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JUN 26 1987

BOOK 132 PAGE 701

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

BY *Suphane Buckner*
County Clerk
for Lane County, Oregon

DEPUTY
ORDINANCE PA 934

-) IN THE MATTER OF ADOPTING AMENDMENTS
-) TO THE RURAL COMPREHENSIVE PLAN,
-) POLICIES DOCUMENT, CONCERNING GOAL
-) 5 ("MINERAL & AGGREGATE RESOURCES")
-) POLICY LANGUAGE, AND DECLARING AN
-) EMERGENCY

WHEREAS, the Board of County Commissioners of Lane County is empowered, pursuant to Lane Code 16.400, to adopt Amendments to components of the Lane County Rural Comprehensive Plan; and

WHEREAS, a recommendation has been received for amendment of portions of the Policies element of the Rural Comprehensive Plan, such portions known as "Mineral & Aggregate Resource" Policies (Goal 5) of that element; and

WHEREAS, the Lane County Planning Commission in regular meeting and public hearing of April 7, 1987, and the West Lane Planning Commission in regular meeting and public hearing of April 8, 1987, did review and recommend approval of modifications to the language of "Mineral & Aggregate Resources" Policies 1, 7 and 10, and did each approve Findings in support of those actions, and such actions have been reported to the Board; and

WHEREAS, evidence exists in the record indicating that the proposed amendment complies with applicable requirements, including the requirements of Lane Code 16.400, and the requirements of state and local law; and

WHEREAS, the Board of County Commissioners has conducted public hearings and is now ready to take action; NOW THEREFORE

THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON, ORDAINS AS FOLLOWS:

Mineral & Aggregate Resource Policies Nos. 1, 7 and 10, as cited on attached Exhibit "A" to attached Ordinance PA 934 are amended by the deletion and addition of text as described on Exhibit "A".

FURTHER, while not a part of this Ordinance, the Board of County Commissioners adopts Findings as set forth in Exhibit "B" attached to the above-cited Ordinance.

The prior policy statements repealed by this Ordinance remain in effect prior to the effective date of this Ordinance.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity of the remaining portions hereof.

An emergency is hereby declared to exist and this Ordinance, being enacted by the Board in the exercise of its police power for the purpose of meeting such emergency and for the immediate preservation of the public peace, health and safety, shall take effect immediately.

ENACTED this 24th day of June, 1987.

APPROVED AS TO FORM

Date 6-9-87 lane county
Stephen J. Walker
OFFICE OF LEGAL COUNSEL

Bill Rogers
Chair, Lane County Board of Commissioners

Judy Waldeman
Recording Secretary for this Meeting of the Board

EXHIBIT "A"

ORDINANCE PA 934

Amendments to Rural Comprehensive Plan Policies, Goal 5, Mineral & Aggregate Resources

Revised language is cited below. Deletions are underlined; additions are in *Italics*.

Policy 1: Known mineral resource sites within the County which include *are limited to* those identified in Appendix "D" of the "Mineral and Aggregate Resources Working Paper," shall be conserved for both present and future uses through the application of appropriate Plan designations and compatible land use regulation measures. Such designation and regulation is to follow take place after application of the requirements of the Goal 5 Rule (OAR 660-16-000 through 660-16-025), which is as addressed in Appendix "J" of the "Mineral and Aggregate Resources Working Paper."

Policy 7: Present and future land use controls shall be implemented to allow for the discovery of new mineral and aggregate resources when it is demonstrated that the projected demand for those resources in a given area will exceed available supply and conflict with adjacent uses can be minimized. Conflict analysis and resolution shall follow the methodology set forth in Appendix "J" of Working Paper: Mineral and Aggregate Resources; however, possible impact on agricultural lands, forest lands and residential development (existing or planned) must also be considered. Mineral and aggregate resource sites, which, on the basis of substantial evidence, are considered for inclusion in Appendix "D" of the "Mineral and Aggregate Resources Working Paper" pursuant to the application of the Goal 5 rule (OAR 660-16-000/025), shall also show evidence of substantial resource utility over time. Any site evaluation shall also address possible impacts on agricultural lands, forest lands and residential development (existing or planned). For sites within the Willamette River Greenway or near Goal 5 inventoried resources, notification of the potential conflict shall be sent to the appropriate body (e.g., Pioneer Museum, Oregon Department of Transportation, Oregon Department of Fish and Wildlife, etc.).

Policy 10: Sites for which not enough information is presently available to determine quality, quantity, and conflicts with other uses which include those sites listed in Appendix "F" of the "Mineral and Aggregate Resources Working Paper" shall be considered "significant" in terms of OAR 660-16-000 through 660-16-025, but requiring that the Goal 5 evaluation process be delayed (the "1B" option). At such a time as it is clear that these sites will be needed within the County's advance framework, they shall be evaluated per the Goal 5 rule including conflict analysis and implementation of protective measures. Such evaluation will take the form of Plan amendment or revision studies. Notwithstanding the above schedule, all "1B" sites

will be evaluated within five years of the date of this Policy adoption. These sites are included herein as Goal #5 Mineral and Aggregate Exhibit A. Newly discovered or known or suspected sites, for which there is inadequate substantive information to allow a determination of quality, quantity, significance and conflicts with other uses, are identified in Appendix "F" of the "Mineral and Aggregate Resources Working Paper." All sites listed in Appendix "F", including sites used pursuant to Special Use Permits issued after the effective date of this Policy, shall be examined pursuant to the Goal 5 rule (OAR 660-16-000 through 660-16-025), for inclusion in the County's resource inventory no later than the time of completion of the next Periodic Review of the Lane County Rural Comprehensive Plan. Until then, the alternative procedures of Special Use Permits may be used to authorize mineral and aggregate extraction and accessory activities on a short-term, limited or intermittent basis as provided in Lane Code Chapter 16. In addition to meeting the criteria specified in Lane Code Chapter 16, mineral and aggregate extraction and accessory uses shall be substantially compatible with the livability of existing development of abutting property and the surrounding vicinity, and the duration of the permit shall not extend beyond the next Periodic Review unless found appropriate during Periodic Review. Conditions enhancing compatibility may be adopted as required.

EXHIBIT "B"

ORDINANCE PA 934

Findings of Fact in Support of the Amendments

1. In compliance with the "Goal 5 Rule" (OAR 660-16-000/025), Lane County's "Mineral and Aggregate Resources Working Paper" identifies a list of resource sites to be designated in the Plan and protected by appropriate zoning -- the "3C" list, also known as Appendix D.
2. The same Working Paper also contains a lengthy list of sites known or suspected to have mineral and aggregate value, but about which not enough is known to apply the provisions of the Goal 5 Rule -- this is identified as the "1B" list, or Appendix F.
3. Despite the Goal 5 rule, state statutes allow mineral and aggregate activities, subject to County control, within EFU lands (ORS 215.213(2)(d)). The County's rural resource zones provide for extraction activities subject to conditions of approval, as Special Uses within those zones.
4. The adopted "Mineral and Aggregate Resources Working Paper" (page 12) states that the conditional use procedure is appropriate to regulate small-scale extraction operations.
5. Current structure of County policies concerning mineral and aggregate resources have been interpreted to disallow consideration, as Special Use Permits, of any proposals for extraction, however minor, on properties appearing on the "1B" list.
6. It is not the intent of the County to invalidate uses allowed by statute and by County zoning districts, in preventing consideration as Special Uses, small-scale extraction operations in rural resource zones.
7. It is the intent of the County to comply with the requirements of the Goal 5 Rule, including the eventual evaluation of sites on the "1B" list. The County finds, however, that it is not equitable to place this burden on an applicant seeking a Special Use Permit for a site which is suspected to be included on the "1B" list.
8. Clarification of County policy toward Special Uses provided pursuant to state law and County Code is appropriate. This clarification is to take the form of revised Policy language concerning mineral and aggregate resources and application of the Goal 5 Rule.
9. The proposed amendments retain the County's obligation to proceed with an evaluation of "1B" sites prior to the first Periodic Review of the Plan.
10. Special Use Permit standards will provide for an effective alternative review of site utilization prior to a Goal 5 evaluation. Conditions of Approval assigned as outputs of that process will ensure compatibility with surrounding resource lands and other activities, and, further, will allow for limitations on the intensity of uses --

something not easily achieved once full Mineral and Aggregate zoning is applied to sites.

11. Lane Code 16.400 contains criteria for amendment of components of the Rural Comprehensive Plan. The amendments discussed herein comply with the requirements of L.C. 16.400(6)(h)(i)-(iii) in that:

- a. The method of amendment is by Ordinance.
- b. The amendment is to a Plan component identified in L.C. 16.400(4)(a).
- c. The Board finds that the amendment, by virtue of being in compliance with the provisions of L.C. 16.400 and with the requirements of Statewide Planning Goals as administered by the Department of Land Conservation and Development per "post-acknowledgement" review, meets all requirements of local and state law including Statewide Planning Goals.
- d. The Board finds that the amendment is made necessary by a change in public need based on a reevaluation of the factors affecting the Plan -- such factors being the administration and impact of existing Goal 5 "Mineral & Aggregate Resources" Policies on limited, short-term extraction efforts.
- e. The Board finds that the proposed amendment is consistent with the unamended portions of the Plan in that its provisions are confined to only those Policies affected by the amendment.