

**Board of Commissioners Special De Novo Public Hearing for A-1901  
An Appeal of Planning Commission Action on Application AD-1907  
Pursuant to ORS 197.763(2)(a) and Curry County Zoning Ordinance 2.070(1).**

**Board of Commissioners Hearing:** The Board of Commissioners will hold a special de novo public hearing to hear an appeal of Curry County Planning Commission's decision on the Adams Pistol River Gravel Extraction land use proposal described further in this notice. The special de novo public hearing will be held at 10:15 AM on Wednesday, November 20, 2019 in the Board of Commissioners chambers on the upper level of the County Courthouse Annex in Gold Beach located at 94235 Moore Street. The de novo public hearing is being provided to solicit public commentary on the proposed gravel extraction project appeal on the Pistol River described further in this Notice.

**Applicant/Property Owner:** Ronald Adams

**Property Location:** The proposed gravel extraction project is located on Assessor's Map 38-14-00, tax lot 4900; and Map 38-14-19D, tax lot 200. It is above the Pistol River Bridge on Pistol River Loop Road, approximately .20 miles east from its intersection with US Hwy 101. Property is outside of the Gold Beach Urban Growth Boundary (UGB).

**Proposal:** Application AD-1907 is a request for conditional use approval for the mining and processing of approximately 10,000 cubic yards of aggregate on the Pistol River gravel bar. The method of aggregate removal proposed is by a process call "scalping". Typically this involves scrapping aggregate from the exposed gravel bar during low flow water conditions. The area for the proposed gravel operation is a County adopted Goal 5 Resource and has a long history of aggregate removal. Further, the site is within an area of estuarine influence and includes fish species protected under the Endangered Species Act (ESA).

**Background:** On August 15, 2019 the Curry County Planning Commission denied the proposal. A public hearing was held before the Planning Commission as a matter duly set upon the agenda of a regular meeting on June 20, 2019, after giving public notice to affected property owners and publication in the local newspapers as set forth in Section 2.070 of the Curry County Zoning Ordinance (CCZO). A decision was made by the Planning Commission on June 29, 2019 to close the public hearing and leave the record open for fourteen (14) days. During that time, the applicant submitted new evidence into the record. The Planning Commission convened on July 25, 2019 to deliberate on the new evidence and made a decision to re-open the record for an additional seven (7) days to provide an opportunity for interested persons to respond to the new evidence. The Planning Commission convened again on August 15, 2019 and denied the request based upon the evidence in the record.

## **Applicable Criteria:**

**Curry County Zoning Ordinance section 2.170(7c and 7d):** *Every Notice of Appeal shall be on a form supplied by the Director and contain the following information:*

*(c) A statement explaining the specific issues being raised on the appeal(s).* The applicant has identified the specific appeal issue as follows: “The permit was denied for the following reason: The County Counsel told the Planning Director, the Planning Director told the Planning Commission that this would be appealed to LUBA and LUBA would overturn the approval of the Permit, so the Planning Commission had no choice except to deny the Permit. So without any discussion or input from the Applicant it was denied outright.”

*(d) A statement demonstrating that the appeal issues were raised during the public comment period.* The applicant has stated the following in regards to the issue being raised during the public comment period: “Most of my information for this application was never even given to the planning board because of the County Counsel’s concern over LUBA over turning the Planning Board’s decision”; and “Any input that I was able to inject was limit to my reminding the Planning Commission that I was asking for a preliminary permit”.

**Required Statutory Notice:** ORS 197.763 (3)(e) states that failure to raise an issue either in person or by letter or failure to provide statements or evidence sufficient to allow the decision maker an opportunity to respond to the issue precludes appeal to a higher judicial review based on that issue. Failure to provide sufficient specificity to afford the decision maker an opportunity to respond to an issue that is raised precludes appeal to LUBA based on that issue.

## **Documents and Staff report:**

See the project application, the Planning Commission staff report and related documents at: [co.curry.or.us/government/planning-commission](http://co.curry.or.us/government/planning-commission). The applicant’s appeal application and the staff report prepared for the Board of Commissioners special de novo public hearing will be available by November 6, 2019 at [co.curry.or.us/government/board-of-commissioners](http://co.curry.or.us/government/board-of-commissioners).

**Your comments:** Testimony, arguments, and evidence must be directed toward the criteria described in the Applicable Criteria section of this notice. You may submit written testimony prior to or at the hearing. Please include Appeal number A-1901 on your written testimony. Testimony may be submitted via email, fax, or by USPS mail. You may contact Becky Crockett, Planning Director to submit your comments; please put A-1901 in the subject line. Comments may be also be mailed to the Curry County Planning Department, Curry County Annex, 94235 Moore St, Suite 113 Gold Beach, OR 97444, Attention: Becky Crockett. Email: [crockettb@co.curry.or.us](mailto:crockettb@co.curry.or.us). For your written comments to be included in the record prior to the hearing, they must be received by 3 PM on Tuesday, November 19<sup>th</sup>, 2019. After that time your comments can be submitted but will be presented for the record at the November 20, 2019 Board of Commissioners special de novo public hearing. Should the action of the Board of Commissioners be

appealed, the appeal shall be limited to the application materials, evidence and other documentation, and specific issues raised in the comments by interested parties leading up to the Board's action.