BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

SID GONZALEZ, OTTO BUSS, and BRAD PALMER, Petitioners, vs. LANE COUNTY, Respondent, and DONALD OVERHOLSER and RODNEY MATHEWS, Intervenors-Respondent.	LUBA No. 92-108 FINAL OPINION AND ORDER

Appeal from Lane County.

Bill Kloos and Allen L. Johnson, Eugene, filed the petition for review. Bill Kloos argued on behalf of petitioners.

Stephen L. Vorhes, Eugene, filed a response brief and argued on behalf of respondent.

Joseph J. Leahy, Springfield, filed a response brief and argued on behalf of intervenors-respondent. With him on the brief was Harms, Harold & Leahy.

SHERTON, Chief Referee; HOLSTUN, Referee; KELLINGTON, Referee, participated in the decision.

REMANDED 11/20/92

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

Opinion by Sherton.

NATURE OF THE DECISION

Petitioners appeal a county ordinance changing the comprehensive plan map designation for 20.4 acres from Forest to Natural Resource and changing the zoning of the 20.4 acres from Impacted Forest Land (F-2/RCP) to Quarry and Mining Operations (QM/RCP).

MOTION TO INTERVENE

Donald Overholser and Rodney Mathews, the applicants below, move to intervene in this proceeding on the side of respondent. There is no opposition to the motion and it is allowed.

FACTS

The subject property is owned by intervenors, and is located on a hillside southeast of the City of Cottage Grove. The property is forested, except for an existing quarry site which occupies approximately two acres. This quarry has been used in the past and has a current Department of Geology and Mineral Industries (DOGAMI) exemption permit. The acknowledged Lane County Rural Comprehensive Plan (RCP) inventories this site as a Statewide Planning Goal 5 "1B" aggregate resource site.[1]

[1]Under OAR 660-16-000, a local government must inventory the location, quality and quantity of its Goal 5 resources. Based on the data collected regarding a particular resource site, a local government has the options of (1) not including the site on its comprehensive plan Goal 5 inventory ("1A" decision), (2) delaying the Goal 5 process ("1B" decision), or

Access to the site will be by private easement from Quaglia Road to the east.

The surrounding properties are designated Forest and zoned F-2/RCP. Surrounding parcels range from 20 to 120 acres. Most surrounding parcels are developed with residences which are located from 1200 to 2000 feet from the quarry site.

FIRST ASSIGNMENT OF ERROR

> "The county erred in failing to take a Goal 2 exception to Goal 4 prior to changing the acknowledged plan and zone designation from forest use."

On January 25, 1990, Statewide Planning Goal 4 (Forest Lands) was amended to provide, in part:

> "Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. * * *"

Petitioners argue the subject property unquestionably is "forest lands," because the property was designated Forest

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(3) including the site on its comprehensive plan Goal 5 inventory ("1C" decision). The rule describes the "1B" option as follows:

> "Delay Goal 5 Process: When some information is available, indicating the possible existence of a resource site, but that information is not adequate to identify with particularity the location, quality and quantity of the resource site, the local government should only include the site on the comprehensive plan inventory as a special category. The local government must express its intent relative to the resource site through a plan policy to address that resource site and proceed through the Goal 5 process in the future. * * * The statement in the plan commits the local government to address the resource site through the Goal 5 process in the post-acknowledgment period. Such future actions could require a plan amendment." OAR 660-16-000(5)(b).

by the acknowledged RCP when the above quoted amendment was adopted. Petitioners further argue that OAR Chapter 660, Division 6 (Goal 4 rule) applies to the challenged decision because it amends a comprehensive plan map. OAR 660-06-003(1)(b). Petitioners point out that OAR 660-06-015(1) provides, in relevant part:

> "Lands inventoried as forest lands must be designated in the comprehensive plan and implemented with a zone which conserves forest lands consistent with OAR 660, Division 6, unless an exception to Goal 4 is taken pursuant to ORS 197.732 * * *."

Petitioners contend the challenged decision violates the above quoted rule provision because it removes the subject property from forest designation and zoning, without taking an exception to Goal 4.

According to respondent and intervenors-respondent (respondents), the fact that the county's Natural Resource plan designation and QM/RCP zone do not have the word "forest" in their titles is of no importance. Respondents argue that the Natural Resource plan designation and QM/RCP zone conserve forest lands because the uses allowed under this designation and zone comply with Goal 4 and the Goal 4 rule and, therefore, no exception to Goal 4 is required.

OAR 660-06-025(1) provides:

> "Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and

> operations and uses auxiliary to forest practices, * * * five general types of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards of the goal and in this rule. These general types of uses are:
>
> "* * * * *
>
> "(c) Locationally dependent uses, such as * * * mineral and aggregate resources[.]
>
> "* * * * *"

Additionally, OAR 660-06-025(3)(e) provides that exploration for mineral and aggregate resources may be allowed outright on forest lands, and OAR 660-06-025(4)(f) provides that mining and processing of aggregate and mineral resources may be allowed on forest lands subject to the review standards in OAR 660-06-025(5).

Under OAR 660-06-015(1), an exception to Goal 4 is not necessary if forest lands are given a plan designation and zone which "conserve forest lands consistent with" the Goal 4 rule. OAR 660-06-025(1) further provides that forest lands are conserved by applying plan designations and zones that are consistent with the Goal 4 rule. Therefore, an exception to Goal 4 is not required if the plan designation and zone applied to forest lands comply with the Goal 4 rule. The Goal 4 rule allows mining and processing of aggregate and mineral resources, subject to certain standards. OAR 660-06-025(4)(f).

In this case, petitioners assume that removal of the county's Forest designation and F-2/RCP zone from the

subject forest lands, of itself, necessitates an exception to Goal 4. Petitioners do not contend that particular provisions of the county's Natural Resource plan designation and QM/RCP zone are inconsistent with the Goal 4 rule. Without such a contention, and an explanation of why specific provisions of the county's Natural Resource plan designation and QM/RCP zone are inconsistent with Goal 4 or the Goal 4 rule, petitioners provide no basis for reversal or remand.

The first assignment of error is denied.

SECOND ASSIGNMENT OF ERROR

> "The county has failed to comply with the Goal 5 rule in almost every respect. The required analyses have not been conducted. The required findings are either missing, conclusory, or deficient as recitations of evidence * * *. Findings and conclusions are not supported by substantial evidence in the whole record."

Goal 5 (Open Spaces, Scenic and Historic Areas, and Natural Resources) establishes a comprehensive planning process that requires a local government to (1) inventory the location, quality and quantity of listed resources within its territory; (2) identify conflicting uses for the inventoried resources; (3) determine the ESEE consequences of the conflicting uses; and (4) develop programs to achieve the goal of resource protection. Blatt v. City of Portland, 21 Or LUBA 337, aff'd 109 Or App 259 (1991). Petitioners challenge the adequacy of the county's findings and their evidentiary support, with regard to each step of this

planning process.

A. The County's Goal 5 Findings

Petitioners believe the county's findings are found solely in a document entitled "Findings" that is Exhibit C to the challenged ordinance. Record 14-18. On the other hand, respondents contend a "Goal 5 analysis" found at Record 282-86 is also part of the county's findings.[2] Respondent's and Intervenors-Respondent's Brief 14, 16.

The Oregon Supreme Court has repeatedly emphasized the importance of having adequate findings to support local government quasi-judicial land use decisions. Sunnyside Neighborhood v. Clackamas Co. Comm., 280 Or 1, 20-21, 569 P2d 1063 (1977); Green v. Hayward, 275 Or 693, 706-08, 552 P2d 815 (1976); Fasano v. Washington Co. Comm., 264 Or 574, 588, 507 P2d 23 (1973). In Sunnyside and Green, the Supreme Court quoted with approval the following from The Home Plate, Inc. v. OLCC, 20 Or App 188, 190, 530 P2d 862 (1975):

> "If there is to be any meaningful judicial scrutiny of the activities of an administrative agency -- not for the purpose of substituting judicial judgment for administrative judgment but for the purpose of requiring the administrative agency to demonstrate that it has applied the criteria prescribed by statute and by its own regulations and has not acted arbitrarily or on an

[2]Intervenors filed their original application for the proposed plan and zone map amendment in 1987. Record 429. The proposal was apparently put on hold during 1989-1991. On January 2, 1992, intervenors submitted an amended application. Record 270. The "Goal 5 analysis" referred to by respondents is a section of intervenors' amended application entitled "Goal 5 Rule (OAR 660-16-000 through 025)." Record 282-86.

> ad hoc basis -- we must require that its order clearly and precisely state what it found to be the facts and fully explain why those facts lead it to the decision it makes. * * *"

Additionally, in Sunnyside, supra, the Supreme Court described its requirement for adequate findings of fact by local governments as follows:

> "* * * No particular form is required, and no magic words need be employed. What is needed for adequate judicial review is a clear statement of what, specifically, the decision-making body believes, after hearing and considering all the evidence, to be the relevant and important facts upon which its decision is based. * * *" (Emphasis added.)

In addition to their importance to the courts and this Board in review of local government land use decisions, findings serve an important purpose for the participants in land use proceedings. Adequate findings enable participants to understand the basis for the local government's decision and to determine whether an appeal is warranted. With regard to postacknowledgment comprehensive plan or land use regulation amendments, such as the decision challenged in this appeal, the statutorily required notice of the local government's decision must include the place and time when the amendment and findings may be reviewed, as well as an explanation of the process for appealing such amendments to this Board.[3] ORS 197.615(2)(b)(C) and (D).

[3]We also note that with regard to decisions on land development permit applications, counties and cities are required by statute to adopt findings

Both the appellate courts and this Board have recognized that local government decision makers may rely on findings initially prepared by others. Neuberger v. City of Portland, 288 Or 585, 590-91, 607 P2d 722 (1980); Sunnyside, supra, 280 Or at 21; West v. City of Astoria, 18 Or App 212, 224, 524 P2d 1216 (1974); Adler v. City of Portland, ___ Or LUBA ___ (LUBA No. 92-041, September 1, 1992), slip op 16; Astoria Thunderbird v. City of Astoria, 13 Or LUBA 154, 163 (1985). The preferred method of accomplishing this is to physically set out the findings initially prepared by others as an integrated part of the local government's own written decision. However, if findings initially prepared by others and set out in a separate document are to be incorporated by reference into a local government's decision, it does not seem particularly burdensome to require that the local government clearly indicate in its decision an intent to incorporate all or specified portions of identified document(s) into its findings.[4]

Nevertheless, this seemingly simple requirement has caused considerable difficulty over the years. In some

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identifying the relevant criteria, stating the facts relied on and explaining the justification for the decision. ORS 215.416(9); 227.173(2).

[4]We note that the clearest way of identifying a separate document incorporated by reference into a decision is to label such document as an exhibit and physically attach it to the decision. That is, in fact, what the county did here with regard to the Exhibit C "Findings" document at Record 14-18.

instances, it is difficult to decide whether particular language indicates an intent to incorporate another document into the findings, or is just a reference to that document. See Mental Health Division v. Lake County, 17 Or LUBA 1165, 1174 (1989); Flynn v. Polk County, 17 Or LUBA 68, 78-79 (1988). In other instances, local government decisions have stated an intent to incorporate entire records, all written and oral testimony, or documents of uncertain identity. See Cecil v. City of Jacksonville, 19 Or LUBA 446, 455, aff'd 104 Or App 526 (1990); rev den 311 Or 166 (1991); Johnson v. Tillamook County, 16 Or LUBA 855, 868 n 10 (1988); Jackson-Josephine Forest Farm Assn. v. Josephine County, 12 Or LUBA 40, 42 (1984). Finally, in some instances, it is unclear which portions of identified documents a local government wishes to incorporate, because the local government decision includes language qualifying the incorporation. Wilson Park Neigh. Assoc. v. City of Portland, ___ Or LUBA ___ (LUBA No. 92-042, October 6, 1992), slip op 9-11 (adoption of document "except to the extent [it is] modified by" other findings); DLCD v. Douglas County, 17 Or LUBA 466, 471 n 6 (adoption of those findings in another document that are "consistent with our decision").

After all, the local government decision maker is in a unique position to know what it believes to be the facts and reasons supporting its decision. Therefore, we hold that if a local government decision maker chooses to incorporate all

or portions of another document by reference into its findings, it must clearly (1) indicate its intent to do so,[5] and (2) identify the document or portions of the document so incorporated. A local government decision will satisfy these requirements if a reasonable person reading the decision would realize that another document is incorporated into the findings and, based on the decision itself, would be able both to identify and to request the opportunity to review the specific document thus incorporated.

Turning to the facts of this case, respondents contend the following findings incorporate by reference the Goal 5 analysis at Record 282-86:

> "11. [A]ppropriate documentation has been presented, and has shown that no potential conflicts appear to exist with existing uses pursuant to the Goal 5 Conflict (ESEE) Analysis.
>
> "12. Based upon the analysis of the Plan amendment/zone change proposal set forth in the applicants' submittal and the staff report, the County finds that a designation of Natural Resource and zoning of [QM/RCP] is appropriate.
>
> "* * * * *
>
> "16. [T]he Goal 5 ESEE analysis has been performed

[5]Stating in the decision that a particular document is "incorporated by reference as findings" is certainly the clearest way of expressing such an intent. However, no particular language is required, so long as the words employed establish that the local government decision maker intends to adopt the contents of another document as a statement of what it believes to be the relevant facts upon which its decision is based. Sunnyside, supra.

> addressing the location, quantity and quality requirements consistent with OAR 660-16-000(2) and (3).
>
> "* * * * *
>
> "18. Pursuant to OAR 660-16-000 through 660-16-025, the Goal 5 conflict resolution analysis concluded that the value of this '1B' resource site warranted its designation as Natural Resource[, zoning as QM/RCP] and [protection] from other potential forest uses." (Emphasis added.) Record 17.

The portions of findings 11, 16 and 18 emphasized in the above quote simply refer to a Goal 5 conflict or ESEE analysis. They do not indicate an intent to incorporate such analysis into the findings by reference. Neither do they identify any particular document in which such Goal 5 analysis is located.

The emphasized phrase "based upon the analysis of the * * * proposal set forth in" in finding 12 does express an intent to adopt the contents of another document as findings in support of the county's conclusion that the proposed plan designation and zone are "appropriate." However, finding 12 does not identify the specific document(s) or portions of document(s) to be incorporated. Finding 12 simply refers to "the applicant's submittal and the staff report." A reasonable person would not be able to identify or request a specific document or portion thereof on the basis of the reference in finding 12 (or the references in findings 11, 16 and 18). This is because there are at least three submittals by the applicants in the record, two of which

include several different documents. There are also several documents in the record which are entitled or indexed by the county as a "staff report." It simply is not possible to determine, with any certainty, to which "applicant's submittal" or "staff report" finding 12 refers.[6]

We therefore conclude the findings adopted in support of the challenged ordinance consist solely of Exhibit C to the ordinance (Record 14-18).

B. Resource Inventory

1. Location

Petitioners contend the county's findings do not adequately map or describe the "resource site" or "impact area to be affected." Petitioners also argue there is not substantial evidence in the record to support mapping or describing the location of the resource site. Petitioners contend the geotechnical report submitted by the applicants is not substantial evidence of resource location because the "Cloth Tape survey" maps attached to the report cannot be related to any particular location on the county's plan or zoning map. Record 456-58.

Respondents contend the location of the existing quarry

[6]It would be possible, after reviewing the entire county file on the proceedings below or the local record submitted to this Board, for a reasonable person to make an educated guess as to which document constitutes the "applicant's submittal" referred to in finding 12. However, this does not satisfy the requirement stated in the text, supra, that the decision itself identify the specific document(s) or portions of document(s) intended to be incorporated by reference as findings.

is shown in the record. Record 288, 289. Respondents also contend the applicants' geotechnical report further refines the precise location of aggregate material on the subject property. Respondents further argue the subject application shows the impact area assessed includes adjacent farm and forest parcels and rural residential uses. Record 272.

As we understand it, in addition to changing the plan and zone map designations for the subject property, the challenged decision has the effect of including the subject 20.4 acre site on the RCP's inventory of aggregate and mineral resources (a "1C" decision; see n 1, supra). Under OAR 660-16-000(5)(c):

> "* * * When information is available on location, quality and quantity [of the resource], the local government must include the site on its plan inventory and indicate the location, quality and quantity of the resource site (see [sections (1)-(4) of the rule]). Items included on this inventory must proceed through the remainder of the Goal 5 process."

OAR 660-16-000(2) provides in relevant part:

> "A 'valid' inventory of a Goal 5 resource under subsection (5)(c) of this rule must include a determination of the location * * * of each of the resource sites. * * * For site-specific resources, determination of location must include a description or map of the boundaries of the resource site and of the impact area to be affected, if different. * * *" (Emphasis in original.)

The only maps included in the challenged decision are those of the 20.4 acre site that is the subject of the plan and zone map amendment. However, the county's findings do

not include any determination that this 20.4 acre site constitutes either the resource site or the impact area. Further, there are no findings describing what constitutes the resource site or the impact area.[7] As we explained in Eckis v. Linn County, 19 Or LUBA 15, 33 (1990), under OAR 660-16-000(2), where uses outside the resource site could impact the resource site, and use of the resource site could impact surrounding uses, an "impact area" must be identified.[8]

This subassignment of error is sustained.

2. Resource Quality

Petitioners contend findings on the quality of the aggregate resource at the subject site are lacking or inadequate. Petitioners also argue the county improperly failed to compare the quality of the aggregate at the subject site to the quality of aggregate at other inventoried "1C" and "1B" aggregate resource sites in the same part of the county, or to the quality of aggregate at U.S. Bureau of Land Management (BLM) sites in the region.

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[7]We also note that we agree with petitioners that the maps attached to the applicant's geotechnical report cannot be related to any particular location on the county's plan or zoning maps or any particular portion of the subject property.

[8]The county's findings recognize that use of the proposed resource site will impact neighboring uses, at least with regard to traffic. Record 14 (finding 6) and 16 (finding 8.k). In addition, if the county determines on remand that any additional impacts will affect surrounding properties, the county must also consider such impacts in identifying the "impact area" pursuant to OAR 660-16-000(2).

OAR 660-16-000(2) and (3) provide in relevant part:

> "(2) A 'valid' inventory of a Goal 5 resource under subsection (5)(c) of this rule must include a determination of the * * * quality * * * of each of the resource sites. * * *
>
> "(3) The determination of quality requires some consideration of the resource site's relative value, as compared to other examples of the same resource in at least the jurisdiction itself. * * * The level of detail that is provided will depend on how much information is available or 'obtainable.'" (Emphasis in original.)

The above quoted rule provisions require the county to determine the quality of the aggregate resource at the subject site, and to compare the value of the resource at the subject site with that of the same resource at other sites included on the county's plan inventory. Calhoun v. Jefferson County, ___ Or LUBA ___ (LUBA No. 92-049, July 1, 1992), slip op 6; Eckis v. Linn County, supra, 19 Or LUBA at 29.

The county's findings fail to address the quality of the aggregate resource at the subject site or to compare it with the quality of other "1C" aggregate resource sites on the county's inventory. The findings therefore fail to comply with OAR 660-16-000(2) and (3).

However, we disagree with petitioners' contention that the county is required to compare resource quality at the subject site with that at the county's "1B" sites. A "1B" site, by definition, is a site for which the county has

inadequate information on the location, quality and quantity of the resource. OAR 660-16-000(5)(b) mandates local government adoption of plan provisions requiring completion of the Goal 5 planning process for "1B" resource sites sometime during the postacknowledgment period. However, this rule provision contemplates completing the Goal 5 process for "1B" sites as part of a legislative plan update process, rather than in conjunction with a quasi-judicial development application.[9] Larson v. Wallowa County, ___ Or LUBA ___ (LUBA Nos. 92-008, 92-009, 92-011 and 92-013, July 31, 1992), slip op 17, rev'd on other grounds ___ Or App ___ (November 4, 1992). We do not believe Goal 5 or the Goal 5 rule requires the county to complete the Goal 5 planning process for all "1B" sites simply because it is completing that process for one "1B" site.

This subassignment of error is sustained.[10]

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[9]We note that, consistent with our understanding of OAR 660-16-000(5)(b), RCP Mineral and Aggregate Resources Policy 10 requires that completion of the Goal 5 planning process for mineral and aggregate resource sites listed in Appendix F of the plan inventory as "1B" sites will occur no later than completion of the county's next periodic review of the RCP.

[10]The findings also fail to compare the quality of the resource at the subject site to that at the BLM sites identified by petitioners below. However, it is not clear from the parties' arguments or documents cited in the record whether any or all of these BLM sites are on the county's plan inventory of aggregate resource sites. If so, on remand the county must compare the quality of the resource at such BLM sites with that at the subject site.

3. Resource Quantity

Petitioners contend the county's findings concerning resource quantity at the subject site and relative abundance of the aggregate resource are inadequate and not supported by substantial evidence.

OAR 660-16-000(2) and (3) provide in relevant part:

> "(2) A 'valid' inventory of a Goal 5 resource under subsection (5)(c) of this rule must include a determination of the * * * quantity of each of the resource sites. * * *
>
> "(3) * * * A determination of quantity requires consideration of the relative abundance of the resource (of any given quality). The level of detail that is provided will depend on how much information is available or 'obtainable.'" (Emphasis in original.)

With regard to resource quantity, the findings state:

> "A 30 year supply of material is available at this location, intended to provide annual extraction of rock of 20,000 cubic yards. 50,000 cubic yards is currently exposed with a total estimated volume of up to 600,000 cubic yards at the site." (Emphasis added.) Record 14.

The findings include a determination on the quantity of resource at the subject site, as required by OAR 660-16-000(2). However, no evidence in the record supporting the county's estimate of 600,000 cubic yards is cited by the parties.[11] Additionally, the findings fail to

[11]Should the location of the subject resource site be adequately identified, the applicant's geotechnical report would provide evidence supporting the finding that 50,000 cubic yards of rock are currently exposed at the subject site. Record 294. However, the reference in the county's findings to there being a 30 year supply of aggregate material, if

compare the relative abundance of the resource at the subject site with that at other "1C" sites on the county's plan inventory, as required by OAR 660-16-000(3).

This subassignment of error is sustained.

4. Significance

Petitioners contend that under OAR 660-16-000(5)(c), a determination that the subject resource site is "significant" is a condition precedent to adding the site to the plan's inventory of "1C" sites. According to petitioners, the county made no such determination.

OAR 660-16-000(5)(c) provides as relevant:

> "* * * When information is available on location, quality and quantity [of the resource], and the local government has determined the site to be significant or important as a result of the data collection and analysis process, the local government must include the site on its plan inventory and indicate the location, quality and quantity of the resource site * * *." (Emphasis added.)

Under the above quoted rule provision, the required local government determination on the significance of a resource site must be based on the local government's determinations concerning location, quality and quantity of the resource. In the preceding sections of this opinion, we found the county's findings on these matters inadequate or not supported by substantial evidence. Therefore, the

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extracted at a rate of 20,000 cubic yards per year, indicates the challenged decision relies on there being 600,000 cubic yards available at the subject site.

county was in no position to be able to make a determination on the significance of the resource site, and we do not find such a determination in the challenged decision.[12]

This subassignment of error is sustained.

C. Identification of Conflicting Uses; Economic, Social, Environmental and Energy Consequences; Development of Program to Achieve the Goal

OAR 660-16-005 requires local governments to identify "conflicting uses," i.e. uses "which, if allowed, could negatively impact a Goal 5 resource site." If conflicting uses are identified:

> "[T]he economic, social, environmental and energy [ESEE] consequences of the conflicting uses must be determined. Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. * * *" OAR 660-16-005(2).

Further, based on the determination of the ESEE consequences of conflicting uses, a local government must develop a program to achieve the goal of resource protection. OAR 660-16-010.

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[12]Respondents contend a determination that the subject resource site is significant was made when the county listed this site as a "1B" site on its plan inventory. The county's plan inventory is found in a 1982 document entitled "Working Paper: Mineral and Aggregate Resources." Record 148. It appears the inventory was amended in 1983 to include policies on mineral and aggregate resources. Record 175-80. At that time, Policy 10 apparently included a statement that the "1B" sites "listed in Appendix 'F' * * * shall be considered 'significant' in terms of OAR 660-16-000 through 660-16-025." Record 177. However, the version of Mineral and Aggregate Resources Policy 10 found in both the 1984 and current RCP Policy Document does not contain such a statement. In any case, as mentioned in the text, supra, a "1B" site is by definition one for which the county has inadequate information to make a determination of significance. OAR 660-16-000(5)(b).

Petitioners contend the county's findings are internally inconsistent, fail to identify conflicting uses, fail to determine the ESEE consequences of conflicting uses, and are not supported by substantial evidence. Petitioners argue the decision fails to identify existing rural residences, an adult care home, a horse boarding operation, big game habitat and forestry as conflicting uses. Petitioners also argue the county failed to consider ESEE consequences such as impacts on air quality, noise, surface water quality, groundwater, wells, views, traffic, pedestrian safety and forest operations.

With regard to the identification of conflicting uses, the findings state:

> "[A]ppropriate documentation has been presented, and has shown that no potential conflicts appear to exist with existing uses pursuant to the Goal 5 Conflict (ESEE) Analysis."[13] Record 17 (finding 11).

We agree with petitioners that the above quoted finding does not provide an explanation of why the county believes residences, forestry uses and farming operations in the surrounding area are not uses which potentially conflict

[13]We note that with regard to existing residences, there appears to be an internal conflict in the findings, in that the findings also state residences along Quaglia Road would be adversely affected by truck traffic associated with the proposed resource site. Record 14 (finding 6), 16 (finding 8.k).

with the proposed resource site.[14]

With regard to wildlife habitat use, the findings also state:

> "The quarry is located in a Major Big Game Range Habitat area, however it is not known to be in a migration path or uniquely suited for big game use. Since the site has an existing quarry, further impacts are anticipated to be minimal or nonexistent." (Emphasis added.) Record 14 (finding 5).

We understand the above quoted finding to state that wildlife habitat is not a conflicting use for the subject resource site, and petitioners to challenge the evidentiary support for this determination.

There is no dispute that the existing quarry occupies only two acres of the subject 20.4 acre site. The only evidence cited by the parties to support the above finding is the Goal 5 conflicting use analysis submitted with the subject application. However, that analysis identifies "fish/wildlife management areas" as a conflicting use allowed under the F-2/RCP zone. Record 284. Accordingly, we conclude the county's determination that wildlife habitat is not a conflicting use is not supported by substantial evidence in the record.

Based on the above, we conclude the county has not

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[14]We also note that RCP Mineral and Aggregate Resources Policy 7 specifically requires that any evaluation of a "1B" site for inclusion on the plan mineral and aggregate resources inventory pursuant to the Goal 5 rule "shall also address possible impacts on agricultural lands, forest lands and residential development (existing or planned)."

adequately identified conflicting uses pursuant to OAR 660-16-005. Without an adequate identification of conflicting uses, it is not possible to determine the ESEE consequences of the conflicts, as required by OAR 660-16-005(2), or to develop a program to achieve the goal of resource protection, as required by OAR 660-16-010. Eckis v. Linn County, supra, 19 Or LUBA at 34 n 17; League of Women Voters v. Klamath County, 16 Or LUBA 909, 928 (1988).

This subassignment of error is sustained.

The second assignment of error is sustained.

THIRD, FOURTH AND FIFTH ASSIGNMENTS OF ERROR

Under these assignments of error, petitioners contend the challenged decision does not comply with RCP Mineral and Aggregate Resources Policies 1, 7 and 10. Petitioners argue these policies incorporate the requirements of Goal 5 and incorporate by reference their argument regarding the second assignment of error.

Respondents agree that Mineral and Aggregate Resources Policies 1, 7 and 10 incorporate the requirements of Goal 5. Respondents also rely on their argument concerning the second assignment of error.

The only reference to Mineral and Aggregate Resources Policies 1, 7 and 10 in the challenged decision is a conclusory statement that the proposed plan and zone map amendments have been shown to comply with these policies.

Record 17 (finding 11). There is no dispute that these policies impose the same requirements as Goal 5. We determine above that the challenged decision does not comply with Goal 5. Consequently, for the same reasons, we also conclude the challenged decision does not comply with Mineral and Aggregate Resources Policies 1, 7 and 10.

The third, fourth and fifth assignments of error are sustained.

SIXTH ASSIGNMENT OF ERROR

> "The county has not shown compliance with the plan amendment standards in [Lane Code (LC)] 16.400; findings relating to these [code] standards are inadequate and not supported by substantial evidence in the whole record."

LC 16.400(6)(h)(iii)(bb) requires that a proposed RCP amendment is:

> "(i-i) necessary to correct an identified error in the application of the Plan; OR
>
> "(ii-ii) necessary to fulfill an identified public or community need for the intended result of the * * * amendment; OR
>
> "(iii-iii) necessary to comply with the mandate of local, state or federal policy or law; OR
>
> "(iv-iv) necessary to provide for the implementation of adopted plan policy or elements; OR
>
> "(v-v) otherwise deemed by the Board [of Commissioners], for reasons briefly set out in its decision, to be desirable, appropriate or proper."

Petitioners contend the challenged decision fails to address LC 16.400(6)(h)(iii)(bb). According to petitioners, the county failed to find compliance with any of the five standards quoted above. Petitioners note that findings 8.a and k (Record 14, 16) address demand for aggregate products from the subject site. Petitioners argue these findings do not satisfy standard (ii-ii) above because (1) it is possible to produce aggregate from the subject site under a special use permit without a plan and zone change, (2) the county failed to consider other available sources of aggregate, and (3) market demand does not establish a public need. Bridges v. City of Salem, 19 Or LUBA 373, aff'd 104 Or App 220 (1990). Petitioners also argue the findings of demand are not supported by substantial evidence in the record. Finally, with regard to standard (v-v), petitioners contend the statement in finding 12 that the proposed plan amendment is appropriate is not supported by the statement of reasons specifically required by that standard. Record 17.

Respondents argue that if, pursuant to the Goal 5 planning process described supra, the county determines that the subject site is a significant resource site and should be protected, this alone would support a finding that standard (ii-ii) (public need) is satisfied.

We agree with respondents regarding this point. However, the county did not find that

LC 16.400(6)(h)(iii)(bb)(ii-ii) was satisfied, nor did it comply with the Goal 5 planning process.

Respondents point out that finding 12 states the county's conclusion that the proposed plan amendment is "appropriate" is "[b]ased upon the analysis * * * set forth in the applicant's submittal and the staff report." Record 17. Respondents argue this constitutes a statement of reasons adequate to satisfy LC 16.400(6)(h)(iii)(bb)(v-v). However, for the reasons stated supra, this statement does not incorporate portions of other documents by reference into the challenged decision. Therefore, we agree with petitioners that finding 12 does not include the statement of reasons required by LC 16.400(6)(h)(iii)(bb)(v-v).

The sixth assignment of error is sustained.

SEVENTH ASSIGNMENT OF ERROR

> "The county has failed to find compliance with the public interest standard."

LC 16.252(2) provides that zoning map amendments "shall not be contrary to the public interest." Petitioners contend the county failed to find compliance with this requirement.

Respondents argue that reaching a conclusion that the subject resource site should be protected by application of the QM/RCP zone, at the completion of the Goal 5 planning process, is sufficient to establish that the proposed zone change is not contrary to the public interest.

The challenged decision does not specifically address LC 16.252(2) or include a finding on whether the proposed zone change is contrary to the public interest. We agree with respondents that compliance with the Goal 5 planning process would be sufficient to establish that the proposed zone change is not contrary to the public interest. However, for the reasons stated under the second assignment of error, supra, we conclude the county did not comply with the Goal 5 planning process. Therefore, we must sustain this assignment of error.

The seventh assignment of error is sustained.

The county's decision is remanded.