. The facilities that the Coleman would like to open are closer to these projects. The reason he has gotten involved is that the Coleman's have recognized that he has been doing these projects. What he really like about these two Coleman gentleman is the son asked him a few months back if they can farm in these holes once they are done. Nobody had asked him that before and didn't see why not. That had been a big opposition to taking away farm grounds but they have every right to control that. They do grow a lot of different kind of crops where most folks don't. He is very much for helping these folks and is helping himself at the same time.

There were no other proponents.

Opponent(s).

Andrew Stamp, Representing Wade Aylett-Rock It LLC- Rock Solid Sand and Gravel, Vial Fotheringham, LLC 17355 SW Boones Ferry Rd Suite A, Lake Oswego, OR, Primary theme of the planning commission, which he will repeat here, is that the application does not simply have enough information to meet the approval standards and have that information be supported by the substantial evidence in the records. Its interesting last week LUBA issued an opinion on a case that is almost the same as this one, *Brett v. Douglas County*, went down exactly as he said it would and that is LUBA remanded on four of the five assignments of error on some of the same issues that we are talking about today. Not enough sampling of aggregate to define a representative sample, which is the same problem they have. Now here they have gone back after he told them that and dug up some more samples. Still don't think it is a representative sample because the amount of aggregate on this sight is not a uniform layer, there is a lot more sand on the southern half of the site and more good gravel on the northern side of the site. LUBA said there was insufficient information about the conflicting uses and conflicts from mining. Mr. Stamp thinks there will be the same results. None existent discussion about noise and dust impact on adjacent homes and adjacent agricultural practices and adjacent mining operations. There was a failure to conduct an adequate ESEE analysis. Interestingly LUBA had a discussion on what it means to minimize a conflict and they looked at the definition in 660-023-0180(g) "to reduce the identified conflict to a level that is no longer significant" that is what the task is here today for the applicant. In cases in where the conflict is addressed by local, state and federal standards such as DEQ standards for noise and dust to minimize the conflict means to minimize that to ensure conformance to

the applicable standard. For this case there has been no effort at all, no evidence at all for noise conflicts and there is nothing in the records except for the letter that I submitted yesterday, Exhibit R, Kerry Stanley engineer at DSA he has done 350 gravel pits all over the state of Oregon and he said that the applicant has not taken the steps necessary to demonstrate the conflicts are minimized. Obvious conclusion since there is no evidence in the record at all, all the applicant said is that they were going to build a berm. They don't say how high or thick the berm is going to be and they even said they aren't going to berm in front of one of the houses because the person that owns the house doesn't want a berm but that is irreverent. So in this case I think it is absolutely obvious that this case should be denied or the record left open for the applicant to submit more evidence. But he is not asking for the record to be left open. There is a letter from Dr. Lynn Green, Exhibit R, geologist from Oregon. This letter discusses the effects of chemical dust suppressant on air quality, ground water quality, and quantity. One thing he concludes is if you use dust suppressant on your gravel pit there will likely be cause of effect of failing to recharge the ground water aquifer. Now this is a called the ButterCreek critical ground water, it is designated by the State of Oregon. The applicant, if they are going to use chemical suppressants, which is what they say they are going to use because they don't have any water. It will require approval of that and they are unlikely to get that approval because of that ground water area. Mr. Stamp submitted a letter yesterday where he went into greater detail, Exhibit R. He would like Wade Aylett Jr. to talk about how they do dust suppression by using water and how many trucks a day you use to water down your haul roads.

Wade Aylett Jr. , 75134 West Oregon Lane, Irrigon, OR, for managing haul roads we have an off-road truck that hauls 10,000 gallons. With our site that we are currently using right next to Coleman there is about an 8,000-gallon water truck that is watering that road every hour to keep it that managed. That is water that is available on site every hour and on top of that for about an 8 to 10 hour shift it takes about 5,000 gallons of water to manage the dust quality on a crusher. Depending on the set up it could change the numbers but that is what he does being laid right adjacent to the freeway, he uses an excessive amounts of water to make sure to manage his site. His issue is he doesn't know how they are going to be able to manage something that has overburden removed right adjacent to his site and blows into his site. It is going to be hard to manage his water. If you are in a wind storm that has dust blowing into his site it is going to make his site dry out and make it into a big dust bowl right along that freeway. Are you going to say when that wind storm comes they are going to just pump that agricultural water into a truck and do it just so that phone call doesn't come, he doesn't know and can't make assumptions. How is that going to be managed legally using that water the way it is supposed to be used to manage that. When you remove that overburden it is going to have to be watered it is blow sand. Are you going to spray it with chemicals and do duster chemicals on that over burden? How is that going to affect the concrete rock, how is that going to go with how it responds to form concrete. Nothing has been laid out on how we know it can be used that way. The only way he does it is by using water, with water because that is available to him and it is not going to affect the concrete, the farm or anything and that is the way he manages it. It leaves a concern knowing that there is going to be ground scraped and removed the surface right next to his pit and there is no confirmation that there is adequate amount of water to be used to keep it down especially in the sand area.

Commissioner Shafer asked if Mr. Aylett Jr. if there were any water rights that they are using. Mr. Aylett Jr. said yes. Commissioner Shafer asked how big is there water right. Mr. Aylett Jr. didn't know the answer to that but knows it is the biggest water right in the state. He stated that he has four wells on that site and pumping 350 gallons a minute into that water truck. He would have to get with Bill and talk about this, he recently took this over from his dad who recently retired and he is learning all of these things.

Commissioner Timmons asked Mr. Aylett Jr. if their water was ag water. Mr. Aylett Jr. stated that it is for commercial use and that he has transferred to be able to use that for commercial use and can't use farm water for that because that would be illegal. Mr. Stamp stated that is the problem that the applicant has right now and didn't realize that until the hearing in front the planning commission and the Watermaster told him that they can't use irrigation water for industrial purposes you have to transfer it over and there are some problems with that as well. Mr. Aylett Jr. stated that he did all of his transferring before he chased to get his approved. He transferred all of his water and is doing it right and it is an all or nothing game and if he is going to be next to that freeway and he is going to be playing this game. He had to ditch that part of yeah I would like to farm everything while I am doing it to but had to ditch it and focus on what he is focusing on because he admitting to it. Talking about being right next to people driving by here that don't care about him but if something happens to them that is his livelihood.

Commissioner Timmons asked Mr. Aylett Jr. if all of four of his wells are industrial use. Mr Aylett Jr. stated that two of them are. Commissioner Timmons asked if the other two were agricultural and Mr. Aylett Jr. said yes.

Commissioner Timmons asked Mr. Stamp if that he said that it would be unlikely that the Butter Creek critical ground water area in regards to water would give the applicant any, that there would be problems there, have you contacted them? Mr. Stamp said no, that there is a letter from his geologist and what he is saying is that if you were to put chemical dust suppressants in the bottom of that pit to control dust and what is going to happen is when it rains that water is going to pond up and he told me where they had cases where his own clients were using chemical dust suppressants and every year they have to redesign their water retention facilities because they don't work because the rain takes all of the chemical into the settling ponds and lines it essentially then no water can get through. They have to dig it out every year and it is a big problem. The geologist was saying it really is bad to use these chemicals because once you start using them you create a big pond essentially. It is almost like putting a bentonite clay liner at the bottom of the pond and it makes it where the water can't infiltrate. Then it starts evaporating and when it does start evaporating it can't get back to the ground water.

Commissioner Timmons asked Mr. Stamp if this was industry standard to use these chemical suppressants. Mr. Stamp stated no, no this is what they have proposed because they don't have any water now. They haven't told us anything about the type of chemicals they would be using which is a one of the problem with their case. They have just said the only evidence in the record is we will use dust suppressants we will use chemicals. They don't say what kind of chemical, how often they will use it, and how affective it is, they say nothing. Mr. Aylett Jr. stated that they also use that there is a pit across the road that doesn't have water and it would be unfair for them to be allowed to not have to have water. Mr. Stamp stated that that pit owner is here and he is basically stating that he does have water rights.

Chair Dorran asked if that was in the testimony because he didn't remember seeing that. Mr. Aylett Jr. stated it was brought up by H and S and what he is saying is that it will probably be brought up again is that with them sitting across the freeway and he is sitting on the other side of the freeway and somebody on the other side of him. Chair Dorran stated that we have to go by the testimony and wondering where in the testimony they said a pit across the street that wasn't using water. Mr. Aylett Jr. said that it was said during a hearing. What he is testifying to is that you have to handle it differently because you will be staking somebody right beside him and the other guy will be across the freeway where the prominent winds don't blow and trying to say that it does affect him whether someone says it does or doesn't.

Commissioner Timmons stated that she wanted to finish what she was saying, the chemical suppressant because we don't know exactly the product that is being used we don't know what it is going to do. Mr. Aylett Jr. stated then which is why you should deny it. Commissioner Timmons stated so we can't assume what is going to happen to that water because we don't know exactly what type is going to be used. Mr. Stamp stated that it is the applicant's burden to prove there is no conflict or the conflicts are minimized. In the absence of information, you have to deny, it is really that simple. That is what that LUBA case said 4 out of 5. Chair Dorrnan stated that they would be the adjudicators. Mr. Stamp stated that LUBA is ultimate adjudicator but you make the original decision. Chair Dorrnan stated that is what we are doing today. Mr. Stamp stated he is telling the commissioners how to make a decision to survive LUBA.

Chair Dorrnan had a question on the noise, on your comments you mentioned that he, Mr. Stanley, had done 350 noise tests in Oregon. Mr. Stamp stated in Oregon and across and could include Washington. Chair Dorrnan stated that a majority of them where in Washington, is the standard the same? Mr. Stamp stated very similar. Chair Dorrnan stated so it's not the same. Mr. Stamp stated that he is an Oregon lawyer and doesn't know the ins and out of Washington law but does know that all of these standards in all states are very similar. The DEQ standard that Oregon adopted wasn't really an original standard it was originally adopted by the EPA in the 1970s and most states kind of said well the EPA that is what they think so we are just going to adopt that so there may be slight variation in the actual DB limits from state to state but they are very close. In any event, Mr. Stanley has probably done more than anyone else in the state in terms in noise studies for aggregate pits. Chair Dorrnan asked with his previous company? Mr. Stamp stated that DSA, he still uses the DSA name but he had a bigger company but he retired and sold that but decided that retirement life didn't suit him so he is still doing work and happy to get him on board. Mr. Stanley wrote the memo with the DSA name and haven't talked to him about the ins and outs about that. Mr. Stanley is the preeminent acoustic engineer when it comes to gravel pits. Mr. Stamp stated in his materials three LUBA cases accepted Mr. Stanley evidence as substantial evidence and he is the real deal.

Chair Dorrnan stated that his question goes back to the same as Commissioner Shafer and Commissioner Timmons is that the bottom line is that the applicant to get a permit will have to go through additional steps whether it be water or other issues, is that correct? Mr. Stamp stated yes, sir. Chair Dorrnan stated and if chemicals, there is polymers, synthetics, there is a wide range of chemicals besides glutamate and calcium and bentonite based chemicals that can be used and don't have the effects that you discussed, isn't that correct? Mr. Stamp stated that they all have effects and they all have cost and part of the reason why the chloride is the most commonly used in Oregon is because they are the cheapest but they have definite effects and you are putting salts in the ground. Chair Dorrnan stated that not all are salt based. Mr. Stamp agreed. Chair Dorrnan stated there are polymers, synthetics that have zero salts. Mr. Stamp stated that is true but they are more expensive and when you are talking 200 acres' site that adds up quickly. Chair Dorrnan again but we are not in charge of the operation profits or losses of the applicants. Mr. Stamp stated that is true but you have to show that it is feasible for them to accomplish the goals of mitigating impacts and impose conditions of approval that require them to do the things they say they are going to do and they haven't even really told you what they are going to do so not sure how you would even do that. They haven't even given you enough detail to even formulate a condition of approval. A condition of approval should say something like you will apply chemical dust suppressants five times a year something like that. How do you know if it is five times, four times or even three times you don't have any evidence in the records to say how much is going to be sufficient to accomplish the goals of ensuring compliance to the DEQ standard? That is exactly what was said in that LUBA case said last week.

Chair Dorran asked for comments from public agencies. There were none.

Neutral(s)

Brie Van Cleave, 33228 Oregon Trail Rd, Echo, OR, Stone Ridge Contracting, heavy civil contracting project manager, area manager for the Boardman Projects and work with Amazon directly. She buys a lot of rock so she is here supporting fair competition and that the Commissioners know there is support for more rock in our area and there is a need. As you know it is public knowledge that there are 100 buildings going in in our area in the next 10 years, 100 data centers, and they are going to need the rock for concrete and base and foundation and she is here to say there needs to be fair completion in that area because currently there is only one rock pit.

Terry Clark, 1325 NW Horn Ave, Pendleton, OR, had a comment in regard to a comment that was introduced in the December 29th meeting by Carla McLane in regards to water right to the adjacent source and I am a partner in that source. We do have water rights and using the water. Use asphalt pavers and a lot of our roads are paved. Commissioner Timmons asked where his property was? Mr. Clark stated next to the livestock sale yard. He spoke at several hearing in a neutral position and his concern is the lack of data or lack of information to make an informed decision. He pulled the chapter 660-023-0180 sections 3, 5, and 8. He would like to go through a couple different pieces there that he was fairly confused on. Chair Dorran asked if these questions were directed toward staff? Mr. Clark said no they are directed toward Chair Dorran because it relates to his comment about incompleteness to allow you to make an informed decision, how to make a comprehensive plan without the data. Item 3 that staff recognizes speaks to the volume to the quality and the applicant has made an attempt to do that. Not sure about the adequacy but have made an attempt. Section 5 gets into it a little further and refers to the first paragraph. Mr. Clark read the first paragraph of the section. Section 8 determines there is all sorts of data that they need. They have done traffic assessments, some proposals for the property in conflicts with 150 feet, in that there also a site plan criteria. You don't have a site plan; you have pictures but don't know within that sites where they are going to mine, what they are going to mine, what kind of depths, how it is going to be reclaimed. You don't know anything about it. 75% of can be mined and what 25% will be set back because of the size of the site it is a lot more than a 25 foot set back on the other. We don't enough to make a decision. We don't know where the haul roads are and we only know today where the plant sits and how are they going to get there. We don't know any phasing; we don't know anything. How the planning commission could even make a determination that the comprehensive plan criteria will be followed there is not enough information. The other thing is the approach. If you look at the subsequent conditions imposed that suggested to be included in the findings this is the last and only opportunity that local people have representation. The planning commission what happens there is the last thing that happens. From there it goes to the agencies. So say we are going to let the DOGAMI determine what the mission plan is, that is great, but you have the opportunity to impose conditions that are reflected by only the local concerns. The dust control, you have the ability to impose conditions there that are specific to that. Yet there is nothing there to do that. Total lack of local concern. He can't believe the process has gotten to this point. The whole purpose of the planning commission. You have to have that right to impose some things. You can follow with what the DEQ and the DOGAMI say but they don't live here. They are complaint driven organizations. Most everyone is afraid of the DEQ and won't call them but they would feel comfortable to call a commissioner. The commissioners have nothing to fall back on. Total lack of local concern.

Chair Dorran asked for comments from public agencies. There were none.

Chair Dorran asked for rebuttal on comments.

Carla McLane stated again most of it has been addressed. The planning commission level addressed and staff adequately summarized that and amended conditions as request by the planning commission. We do have a request before you that complies with the standards and will be regulated by the state agencies and the county and you have added no fewer than 15 conditions that have been applied to the operation and what it will do. Water rights, we have addressed that and the applicant has every intent to initiate that process with water resources while working with his consultant to do that once the application is in hand. The opponent had identified that not all of their wells had been transferred to commercial/industrial use and it is a process that takes time and a process that has some effort behind it. The conversation has started with water resources through the applicant and the consultant. Use of water vs. use of chemical dust suppressants both are standards in the industry. Both work and both have problems and the operational considerations are the operators and the regulations would be applied by the appropriate state agencies. The site is not within any of the critical ground water area that was identified by the opponent, it is on the outside of those designations. It is too far to the east to be inside that. Lack of data; she apologizes for a record that is 478 pages long. The standards are she found in Oregon administrative rules, the same standards that you have seen in rock pit approvals that have gone through the Goal 5 process for a number of years. They have been static rules and haven't had a lot of change to them. The legal case about 20 plus years ago sort of finalized the rules we operate from today. The pits that you see Mr. Aylett Jr. pit adjacent was approved under the same rules. Other pits in the region have been approved by the same rules or similar.

Mr. Coleman wanted to add about the water seems to be a point and the dust suppressant. Everybody pit is running differently and they are using the resources that they have. Water: Mr. Coleman has a 1,400 acre farm there that has permitting for over 10,000 gallons a minute. The process that we are followed per Bill Porfily, the water rights examiner, is until you have your county permitting in place there is really no reason to go out to start the process to change your water rights from ag to industrial because it is a long process and there is really no reason to start that process until you have something in place. Once the process has started we can no longer use that water for ag. So we will on those pieces right there that is about 180 acres there they are permitted for approximately 800 gallons per minute for ag. Once the ag goes away that water becomes available for industrial. It's not an overnight process and they understand that and there is other ways, limiting licenses. We have identified if we started before the state has let us change from ag to industrial there is industrial water we have in the application that we have identified. Port of Morrow sells water all the time. It is a little bit farther away and that is an economic decision that we make not our competition. We are not in the Butter Creek critical ground water area that is on the east side of that. We do not recharge in that area because the water there is a play layer there that will hold the water in place. If you go to the west about three miles' water falls through the sand, we do it all the time. Every year that is how we get water for our farm. It is from the county line water improvement district. That is where some of the water for Aylett pit on the west side comes from is a limited license through the county line water improvement district. Water seem to be an issue for dust control. Rules are rules that will be followed when the time comes.

Commissioner Shafer stated that he is a big water guy and as you all know Oregon has seven critical ground water areas and four of them are in the Hermiston area. That is a big concern for him, if you have enough water. Like you said Mr. Coleman, when you take the water from ag and you put it into industrial it doesn't go back to ag and we are an ag based economy so that is his concern. Ms. McLane stated that they only want to transfer the water that needs to be transferred so that we can maintain the agricultural operations. She stated that Mr. Coleman has a large farm and he needs to figure out how to manage all of the resources he has and that he can obtain and how he can input them to get the

maximum output. Commissioner Shafer stated that it won't be an easy hill to go up to get those water rights transferred.

Commissioner Timmons asked about the dwellings and the tenants that live in the dwellings, have they been contacted? Are they here? Ms. McLane nodded yes. Commissioner Timmons would like to hear from them.

Commissioner Dorrان asked about the transportation plan, specifically the Center Street Road. Even after reading the transportation plan he wasn't clear on how that is going to be integrated and transitioned into the program. Ms. McLane stated that Center Street was platted in 1910 on an old plat, it sits north of tax lot 1800 and south of the other two tax lots where the leg is, the bottom part of the upper part of the p. It goes out and connects to Col. Jordan Road. We have requested and you have approved vacating that road within Mr. Coleman property. But the applicant based on conversation with Tom Fellows, Umatilla County Public Works Director, has identified a gravel standard from along the border of Mr. Coleman property out to Col. Jordan and improving that road to an industrial gravel standard. Mr. Fellows has asked for a 100 feet of asphalt at the intersection with Col. Jordan to protect gravel from moving onto the county road. The intersection then becomes a full intersection with Noble and Center Street name goes away and becomes Noble Road. So Noble Road gains about three quarters of a mile with this proposal. It is a dedicated public road and will continue to function that way. Others who are adjacent to it can take access to it if they so choose. The traffic impact analysis that was done was an evaluation at the interchange, it is the protection of the interchange that is the objective of ODOT and the transportation planning rule. The evaluation of the impact of the interchange on off ramps based on both 2022 and 2042 where the years analyzed in there. There was no change in levels of service based on that with the traffic that was identified being associated. Again not only the pit itself and the traffic it would produce, but also the normal growth that would happen at that interchange. If you look at the last 20 years at that interchange it is actually a really interesting bell curve and it peaked about 10 years ago. The traffic at that interchange has been less the last 10 years. Who knows what is going to happen at that interchange going forward.

Commissioner Dorrان asked about when the transition from Center Street to Noble Street will happen, upon the initiation of operation? Ms. McLane stated that she thinks that would be more of a Tom Fellows question but from her understanding is that when the road becomes the road then the name would be Noble. Her sense based on the decision that have been made it is already Noble Road. Mr. Coleman wanted to clarify that his understanding is that is his only access road. Commissioner Dorrان stated that transition doesn't happen until operations are in place. Mr. Coleman and Ms. McLane both stated yes. Commissioner Dorrان asked Megan Davchevski if that was her interpretation. Ms. Davchevski stated that she believed that was a condition of approval to bring it up to standard, condition #12. Commissioner Dorrان stated that from his understanding that doesn't happen until operations start. Mrs. Davchevski stated that before they start. Commissioner Dorrان clarified before they start but once they are approved. Ms. Davchevski stated yes.

Commissioner Dorrان asked to go back to Commissioner Timmons question and see if the neighbor was willing to testify.

Wesley and Shelley Walker, 28286 Stafford Hansell Rd, Hermiston, OR, they have lived there for 14 years. Mr. Coleman has been an excellent neighbor. What he tells him he takes to heart and Mr. Coleman says there won't be any problems. The concern is if they sell out down the road and then they have somebody else to contend with. What happens to the value of their home when a rock pit goes in next door? Maybe it won't be as bad as they think it might be. Small concern is if the value of their home will drop 50%. At their age what they live on is what they got and the value of their home is in a way

their retirement. They are sitting back in the shadows to see what is going to happen. They have been really happy with the Coleman's and don't think the Coleman's are trying to pull the wool over their eyes. Commissioner Timmons asked what about the berm? Mr. Walker stated if you noticed down the road at the rock pit there is a 40-foot berm that runs alongside the road. He doesn't want that in their backyard and doesn't want to have to look at a pile of dirt. Mr. Coleman had told Mr. Walker that there wouldn't be a berm there. Ms. Walker stated that they are going to do what needs to be done.

Chair Dorran called for request for continuance or to keep the record open. There was none.

Commissioner Dorran closed the public hearing at 9:33 a.m.

Deliberation

Commissioner Timmons - She appreciates everyone being here today and she was at the October hearing and it was heated and she appreciates everyone today and the good information. She appreciates just the facts. She asked a general question to Megan Davchevski if the application was complete. Megan Davchevski stated that they deemed it complete when we began processing it and the planning commission made their recommendation to approve it. Commissioner Timmons asked Megan Davchevski if the application met all the criteria for a permit. Megan Davchevski stated that is what the planning commission found, yes. Commissioner Timmons wanted to thank Mr. Clark for coming today and that he asked for local input and that is what our planning commission is. They are local citizens and they deliberated for a long time. The Commissioners read the material and appreciated what Mr. Clark said but thinks as far as a local voice that is what you are getting from the planning commission and the Commissioners but thanked him for his comments.

Commissioner Dorran - Wanted to thank the planning commission, they put a lot of time into this. If you read through the minutes they put a lot of deep evaluation into all of the information presented. There was obviously even the tone of the some of the minutes it was contentious at times, land use is an adversarial issue at times and the one hopes he has is that everyone walks out of here as neighbors no matter what the decision of this commission is, that everyone realizes that there has been a lot of time put into this issue, sand and gravel isn't going to go away as there has been a lot of discussion. You don't have to go another three quarter of a mile and you are on another county property and they are going to have the same issues that we are having today, as they look at materials and inventories. He can guarantee you that places like Seattle, Tacoma, Spokane and Portland are envious of our resources that we do have and that some of those newer high rises some day will be made out of sand and rock from this area, some already are. It is contentious and it is our job here to look at first of all with all respect to the planning commission to their deep dive and review and their paralleling this to what the criteria is for approving the request. He respects their decision, he puts a lot of respect into the amount of time that the planning commission and the other commissioners put into this, so he has to be honest with you that he has not found a deficiency in the application with the criteria stated.

Commissioner Shafer -Like the chair he too looked at the application and couldn't find any deficiencies

Commissioner Dorran moved to accept all of the presented evidence today at this hearing through Exhibit S & T. Commissioner Timmons so moved, Shafer seconded. Carried, 3-0.

Commissioner Shafer moved to approve the application and adopt the Ordinance and findings. Commissioner Timmons seconded. Carried, 3-0.

The meeting adjourned at 9:41 p.m.

Respectfully Submitted,

Lori Smith

Executive Secretary to Board of Commissioners