Josephine County
2002 Ordinances

#	Date Signed	Date Effective	Description
2002-1	4/10/02	7/9/02	An Ordinance amending Ordinance 81-11 Exhibit "A" - The Data Base of the Comprehensive Plan for Josephine County - to add to the Aggregate Resources of Josephine County an aggregate deposit on Assessor's Parcel **T37, R5, S35, Tax Lot 1400.** (Seven acres).
2002-4	9/11/02	12/22/02	An Ordinance amending the Josephine County Urban Growth Area Comprehensive Plan (Ordinance 81-20, as amended) to include 45.75 acres of land within the Grants pass Urban Growth Boundary. The land to be included is owned by Spalding & Son, inc. and consists of five tax lots: **36-05-22-00, Tax Lots 200, 300, 400 and 36-05-22-23, Tax Lots 100 & 600.**
2002-5	10/9/02	1/8/03	An Ordinance amending the Comprehensive Plan of Josephine County (Ordinance 81-11 as amended) from agriculture to mineral and aggregate resource; amending the zoning map of Josephine County (Ord. 85-1 as amended) from exclusive farm (EF) to the mineral and aggregate resource zone (MARZ); amending the comprehensive plan database to add this property as a significant aggregate site; determining conditions under which mining will be permitted; establishing protection from future conflicting uses; and providing for post mining use for property identified as: **36-6-31, Tax Lots 1500 & 2200**, for Josephine County. (Boersma)
2002-6	10/16/02	1/14/03	An Ordinance amending the Josephine County Rural Land Development Code (Ord 94-4, as originally adopted and subsequently amended) to implement certain changes relating to new and amended definitions, remand hearings, replat procedures, division of multiple zoned properties, special setback requirements, accessory structure standards, seasonal farm worker housing, site plan review and condi;tional use praocedures.

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY

Ordinance No. 2002-1

AN ORDINANCE AMENDING ORDINANCE 81-11 EXHIBIT "A", THE DATA BASE OF THE COMPREHENSIVE PLAN FOR JOSEPHINE COUNTY, TO ADD TO THE AGGREGATE RESOURCES OF JOSEPHINE COUNTY AN AGGREGATE DEPOSIT, ON ASSESSOR'S PARCEL T 37, R 5, SECTION 35, TAX LOT 1400.

WHEREAS, the Board of County Commissioners held a public hearing on January 23, 2002 to consider, under the criteria of the Josephine County Comprehensive Plan (Ordinance 81-11 As Amended) for the request before them; and

WHEREAS, the Josephine County Planning Commission at a public hearing gave consideration to the applicant's Comprehensive Plan request, and made a recommendation to the Board; and

WHEREAS, the Board of Commissioners held a public hearing, heard testimony, received evidence from the Josephine County planning staff, the applicant and any remonstrators, and concluded that the applicant had met his burden of proof that the aggregate deposit on assessor's parcel T 37, R 5, Section 35, Tax Lot 1400 (see Exhibit 1 attached) be added to the list of aggregate sites found in the *Aggregate Resources of Josephine County*.

NOW, THEREFORE, based on the foregoing authority and procedures, the Board of County Commissioners for Josephine County, Oregon, hereby takes the following legislative action to add the afore mentioned aggregate deposit to the list of aggregate sites found in the *Aggregate Resources of Josephine County*.

Section 1. Affirmation

Except as specifically amended by the provisions of this ordinance, the Josephine County Comprehensive Plan (Ord. 81-11), as lawfully amended, is hereby affirmed.

Section 2. Effective Date

First reading by the Board of County Commissioners this 27th day of March, 2002.

Second reading and adoption by the Board of County Commissioners at least thirteen days from the first reading on this 10th day of April, 2002, This ordinance shall take effect ninety days after its adoption by the Board of County Commissioners.

JOSEPHINE COUNTY BOARD OF COMMISSIONERS

Jim Brock, Chair

Harold L. Haugen, Vice-Chair

Frank Iverson - Absent

Frank Iverson, Commissioner

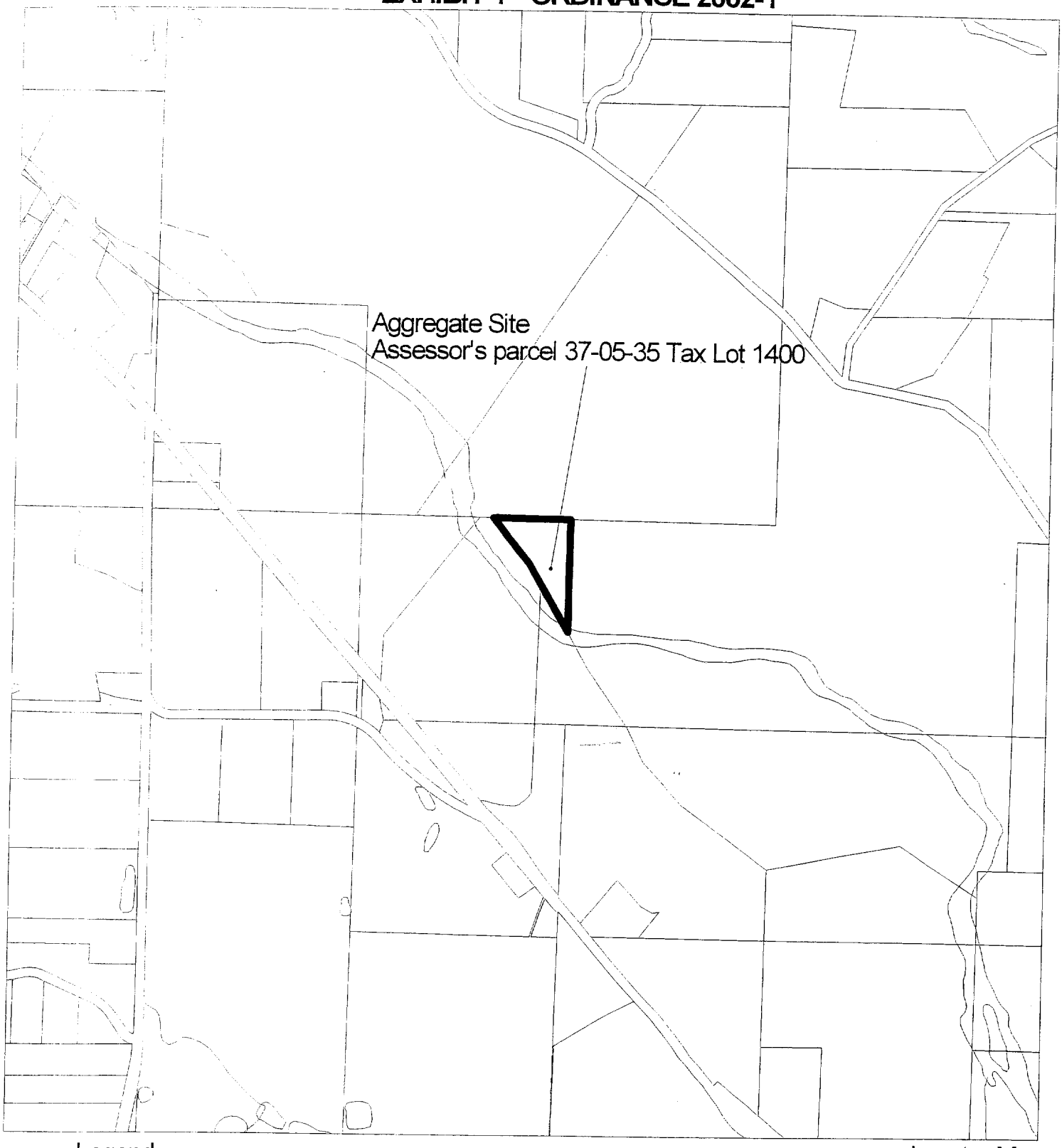
ATTEST:

Recording Secretary

APPROVED AS TO FORM:

Steven E. Rich, Legal Counsel

EXHIBIT 1 - ORDINANCE 2002-1



Legend

- Merlin Water Exception Area
- Taxlots
- Water line

900 0 900 1800 Feet

The information on this map is furnished for general interest purposes only. This information is provided without warranties of any kind, express or implied, and it should not be used to support any purchase or other investment. Josephine County will not accept responsibility for any errors or inaccuracies in the depicted information.

JOSEPHINE COUNTY, OREGON

Scale
1:10476

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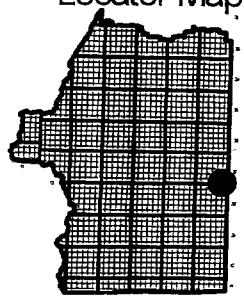
Locator Map



Creation date: Monday, February 11, 2002 D:\Fcounter\fcounter.apr

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY STATE OF OREGON

ORDINANCE NO. 2002-4

AN ORDINANCE AMENDING THE JOSEPHINE COUNTY URBAN GROWTH AREA COMPREHENSIVE PLAN (ORDINANCE 81-20, AS AMENDED), TO INCLUDE 45.75 ACRES OF LAND WITHIN THE GRANTS PASS URBAN GROWTH BOUNDARY. THE LAND TO BE INCLUDED IS OWNED BY SPALDING & SON, INC, AND CONSISTS OF FIVE TAX LOTS DESCRIBED IN THE JOSEPHINE COUNTY ASSESSOR RECORDS AS 36-05-22-00, TAX LOTS 200, 300 & 400, AND 36-05-22-23, TAX LOTS 100 & 600.

WHEREAS, the City of Grants Pass and Josephine County have entered into an intergovernmental agreement, entitled Intergovernmental Agreement for the Orderly Management of the Grants Pass Urban Growth Boundary Area, dated August 5, 1998, hereafter referred to as the IGA; and

WHEREAS, the IGA states that one purpose is to enable the County and City to work together to encourage the timely, orderly and cost effective transition from rural to urban level of development and services; and

WHEREAS, the IGA also provides, at Section IV, LAND USE MANAGEMENT, Subsection 5, that adjustments to the boundary shall be jointly made by the City and County using procedures and criteria contained in Section 13.6 of the Grants Pass and Urbanizing Area Comprehensive Community Development Plan Policies, hereafter referred to as the Policies; and

WHEREAS, the Grants Pass City Council initiated the subject application to amend the Grants Pass Urban Growth Boundary as described herein, as authorized in the Policies, at Section 13.6.5(a)(3); and

WHEREAS, in conformance with all applicable land use procedures and requirements, the City of Grants Pass published and provided all required land use hearing notifications for review and recommendation by the Grants Pass Urban Area Planning Commission, which thereupon reviewed and recommended approval of the request during a public hearing held on May 8, 2002, at the Grants Pass City Council Chambers; and

WHEREAS, also in conformance with all applicable land use procedures and requirements, the Board of Commissioners for Josephine County and the Grants Pass City Council mutually considered in a joint public hearing on June 5, 2002, the subject application for amending the Urban Growth Boundary as captioned above, to include all evidence and applicable criteria, and after respective deliberations, each acted to approve the requested amendment to the Grants Pass Urban Growth Boundary as previously documented in the land use findings for each jurisdiction;

NOW, THEREFORE, based on the foregoing, the Board of Commissioners for Josephine County, Oregon, hereby ordains as follows:

SECTION 1: ORDINANCE AMENDED & AREA TO BE INCLUDED

Ordinance No. 81-20 is hereby amended to include within the Grants Pass Urban Growth Boundary the land shown on the attached tax lot map attached as Exhibit A, and as further described by the Assessor's legal map descriptions noted in the caption to this Ordinance.

SECTION 2: CITY TO SUBMIT RECORD

Upon adoption of the Urban Growth Boundary amendment as set forth in Section 1 above, the City of Grants Pass shall submit to the Oregon Department of Land Conservation and Development a copy of this ordinance, a copy of the city's ordinance and three complete copies of the jointly approved Findings of Fact.

SECTION 3: AFFIRMATION

Except as otherwise provided herein, Josephine County Ordinance 81-20 is hereby affirmed as originally adopted and previously amended.

SECTION 4: EFFECTIVE DATE

The first reading of this Ordinance by the Board of County Commissioners occurred this 21st day of August, 2002.

The second reading and adoption of this Ordinance by the Board of County Commissioners occurred on this 11th day of September, 2002, at least 13 days from the first reading. This Ordinance shall take effect ninety days from the date of this second reading.

JOSEPHINE COUNTY BOARD OF COUNTY COMMISSIONERS

Jim Brock

Jim Brock, Chair

Harold L. Haugen

Harold L. Haugen, Vice Chair

Frank Iverson

Frank Iverson, Commissioner

ATTEST:

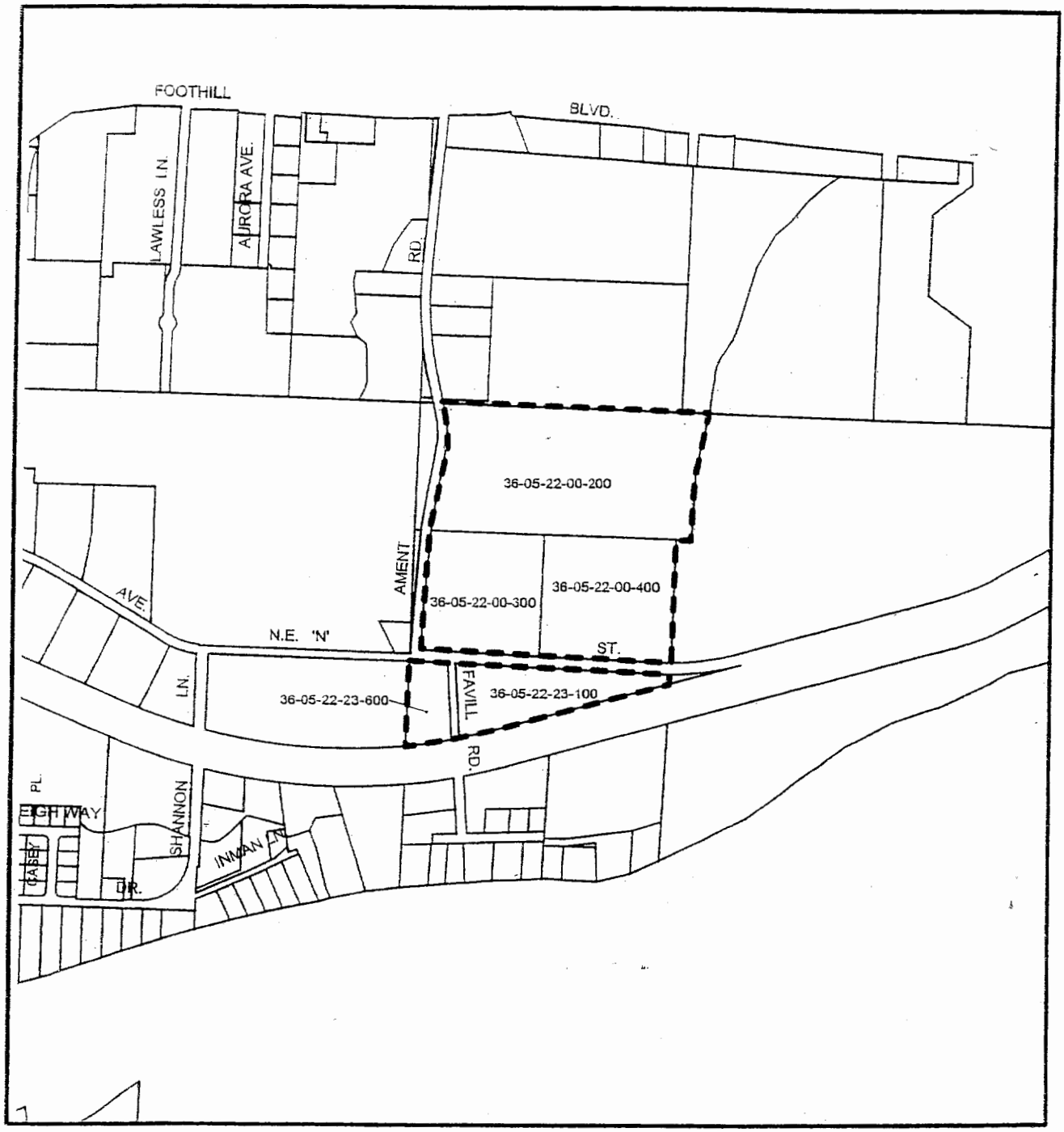
Helen M. Connelly

Recording Secretary Notary - Commission Expires 2-18-06

OFFICIAL SEAL
HELEN M. CONNELLY
NOTARY PUBLIC-OREGON
COMMISSION NO. 354826
MY COMMISSION EXPIRES FEB. 18, 2006

APPROVED AS TO FORM:

Steven E. Rich, Legal Counsel



Subject Properties

EXHIBIT 6

TAX LOT MAP

PROPOSED UGB EXPANSION

APPLICANT: CITY OF GRANTS PASS

February 13, 2002

300 0 300 600 900 Feet

SOURCE: CITY OF GRANTS PASS

EXHIBIT

A

tabbies

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY

STATE OF OREGON

ORDINANCE No. 2002-05

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN OF JOSEPHINE COUNTY (ORDINANCE 81-11 AS AMENDED), FROM AGRICULTURE TO MINERAL AND AGGREGATE RESOURCE; AMENDING THE ZONING MAP OF JOSEPHINE COUNTY (ORDINANCE 85-1 AS AMENDED), FROM EXCLUSIVE FARM (EF) TO THE MINERAL AND AGGREGATE RESOURCE ZONE (MARZ); AMENDING THE COMPREHENSIVE PLAN DATABASE TO ADD THIS PROPERTY AS A SIGNIFICANT AGGREGATE SITE; DETERMINING CONDITIONS UNDER WHICH MINING WILL BE PERMITTED; ESTABLISHING PROTECTION FROM FUTURE CONFLICTING USES; AND PROVIDING FOR POST MINING USE FOR PROPERTY IDENTIFIED AS ASSESSOR'S MAP T 36, R 6, SECTION 31, TAX LOTS 1500 AND 2200, FOR JOSEPHINE COUNTY.

WHEREAS, the Board of County Commissioners held public hearings on March 6, March 20 and April 24, 2002 to consider, under the criteria of the Josephine County Comprehensive Plan (Ordinance 81-11 As Amended) and Oregon Administrative Rules 660-23-180, the request before them; and

WHEREAS, the Josephine County Planning Commission at a public hearing gave consideration to the applicant's Comprehensive Plan and Zone Change request, and made a recommendation to the Board; and

WHEREAS, the Board of Commissioners held public hearings, heard testimony, received evidence from the Josephine County Staff, the applicant and any remonstrators, and concluded that the applicant had met his burden of proof, and that the Comprehensive Plan and Zone Change, as requested complied with the requirements of Josephine County and State Law pertaining to such matters.

NOW, THEREFORE, based on the foregoing, the Board of County Commissioners of Josephine County Oregon, hereby ordains as follows:

SECTION 1: Comprehensive Plan Amendment

The Josephine County Comprehensive Plan is hereby amended from Agriculture to Mineral and Aggregate Resource for property identified as Assessor's Map Township 36, Range 6, Section 31, Tax Lots 1500 and 2200.

SECTION 2: Zoning Change

The Josephine County Zoning Map is hereby amended from Exclusive Farm to Mineral and Aggregate Resource for property identified as Assessor's Map Township 36, Range 5, Section 31, Tax Lots 1500 (the Slate bar) and 2200 (the Boersma site).

SECTION 3: Affirmation

Except as otherwise provided herein; Josephine County Ordinance Nos. 81-11 and 85-1 are hereby affirmed as originally adopted, and heretofore amended.

SECTION 4: Determination of Significance

The Josephine County Comprehensive Plan Data Base is hereby amended to include Assessor's Map Township 36, Range 6, Section 31, Tax Lots 1500 and 2200 as a significant aggregate site.

SECTION 5: Conditions Under Which Mining Will Be Permitted

A. The Aggregate Resource comprehensive plan designation and the Mineral and Aggregate Resource zoning for the Boersma and Slate Bar sites shall begin on the effective date of the adopting ordinance and shall have a duration of no longer than 12 years from the date of the adoption of this ordinance. The mining operator must obtain a Development Permit before commencing any mining activity.

B. Mining operations shall include excavation only, using a tracked backhoe and tractor-trailers. This approval does not permit blasting, crushing, or asphalt or concrete batching on the site.

C. The mining and reclamation of the mine area shall be conducted in conformance with the recommendations of the "Hydraulic Analysis" for the Boersma site" prepared by David J. Newton Associates, Inc. dated August 2002 as amended.

D. Mining and reclamation also shall conform to the following conditions and limitations adopted by the Board of Commissioners:

1. Mining shall be conducted in accordance with the operations plan and with the mitigation measures presented in the PAPA application and the following requirements:

a. Only excavation shall occur on this site. This approval does not permit blasting, crushing, asphalt or concrete batching, or processing of any kind. Maintenance of equipment may occur on site but there shall be no storage of fuel or trucks or trailers on site.

b. Only one tracked excavator, one front end loader, one truck and trailer being loaded and one truck and trailer awaiting loading shall be in operation on the site. This equipment shall operate in conformance with the noise mitigation plan contained in the PAPA.

c. Mining shall take place in the phased sequence described in the PAPA, with reclamation proceeding as mining takes place. One excavation cell, one dewatering cell and one cell in the process of reclamation shall be operational at any one time. Reclamation shall be concurrent with mining operations, and shall take place in compliance with the reclamation plan approved by the Department of Geology and Mineral Industry (DOGAMI).

d. Extraction or hauling shall not commence on any day earlier than 7:30 a.m. and shall cease not later than 5:00 p.m. Extraction or hauling shall not occur on Saturdays, Sundays or any national holiday. Routine site or equipment maintenance and/or repair resulting in no more than de minimus noise, dust or like conditions may occur at such other times or dates.

e. Extraction and hauling shall comply with any seasonal operational restrictions established by DOGAMI, but shall not exceed nine months in any given year without prior authorization of the planning director.

f. No excavation shall take place within 100 feet of the banks of Slate Creek or of the Applegate River. Riparian vegetation within 50 feet of either stream shall not be disturbed. An exception to this is the outlet connecting the reclaimed pit to the Applegate River and the bridge over Slate Creek.

g. No surface or subsurface discharge of hazardous waste shall occur on this property.

h. The erosion control and stormwater management plan shall be approved by DOGAMI.

i. The Applicant shall obtain a stormwater discharge permit from the Department of Environmental Quality.

j. The Applicant shall obtain an operating permit from DOGAMI.

k. A removal fill permit shall be obtained from the Division of State Lands and the Corps of Engineers.

l. Copies of all approved federal and state permits shall be provided to the Planning Office prior to issuance of a development permit authorizing initiation of mining operations.

m. The post-mining use of the site shall be fish and wildlife habitat.

2. The Applicant shall obtain a road approach permit from the Oregon Department of Transportation (ODOT) for access to State Highway 199. Article 42.050 RLDC

a. The site shall be accessed by a bridge spanning Slate Creek entering directly to State Highway 199.

b. Mitigation and replanting of riparian vegetation as shown on a revised mining plan to offset bridge construction shall become part of the Mining Plan.

3. Any gate shall be set back in compliance with the ODOT road approach permit. Article 42.050 RLDC.

4. There shall be a minimum of three on-site parking spaces. The location of these spaces may vary with the mining operations. There shall be no parking on public roadways or right-of-ways. The parking area shall be graveled. Article 75 RLDC

5. The Applicant will complete and return to the Water Resources Department a "Statement of Intended Water Use." Use of more than 5,000 gallons a day of groundwater for commercial or industrial purposes requires a state groundwater use permit. Use of water for gravel washing or dust control will require a state permit for water use, if the amount used exceeds 5,000 gallons per day. Article 84 RLDC.

6. The access road between Highway 199 and the mine site shall be paved, and while used for the mining shall be maintained by the operator, to meet the most current air quality standards set out by the Department of Environmental Quality, for a distance of 500 feet from public roads or streets or residences located on adjoining property. Dust from other sources, such as the pit floor or gravel piles, shall be controlled to meet current air quality standards set by the Department of Environmental Quality. Article 91 RLDC.

7. All mining and processing of mineral and/or aggregate resources shall comply with OAR noise emission standards. Compliance for the purpose of issuing a development permit can be demonstrated by a report from an acoustical engineer attesting that the circumstances of the site and/or proposed mitigation will bring the site into compliance. Article 42.050 RLDC.

8. Applicant shall comply with the requirements of a National Pollutant Discharge Elimination System. Article 42.050 RLDC.

9. No artificial lighting shall be installed on the property in connection with the operation.

10. The proposed mining plan shall be modified so that the mine area is a minimum of 500 feet from the residence at 7261 Redwood Highway, Assessors Parcel 36-06-31-00-002300, or any other existing residence. Section 72.040A RLDC.

11. All operations shall comply with all applicable federal and state laws, rules, and requirements. Article 91 RLDC.

12. The Applicant shall obtain a development permit prior to commencing mining operations. Article 41 RLDC.

a. The Planning Office shall, at a minimum, prepare an annual report for review by the Board of Commissioners on the status of compliance with conditions and any citizen complaints.

13. A development permit for the mining or processing of mineral and/or aggregate resources is conditioned upon the operator's obtaining and maintaining of all state agency permits required for the operation. The operation of a mining or processing site in violation of this requirement shall render the development permit immediately void. Article 41 RLDC.

14. Unless modified by an impact area agreement prior to any final decision by the County, issuance of permits for any new conflicting use or structure that is noise sensitive shall be conditioned on construction using sound proofing, which will result in attainment of noise standards within the new conflicting use. Section 66.150 D RLDC and OAR 660-023-180(5).

15. Issuance of permits for any new conflicting use within the impact area of the mine shall require the recording of a restrictive covenant containing an agreement not to object to the mining of mineral and/or aggregate resources at the mine area when such activities are lawfully conducted. Section 72.040(A)(2) RLDC.

16. Any new conflicting use or structure shall be set back 500 feet from the mine area. Section 72.040(A)(2) RLDC.

17. Overburden soil in excess of two feet shall be stockpiled.

18. Within 30 days of issuance of the final permit allowing initiation of excavation at the Boersma site, the Applicant shall deposit $5,000 in an interest-bearing account at the Josephine County Branch of the Valley of the Rogue Bank, for use by the County only to monitor compliance with the terms and conditions of this authorization. At the termination of excavation for mining of aggregate at the Boersma site by the Applicant, any unused balance including interest accrued shall be returned to the Applicant.

19. Conditions 1h, i, j, k, l; 2; 5; 8 shall be completed prior to issuance of a development permit.

SECTION 6: Protection From Future Conflicting Uses

The conditions and limitations of approval established above included the following conditions of approval:

14. Unless modified by an impact area agreement prior to any decision by the County, issuance of permits for any new conflicting use or structure, which is noise sensitive shall be conditioned on construction using sound-proofing which will result in obtainment of noise standards within the new conflicting use.

15. Issuance of permits for any new conflicting use within the impact area of the mine shall require the recording of a restrictive covenant containing an agreement not to object to the mining of mineral and/or aggregate resources at the mine area when such activities are lawfully conducted.

16. Any new conflicting use or structure shall be set back 500 feet from the mine area.

These conditions are intended to protect the Boersma and Slate Bar sites, which are significant mineral and aggregate resources, from future conflicting uses. The affected properties are those located within the post-minimization impact area identified by Daley-Standlee & Associates, Inc. (Exhibit A).

SECTION 7: Post Mining Land Use, and Reversion Clause

The post-mining use of the site shall be wildlife habitat.

The Aggregate Resource comprehensive plan designation and the Aggregate Resource zoning for the Boersma and Slate Bar site shall begin on the effective date of the adopting ordinance and shall have a duration of no longer than 12 years from the date of adoption of this ordinance. After such duration the Aggregate Resource comprehensive plan designation and the Aggregate Resource zoning shall revert to the Agricultural comprehensive plan designation and exclusive farm zoning. With this

reversion the site shall be removed from the County's inventory of significant aggregate sites.

SECTION 8: Effective Date

First reading by the Board of County Commissioners this 25th day of September; 2002.

Second reading and adoption by the Board of County Commissioners at least thirteen (13) days from the first reading this 9 day of October, 2002. This Ordinance shall take effect ninety (90) days after its adoption by the Board of County Commissioners.

JOSEPHINE COUNTY BOARD OF COUNTY COMMISSIONERS

Jim Brock

Jim Brock, Chair

Harold L. Haugen

Harold L. Haugen, Vice Chair

Frank Iverson

Frank Iverson, Commissioner

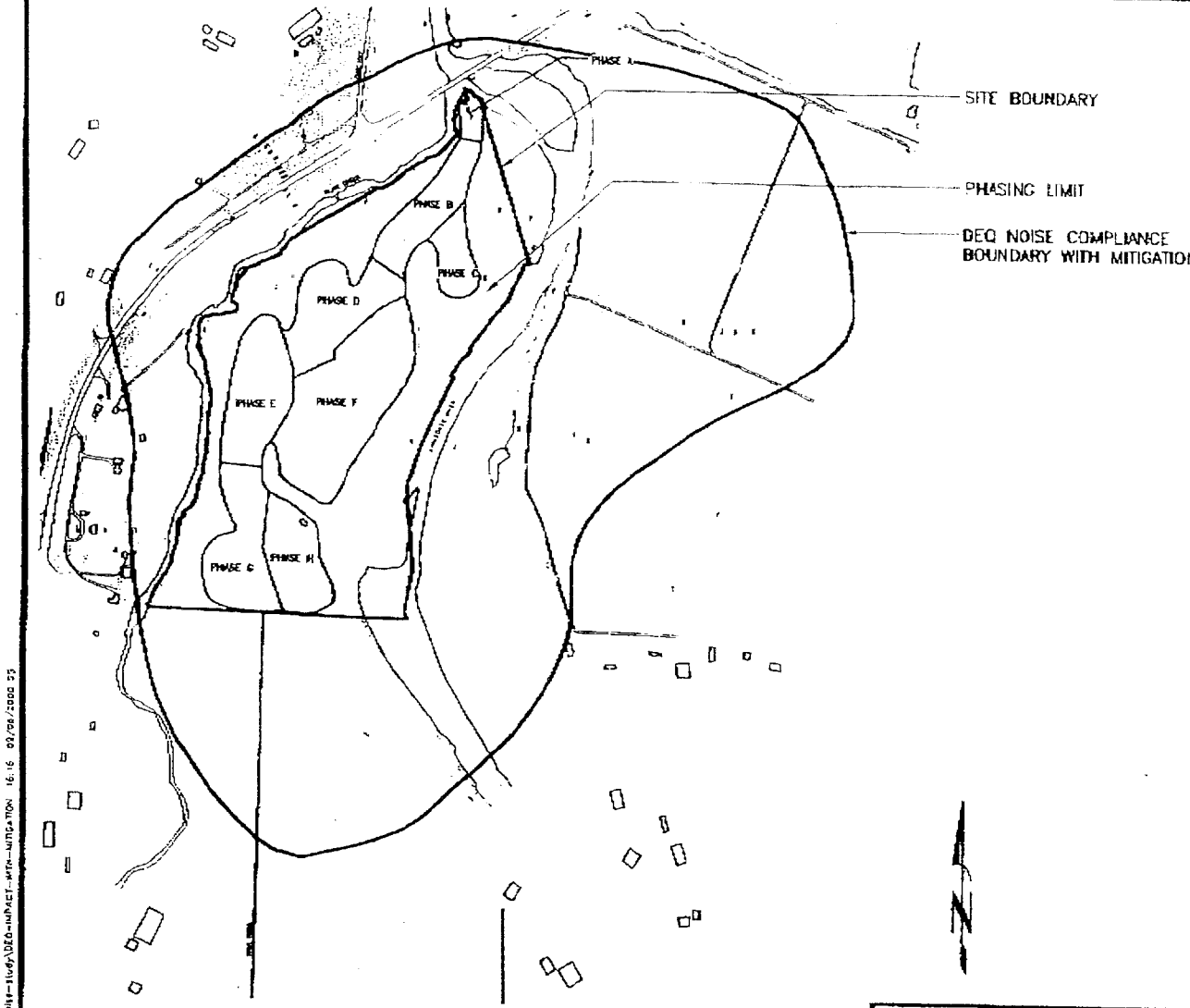
ATTEST:

Susan Nova

Recording Secretary

APPROVED AS TO FORM:

Steve Rich, Legal Counsel



NOTES

1. BASEMAP DATA PROVIDED BY DNA.

0' 600' 1200'
SCALE: 1" = 600'

DAVID J. NEWTON ASSOCIATES, INC.
CIVIL & GEOLOGICAL ENGINEERING SERVICES
1201 S.W. 12TH AVENUE, SUITE 400
PORTLAND, OREGON 97205
(503) 228-7718
FAX (503) 228-7731

DEQ NOISE COMPLIANCE BOUNDARY WITH MITIGATION
BOERSMA SITE
JOSEPHINE COUNTY, OREGON

DESIGNED BY: PK	DRAWN BY: CB	DATE: AUG. 2000	FILE: G:\913\101\MINING\NOISE-1\DEQ-IMPACT-MTH-1	FIGURE 7

C:\913\101\mining\noise-study\DEQ-IMPACT-MTH-MITIGATION 16:16 09/08/2000 DS

EXHIBIT A

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY
STATE OF OREGON

ORDINANCE NO. 2002-6

AN ORDINANCE AMENDING THE JOSEPHINE COUNTY RURAL LAND DEVELOPMENT CODE (ORD 94-4, AS ORIGINALLY ADOPTED AND SUBSEQUENTLY AMENDED) TO IMPLEMENT CERTAIN CHANGES RELATING TO NEW AND AMENDED DEFINITIONS, REMAND HEARINGS, REPLAT PROCEDURES, DIVISION OF MULTIPLE ZONED PROPERTIES, SPECIAL SETBACK REQUIREMENTS, ACCESSORY STRUCTURE STANDARDS, SEASONAL FARM WORKER HOUSING, SITE PLAN REVIEW AND CONDITIONAL USE PROCEDURES.

WHEREAS, the Josephine County Planning Director proposed certain amendments to the Rural Land Development Code (RLDC) relating to the items described in the caption above for consideration by the Josephine County Planning Commission; and

WHEREAS, the Planning Commission, pursuant to the review authority granted in Section 46.020 of the Rural Land Development Code, and Goal 11, Policy 1, of the Josephine County Goals and Policies of the Comprehensive Plan, conducted two public hearings regarding the proposed text amendments, on July 22 and August 5, 2002, after required notice by publication, in addition to community advertisement and mailed notice to interested persons, agencies and organizations; and

WHEREAS, after due consideration of the proposed amendments and the testimony and evidence from those participating in the hearings, the Planning Commission concluded by a vote of 7-0 to approve the amendments; and

WHEREAS, the Josephine County Board of Commissioners, after reviewing the record of the Planning Commission proceedings, and its written Findings of Approval, and after discussing these matters with the Josephine County Planning Director, find that the approved text amendments are reasonable and appropriate, and advance the policies and purposes of the Josephine County Comprehensive Plan; and

WHEREAS, the authority to implement legislative amendments to the county's comprehensive plan resides solely with the Board of Commissioners, as specified in Goal 11, Policy 1.D[2], and the Rural Land Development Code, Section 46.020.B.2, by ordinance;

NOW, THEREFORE, based on the foregoing, the Board of County Commissioners of Josephine County Oregon, hereby ordain the following amendments to the text of the Rural Land Development Code.

Section 1. Text Amendments

1. Replace or add the following definitions to Article 11 of the Rural Land Development Code:

   KITCHEN. Any area within a dwelling or other structure that is designed for the cooking and preparation of food, and which usually contains cabinets, counters, sink,

refrigerator, cooking stove, or combinations thereof. In determining whether an area is designed for the cooking and preparation of food, the Planning Director shall consider all of the following factors:

A. Whether the size, location and arrangement of counters and cabinets facilitate the storage, preparation and cooking of food; and

B. Whether the number and location of electrical outlets accommodate the layout of kitchen appliances; and

C. Whether the layout and plumbing accommodates the installation of a sink; and

D. Whether the area functions as an independent living space because of intervening construction features and/or separate outside entry and exit; and

E. Whether the area is served, or set up to be served, by 220 wiring or gas piping that can be used for a cooking stove; and

F. Whether the area is designed and plumbed to function as a bathroom only.

Before issuing a development permit, the Planning Director shall review and approve the building plan drawings required for the building permit, and once approved, the area shall be constructed as shown and approved.

KENNEL. A use providing for the commercial keeping, boarding, grooming, breeding or training of smaller domesticated pet animals, such as dogs and cats, that are at least 6 months of age. The keeping of more than six dogs older than 6 months shall be considered a kennel even if not for commercial purposes. The use does not include wildlife sanctuaries, or the keeping of exotic animals under special state or federal permits, or the feeding, breeding and/or management of livestock, poultry or fur-bearing animals when raised as an "agriculture, farming or farm use" as defined in this code. See also the definition for "commercial."

LOT LINE, FRONT. The property line abutting a public street is the front lot line. In the case of a corner lot, all property lines fronting a public street shall be considered front lot lines. In the case of a flaglot, the line in the main body of the lot that intersects the flagpole at an angle shall be the front lot line. Where two property lines intersect the flagpole at angles, the line most parallel to the front of the main residence shall be the front lot line. In cases where parcels do not abut a public street at any point, there shall be no front or rear lot lines and all lines shall be considered side lot lines.

LOT LINE, REAR. The property line most opposite and most distant from the front lot line is the rear lot line. When more than one front lot line exists, then all remaining lot lines shall be side lot lines and there shall be no rear lot line.

LOT LINE, SIDE. Any property line not a front or rear lot line is a side lot line. When a lot does not abut a public street, then all lot lines shall be side lot lines.

MASS GATHERING. The organized gathering of 100 or more persons when the gathering is not authorized by some other planning permit approval. Family weddings, reunions and funeral gatherings of the owner of the property, as well as events held in public parks, shall not be considered mass gatherings. Mass gatherings shall be allowed as a permitted temporary use in all zoning districts.

STORAGE CONTAINER. Any area enclosed or roofed for the purpose of storing personal property, including converted semi-truck trailers and air/sea shipping containers, and modular storage buildings (on or off skids), metal storage sheds, portable sheds or any other similar enclosure. Storage containers, buildings and sheds shall be considered a "structure" for the purpose of meeting accessory structure size limitations and setback and development permit requirements. *NOTE:* Storage containers or sheds not meeting the Uniform Building Code requirements cannot be provided with electrical service.

2. Delete the existing Section 33.130 of the Rural Land Development Code regarding remand hearings and replace it with the new section as set forth below.

33.130 - REMAND HEARINGS

Hearings to consider remanded land use decisions shall be governed by the applicable rules for applications, hearings and appeals as set forth in this code, except as follows:

A. A remand proceeding shall be initiated by an appeal application on forms prescribed by the Planning Director, together with the fee for remand hearings. The application must be filed within 45 days from the date of the final opinion and order remanding the county's decision. Except as provided in subsection B below, only the applicant as defined in Section 11.030 of this code may file a remand application.

B. All remand proceedings shall be conducted exclusively by the Board unless the Board delegates jurisdiction to another review body by resolution. This grant of jurisdiction is intended to supersede any other grant of jurisdiction in this code. In addition, the Board reserves the right to initiate a remand proceeding pursuant to Section 31.030 of this code.

C. The applicant in a remand proceeding shall specify in the application whether the remand hearing will be confined to the record of the earlier proceeding or whether the remand hearing will involve the introduction of new evidence. In the event the remand hearing is confined to the earlier record, the applicant shall submit amended findings with the remand application. The remand hearing shall be confined to the earlier record unless the review body opens the record for new evidence pursuant to Sections 33.080.E or 33.090.F.

D. Participation in the remand hearing shall be strictly limited to those persons or organizations who were legal parties in the higher appeal. Procedures shall therefore be limited in the following respects:

1. Written notice shall be given only to the persons or entities who were parties to the higher appeal.

2. Only parties to the higher appeal may present arguments (in the case of a hearing on the record), or present evidence, witnesses, testimony and arguments (in the event new evidence is allowed) in the remand hearing.

3. Josephine County shall always be considered a party in the remand proceeding even if it did not submit briefs or make arguments in the higher appeal(s).

E. The remand hearing shall not consider any issue or issues other than those specified for remand in the remanding decision, and no other evidence, testimony or arguments shall be allowed regarding other issues within the scope of the Board's original action.

F. The following special time limits shall apply to remand applications:

1. The review body shall take final action on a remand application within 90 days of the effective date of the final remand order; and

2. The effective date of the final order is the last day for filing a petition for judicial review of a final order of LUBA, or if judicial review of LUBA's order is sought by the Oregon Court of Appeals or the Supreme Court, the 90-day period shall not begin until final resolution of the judicial review; and

3. In any case, the 90 day period shall not begin until the applicant requests in writing that the county proceed with the application on remand; and

4. The 90 day period may be extended for a reasonable period of time at the request of the applicant; and

5. The 90 day period applies only to decisions wholly within the authority and control of the county; and

6. The 90 day period does not apply to a remand proceeding concerning an amendment to an acknowledged comprehensive plan or land use regulation or the adoption of a new land use regulation that was forwarded to the Director of Land Conservation and Development under ORS 197.610.

G. The prevailing party shall prepare the findings of fact for the decision on remand unless the Board designates someone else to prepare them.

3. Delete subsection 60.050.B of the Rural Land Development Code regarding the division of multiple-zoned lots or parcels and replace it with the following new subsection B:

60.050 - MULTIPLE ZONED LOTS OR PARCELS

B. When a lot or parcel is divided by an existing zone boundary, it may be divided along the zone boundary even though the resulting lots or parcels fail to meet the minimum lot size and dimension standards required by this code. This rule shall not apply when the lot or parcel is comprised of farm and forest zoned lands only, in which case the resulting new lots or parcels must meet the minimum parcel size requirements for the resulting areas covered by the applicable farm or forest zones. In all cases, the frontage and access requirements contained in this code shall be met, and the land division shall otherwise comply with all procedures, standards and criteria made applicable by the requirements of Chapter 5, Land Divisions.

4. Delete Section 72.040, SPECIAL SETBACK REQUIREMENTS, to correct conflicts in language and replace it with a new section as follows:

72.040 – SPECIAL SETBACK STANDARDS

Special setback requirements shall apply to development within the following protected areas:

A. **Significant Aggregate Site Protection Area.** The following special rules relate to aggregate mining or processing at significant aggregate sites. These setbacks are intended to provide a minimum level of protection from future conflicting uses at those significant aggregate sites existing on the date of the adoption of this provision where the application of OAR 660-023-180 (5) (ESEE for new conflicting uses) has not resulted in the adoption of different measures. Property owners within the vicinity of an aggregate operation should assume the effects of mining on other properties may extend beyond the protected area around the mine.

1. The protected area around a significant aggregate site that is or has been in lawful operation shall extend from the mine area out to 500 feet, where the mine owner or operator has provided the planning office with a map designating the mining area.

2. In all cases involving the permitting of new conflicting uses or structures, or the modification of existing conflicting uses or structures, within the protected area, the permit shall be conditioned upon the execution by the landowner of a restrictive covenant containing an agreement not to object to the mining or processing of mineral and/or

aggregate resources at the mine area when such activities are lawfully conducted.

3. There shall be no protected area around a significant aggregate site which has not been in lawful operation and where the mine owner or operator has not provided the planning office with a map designating the mining area.

   a. At such sites, when mining is authorized, the mine area shall be a minimum of 500 feet from the nearest existing conflicting use.

   b. Once mining is authorized within the protected area of these sites the permitting of any new conflicting use shall be conditioned on the execution by the landowner of a Restrictive Covenant containing an agreement not to object to the mining or processing of mineral and/or aggregate resources at the mine area when such activities are lawfully conducted.

   c. The above provisions may be modified or waived subject to:

      [1] An aggregate impact area agreement between the operator or owner of the significant aggregate site and the owner or owners of any property within the aggregate impact area determined under OAR 660-023-180(5) (ESEE for new conflicting uses) and demonstration that conflicts with mining have been minimized; or

      [2] Measures determined during the adoption of a PAPA to minimize conflicts or address new conflicting uses.

B. **Stream Setbacks.** No structure, excluding fences, boat landings, docks, bridges, hydroelectric facilities, pumping, or water treatment facilities, shall be located closer than 50 feet to the banks of any Class 1 stream, or 25 feet to the banks of Class 2 water courses as defined by the Oregon State Department of Fish and Wildlife:

   1. This setback area shall be maintained, to the greatest extent feasible, in stabilized vegetation;

   2. Streamside vegetation that provides shading of the surface waters shall be retained;

   3. Existing streamside vegetation shall be maintained to the greatest extent possible during construction and development.

C. **Rookeries or Nest Sites.** There shall be a structure setback of 300 feet from significant rookeries or nest sites identified by the Oregon Department of Fish

and Wildlife and located as a Goal 5 Resource on the Official Zoning maps for Josephine County. The Department of Fish and Wildlife has mandated consultation with them to mitigate adverse impacts for all development closer than 300 feet.

5. Delete Section 52.020, REPLAT RESTRICTIONS, of the Rural Land Development Code and rename and replace it with the new section as set forth below.

53.020 - REPLATS REQUIRED

A. No person, agent or corporation shall perform replats except in compliance with the requirements for replatting as contained in this code.

B. The requirements of this Article may apply to the act of replatting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots or parcels in the subdivision or partition. The requirements of this article shall apply to the act of replatting when any one of the following circumstances exist:

1. The replat changes the location of any external boundary; or

2. The replat increases or decreases the total area of the plat; or

3. The replat changes the location of a public or private street or public easement or right-of-way; or

4. The replat increases the number of lots or parcels.

C. When a replat is not required pursuant to subsection B.1 through B.4 above, common property lines between one or more abutting parcels may be relocated using the procedures and standards as set forth in Article 54, *Property Line Adjustments*.

6. Delete Section 72.060, ACCESSORY STRUCTURE STANDARDS, of the Rural Land Development Code and replace it with the following new Section:

72.060 - ACCESSORY STRUCTURE STANDARDS

A. The cumulative size of all accessory structures (including attached garages, carports and shops) shall be limited based on the size of the lot or parcel on which they are to be constructed:

1. Smaller than one acre: 2500 square feet;

2. One acre but smaller than three acres: 3500 square feet;

3. Three acres but smaller than five acres: 4000 square feet;

4. Five acres and larger: 6000 square feet.

B. The review body shall review larger accessory structures using Site Plan Review procedures as set forth in Section 42.030 of this code.

7. Amend Section 64.030 of the Rural Land Development Code by deleting item F. regarding seasonal farm worker housing.

~~F. Seasonal farm worker housing per ORS 197.675 through 197.685 (for the purposes of permitting this use, nine months means 273 days within any calendar year)~~

8. Amend Sections 42.030, INITIATION OF SITE PLAN REVIEW, to remove new conditional use permits, and to modify Section 45.020 of Article 45, CONDITIONAL USE PERMITS, regarding the review procedures for conditional use permits. The new Sections are as follows:

42.030 - INITIATION OF SITE PLAN REVIEW

A. The following requests shall require a pre-application review for site plan review pursuant to Article 21 of this code:

1. The expansion, alteration or replacement of a use or structure lawfully established prior to being listed as a conditional use, or which was previously approved as a conditional use;

2. The resumption of conditional use activities within structures that have been destroyed by casualty;

3. Development permits within any commercial or industrial zone that involve the enlargement of existing structures or the construction of new structures or public facilities;

4. Development permits for the exploration, mining and processing of aggregate or other minerals, including geothermal resources;

5. Development within a Floodway Hazard Area; and

6. Accessory structures that exceed the cumulative size limits contained in Section 72.060.

7. Any other request when the Director believes the facts and circumstances indicates the more comprehensive review afforded by site plan review is justified.

45.020 - REVIEW PROCEDURE

A. Applications for new conditional use permits shall be processed using Quasi-Judicial Review Procedures as set forth in Article 22 of this code. All

applications for new conditional uses shall include a site plan meeting the drawing and information requirements of Section 42.060. Site plan review may be required per Section 22.040.B.3.

B. Applications for the expansion, alteration or replacement of a use or structure lawfully established prior to being listed as a conditional use, or which was previously approved as a conditional use, shall be subject to pre-application review for site plan review pursuant to Section 42.030 *(Initiation of Site Plan Review)*.

Section 2. Affirmation

Except as specifically amended by the provisions of this ordinance, the Rural Land Development Code (Ord. 94-4) is hereby affirmed.

Section 3. Effective Date:

First reading by the Board of County Commissioners this 2nd day of October, 2002.

Second reading and adoption by the Board of County Commissioners at least thirteen (13) days from the first reading this 16th day of October, 2002. This Ordinance shall take effect ninety (90) days after its adoption by the Board of County Commissioners.

JOSEPHINE COUNTY BOARD OF COUNTY COMMISSIONERS:

Jim Brock, Chair

Harold L. Haugen, Vice-Chair

Frank Iverson - Absent
Frank Iverson, Commissioner

ATTEST:

Sue Nova
Recording Secretary

APPROVED AS TO FORM:

Leah C. Harper for
Steven E. Rich, Legal Counsel