STAFF REPORT FOR HEARINGS BODY REVIEW

APPLICANT: Kincheloe & Sons, Inc.
PO Box 296
Myrtle Point OR 97458

OWNER: Dwight A. Culver    Linda M. Culver
20362 Hwy. 42    98320 Bridge Lane
Myrtle Point OR 97458    Myrtle Point OR 97458

REQUEST: Expansion of an existing aggregate mining operation

STAFF CONTACT: Debby Darling, Planner II

REVIEWING BODY: Coos County Planning Commission

MAP NUMBER(S) / LEGAL DESCRIPTION
ASSESSOR’S MAPS: Township 29S Range 11W Section 36C/35 Tax Lots 600/900, 1600

PROPERTY LOCATION
The property is located off of Highway 42, east of the unincorporated community of Bridge.

APPLICABLE CRITERIA
Coos County Zoning and Land Development Ordinance (LDO), Coos County Comprehensive Plan (CCCP), Oregon Administrative Rule (OAR)

<table>
<thead>
<tr>
<th>LDO</th>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>§4.6.217(4)</td>
<td></td>
<td>Other development within special flood hazard areas</td>
</tr>
<tr>
<td>§4.7, Table 4.7a(3)</td>
<td></td>
<td>Historical/Archeological Sites &amp; Structures (Archeological)</td>
</tr>
<tr>
<td>§4.7, Table 4.7a(6)</td>
<td></td>
<td>Significant Wildlife Habitat</td>
</tr>
<tr>
<td>§4.8.350(E)</td>
<td></td>
<td>Hearings Body Conditional Uses (Forest Zone)</td>
</tr>
<tr>
<td>§4.8.400</td>
<td></td>
<td>Review Criteria for Conditional Uses (Forest Zone)</td>
</tr>
<tr>
<td>§4.9.350(D)</td>
<td></td>
<td>Hearings Body Conditional Uses (Exclusive Farm Use Zone)</td>
</tr>
<tr>
<td>§4.9.400</td>
<td></td>
<td>Review Criteria for Conditional Uses (Exclusive Farm Use Zone)</td>
</tr>
</tbody>
</table>

I. BASIC FINDINGS

A. LAWFULLY CREATED PARCELS: The property was lawfully created in accordance with
LDO § 3.3.800(1). Tax lot 600 in Township 29, Range 11S, Section 36C and tax lots 900 and 1600 in Township 29, Range 11S, Section 35 were all deeded to Everett Culver in Book 250, Page 586 of the Coos County Deed Records, located in the Coos County Clerk’s office. Therefore, these parcels meet the criteria in 3.3.800(1) for lawfully created parcels.

B. **ZONING:** The property is currently zoned Forest Mixed Use and Exclusive Farm Use and Rural Residential (RR-2)

The purpose of the "F" district is to designate forest lands and protect them for forest uses, except where findings establish that certain limited non-forest uses may be allowed. Some of the areas covered by the "F" zone are exclusive forest lands, while other areas include a combination of mixed farm and forest uses.

**Mixed Farm-Forest Area**

These areas include land which is currently or potentially in farm-forest use. Typically such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these "mixed use" areas contain ownerships of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.

In certain areas of the County, these "mixed use" areas consist of extensive uplands where the lands are held predominantly by ranchers who manage their properties interchangeably between grazing and forestry depending on the economic base of each commodity at any given time. An essential management approach practiced by these ranchers is to maintain enough upland grazing acreage to sustain livestock during the winter months due to the flooding of lowland areas. Some intensive forest management is practiced on these lands, but not to the same extent as in "prime forest areas", and grazing is in many places a co-dominant use. There are typically mixtures of farm and forest uses in these areas. Certain non-forest uses will be allowed in areas that meet the criteria of this classification as established in the zoning ordinance.

The purpose of the "EFU" district is to preserve the integrity and encourage the conservation of agricultural lands within Coos County and thereby comply with the provisions of ORS 215; to minimize conflicts between agricultural practices and non-farm uses by limiting any development to uses distinguished as dependent upon or accessory to supporting agricultural or forestry production and which qualify such farm lands for special tax relief pursuant to the provisions of Oregon Revised Statutes. This zone is also for the cultivation and marketing of specialty crops, horticultural crops and other intensive farm uses.

The purpose of the “RR-2” district is to provide for small acreage homesites outside of Urban Growth Boundaries, where a moderate intensity of land development is appropriate, but where urban services and facilities may not be available or necessary. The “RR-2” district provides for continued existence of rural family life and to provide a transition of densities between urban development and exclusive agricultural and forestry uses.

C. **SITE DESCRIPTION:** The subject property is being utilized as an aggregate mining operation and forest use. A portion of the property is rural residential and has a home on it. The aggregate mining operation is not within the Rural Residential-2 portion of the property. The property contains two gravel
quarries and has trees in the southeast corner and the northwest corner, with fewer trees as you travel south. It appears to have been recently cleared. There is a residential use on tax lot 600 in the EFU portion of the property. The Middle Fork of the Coquille River abuts the property to the north.

D. **HISTORY:** Mr. Kincheloe stated in the application that Kincheloe and Sons has been mining these properties since the mid-1950’s. Planning has records starting from 1983 showing Kincheloe & Sons mining these properties since before 1972. There have been renewal permits from the Department of Geology and Mineral Industries (DOGAMI) on file in the Planning Department from 1982 through 2013. There have been several zoning compliance letters issued on the property; however, these have nothing to do with the mining operation. The Kincheloes have leased the property from the Culvers since 1974 for the mining operations.

E. **SPECIAL CONSIDERATIONS:** The northern portion of tax lot 600 lies within the floodplain, but it does not appear that the mining area is within the floodplain itself. The same is true for tax lot 900. The portion that lies along the Middle Fork of the Coquille River lies within the floodplain, but not the mining operation. There are areas of cultural and archaeological interest to the Coquille Indian Tribe within the section where the subject property lies. The Coquille Indian Tribe has been notified of the proposed expansion. They have not commented. There are areas of protected bird sites within the section where the subject property lies. ODF&W has been notified of the proposed mining expansion. There have been no comments from ODF&W.

### II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

<table>
<thead>
<tr>
<th>LDO</th>
<th>§ 4.7, table 4.7a(3)(b)</th>
<th>Historical/Archaeological Sites and Structures (Archeological)</th>
</tr>
</thead>
</table>

**Development proposals in identified archaeological areas must have a “sign off” by qualified person(s).**

**FINDING:** The Coquille Indian Tribe has been sent notice and has been given the opportunity to comment on the expansion. There have been no comments by the Coquille Indian Tribe.

<table>
<thead>
<tr>
<th>LDO</th>
<th>§ 4.7, table 4.7a(6)(d)</th>
<th>Significant Wildlife Habitat (Protected “5c” birdsited)</th>
</tr>
</thead>
</table>

**Restrict conflicting uses on “5c” bird sites except as permitted with EESE balancing. 300 ft. setback from Bald Eagle nests.**

**FINDING:** ODF&W has been sent notice and has been given the opportunity to comment on the expansion. There have been no comments received by the Planning Department from ODF&W.

<table>
<thead>
<tr>
<th>LDO</th>
<th>§ 4.8.350(E)</th>
<th>Hearings Body Conditional Uses (Forest Zone)</th>
</tr>
</thead>
<tbody>
<tr>
<td>LDO</td>
<td>§ 4.9.350(D)</td>
<td>Hearings Body Conditional Uses (Exclusive Farm Use Zone)</td>
</tr>
<tr>
<td>LDO</td>
<td>§ 4.8.400</td>
<td>Review Criteria for Conditional Uses (Forest Zone)</td>
</tr>
<tr>
<td>LDO</td>
<td>§ 4.9.400</td>
<td>Review Criteria for Conditional Uses (Exclusive Farm Use Zone)</td>
</tr>
</tbody>
</table>
SECTION 4.8.350 Hearings Body Conditional Uses: The following uses and their accessory uses may be allowed as hearings body conditional uses in the Forest zone subject to the applicable requirements in Section 4.8.400 and applicable siting criteria set forth in this Article and elsewhere in this Ordinance. (Subsection E) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under Section 4.8.200 (R) (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517. *** Any operation that sells greater than 5,000 cubic yards of aggregate must comply with standards established by the Department of Geology and Mineral Industries.

SECTION 4.9.350 Hearings Body Conditional Uses: The following uses and their accessory uses may be allowed as hearings body conditional uses in the "Exclusive Farm Use" zone and "Mixed Use" overlay subject to the applicable requirements in Section 4.9.400***. (Subsection S) Any operation that sells greater than 5,000 cubic yards must comply with standards established by the Department of Geology and Mineral Industries (DOGAMI).

FINDING: This operation is a mining and processing of aggregate over 5,000 cubic yards. The original application was approved in 1972 and has been continually operating since that time. The purpose of this application is to expand the mining operation which will consist of mining, processing, sorting and storage of both aggregate and overburden1.

SECTION 4.8.400 Review Criteria for Conditional Uses in Section 4.8.300 and Section 4.8.350. A use authorized by Section 4.8.300 and Section 4.8.350 may be allowed provided the following requirements are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands.

A. The proposed use will not force a significant change in accepted farming or forest practices on agriculture or forest lands; and
B. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and
C. All uses must comply with *** (Applicable portions of) Section 4.8.750 listed in this report.

SECTION 4.9.400. Review Criteria for Conditional Uses in Section 4.9.300 and Section 4.9.350. A use authorized by Section 4.9.300 and Section 4.9.350 may be allowed provided the following requirements are met. Uses may be approved only where such uses:

A. Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
B. Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

FINDING: The current mining operation has been in existences since 1972 without any evidence to show that it has significant increased or changed the cost of accepted farming or forest practices on agricultural or forestlands. The subject property is split zoned FMU and EFU with the majority of abutting properties being located within the F zone. Accepted farming practice are defined in the ORS as a mode of operation that is common to farms of a similar nature, necessary for the operation of these similar farms to obtain a

---

1 Overburden in mining, also referred to as waste or spoil, is the material that lies above the area of interest or product of choice such as topsoil.
profit in money and customarily utilized in conjunction with farm use. Accepted forest practices are a much broader definition but basically mean any commercial activity relating to the establishment, management or harvest of forest tree species.

The burden of proof is on the applicant to provide evidence that the expansion area will meet the criteria. He does not have to justify the current operation. The applicant has stated that the proposal will not have any cost of farm or forest practices and after mining of aggregate has been completed the area will be reclaimed and seeded back to grassy pastureland or reforested. He further states, that the proposed use will not increase potential fire risk. Quarry vehicles run on improved gravel roads during fire season. All measures are used in compliance with forest practice acts. All activities related to the mining operation expansion will be contained on the subject property. The applicant stated that mining area would be kept to a minimum. The existing roadways, private and public, will remain the same as they are needed to transport overburden and finished product. Road maintenance will be completed by the applicant as needed. Ditches and slopes will continue to be maintained as needed to prevent erosion. Ditches and pipes will be maintained by the applicant as needed to address water runoff and possible erosion. DOGAMI conducts yearly inspections on the site to ensure mining, erosion control, and safeties are addressed.

There is a minimal amount of agricultural practices on the surrounding properties. In fact, some of the properties to the north of the subject property are zoned Rural Residential and are used in residential manners. To the east, west and south are large forest tracts. There have been no objections by adjacent neighbors.

**SUMMARY / CONCLUSIONS**

There has been an existing operation on the property and the applicant is responsible for explaining the future expansion of the area. The applicant has stated clearly that there is a need for the expansion. Staff recommends Planning Commission approve this application.

**COOS COUNTY PLANNING DEPARTMENT**

Jill Rolfe, Planning Director

Attachment:  A – Application  
B – Maps  

C: Applicant  
Parties  

EC: Counsel  
Dave Perry, DLCD