

COLUMBIA COUNTY
LAND DEVELOPMENT SERVICES

Planning Division
COURTHOUSE
230 STRAND
ST. HELENS, OREGON 97051
PHONE: (503) 397-1501 FAX: (503) 366-3902

APPEAL / REFERRAL

NOTE: If this is an appeal, please read the back of this form to determine if you have "Standing"
CIRCLE ONE OF THE FOLLOWING

APPEAL or **REFERRAL**

YOUR NAME: BYRYAN KERR & JOHN ARAMBUL Phone: (971) 216-0050

Address: P.O. Box 1060 City: WOODBURN Zip: 97071

Email: bkerr@att.net & jarambul@kerrcontractors.com

ORIGINAL APPLICATION: Name: WILLOW CREEK LAND LLC (GOBLE PIT)

File #: V 25-01 Request: VARIANCE APPLICATION

APPEAL Fee required
File in the County Clerk's Office

Please check one of the following:

I wish to **appeal** the decision made by the Land Development Services Department. This appeal is to the Columbia County Planning Commission. (CCZO Section 1702); or

I wish to **appeal** the decision made by the Columbia County Planning Commission. This appeal is to the Columbia County Board of Commissioners. (CCZO Section 1703)

Original request was: Approved or Denied; Decision Date: 9/18/24
Appeal Deadline: 9/25/24

Reason for appeal (attach additional pages if necessary): SEE ATTACHED

REFERRAL Fee required
File in the Land Development Services Office

The application is reviewed Administratively without a public hearing, and I wish to refer this application to the Columbia County Planning Commission for a public hearing.

Reason for referral (attach additional pages if necessary): _____

The foregoing statements are in all respects true and correct to the best of my knowledge and belief:

Date: 9/24/24 Signed: Byryan Kerr

FOR CLERK'S OFFICE USE ONLY

Received: 9, 25, 24 Received by: BF Receipt # 214960 Check# 61096
\$250

Please route copies of this form to: Board of Commissioners (2 copies), Land Development Services (1 copy) and County Counsel (1 copy). Thank you.



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Bryan Kerr
bkerr@att.net

September 25, 2024

VIA HAND DELIVERY

Columbia County
Planning Division
230 Strand
St. Helens, OR 97051

RE: *Appeal – V25-01*

To Whom it May Concern:

In accordance with Columbia County Zoning Ordinance (CCZO) Section 1701, Willow Creek Land LLC (by and through Kerr Contractors Oregon, LLC c/o John Arambul and Bryan Kerr) (“Willow Creek”) appeals the September 18, 2024, denial by the Columbia County Planning Commission of Willow Creek’s request for a temporary Major Variance to Operating Hours in Surface Mining (SM) zone. The subject property (“Goble Pit”) is currently approved for Surface Mining as it has been for 52 years, since 1972. On August 6, 2024, Columbia County issued the permit LUCS 25-02 allowing for the temporary set up and operation of a mobile asphalt batch plant at Goble Pit. Willow Creek’s request sought only to extend or modify the operating hours of such asphalt plant.

Persons filing the notice of appeal:

Willow Creek Land LLC, by and through Kerr Contractors Oregon, LLC
c/o Bryan Kerr, P.O. Box 1060 Woodburn, OR 97071 (971) 216-0050
c/o John Arambul, P.O. Box 1060 Woodburn, OR 97071 (971) 806-6997

Columbia County Planning Commission:

File Number V 25-01
Date of meeting: September 9th, 2024
Date of decision notice: September 18th, 2024
Date of appeal deadline: September 25th, 2024

Reason for Appeal:

Willow Creek appeals the Columbia County Planning Commission’s denial of its request for a Major Variance to Operating Hours in Surface Mining (SM) zone. As explained in detail below, and in Willow Creek’s prior application submissions, Willow Creek’s request meets the applicable standards for approval. The requested activity does not violate any existing County Ordinance, State or Federal law. Further, Columbia County Land Development Services Staff prepared a lengthy and detailed analysis of Willow Creek’s request and recommended approval of the same (the “Staff Report”; attached).

September 25, 2024

Staff Comments, Conclusion and Recommendation:

Based on the facts, findings, and comments herein, Planning Staff recommend that the Planning Commission APPROVE variance application V 25-01, Willow Creek’s request for a Major Variance to the extended operation provisions for Surface Mining Sites in Section 1044.5, for the SM zoned property, to allow for the operation of a temporary asphalt batch plant for a period not to exceed 60-days, between the hours of 7:00 p.m. and 6:00 a.m. from April 1, 2025, to September 30, 2025, for the purpose of completing an ODOT highway paving project.

All additional conditions stated in the Staff Report recommendation and those specified in Columbia County Zoning Ordinance Sections 1040 SURFACE MINING, and 1504 VARIANCES, are acceptable to Willow Creek. In addition, all operations will be performed in compliance with state and federal regulations.

Reason For Variance Request:

Oregon Department of Transportation (ODOT) plans to re-pave a section of Highway 30 during its 2025 working season starting at the Lewis and Clark Bridge and extending 3 miles to the west. ODOT paving projects typically specify work to be done at night for safety and minimum traffic disruption. Willow Creek’s request seeks only a Major Variance to allow production of asphalt material during night hours for this project. All other aspects of operating the asphalt plant at this site are approved under the applicable provisions of the CCZO.

CCZO 1042.8 allows for the operation of an asphalt batch plant at Surface Mining zoned sites on a temporary basis not to exceed 60 days, as a permitted use. Willow Creek owns the Surface Mining Zoned property at Goble Pit (as distinguished from the neighboring property, Goble Quarry) located at the northeast intersection of Nicolai Rd and Goble School Road in Rainier. Property Tax ID: 6212-00-01100 (#19332). The property is zoned SURFACE MINING (SM).

The Goble Pit property spans an area both north and south of Nicolai Rd. The portion south of Nicolai Rd has no activity and is not at issue in Willow Creek’s request. The portion north of Nicolai Rd is where the mobile asphalt plant will be located.

Goble Pit is in compliance with all state and federal regulations including DEQ. The mobile asphalt plant has the required air quality permits required by DEQ. Extensive air emission controls are part of this modern equipment.

At the prior hearing on September 9, 2024, before the Columbia County Planning Commission, several interested neighbors attended and raised a myriad of concerns. As discussed below in detail, nearly all of those concerns do not in fact relate to Goble Pit or the proposed variance request. In general, they related to mining operations of the neighboring quarry – not at issue in this variance request. The asphalt plant will be placed in Goble Pit. Currently there is no active mining taking place at Goble Pit.

September 25, 2024

Many other concerns were unfounded and raised without any legally sufficient evidence or support – for example, claims that Kerr is “being sued by DEQ”. When consideration is given to the standards at issue relative to the requested variance, and the evidentiary support provided by any who oppose it, the clear and reasonable decision, as supported by the Staff Report, is to approve the variance.

Among the concerns expressed included:

Property values:

By evaluating the estimated property values of nearby parcels to Goble Pit and parcels of those attending the Columbia County Planning Commission meeting, in almost every case the property value has increased on the order of 20% to 50% over the last five years. It is highly unlikely that operations for a 60-day period will influence property values. Furthermore, the operation of the plant is already approved and fully permitted. The variance only seeks to operate outside of the standard operating hours, which will not impact property values.

Water:

Goble Pit is compliant with all storm water regulations. It is already permitted to operate the plant. The hours of operations do not pose a greater risk of groundwater contamination. Furthermore, since the asphalt plant itself does not produce any water discharge there is very little probability that it will impact groundwater resources. In the case of water requirements for operations, Goble Pit may be supplied by the neighboring Goble Quarry which has its own water supply. In any event, any potential impacts to groundwater resources will be dealt with immediately and completely. There is no legitimate risk related to these operations during other than standard operating hours.

Noise:

All machinery involved is compliant with regulatory limits. Please keep in mind this site is zoned Surface Mining. One concern regarding the use of Jake Brakes or Engine Brakes was raised. To mitigate this concern, a request has been made of Mike Russell, Director Columbia County Public Works Department, who has indicated his team will install sign(s) along Nicolai Rd informing truckers to not use these forms of braking.

Dust:

Goble Pit is not currently actively mining or processing of aggregate. Operation of a mobile asphalt plant does not contribute to any appreciable amount of dust. And operating outside of the already approved standard operating hours does not itself result in more dust or pollutants.

Very truly yours,

s/ Bryan Kerr

Bryan Kerr