



# Marion County OREGON

## PUBLIC WORKS

### MEMORANDUM

#### BOARD OF COMMISSIONERS

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#### DIRECTOR Alan Haley

#### ADMINISTRATION

#### BUILDING INSPECTION

#### EMERGENCY MANAGEMENT

#### ENGINEERING

#### ENVIRONMENTAL SERVICES

#### OPERATIONS

#### PARKS

#### PLANNING

#### SURVEY

**TO:** Marion County Hearings Officer  
**FROM:** Marion County Planning Division/Fennimore  
**DATE:** March 1, 2018

**SUBJECT:** Zone Change/Comprehensive Plan Amendment Case 18-001/PNP Properties, LLC and McCallum Powder, LLC

The Marion County Planning Division has reviewed the above named case and offers the following comments:

### FACTS:

1. The subject property is an approximate 2 acre portion of a 79.66 acre parcel that is designated Special Agriculture in the Marion County Comprehensive Plan and correspondingly zoned SA (Special Agriculture).
2. The subject parcel is located approximately 1,800 feet east of Interstate 5, just east of the PNP Quarry and the subject of previous land use cases. Conditional Use Case 95-45 was a request to place a non-farm dwelling on the property and was approved in July, 1995. The dwelling was never placed on the property and the approval expired in July 1999. Comprehensive Plan Case 99-06 approved a request to expand the existing quarry on the subject property and added the quarry site to the comprehensive plan inventory of significant mineral and aggregate sites. Based on land use case history the subject property is considered a legal parcel.
3. Adjacent property to the northwest is zoned Public and contains the PNP gravel mining operation. All other adjacent properties are zoned SA and devoted to a mixture of farm and forest uses.
4. Applicant is requesting to change the zone from SA (Special Agriculture) to I (Industrial), change the Comprehensive Plan designation from Special Agriculture to Industrial, with an exception to Statewide Planning Goal 3 (Agricultural Lands), and a Conditional Use to store explosives on an approximate 2 acre portion of the 79.66 acre parcel.
5. The following are comments received from various agencies regarding the request. Where noted the comments are only a summary and in those instances the complete comments are available for review in the file.

Public Works Land Development and Engineering Permits commented on requirements that are not part of the land use decision and available for review in the planning file.

All other contacted agencies either failed to respond before this report was prepared, or stated no objection to the proposal.

**STAFF FINDINGS AND ANALYSIS:**

6. In land use actions of this type, the applicant has the burden of proving that all applicable standards and criteria are met. This report will outline the standards and criteria that must be satisfied in order for an approval to be granted. If the applicant supplied argument or evidence to address specific criteria, their response may be summarized in italics.

**GOAL EXCEPTION**

7. The subject property is zoned SA and subject to Statewide Planning Goal 3, Agricultural Lands. To use the subject property for other than goal 3 purposes, an exception to goal 3 must be taken. There are three types of exceptions to statewide planning goals. The first type of exception is based on the concept that a property is too “physically developed” to be available for resource use. The second exception is based on the concept that the land surrounding a property is developed to such an extent that the property is “irrevocably committed” to uses other than resource use. The third type of exception requires the county to show other “reasons” why a goal exception is appropriate. Applicants propose a reasons exception. Under goal 2, part II(c) (and ORS 197.732(2)(c)) a reasons exception must meet the following standards:

- (1) Reasons justify why the state policy embodied in the applicable goals should not apply;
- (2) Areas that do not require a new exception cannot reasonably accommodate the use;
- (3) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
- (4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

8. Exceptions are comprehensive plan amendments and subject to DLCD review. DLCD was notified as required by state law and did not provide comments.

9. *OAR 660-004 contains state regulations for exceptions. OAR 660-004-0018 explains planning and zoning for exception areas:*

- (1) *Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception.*

\* \* \*

- (4) *“Reasons” Exceptions:*

- (a) *When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;*

- (b) *When a local government changes the types or intensities of uses or public facilities and services within an area approved as a “Reasons” exception, a new “Reasons” exception is required;*
- (c) *(Relates to exceptions within unincorporated communities. The subject property is not within an unincorporated community and this provision is not applicable.)*

*If the exception is approved, the land use designation, zoning and uses of the property are limited to those approved in the exception. Any change would require a new exception. To determine whether an exception to goal 3 should be taken, OAR 660-004-0020 and 0022 must be considered.*

**OAR 660-004-0020**

10. *Under OAR 660-004-0020:*

- (1) *If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.*

If approved, the comprehensive plan will be amended to incorporate the findings of the Board.

- (2) *There are four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:*
  - (a) *Reasons justify why the state policy embodied in the applicable goals should not apply”: The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;*
  - (b) *Areas which do not require a new exception cannot reasonably accommodate the use:*
    - (A) *The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;*
    - (B) *To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:*
      - (i) *Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?*
      - (ii) *Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not*

*allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?*

*(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?*

*(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?*

*(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.*

The proposed use of the property is to store explosives. Applicant indicates this use has unique locational characteristics which include but are not limited to: 1) distance from inhabited buildings and public highways, 2) the existing quarry, and 3) proximity to customer base. The applicant included a map and spreadsheet of alternate sites not needing a goal exception that were considered. After analyzing all potential sites in Marion County, including those inside cities and urban growth boundaries, the applicant concludes: 1) there are no alternate sites available that would not require a goal exception, 2) there is no resource land in Marion County that is already irrevocably committed to non-resource use that would satisfy the needed location characteristics, 3) the use cannot be accommodated inside an urban growth boundary. Applicant indicates the use does not require any public service or facilities that are not already available to serve the site.

*(c) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base.*

*Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;*

Applicant discusses the long-term environmental, economic, social, and energy (ESEE) consequences resulting from using the proposed site to store explosives. Environmental impacts are expected to be minor since the use is for storage only. Applicant describes the economic benefits to its customer base in the Willamette Valley and indicates the proposed site is secluded and well-shielded from residential areas and commercial centers. Applicant indicates the site will allow for an efficient use of transportation network by providing easy access to Interstate 5 for delivery trucks.

Based on their analysis, the applicant concludes that the proposed use will have significantly positive long term ESEE consequences resulting from the use at the proposed site compared to other areas which would require a goal exception. That the proposed exception area is the best available site and attempting to site it on any piece of land would have far greater significant adverse impacts.

- (d) *The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts”. The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. “Compatible” is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.*

The proposed storage facility will be situated at the site of the existing quarry which has operated area for 60 years without adversely affecting adjacent resource uses. The addition of storage area for explosives should have little if any additional impacts. The applicant is proposing a limited use overlay be applied to the property to ensure that use is not changed or expanded beyond the scope of this proposal.

- (3) *This subsection deals with multiple exception areas. The subject proposal is for only one exception area.*

This subsection is not applicable.

- (4) *This subsection considers exceptions in unincorporated communities.*

The subject property is not in an unincorporated community, and this section is not applicable.

### **OAR 660-004-0022**

11. *Under OAR 660-004-0022, an exception under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule. Rural industrial development is specifically provided for in OAR 660-004-0022(3).*

- (3) *Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts include, but are not limited to, the following:*

- (a) *The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports; or*
- (b) *The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or*
- (c) *The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages which support the decision.*

Applicant indicates the use is dependent on a unique resource - an existing on-site quarry. The symbiotic relationship between the facility and the quarry will lead to benefits not possible through alternative sites considered. The facility cannot be located in an UGB due to the hazardous impacts and incompatibility with a densely populated areas. Applicant's customer base is primarily in the Willamette Valley and the proposed site is centrally located and will allow a large number of regular customers to be served within an hour's drive. The lost value of land resource use is minimal as it is only two acres in area that is already devoted to quarry operation.

**OAR 660-004-0018**

12. *OAR 660-004-0018(4)(a) states:*

- (a) *When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;*

The applicant is seeking a comprehensive plan amendment and zone change to industrial and is also applying for a conditional use to store explosives. Although the subject property is 80 acres in size, the proposed exception is only 2 acres, just large enough to accommodate the storage magazines and required barricades. No new services or public facilities are required to accommodate the use and the applicant is will to a condition of approval limiting the use to storage and transport of explosives.

**STATEWIDE PLANNING GOALS**

- 13. The M CCP plan amendments section states that comprehensive plan amendments must be consistent with statewide planning goals. In addition under OAR 660-004-0010(3), an exception to one goal or goal requirement does not assure compliance with any other applicable goals or goal requirements for the proposed uses at the exception site. Therefore, an exception to exclude certain lands from the requirements of one or more statewide goals or goal requirements does not exempt a local government from the requirements of any other goal(s) for which an exception was not taken. Each statewide planning goal is examined for compliance.
- 14. *Goal 1: Citizen Involvement. To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

The notice and hearings process before the hearings officer and Board of Commissioners (BOC) provides opportunity for citizen involvement. Goal 1 is satisfied.

Goal 2: Land Use Planning. *To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual basis for such decisions and actions.*

Applicant proposes a site-specific comprehensive plan amendment. The Planning Division notified local and state agencies, including the Oregon Department of Land Conservation and Development (DLCD), for comments. Goal 2 is satisfied.

Goal 3: Agricultural Lands. *To preserve and maintain agricultural lands.*

Applicant is requesting an exception to this goal.

Goal 4: Forest Lands. *To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

The subject property is not a forest zone, this goal is not applicable.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources. *To protect natural resources and conserve scenic and historic areas and open spaces.*

The site is part of an existing quarry operation that is identified in the MCCP on the inventory of significant mineral and aggregate sites. There are no scenic, historic, or natural resources identified in the MCCP on the subject or nearby properties. Goal 5 is satisfied.

Goal 6: Air, Water and Land Resources Quality. *To maintain and improve the quality of the air, water and land resources of the state.*

The proposed use will not result in the discharge of particulates that would affect air and water quality and will not degrade area resources. Goal 6 is satisfied.

Goal 7: Areas Subject to Natural Disasters and Hazards. *To protect people and property from natural hazards.*

The property contains no identified hazards. Goal 7 is satisfied.

Goal 8: Recreational Needs. *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

No goal 8 resources are identified on the subject site or implicated by this application. This goal is not applicable.

Goal 9: Economic Development. *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens. Goal 9 addresses commercial and industrial development, primarily in urban areas.*

OAR chapter 660, Division 009 applies only to comprehensive plans for areas within urban growth boundaries. Goal 9 is not applicable.

Goal 10: Housing. *To provide for the housing needs of citizens of this state.*

OAR 660-008 is intended to define standards for compliance with Goal 10. OAR 660-008 deals with providing an adequate number of needed housing units, and efficient use of buildable land within urban growth boundaries. The subject property is not within an urban growth boundary. Goal 10 does not apply.

Goal 11: Public Facilities and Services. *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

The proposed use does not require water and sewer facilities and is adequately served by public roadways. Goal 11 is satisfied.

Goal 12: Transportation. *To provide and encourage a safe, convenient and economic transportation system.*

*Under OAR 660-012-0060(1), if an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*

- (a) *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
- (b) *Change standards implementing a functional classification system; or*
- (c) *Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP [transportation system plan]. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
  - (A) *Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
  - (B) *Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
  - (C) *Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

The applicant submitted a TIA (Traffic Impact Analysis) and found that in a worst scenario, the facility could generate an additional 78 daily trips. The TIA analysis concludes that the proposal



will not significantly impact, or any further degradation of the county roadway network and no mitigation is required. Goal 12 is satisfied.

Goal 13: Energy Conservation. *To conserve energy.*

The proposed use will not significantly impact energy consumption. Siting the facility at the proposed site with its proximity to major transportation routes and being centrally located to the customer base will provide for the efficient use energy consumption. Goal 13 is satisfied.

Goal 14: Urbanization. *To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

The proposed use is listed as a conditional use in the rural zone code and the request includes a limited use overlay to permit only this use. If it is determined that the conditional use criteria are satisfied, then use is considered a rural use and Goal 14 does not apply.

Goals 15-19, Willamette River Greenway, Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.

The subject site is not within the Willamette River Greenway, or near ocean or coastal related resources. These goals do not apply.

## **COMPREHENSIVE PLAN AMENDMENT**

15. The MCCP does not contain specific review criteria for plan amendments; however, any amendment must be consistent with its applicable goals and policies. The following are the policies staff believe apply the request the applicant considered additional policies that they believe could apply.

Rural Development Policy 3: *Rural industrial, commercial and public uses should be limited to those activities that are best suited to a rural location and are compatible with existing rural developments and agricultural goals and policies.*

Applicant did not specifically address this criterion. The proposed use is listed in Chapter 17.165 MCC as a conditional use (see MCC 17.165.040(S)) which is an acknowledged rural industrial zone. If the goal exception is justified and the rural industrial designation and zoning are applied the use would be considered appropriate for rural location. Furthermore, in order to comply with safety standards, the use is not appropriate for inside an urban growth boundary. This policy is met.

Rural Industrial Policy 2: *Rural industries should be compatible with existing development and farm or forest uses in the vicinity, should not involve a large number of employees, should not require heavy truck traffic through residential areas or on unimproved roads, and should not have the potential to exceed the environmental capacity of the site or require urban services.*

The use will not involve a large number of employees and when they are at the property it will be for pick up and deliveries only. As discussed in the TIA, traffic impacts are expected to be minimal. Rural industrial policy 2 is satisfied.

Rural Industrial Policy 3: *A non-resource-related industrial use should not be permitted on resource lands unless an evaluation of the relevant County and State goals and the feasibility of*

*locating the proposed use in an urban growth boundary or rural non-resource lands show that the proposed site on resource lands is the most suitable.*

As noted in the goal exception analysis, the applicant analyzed alternative locations and determined that use cannot be within an UGB or other non-resource lands. This policy is satisfied.

*Rural Services Policy 1. The impact on existing services and the potential need for additional facilities should be evaluated when rural development is proposed.*

The property is currently served by the Turner Fire District and Marion County Sheriff's Office. The proposed use will have little impact on these services and will not need to be served by public sewer and water systems. The TIA demonstrates that existing roads system is adequate to serve the use. This policy is met.

*Rural Services Policy 2. It is the intent of Marion County to maintain the rural character of the areas outside of urban growth boundaries by only allowing those uses that do not increase the potential for urban services.*

As noted previously, the proposed use can be considered of rural character since it is listed as a use that can be considered in Chapter 17.165 MCC, this policy is met.

*Rural Services Policy 3. Only those facilities and services that are necessary to accommodate planned rural land uses should be provided unless it can be shown that the proposed service will not encourage development inconsistent with maintaining the rural density and character of the area.*

The use can be accommodated on the property with existing rural services, this policy is met.

*Rural Services Policy 4. The sizing of public or private service facilities shall be based on maintaining the rural character of the area. Systems that cannot be cost effective without exceeding the rural densities specified in this Plan shall not be approved. The County shall coordinate with private utilities to ensure that rural development can be serviced efficiently.*

The use can be accommodated on the property with existing rural services, this policy is met.

*Transportation System Management Policy 7. Land use changes that could result in increased development levels and thus higher traffic levels will be assessed for their impact to current and future traffic volume and flow, and these impacts must be appropriately mitigated (as determined by the Public Works Director in accordance with applicable standards and practices) in order for the development to be allowed.*

As previously noted, the TIA concluded that the proposed use will not have a significant impact on the existing transportation system. Marion County Department of Public Works Engineering Division review did not identify any concerns that the proposed use would have any negative impacts and did not recommend any mitigation. This policy is met.

*Transportation Development and Access Policy 7. To prevent exceeding the function and capacity of any component of the transportation system, the County will consider roadway functional classification, capacity and current conditions as primary criteria for proposed changes in land use designations and proposed land use developments. In addition, present and anticipated safety issues shall also be significant criteria.*

As previously noted, the TIA concluded that the proposed use would not change the functional classification of any of the roads in the area. In addition, the DPW recommended conditions to address any impacts of the proposal. This policy is met.

*Transportation Development and Access Policy 25. All new developments shall be reviewed to ensure that they have an adequate stormwater system. Specific requirements can be found in Marion County's Engineering Standards (or subsequent document).*

Applicant did specifically address this issue. Neither LDEP or DEQ commented on this issue however, any development would be required to meet both their standards prior to any construction. This policy is met.

## **ZONE CHANGE**

16. Under MCC 17.123.060, approval of a zone change application or initiated zone change shall include findings that the change meets the following criteria:

A. *The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the goals and policies of the Comprehensive Plan and the description and policies for the applicable land use classification in the Comprehensive Plan; and*

This application includes an MCCP amendment request that would change the MCCP designation from Special Agriculture to Industrial. If the MCCP amendment is approved, the proposed I zone would be consistent with the Industrial plan designation and applicable MCCP policies. This criterion would be satisfied.

B. *The proposed change is appropriate considering the surrounding land uses and the density and pattern of development in the area; and*

The proposed site is in an existing quarry and surrounded by lands zoned SA. The quarry has been in operation for over 60 years and has not adverse impacts on adjacent farm forest uses. Since the use will be taking place in the existing quarry, it will have effect on the density or land use pattern of the area. This criterion is satisfied.

C. *Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property; and*

The property is served by the Turner Fire District and law enforcement is provided by Marion County. The site has access to Ridgeway Drive, which connects to the public transportation network in the area. The existing public facilities are adequate to the serve the use. This criterion is satisfied.

D. *The other lands in the county already designated for the proposed use are either unavailable or not as well suited for the anticipated uses due to location, size or other factors; and*

As noted above in the goal exception findings, the applicant analyzed other potential sites and found there are no other existing sites designated industrial which can accommodate the use. This criterion is met.

- E. *If the proposed zone allows uses more intensive than uses in other zones appropriate for the land use designation, the new zone will not allow uses that would significantly adversely affect allowed uses on adjacent properties zoned for less intensive uses.*

The proposed I zone is the only zone allowed in the Industrial designation, this criterion is not applicable.

### **CONDITIONAL USE**

17. Under MCC 17.165.040(S) Manufacturing, processing, trucking, wholesale distribution, and storage uses not listed in MCC 17.165.020 or 17.165.030 and not exceeding 35,000 square feet of floor area (SIC 20 through 39 and 42) can be permitted with a conditional use approval if certain criteria are satisfied. The proposed use is listed in the SIC 2892. The review criteria are listed in MCC 17.165.060 and include:

- A. *The use will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use;*

The facility is to be located in the existing quarry and is a low intensity use that will have little, if any, impacts on surrounding lands. This criterion is satisfied.

- B. *The proposed use will not, by itself or in combination with existing uses, result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations;*

The use is heavily regulated by the ATF and meeting their standards will ensure that there will be no public health hazards and use, as a storage facility, will not create environmental impacts or have an impact on water quality. This criterion is satisfied.

- C. *The proposed use will not, by itself or in combination with existing uses, exceed the carrying capacity of the soil or of existing water supply resources and sewer services;*

The use does not require sewer or water, the carry capacity will not be affected. This criterion is satisfied.

- D. *The traffic generated by the proposed use is consistent with the identified function, capacity, and level of service of transportation facilities serving the use; or improvements are imposed that maintain the existing level of service;*

The applicant indicates the TPR Analysis demonstrates that traffic generated by the use is consistent with transportation facilities serving the property. LDEP did not identify any transportation improvements needed to accommodate the use. This criterion is satisfied.

- E. *The proposed use will not create significant adverse effects on existing uses or permitted uses on adjacent land, considering such factors as noise, dust and odors; and*

The use is a storage facility in an existing quarry. If any dust, noise, or odors were to be emitted they would be confined to the property and have no effect on uses located on adjacent lands. This criterion is satisfied.

- F. *The proposed use shall not have industrial or manufacturing processes that require water or discharges of wastewater except upon demonstration that the use has an on-site*

*sewage disposal site approved by Marion County or the Oregon Department of Environmental Quality.*

There will be no processes taking place on the site that would require the discharge of wastewater, this criterion is satisfied.

### **LIMITED USE OVERLAY**

18. *Under MCC 17.176.010, the purpose of the limited use (LU) overlay zone is to reduce the list of permitted or conditional uses in a zone to those that are suitable for a particular location. Zones permit a number of uses without notification or opportunity for a hearing, because the uses are considered generally acceptable, although type and intensity of activity may vary. Zones also include conditional uses which may be permitted if certain criteria are met. However, on a particular property certain of these uses may conflict with adjacent land uses or may not be considered suitable for a particular site. Rather than deny a zone change because the proposed zone would allow an objectionable permitted or conditional use, the limited use overlay can be used to identify the appropriate uses and either require a conditional use permit for other uses normally permitted in the zone or delete objectionable permitted or conditional uses from the zone.*

*The limited use overlay zone may also be applied to comply with use limitations for a goal exception required by OAR 660-004. It is the intent that the maximum number of acceptable uses be permitted so that the use of the property is not unnecessarily limited.*

In this instance the applicant has requested a limited use overlay to be applied to the property to limit the permitted uses in this industrial zone to only the use proposed, an explosive storage facility. OAR 660-004-018(4) states in part:

*“If the exception is approved, the land use designation, zoning and uses of the property are limited to those approved in the exception. Any change would require a new exception.”*

Any approval will be conditioned to require a new reasons exception to approve any other use.

19. If the request is approved staff recommends the following conditions be considered.

#### Zone Change:

- A. A limited use overlay shall apply to the property. Only the following use shall be permitted: Explosives Storage Facility (SIC 2892).
- B. A new reasons exception is required prior to approval of any use other than an Explosives Storage Facility as described in this decision.

#### Conditional Use:

- C. Conditional Use Permit is valid only when exercised within two years of the effective date of this decision. The effective period may be extended for additional one year periods, however, the extensions must be filed prior to the expiration date.
- D. The applicant shall any permits required from the Marion County Building Inspection Division.