



1 Opinion by Gustafson.

2 **NATURE OF THE DECISION**

3 Petitioner appeals a city legislative zoning amendment relating to operational  
4 standards for aggregate mining facilities.

5 **MOTION TO INTERVENE**

6 Riverbend Sand & Gravel Co., (intervenor) moves to intervene on the side of  
7 respondent. The motion is allowed.<sup>1</sup>

8 **DISCUSSION**

9 This appeal involves an "applicant driven legislative amendment" to the city's zoning  
10 code, which has the effect of amending certain operational standards for aggregate mining  
11 operations within the city.<sup>2</sup> Intervenor's Response Brief 2.

12 Petitioner makes eleven assignments of error, none of which articulate a legal basis  
13 for relief under ORS 197.835. Rather, petitioner repeatedly expresses his disagreement both  
14 with the challenged decision, and with processes and agreements between the applicant and  
15 the city that are not reflected in the record of this appeal and that are unrelated or, at most,  
16 tangentially related to the challenged decision. For the most part, petitioner's arguments are  
17 insufficiently developed to allow review. To the extent we understand them, they provide no  
18 basis for remand or reversal.

19 In his first, second and third assignments of error, petitioner asserts "procedural  
20 irregularities," public notice deficiencies, and deficiencies in the notice provided to the  
21 Department of Land Conservation and Development. As we understand them, some of the  
22 "irregularities" and "deficiencies" he asserts could potentially relate to quasi-judicial

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<sup>1</sup>There is no opposition to the motion to intervene. However, petitioner moved to dismiss intervenor on the basis that petitioner did not believe intervenor's participation was necessary. That motion was denied in an order dated August 18, 1998.

<sup>2</sup>Although petitioner appears to challenge the city's process in numerous respects, none of petitioner's assignments of error can be read to challenge the "legislative" nature of the city's decision.

1 applications, which are not applicable in this legislative proceeding. To the extent they can  
2 be construed to apply to this legislative proceeding, none of the allegations establish legal  
3 error.

4 In his fourth assignment of error, petitioner appears to assert an argument relating to  
5 the city allegedly maintaining a road outside the city limits, and perhaps challenging  
6 intervenor's apparent agreement to pay for road improvements. The fifth assignment of error  
7 appears to be an evidentiary challenge, or perhaps a challenge to the applicability of  
8 unspecified criteria as they relate to evidence proffered by a hydrologist. In the sixth  
9 assignment of error, petitioner appears to allege that the decision is deficient in its  
10 consideration of public health and safety. In none of these assignments of error does  
11 petitioner relate his disagreements to any legal standard, or establish any legal error in the  
12 challenged decision.

13 Finally, in the seventh through eleventh assignments of error, petitioner makes  
14 challenges relating to: (1) the adequacy of the city's record and decision; (2) the impartiality  
15 of the decision makers; (3) the alleged "disproportionate and prejudicial administration of  
16 public assets" Petition for Review 32; (4) compliance with Statewide Planning Goal 2; and  
17 (5) the alleged lack of a "clear and consistent policy" for the applicability of "some rules and  
18 statewide goals." Petition for Review 33. In none of these assignments does petitioner  
19 establish any legal basis for relief.

20 Petitioner's assignments of error are denied.

21 The city's decision is affirmed.