

**Curry County Community Development Department  
PLANNING COMMISSION STAFF REPORT**

**Application AD-1907 is a request for conditional use approval for the mining and processing of aggregate along the Pistol River in the Forestry Grazing (FG) Zoning District.**

**1. Background Information**

**Owner:** Ronald Adams  
26000 Myers Creek Road  
Gold Beach, OR 97444

**Applicant:** Ronald Adams  
26000 Myers Creek Road  
Gold Beach, OR 97444

**Land Use Review:** Administrative Conditional Use Review Referred to the Planning Commission by Planning Director.

**Property Description:** Assessor's Map 38-14-00, Tax Lot 4900;  
Assessor's Map 38-14-19D TL 200

**Location** Located above the Pistol River Bridge on Pistol River Loop Road, approximately .20 miles east from its intersection with US Hwy 101 and outside the Gold Beach Urban Growth Boundary (UGB).

**Existing Development:** None. Property is river/gravel resource with cattle grazing on adjacent lands. Gravel mining has occurred in the area previously.

**Proposed Development:** Proposed gravel extraction primarily on the gravel bar which may include some processing.

**Zone:** Forestry Grazing (FG) Zoning District

## II. Applicable Review Criteria

To approve this application, the Planning Commission must determine that it is in conformance with the following sections of the Curry County Zoning Ordinance (CCZO):

### Curry County Zoning Ordinance (CCZO)

<b>Section 3.050</b>	<b>Forestry Grazing</b>
<b>Section 3.052</b>	<b>Conditional Uses Subject to Administrative Approval by the Director</b>
	<b>24. Land Based Mining (1, 10, 17)</b>
<b>Section 2.090</b>	<b>Procedure for Conditional and Permitted Uses</b>
<b>Section 7.010</b>	<b>Authorization to Grant or Deny Conditional Uses</b>
<b>Section 7.040</b>	<b>Standards Governing Conditional Uses</b>
	<b>1. Conditional Uses Generally</b>
	<b>10. Mining, quarrying, or other extractive activity</b>
	<b>17. Uses on Resource Land</b>
<b>Section 7.050</b>	<b>Time Limit on a Permit for Conditional Uses</b>

## III. Findings

**Section 3.050 Forestry Grazing (FG)** – *The Forestry Grazing Zone is applied to resource areas of the county where the primary land use is commercial forestry with some intermixed agricultural uses for livestock uses.*

**Finding:** This section of the CCZO states the purpose of the Forestry Grazing zoning district. The primary uses established on the property are a mix of forestry and cattle grazing which are consistent with the purpose of the FG zoning district. Land-based mining and processing of aggregate and mineral resources are allowed as a conditional use in the Forestry Grazing Zone and have historically been established as a compatible use consistent with forestry and grazing activities on this as well as similar properties along the Pistol River. This standard of the CCZO is met.

### **Section 3.052 Conditional Uses Subject to Administrative Approval by the Director**

*24. Land-based mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520 and not otherwise permitted in 3.041 (10), and the mining and processing of aggregate and mineral resources as defined under ORS Chapter 517 but not including support or processing facilities for offshore oil, gas or marine mineral activities (1,10,17).*

**Finding:** The mining of aggregate and mineral resources, as defined under ORS Chapter 517, is allowed in the Forestry Grazing zone provided that a prospective applicant submits a land use application and the County approves the proposed use based upon relevant standards for review. ORS Chapter 517 reads as follows:

ORS 517.750(15)(a): Subsurface mining means “all or any part of the process of mining minerals by the removal of the overburden and the extraction of natural mineral deposits thereby exposed by any method by which more than 5,000 cubic yards of mineral are extracted or by which at least one acre of land is affected within a period of 12 consecutive calendar months..”

The applicant is proposing to develop an aggregate and mineral mining and processing site on a portion of the subject property on more than one acre of land. The estimated quantity of material to be extracted from the river gravel bar is approximately 10,000 cubic yards. The proposed aggregate project meets the definition of mining as stated above and the applicant has submitted an application for a conditional use permit addressing the criteria set forth as required in the CCZO.

**Section 2.090 – Procedure for Conditional and Permitted Use Permits** – *After accepting a completed application for Administrative Action pursuant to Section 2.060, the Director shall act on or cause a hearing to be held on the application pursuant to Section 2.062*

**Finding:** The proposed request for an aggregate mining activity in the FG zone is an administrative decision. However, it is being referred to the Planning Commission for a public hearing.

**Section 7.010 Authorization to Grant or Deny Conditional Uses** – *In permitting a conditional or permitted use the County may impose conditions in addition to the provisions set for uses within each zone in order to protect the best interests of the surrounding property, the neighborhood, or the County as a whole.*

**Finding:** After review of this application, information provided by the applicant and interested parties during the hearings process, the Planning Commission may impose additional conditions as appropriate to insure that the proposed use fits the interests of the County.

**Section 7.040 Standards Governing Conditional Uses** – *In addition to the standards of the zone in which the conditional use is located and the other standards in this ordinance, conditional uses must meet the following standards:*

*Conditional Uses Generally*

- a. *The County may require property line set-backs or building height restrictions other than those specified in Article IV in order to render the proposed conditional use compatible with surrounding land use.*

**Finding:** Since there are no buildings proposed, there is no need for any property line setbacks or height restrictions in order for the proposed use to be compatible with the surrounding land uses.

- b. *The County may require access to the property, off-street parking, additional lot area, or buffering requirements other than those specified in Article IV in order to render the proposed conditional use compatible with surrounding land uses.*

**Finding:** Access to the gravel bar is proposed to be a private access on property owned by the applicant. There is no need for public access, off-street parking or additional lot area or buffering requirements for the proposed use.

- c. *The County may require that the development be constructed to standards more restrictive than the Uniform Building Code or the general codes in order to comply with the specific standards established and conditions imposed in granting the conditional use permit for the proposed use.*

**Finding:** No permanent buildings are being proposed for construction. Therefore, this standard does not apply.

- d. *If the proposed conditional use involves development that will use utility services; the applicant shall provide statements from the affected utilities that they have reviewed the applicant's proposed plans. These statements shall explicitly set forth the utilities' requirements, terms and conditions providing or expanding service to the proposed development and shall be adopted by the Commission or Director as part of the conditional use permit.*

**Finding:** The proposed conditional use does not involve development that will use utility services. Therefore, this standard is not applicable.

- e. *If the proposed conditional use involves the development or expansion of a community or non-community public water system, the applicant shall submit a water right permit(s) or documentation that a permit is not required from the Oregon Water Resources Department which indicates that the applicant has the right to divert a sufficient quantity of water from the proposed source to meet the projected need for the proposed use for the next twenty year planning period.*

**Finding:** The proposed development of the subject property for aggregate and mineral extraction does not involve the development or expansion of a community or non-community public water system. Therefore, this standard is not applicable.

- f. *If the proposed conditional use involves the development or expansion of a community or non-community public water system, the applicant shall install a raw water supply flow monitoring device (flow meter) on the water system and shall record the quantity of water used in the system on a monthly basis. The monthly record of water usage shall be reported to the Curry County Department of Public Services-Planning Division and Health Department Sanitarian on an annual basis.*

**Finding:** The proposed development of the subject property for aggregate and mineral extraction does not involve the development or expansion of a community or non-community public water system. Therefore, this standard is not applicable.

- g. *If the proposed conditional use included the development or expansion of a community or non-community public water system and the use is located within the service area of a city or special district water system the applicant shall utilize the city or special district water system rather than developing an independent public water system. An independent community or non-community public water system can be developed for the use if the applicant can prove that it would be physically or economically not feasible to connect to the city or special district water system. The city or special district must concur in the conclusion that connection of the proposed use is not feasible.*

**Finding:** The proposed development of the subject property for aggregate and extraction does not involve the development or expansion of a community or non-community public water system. Therefore, this standard is not applicable.

**Section 7.040 (10.) Mining, quarrying, or other extractive activity** –Plans and specifications submitted to the Commission for approval must contain sufficient information to allow the Commission to review and set siting standards related to the following standards:

(1.) *Impact of the proposed use on surrounding land uses in terms of Department of Environmental Quality standards for noise, dust, or other environmental factors;*

**Finding:** The applicant has stated that the operation will be almost entirely on bare gravel. Dust is expected to be minimal but if it becomes an issue, the area will be watered down to keep the dust down. In regards to noise, the applicant has stated that there are no buildings within 500 feet of the proposed operation therefore noise should not be an issue.

To insure that other potential environmental impacts have been properly addressed and the proposed aggregate and mineral resource mining and processing activity, if approved, has reduced impacts within the area, it is recommended that 1. the extraction/processing area be delineated on the gravel bar; 2. the access routes for the operation be defined from the point of extraction to Hwy 101; 3. The access roads be maintained to reduce dust and noise caused by equipment and vehicles; and 4. operations be limited to daylight hours with no operations on holidays or weekends.

(2.) *The impact of the proposed use on water quality, water flow, or fish habitat on affected rivers or streams;*

**Finding:** The applicant has stated that the impact of this proposed operation should be mostly positive. The waterway of this area of Pistol River has been in disarray for many years. The river has eroded hundreds of feet of river bottom away on the south side of the river causing it to fan out, many times its natural width, that's causing water temperatures to rise, which kills fish, algae growth which lowers oxygen levels in the water and removes safe fish habitat. The applicant has further stated that they will work with fish and wildlife to make improvements whenever possible and that anything they do will be an improvement over the way it is now.

The main stem Pistol River, which is where the gravel mining operation is proposed, contains an abundance of aquatic habitat including both resident and anadromous fish species (chinook and coho). The proposed gravel mining activities will require coordination with the National Marine Fisheries Service (NMFS) and the Oregon Department of Fish and Wildlife (ODFW) through Section 404 of the Clean Waters Act for removal of gravel within the jurisdiction of the Corp of Engineers (COE) and the Oregon Department of State Lands (DSL) Fill Removal Permit.

To insure that water quality, water flow and fish habitat is protected from the potential impacts of the proposed gravel mining process, if approved, it is recommended that 1. any surface waters used for the gravel washing operation and stormwater discharges are managed in accordance

with water quality requirements set forth and reviewed by the Department of Environmental Quality (DEQ) Water Quality 401 Certification process; and 2. any gravel removal is conducted in accordance with permit requirement set forth through the conditions and requirements pertaining to fish and aquatic habitat by the NMFS, ODFW, COE and DSL. This CCZO standard can be met provided the applicant is in compliance with all the conditions set forth by DEQ, NMFS, ODFW, COE, and DSL.

*(3.) The impact of the proposed use on overall land stability, vegetation, wildlife habitat and land or soil erosion;*

**Finding:** The applicant has stated that the waterway of the Pistol River has been in disarray for many years, and that the river has eroded hundreds of feet of river bottom away on the south side of the river causing it to fan out, many times its natural width. The applicant has stated a goal to comply with ODFW and doing what is necessary to make it better than prior to commencing gravel extraction operations.

Through the federal and state permitting process noted above, the agencies will require that the applicant prepare an extraction plan with proposed extraction quantities and locations along the river bar. This will include a determination of overall land stability to decrease the potential for land and/or soil erosion and assessing impacts to vegetation and wildlife habitat. It is recommended that this application, if approved, include a requirement to submit the detailed extraction plans for County review to insure compliance with this provision of the CCZO.

*(4.) The adequacy of protection for people residing or working in the area from the proposed mining activity through fencing of the site;*

**Finding:** The applicant owns all of the land including and surrounding the proposed gravel extraction location and most of the land within 500 feet of the proposed operation. It would appear that no fencing is necessary since the proposed use is in a rural area and no residences are nearby. It is recommended, if approved, that the road to the extraction operation be gated and locked when not in use to insure compliance with this section of the CCZO.

*(5.) The rehabilitation of the land upon termination of the mining activity. The proposed rehabilitation must at least meet the requirements of state surface mining or gravel removal permits.*

**Finding:** To meet this standard, it is recommended that the applicant be required, as a condition of approval, to obtain all required permits and licenses from all federal and state agencies including but not limited to COE, DOGAMI, DEQ, NMFS, ODFW, DEQ and DSL that are necessary for aggregate mining activities and equipment used in these operations prior to

initiating any activity approved herein and shall be kept current with those permits and requirements as necessary. Copies of all current permits and licenses shall be submitted to the Planning Department prior to commencement of operations. All operations approved herein shall be conducted as required by these permits. This CCZO standard can be met if the applicant obtains and meets the conditions of all required federal, state and local permits.

*(6.) If the proposed extractive activity involves the removal of rock, gravel, or sediment from a river or stream, the proposal shall be reviewed by the Oregon Department of Fish and Wildlife and it may provide a written statement to the county regarding the possible impact on fish habitat associated with the affected river or stream.*

**Finding:** The Oregon Department of Fish and Wildlife (ODFW) was sent notification of this proposed project for gravel extraction along the Pistol River. As noted above, the Pistol River contains both resident and anadromous fish including coho and chinook. The applicant has stated a desire to work closely with ODFW to enhance the river system where feasible during the gravel extraction operations. The required federal and state permits will include review, comment and potential conditions based on input from both NMFS as well as ODFW in regards to fish habitat. This CCZO standard can be met if the applicant obtains and meets the conditions of all federal, state and local permits.

*(7.) The County will define an area around the specific removal site which includes all lands within 250 feet of the site, based on the site map for a state mining or gravel permit. The applicant shall provide findings which identify the existing uses on those lands included within this area. The Commission shall evaluate the applicant's findings with regard to the potentially conflicting uses identified in the area based on the factors below:*

- i.) If the mining activity can be sited on an alternative site; and*
- ii.) Where conflicting uses are identified the economic, social, environmental and energy consequences of the conflicting uses shall be determined and methods developed to resolve the conflict.*

**Finding:** The applicant has stated that he owns all of the land within 500 feet of the gravel mining site. Those lands are currently being used as a part of a cattle ranch operation. The gravel mining proposal would not be in conflict with the ranching activities therefore alternatives sites were not considered. A determination of economic, social, environmental and energy consequences was not considered because the activities surrounding the proposed gravel mining are not expected to conflict with cattle grazing.

*(8.) A rock crusher, washer or sorter shall not be located closer than 500 feet to any residential or commercial use. Surface mining equipment and necessary access*

*roads shall be constructed, maintained, and operated in such a manner as to eliminate as far as is practicable, noise, vibration, or dust which are injurious or substantially annoying to persons living in the vicinity.*

**Finding:** The applicant has stated that a rock crusher and/or washer may be on site during the gravel mining operation. However, the applicant has stated further that there are no residences or commercial uses within 500 feet of the proposed operation. Roads will need to be maintained and operated in such a manner as to eliminate as far as practicable, noise, vibration, or dust as stated in Section 7.040 (10)(1) above. Since there are no residential or commercial uses within the 500-foot buffer, there are no potential conflicts within the immediate project area.

*(9.)No uses are permitted relating to offshore oil, gas or marine mineral exploration or development.*

**Finding:** Offshore oil, gas, or marine mineral exploration or development is not being proposed. Therefore this standard is not applicable.

#### **Section 7.040 (17) Uses on Resource Lands**

*a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agricultural or forest land.*

**Finding:** The proposed gravel operation includes mining gravel along the Pistol River which has been recruited through a series of winter storms. This gravel bar recruitment area is not used for cattle grazing and therefore will not in any way force a change in or increase the cost of the resource use of the property.

*b) The proposed use will not significantly increase fire suppression costs or significantly increase the risks to fire suppression personnel.*

**Finding:** The proposed gravel extraction process will be conducted alongside the Pistol River on a gravel bar. It is not expected that such an operation including the equipment used in the mining process will pose a fire risk to adjacent properties.

*c) A written statement be recorded with the deed or written contract with the County or its equivalent shall be obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and related Oregon Administrative Rules.*

**Finding:** To comply with this provision of the CCZO, the applicant will be required to record a statement that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act.

**Section 7.045 Conditional and Permitted Uses – Director Periodic Review –** *The Director may issue Conditional or Permitted Use permits that must be periodically reviewed to ascertain that the conditions of the permit are being complied with on a continuing basis.*

**Finding:** There are several gravel mining permits authorized within Curry County consistent with the CCZO provisions outlined above. Most of these permits have been issued and then renewed for periods of 1-5 years provided that they are in continued compliance with all federal, state and county permits. It is recommended that, if this permit is issued, that it be valid for a period of 3 years unless there is a failure of the applicant to comply with all the conditions of approval.

## **VI. Staff Recommended Conditions of Approval**

If the Planning Commission approves the conditional use request filed by Ron Adams for the mining and processing of aggregate along the Pistol River in the Forestry Grazing (FG) Zoning District, staff suggests the following conditions of approval:

1. Prior to commencing operations, the gravel extraction area shall be delineated including the estimated quantities of gravel to be removed. This information shall be provided to the Planning Director for review to ascertain consistency with the Conditional Use Permit Conditions.
2. Prior to commencing operations, the access routes for the operation shall be defined from the point of extraction to Hwy 101. This information shall be provided to the Planning Director for review to ascertain consistency with the Conditional Use Permit Conditions.
3. All access routes (roads) shall be maintained to reduce dust and noise caused by equipment and vehicles.
4. Operations shall be limited to daylight hours with no operations on holidays or weekends.
5. Any surface waters used or impacted by the operations shall be managed in accordance with stormwater requirements set forth through the Department of Environmental Quality (DEQ) and contained within Section 401 Clean Water Act.
6. Gravel removal shall be conducted in accordance with permit requirements set forth through the conditions and requirements pertaining to fish and aquatic habitat by the National Marine Fisheries Service (NMFS), Oregon Department of Fish and Wildlife (ODFW), Corp of Engineers (COE), Oregon Department of State Lands (DSL) and the Oregon Department of Environmental Quality (DEQ).

7. The detailed extraction plans required by the COE, the Department of Geology and Mineral Industries (DOGAMI) and DSL shall be submitted to the County for review to insure compliance with the CCZO.
8. The access road to the gravel extraction site shall be gated and locked when not in use.
9. All required federal, state and local permits and licenses for gravel extraction shall be obtained and conditions complied with prior to and during operations. These include but are not limited to: COE, DOGAMI, DEQ, NMFS, ODFW, DSL, and Oregon Water Resources. Copies of all current permits and licenses shall be submitted to the Planning Department prior to commencement of operations. All operations approved herein shall be conducted as required by these permits.
10. A written statement shall be recorded with the County which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Oregon Practices Act.
11. This Conditional Use Permit shall be valid for a period of three (3) years unless there is a failure of the applicant to comply with all the conditions of approval. Failure to comply with all conditions of approval, or violations concerning the use approved herein, may result in nullification of this approval by the County.