

90-27632

104

1799

REVIEWED

Bull

PLANNING COUNSEL  
90-27632-5 PM 3:11  
CLERK

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Ordinance No. PL-15, the Deschutes County Zoning Ordinance of 1979, As Amended, Revising Provisions Concerning Surface Mining, and Declaring an Emergency. \*

MICROFILMED

SEP 27 1990

ORDINANCE NO. 90-035

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDERS as follows:

Section 1. Section 4.110 (7)(A) of PL-15, as amended, is further amended to read as follows:

"A. No noise-sensitive or dust-sensitive use or structure established or constructed after the designation of the SMIA Zone shall be located within 250 feet of any surface mining zone, except as provided in subsection 13 of this section."

Section 2. Section 4.110(7) of PL-15, as amended, is further amended to add a new subsection (7)(D) as follows:

"D. An exception to the 250-foot setback in subsection (7)(A) of this section shall be allowed pursuant to a written agreement for a lesser setback made between the owner of the noise-sensitive or dust-sensitive use or structure located within 250 feet of the proposed surface mining activity and the owner or operator of the proposed surface mine. Such agreement shall be notarized and recorded in the Deschutes County Book of Records and shall run with the land. Such agreement shall be submitted and considered at the time of site plan review or site plan modification."

Section 3. Section 4.110(10) of PL-15, as amended, is further amended to read as follows:

"10. Site Plan Review and Approval Criteria.

A. Elements of Site Plan. A site plan shall be submitted in a form prescribed by the Planning Director detailing the location of the proposed noise sensitive use, the location of the nearby surface mine zone and operation, if any, and other information necessary to evaluate the approval criteria contained in this section.

REFUNCHED

SEP 18 1990

- B. Site plan review and approval, pursuant to the County Uniform Land Use Action Procedures Ordinance, shall be required for all uses in the SMIA zone prior to the commencement of any construction or use.
- C. The planning director or hearings body may grant or deny site plan approval and may require such modifications to the site plan as are determined to be necessary to meet the setbacks, standards and conditions described above.
- D. The site plan shall be approved if the planning director or hearings body finds that the site plan is consistent with the site-specific ESEE analysis in the surface mining element of the comprehensive plan and that the proposed use will not prevent the adjacent surface mining operation from meeting the setbacks, standards and conditions set forth in Sections 4.100(9), (11) and (14), of this Ordinance, respectively.
- E. Public notice shall be as set forth in the County Uniform Land Use Action Procedures Ordinance, except that in all cases notice of the receipt of an SMIA application shall be sent to the mine owners and/or operators whose SM-zoned site triggered the SMIA review."

Section 4. Section 4.110 of PL-15, as amended, is further amended to add new subsection (11) as follows:

"11. Abbreviated SMIA Site Plan Review.

- A. A new or enlarged noise or dust-sensitive use to which this section applies that is at least one quarter mile from an SM zone and that has at least two dwellings or other noise or dust-sensitive uses between it and the SM zone is presumed to meet the approval criteria set forth in subsection 10(D) above and shall be processed under this subsection.
- B. Abbreviated SMIA site plan review shall require the submission of an application in a form prescribed by the Planning Director and such documentation as is necessary to demonstrate conformance with subsection 11(A) above.
- C. Unless the underlying zoning at the SMIA site would require additional review of the proposed use for some other land use permit, abbreviated site plan review shall be conducted (1) administratively

without prior public notice; (2) with public notice of the Findings and Decision mailed consistent with subsection 10 (E) above to all persons entitled to receive notice; and (3) with an appeal period and procedures as set forth in the Uniform Land Use Action Procedures Ordinance. Appellants may submit evidence to overcome the presumption set forth in subsection 11(A) above."

Section 5. Former subsections 11, 12 and 13 of Section 4.110 are renumbered Subsections 12, 13 and 14, respectively.

Section 6. Notwithstanding Section 4(7) of the Uniform Land Use Action Procedures Ordinance, the provisions of this Ordinance shall be applicable to any site plan application accepted pursuant to Deschutes County Ordinance No. 90-014 from the effective date of that ordinance onward.

Section 7. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

DATED this 5<sup>th</sup> day of September, 1990.

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

Lois Bristow Prante  
LOIS BRISTOW PRANTE, Commissioner

Tom Throop  
TOM THROOP, Chair

Dick Maudlin  
DICK MAUDLIN, Commissioner

ATTEST:

Andrea L. Glum  
Recording Secretary