



WASHINGTON COUNTY
Department of Land Use & Transportation
Planning and Development Services Division
Current Planning
155 North First Avenue, Suite #350-13
Hillsboro, Oregon 97124-3072
phone: (503) 846-8761 fax: (503) 846-2908
www.co.washington.or.us

RECOMMENDATION & STAFF REPORT

PROCEDURE TYPE: III

CPO: 8
COMMUNITY PLAN: Rural/Natural Resource
LAND USE DISTRICT: EFC District
(Exclusive Forest Conservation)

PROPERTY DESCRIPTION:
ASSESSOR MAP#: 2N2 B
LOT#: 5800
SITE SIZE: 72.35 acres
ADDRESS: 18450, 18240, and 18220 NW
Dixie Mountain Road

PROPOSED DEVELOPMENT ACTION: Twelve (12)-Month Review of Conditions of Casefile
L2200325-QREV for the Dixie Mountain Quarry

August 15, 2024

RECOMMENDATION:

Staff recommends the Hearings Officer approve the twelve-month review of conditions based on information submitted by the applicant and findings provided in the staff report, subject to the recommended conditions of approval in Attachment B of this staff report.

Staff Planner: Maitreyee Sinha, 503-846-3835

Attachments: A. Vicinity Map
B. **RECOMMENDED CONDITIONS OF APPROVAL**
C. Staff Report

CASEFILE: L2400157-QREV

APPLICANT:

Alice Peterson
18240 NW Dixie Mountain Road
North Plains, OR 97133

APPLICANT'S REPRESENTATIVE:

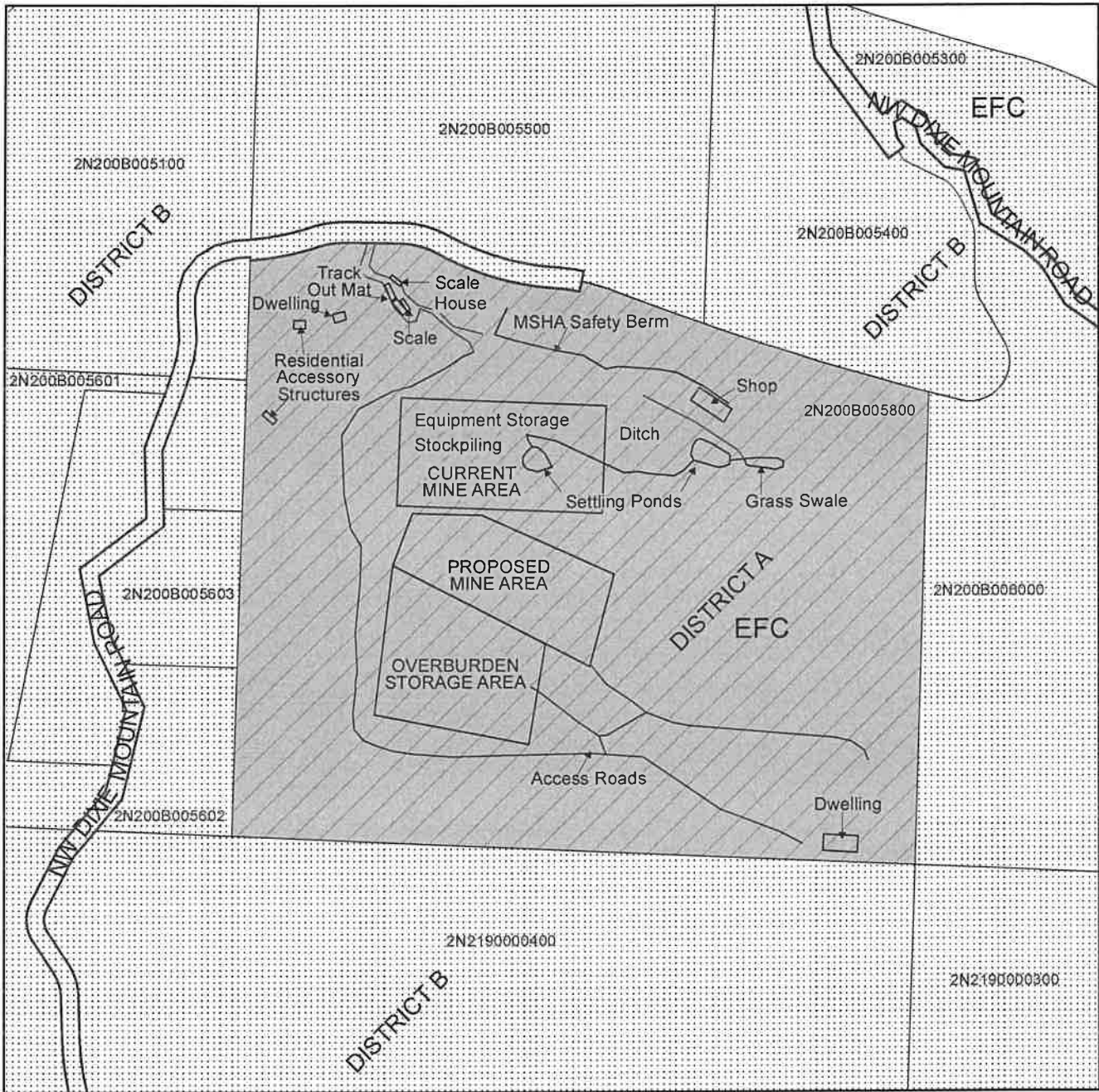
Northside Rock Products, LLC
Mike Applebee/Bubba Brown
PO Box 309
Banks OR 97106

OWNER:

David & Alice Peterson Living Trust
Same address as applicant

LOCATION:

On the south side of NW Dixie Mountain Road
approximately one mile north of its intersection
with NW Northrup Road.



↑ NORTH



AREA OF CONSIDERATION

NOT TO SCALE

SITE & SURROUNDING LAND USE DISTRICTS:

- EFC District (Exclusive Forest and Conservation)
- Mineral Aggregate Overlay District (DIST A)
- Mineral Aggregate Overlay District (DIST B)

REVIEW STANDARDS FROM CURRENT OR APPLICABLE ORDINANCE OR PLAN

- A. Washington County Comprehensive Plan
- B. Applicable Community Plan (See Front of Notice)
- C. Transportation System Plan
- D. Washington County Community Development Code:
 - ARTICLE I, Introduction & General Provisions
 - ARTICLE II, Procedures
 - ARTICLE III, Land Use Districts
 - ARTICLE IV, Development Standards
 - ARTICLE V, Public Facilities and Services
 - ARTICLE VI, Land Divisions & Lot Line Adjustments
 - ARTICLE VII, Public Transportation Facilities
- E. R & O 86-95 Traffic Safety Improvements
- F. ORD. NO. 738, Road Design and Construction Standards
- G. ORD.691-A, 729, 741, 746, 751, 793-A Transp. Development Tax

Attachment B

RECOMMENDED CONDITIONS OF APPROVAL

The following conditions of Casefile L2400157-QREV shall be reviewed as part of subsequent Type II Periodic Review of Conditions applications.

- I. All quarry activities shall remain suspended from the following portions of the site (slide zone) until authorized to resume through approval of subsequent Review of Conditions application: (Section 207-5, Section 379-13.6)
 - A. *All of NW Dixie Mountain Road from a point 250 feet west of the closed gate.*
 - B. *Any parking or other areas west of the eastern edge of NW Dixie Mountain Road*
 - C. *The former truck scale and scale house area*
- II. No vehicular traffic is allowed on the slide zone (described in Condition I.A. above) until the roadway is repaired and approved in writing by the County Engineer. Vehicles engaged in this repair work are not subject to this condition.
- III. Evidence of final inspection approval of the issued Grading Permit (GRAD-2304189) shall be included with the next Periodic Review of Conditions due May 15, 2025.
- IV. Every Five (5) Years from the Date of Initial Approval (May 15, 1990) the Applicant shall request a Periodic Review of the mineral and aggregate operation on the site (Type II procedure).

Note: Next Five Year Periodic Review of Conditions is due May 15, 2025

- V. The following Conditions of Approval from Casefiles 89-007-Q, as modified by subsequent Periodic Reviews via Casefiles 95-286-QREV, 03-002-QREV, 06-035-QREV, 10-395 QREV and L2100205-QREV, and via L2100205-QREV(APPEAL), L2200235-QREV, and L2400157-QREV shall continue to apply to this site.
 - A. *Dust abatement shall be applied from the quarry to the Northrup Road intersection between May 15th and June 15th of each year. If the weather during this period is unusually wet and conditions are not conducive to proper application of dust abatement, this requirement may be postponed at the discretion of the Operations Engineer until weather conditions permit. Additional dust abatement treatments may be required, at the discretion of the Operations Engineer, if the previous treatment becomes ineffective. Failure to comply with this condition may result in the placement of a 13-ton weight limit on the road.*

Note: *Dust control and general construction permits for work occurring in the right-of-way are available at the Operations Division (503-846-7623). The appropriate permit(s) must be on file with the Operations Division prior to treatment.*
 - B. *Access from the quarry onto NW Dixie Mountain Road is subject to the sight distance standards in Section 501-8.4. Any changes in access or road configuration shall be reviewed for compliance with Section 501-8.4 via the access permit process.*
 - C. *The quarry operation is subject to development standards listed in Section 379-13 except for those areas, which have been previously mined. The existing crusher cannot be moved closer to the northern District A boundary than the existing 225 feet.*
 - D. *The applicant must comply with all applicable Oregon Department of Environmental Quality and Department of Geology and Mineral Industries standards.*

- E. *The hours of operation for the quarry (including hauling of rock) shall be limited to (unless an exception is granted through Section 379):
6 a.m. to 8 p.m., Monday through Saturday
No operation on Sundays or on the Holidays specified in Section 379-13.4. [and as noted below]*
- F. *Blasting shall be restricted to the hours of 9:00 a.m. to 6:00 p.m., Monday through Friday. No blasting shall occur on Saturdays, Sundays or the following holidays:*

<i>January 1st</i>	<i>Labor Day</i>
<i>Memorial Day</i>	<i>Thanksgiving Day</i>
<i>July 4th</i>	<i>December 25th</i>
- G. *Grade Dixie Mountain Road from the east access point to the beginning of the pavement (at Northup Road) on an annual basis. The Operations Division will notify the operator at least 30 days in advance when it is necessary to grade Dixie Mountain Road.*
- H. *Practices implemented to prevent surface water runoff from the rock mining area from entering the existing slide zone (as referred to in Condition I. above) shall be maintained.*
- I. *Open cracks near or adjacent to the slide zone along the boundary of the mining operation shall remain filled or covered to prevent surface water runoff from the mining operations from infiltrating into the slide zone.*
- J. *There will be no temporary stockpiling or permanent placement of quarry material or parking of quarry equipment and vehicles at the heel of the unstable slope and near the slide zone.*
- K. *All requirements for final approval of Grading Permit, GRAD-2304189, shall continue to be met at the quarry site.*
- L. *Appropriate permits from the Department of Environmental Quality (DEQ) for any changes to the site must be obtained as necessary.*

Attachment C STAFF REPORT

I. APPLICABLE STANDARDS:

- A. Washington County Comprehensive Framework Plan (Rural/Natural Resource Plan Element)
- B. Washington County Community Development Code:
 - 1. Article II, Procedures:
 - Section 202-2 (Type II, Procedure)
 - Section 207-5 (Conditions of Approval)
 - 2. Article III, Land Use Districts:
 - Section 342 (EFC District Standards)
 - Section 379 (Mineral and Aggregate Overlay District)

II. AFFECTED JURISDICTIONS

Oregon Department of Geology & Mineral Industries (DOGAMI)
Oregon Department of Environmental Quality (DEQ)
Washington County Sheriff

III. FINDINGS

Background

1. This application (Prehearing Exhibit PH1) is a twelve (12)-month review of the approval conditions for Casefile L2200325-QREV (Prehearing Exhibit PH5), which itself was a six (6) month review of conditions before the Hearings Officer of conditions for Casefile L2100205-QREV (APPEAL) (Prehearing Exhibit PH6). The appeal (see below) followed a landslide on the subject site (and the appellant's property), and at the public hearing for the appeal, the Hearings Officer upheld the County's approval of the sixth five-year review of conditions (L2100205-QREV) for Dixie Mountain Quarry. The quarry was originally approved under Casefile 89-007-Q. This current report (Prehearing Exhibit PH7) pertains to a review of the conditions applied to the quarry site pertaining to the landslide only.
2. A summary of the site conditions specific to the landslide and the events following it are presented below:
 - a. The sixth five-year review of conditions of Dixie Mountain Quarry, casefile L2100205-QREV, approved on November 29, 2021 was appealed following a landslide on the appellant's property (2N2 B 5500) north of the quarry site on December 12, 2021 that damaged the appellant's property. The appellant opined that due to ongoing quarry activities and the landslide, the appellant's property and lives were endangered and that the permit to continue quarry operations should be rescinded.
 - b. At that time, staff noted that, while this was a concern, there was no evidence of noncompliance with any Code standards that apply to the review of conditions for the quarry which was the subject of approval of Casefile L2100205-QREV or that the applicant could not continue to comply with standards that relate to continuing quarry operations. However, a site visit by staff on February 1, 2022 revealed evidence of the issue raised by the appellant: a substantial ongoing landslide over a large area on the subject site that extended beyond the quarry site on to the appellant's property to the north. The cause of the landslide had not been determined, the slide condition was dynamic, and had yet to be addressed through stabilization or similar work. According to the County's Building Engineer this landslide potentially lent support to the concern expressed by the appellant

about the geohazards on or near the quarry operation site having the potential to impact nearby properties that are downslope of the quarry.

- c. Taking into consideration all of the above, staff at that time recommended suspension of quarry activities within the affected area and a six-month review of conditions that would include among other requirements, a geotechnical report of the landslide area and its possible impact on downslope properties.
 - d. This geotechnical report, as required, was submitted as part of the six-month review of conditions (L2200325-QREV). The report clarified that the quarry activities were not the root cause of the landslide, the area was geologically active and generally landslide prone, and that recent heavy rains had aggravated the instability in the area resulting in the landslide. However, as noted in the report, surface and subsurface runoff from quarry activities could contribute towards destabilizing the area and could potentially trigger or intensify the landslide in the area. To that end, certain actions were identified by the County's Building Engineer to be implemented by the quarry to ensure its operations do not further contribute to the instability in the area. The applicant was required to take measures to ensure (i) no quarry operations were conducted within the slide zone and a buffer area until further notice (ii) equipment and stockpiling would be relocated further south (iii) all stormwater runoff at the quarry site would be managed to ensure they were not infiltrating into the slide affected area and the buffer and (iv) all surface tension cracks caused by the landslide in the active quarry area would be repaired to prevent further infiltration of runoff. The above referenced Building Engineer's report is included as Prehearing Exhibit PH4 of this casefile.
 - e. The above modifications to the site were to be permitted via a Grading Permit and a twelve-month review of conditions was required to ensure the above modifications were implemented and operational onsite. This current review of conditions is the follow up 12-month review of conditions of Casefile L2200325-QREV and is separate from the periodic five-year review of conditions for the quarry site.
3. All review of conditions pertaining to the landslide (L2100205-QREV(APPEAL), L2200325-QREV, and L2400157-QREV) are via a Type III procedure following the appeal. The occurrence of the landslide has resulted in modifications to the site that are related to continuing quarry operations and conditions now apply to the site that will likely remain in place as long as the quarry operates. Based on this determination, staff recommends that these new conditions that continue to apply to the site (included as Attachment B of this report) be integrated into the periodic review of conditions, which is permitted per CDC Section 379-15.3.A.
 4. No comment letters were received regarding this application prior to the drafting of this recommendation. If any such letters are received, they will be provided to the Hearings Officer at the hearing.
 5. **Compliance with Conditions of Approval of Casefile L2100205-QREV(APPEAL) related to the Six-Month Review of Conditions:**
 - i. *All quarry operations shall remain suspended from the following portions of the site (slide zone) until authorized to continue through approval of subsequent Review of Conditions application (Section 207-5, Section 379-13.6)::*
 - A. *All of the NW Dixie Mountain Road from a point 250 feet west of the existing gate.*
 - B. *Any parking or other areas west of the eastern edge of NW Dixie Mountain Road.*
 - C. *The former truck scale and scale house area.*

STAFF: As required, and confirmed during a site visit on July 31, 2024 all activities remain on hold in the above-described area. The northern portion of the quarry continues to be cordoned off with large boulders and posted warning signs alerting personnel and visitors to not step into the cordoned-off area. This condition is satisfied. The truck scale and scale house within the affected slide area have been removed and are no longer in use. Electric poles have also been removed from the affected area. A current aerial (2024) of the subject site and surrounding area, and an aerial from prior to the landslide (2019) have been included as Prehearing Exhibit PH2.

- II. *No vehicular traffic is allowed on the slide zone (portion of NW Dixie Mountain Road described in Condition I.A. above) until the roadway is repaired and approved in writing by the County Engineer. Vehicles engaged in the repair work are not subject to this condition.*

STAFF: An alternate route to access the quarry from the northwest corner of the site is in use, and a new scale house, truck scale and erosion control mat have been installed near this access. No vehicular traffic uses the affected road within the slide area. Each of these conditions are met.

- III. *Within 75 days of the Hearing Officer's decision on this application, the applicant shall submit the following:*

- A. *A grading permit application to the County's Building Services Division. Please contact the Grading Section of the County's Building Services Division for submittal requirements (503-846-3470, Section 410). Requirements include (but not limited to) the following, as deemed necessary by the Building Engineer:*
1. *A site vicinity map showing at least three major roads near the site.*
 2. *Plan sheets containing Figure 3 of the Geotechnical Engineering Report Dixie Mountain Road Landslide by Aspen Consulting (dates September 30, 2022)*
 3. *A grading plan with the delineation of a drainage buffer zone between the rock mining operations and the hill of the slide zone. Surface water runoff will be collected and directed from the drainage buffer zone to an approved discharge point outside the slide zone.*
 4. *Within the zone mentioned in #3 above, no temporary stockpiling or placement of quarry extraction material will be allowed.*
 5. *Show all drainage channels and conveyances proposed to manage surface water runoff from entering the slide zone area.*
 6. *Drainage analysis report and a copy of the Geotechnical Engineering Report mentioned in #2 above prepared by Aspen Consulting (Dated September 30, 2022).*
 7. *A scheme for monitoring and reporting compliance for the drainage buffer zone required in #3 above.*
 8. *Any other requirement on the Grading permit application form.*

STAFF: The applicant submitted a grading permit application per this condition within 75 days of the decision for Casefile L2200325-QREV. This condition is met.

- B. *As required by DOGAMI, an application for an updated Operating Permit from the Department of Geology and Mineral Industry (DOGAMI) addressing any requirements/standards deemed necessary by the agency. The current permit must be updated to reflect, at a minimum, the changed site conditions and operations, future reclamation options, and conformance with any changes to land use approvals.*

STAFF: The applicant has provided evidence of a current, updated DOGAMI permit #34-0003. This condition is met.

- C. *A revised site plan to Current Planning Services Division (503-846-3470) demonstrating that the current location of the mobile office, truck scale, and erosion control mats are in compliance with Section 379-13.1.b.(3). The site plan should also include the location of equipment and overburden storage on the site. (Section 379)*

Note: Failing submittal of the Grading Permit application to the County, or an application to amend the current DOGAMI-issued Operating Permit within 75 days of the Hearings Officer's decision, all quarry activities are to be suspended until authorized to continue through subsequent land use approvals.

STAFF: A site plan reflecting all the updates to the site, including relocation of structures and uses, and addition of stormwater management features was submitted to Current Planning Services in a timely manner. This condition is met.

- IV. *Applicant shall apply for a Review of Conditions (Type III procedure) within twelve (12) months of the date of the Hearings Officer's decision on this application. The twelve (12) month review application shall demonstrate compliance with the conditions of approval of this application, and include at a minimum, the following items at the time of submittal:*

A. Evidence of a final grading permit for the activities in III.A. above. Please contact the Grading Section of the County's Building Services Division (503-846-3470) for submittal requirements.

STAFF: The application does not include evidence of final approval of the grading permit (GRAD-2304189) as required by this condition. However, the applicant has obtained an 'issued' grading permit following which all requirements pursuant to III.A. were met on site. The grading permit stipulates six quarterly inspections of the new stormwater management system on site prior to final approval. This is intended to prevent runoff from entering the slide zone and buffer area at the quarry site. The six quarterly monitoring events will determine efficacy of the stormwater management system and the review will allow for any changes deemed necessary. To date, two inspections have been completed, with four subsequent inspections remaining during the course of the upcoming rainy season that includes Fall 2024, Winter 2025 and Spring 2025. A final inspection approval of the grading permit will be granted after successful performance of the stormwater water management methods on site is ensured. All requirements of the grading permit have otherwise been completed.

Therefore, upon consultation with the Building Engineer (Prehearing Exhibit PH-3) staff finds it reasonable to defer the requirement for a final inspection approval of the grading permit to the Type II Periodic Review of Conditions for the site, due in May 2025, and consider this requirement met for purposes of this current review of conditions.

B. Evidence of an updated and approved permit from the Department of Geology and Mineral Industry (DOGAMI), addressing any requirements deemed necessary by the agency. The current permit must be updated to reflect the changed site conditions and operations, future reclamation options, and conformance with any changes to land use approvals.

STAFF: The application includes a copy of the active DOGAMI operating permit

C. Evidence of any DEQ permits, if determined necessary, for amendments to the subject site.

STAFF: The application includes a copy of the active DEQ discharge permit. No additional permits were necessary at this time.

D. A narrative and supporting documents addressing any construction/modifications to operations that have been implemented on site to address the requirements stipulated through the Grading Permit and compliance with DOGAMI standards.

Note: Failure to submit these items in the Review of Conditions application will result in suspension of quarry activities and may result in revocation proceedings of the County operating permit at the Dixie Mountain quarry (subject site).

STAFF: The applicant has submitted a narrative and supporting documentation as required by this condition.

V. Miscellaneous Conditions:

A. Practices should be implemented to prevent surface water runoff from the rock mining area from entering the existing slide zone (as referred to in Condition I. above)

B. Open cracks near or adjacent to the slide zone along the boundary of the mining operation should be filled or covered to prevent surface water runoff from the mining operations from infiltrating into the slide zone.

C. There will be no temporary stockpiling or permanent placement of quarry material at the heel of the unstable slope and near the slide zone,

D. Appropriate permits from the department of Environmental Quality (DEQ) for any changes to the site must be obtained as necessary.

STAFF: As verified during the July 31, 2024 site visit, the above requirements have been met onsite prior to this review of conditions. The applicant, in consultation with the County's Building Engineer has installed a new stormwater ditch to the south of the slide buffer zone to capture all surface water runoff and route it to the grass swale that ultimately discharges into West Fork McKay Creek. The entire area has been graded to create a gentle slope towards this stormwater ditch, and all open cracks have been filled and covered to prevent surface water runoff from mining area operations from infiltrating into the slide zone and creating additional instability. The stockpiling and equipment storage in and around the slide zone and its buffer area have been relocated further south on the site, to the actively mined area which lies at a higher elevation and completely outside the slide zone and its buffer area. All runoff from the actively mined area is pumped into a detention/settling pond that ultimately drains into the grass swale leading to West Fork McKay Creek. No additional permits from DEQ is required for operations to continue at the site.

The above conditions are met.

VI. Every five (5) years from the date of initial approval (May 15, 1990), the applicant shall request a periodic review of the mineral and aggregate operation on the site (Type II procedure).

NOTE: Five-year periodic review next due May 15, 2025

STAFF: As required by the above condition, the applicant will submit an application for the seventh Type II periodic review of conditions by May 15, 2025.

VII. The following Conditions of approval from Casefiles 89-007-Q, as modified by subsequent Periodic Reviews via Casefile 95-286-QREV, 03-002-QREV, 06-035-QREV, and 10-395-QREV, and L2100205-QREV continue to apply to this site.

STAFF: Five-year periodic review is a continuing requirement for mineral and aggregate extraction operations. The five-year review of conditions applicable to the subject site was completed and

approved via Casefile L2100205-QREV. This decision was upheld by the Hearing's Officer upon appeal. The applicant demonstrated compliance with all applicable conditions pertinent to the five-year review of conditions. Staff notes that the landslide issue does not appear to be related to the conditions of approval or with permit conditions for the original approval of this casefile. Compliance with these ongoing conditions from prior casefiles will be next evaluated in 2025.

A. Comprehensive Framework Plan (Rural/Natural Resource Plan Element):

STAFF: The goals and policies, which relate to the development of land, are implemented by the Code. The applicant is not required to address, consider or implement any goal, policy or strategy of the Plan except where required by the Code.

There are no designated Significant Natural Resources on the subject property. Land with designated Significant Natural Resources is subject to Code Section 422, which requires application of Plan Policy 10, Implementing Strategy E. Since there are no designated Significant Natural Resources on the subject property, Section 422 does not apply to this request. All other Plan Policies are implemented by the Code.

B. Washington County Community Development Code:

1. *Article II, Procedure:*

Section 202-3 Type III

202-3.1 Type III actions involve development or uses which may be approved or denied, thus requiring the exercise of discretion and judgement when applying the development criteria contained in this Code or the applicable Community Plan. Impacts may be significant and the development issues complex. Extensive conditions of approval may be imposed to mitigate impacts or ensure compliance with this Code and the Comprehensive Plan.

STAFF: This application is being processed through the Type III procedure of the Community Development Code, as conditioned in Casefile L2200325-QREV. Public Notice was sent to surrounding property owners and a public notice sign was posted on the site. No letters of comment were received in response to the public notice as of the date of completion of this report. Any letters received between that date and the public hearing for this application shall be identified and presented to the Hearings Officer during the hearing proceedings. Where appropriate, conditions of approval are recommended to ensure compliance with the standards of the code and other county regulations, and to minimize identified impacts upon surrounding properties.

207-5 Conditions of Approval

207-5.1 The Review Authority may impose conditions on any Type II or III development approval. Such conditions shall be designed to protect the public from potential adverse impacts of the proposed use or development or to fulfill an identified need for public services within the impact area of the proposed development. Conditions shall not restrict densities to less than that authorized by the development standards of this code.

STAFF: Conditions of approval are imposed as necessary to ensure compliance with the standards of the Code and other County regulations and to mitigate potential for adverse impacts the

development may have on the surrounding area. Staff has provided a recommended set of conditions of approval in Attachment B of this recommendation/report.

Staff notes that the conditions of approval of Casefiles L2200325-QREV and L2100205-QREV (APPEAL) have been modified in this recommendation. Conditions of approval were applied to the site to continue the following: (1) to cordon off certain areas from mining operations and (2) to require the applicant to maintain practices that prevent quarry operations from aggravating the geological activities in the general area. Some of these requirements will likely continue to apply for the duration of mining operations onsite. Therefore, going forward, staff recommends that subsequent review of the conditions in Attachment B of this report be consolidated with the Type II periodic five (5) year review of conditions and has been discussed further in Section 379 of this report.

2. *Article III, Land Use District:*

Section 342 EFC District Standards

STAFF: The subject parcel is designated EFC. The subject parcel is also designated as Mineral and Aggregate Overlay District A. All code requirements relating to the operation of a quarry are outlined in Section 379, which is discussed below in this report.

Section 379 Mineral and Aggregate Overlay District

379-1 Intent and Purpose

379-1.1 The purpose of the Mineral and Aggregate Overlay District is to protect mineral and aggregate resources for future use, to provide for the development and utilization of resources currently needed for economic development consistent with the requirements of LCDC statewide Goal 5 and to regulate resource extraction and processing activities to balance their impact on existing adjacent land uses.

379-1.2 The intent of the Mineral and Aggregate Overlay District is to:

- A. Provide for public awareness of existing and potential mineral and aggregate resource extraction and processing activities;*
- B. Establish clear and objective operational standards for the extraction and processing of mineral and aggregate resources;*
- C. Simplify the review and permit processes for mineral and aggregate resource extraction and processing activities;*
- D. Ensure the reclamation of lands after mineral and aggregate resources extraction activities are completed;*
- E. Balance significant Goal 5 resources when evaluating and designating new mineral and aggregate sites; and*
- F. Protect significant aggregate resources from new conflicting uses.*

STAFF: The site is within the Mineral and Aggregate Overlay District, "District A." This district was acknowledged by LCDC as being in compliance with LCDC Goals and State laws. It is intended to protect mining operations and allow these resources to be developed and utilized for economic development consistent with LCDC Goal 5. It also regulates the activities to minimize their impact on adjacent land uses. The District A overlay was applied to this site via adoption of the Rural/Natural Resource Plan in 1985.

379-2 *Application of the Mineral and Aggregate Overlay District*

379-2.1 *The Mineral and Aggregate Overlay District shall consist of two distinct elements, District A and District B.*

379-2.2 *"District A" may be applied only in the FD-10, EFU, EFC, AF-20, AF-10, AF-5, RR-5, MAE, R-IND and IND Districts.*

379-2.3 *"District B" may be applied to any Land Use District.*

STAFF: This site is within the District A overlay.

379-7 *Uses Permitted Through a Type II Procedure in District A*

The following uses are permitted subject to the applicable standards as set forth in Article IV and Sections 379-13 and 379-14.

379-7.1 *Mining or quarrying operations for the extraction of rock, clay, soil, sand, gravel or other minerals*

379-7.2 *The following uses when in conjunction with a mineral and aggregate extraction operation:*

- A. *Crushing, washing and screening of mineral and aggregate materials;*
- B. *Stockpiling of mineral and aggregate materials and earth products;*
- C. *An office, shop or other accessory structure used for the management and maintenance of mineral and aggregate extraction and processing equipment;*
- D. *Sale of products produced from a mineral and aggregate extraction and processing operation;*
- E. *One detached dwelling unit (may be a manufactured dwelling) and accessory structures for a caretaker or watchman;*
- F. *Asphalt batch plant, except in the EFU and AF-20 Districts;*
- G. *Concrete batch plant;*
- H. *Asphalt batch plant in the EFU or AF-20 Districts, except when located within two (2) miles of a planted vineyard. Batch plants approved on or before October 3, 1989, or a subsequent renewal of an existing approval, are exempted*

from this limitation and may be located within two (2) miles of a vineyard; and

- I. Storage of equipment or machinery necessary for mineral and aggregate extraction or processing.*

STAFF: The applicant is requesting a twelve-month Review of Conditions as set forth in Casefile L2200325-QREV. Casefile 89-007-Q approved uses A., B., C., D., and I. on this site.

A brief history of land use approvals at the site is summarized below:

- a. The quarry was first established on the site via Casefile 79-357-C. The uses approved as part of the operating permit were an office, a shop, equipment storage, mining/extraction, and crushing, screening, and stockpiling of rock. On January 7, 1982 the Hearings Officer approved Casefile 81-456-C, which expanded the conditional use permit for a quarry on the subject parcel. Subsequently, the Board of County Commissioners adopted the Mineral and Aggregate Overlay District in Section 379 of the Community Development Code. The Mineral and Aggregate Overlay District was developed specifically to standardize the county's land use requirements for quarries and has been acknowledged by the State Land Conservation and Development Commission as being consistent with State Goal 5 requirements. Section 379 applies development and performance standards on quarry uses and does not limit the quantity of aggregate extracted or processed. Casefile 89-007-Q was a review of conditions of the 1981 approval and an approval of a Type II Operating Permit to bring the quarry into compliance with the current code.
- b. Aggregate and mineral extraction operations were approved on this site via Casefile 89-007-Q on May 15, 1990, through a Type III public hearing process with the decision rendered by a Hearings Officer. As discussed later in this report, Section 379-15.3 A. requires a periodic five-year review of all permitted quarries to "determine whether additional conditions are necessary to bring the operation into compliance with the applicable land use regulations". This report outlines the adopted conditions of approval which continue to apply to this quarry and the applicable land use standards and describes the applicant's compliance with those conditions and standards, based on the information submitted by the applicant. It is important to note that this five-year review is not a renewal or extension of the quarry's operating permit but a review of the quarry's compliance with the previously adopted conditions of approval and applicable land use standards.
- c. Following land use approval and the initial review of operations, an applicant may request modification or removal of conditions in accordance with the standards in Section 207-5.7 concurrently with the required periodic review. In Casefile 95-268-QREV, the applicant requested removal of quantity limitations applied via the 1979 approval (25,000 cubic yards per year) and the 1981 approval (100,000 cubic yards per year). In the 1995 application review, the county confirmed that conditions of approval for Casefiles 79-357-C and 81-456-C no longer applied to the site. The county also determined that those capacity conditions were either no longer necessary or not applicable because of the updated code standards. In addition, the conditions of approval for Casefile 89-007-Q superseded the conditions of approval of the previous land use approvals.
- d. In Casefile 95-268-QREV, county staff determined that all of the conditions of approval of Casefile 89-007-Q had been met with the exception of Condition A.5, which required the applicant to establish a road-oiling program for NW Dixie Mountain Road. As a result, that 1995 decision included a condition of approval requiring compliance with the road oiling condition. In Casefile 06-035-QREV, county staff noted that due to procedural changes in the oiling program the condition had been modified to reflect current procedure.

379-13 *Development Standards - District A*

An applicant shall submit a plan for a mineral and aggregate resource extraction site, prepared by a certified geologist, mining engineer, engineering testing firm or other qualified personnel, which demonstrates compliance with the following standards:

379-13.1 *Dimensional Requirements*

A. *Lot Area:*

The minimum area shall be that necessary to meet setback requirements in Section 379-13.1(B).

STAFF: The 72.33 acre parcel is designated as District A. All quarry activities shall and can occur within the setback requirements listed in Section 379-13.1(B). Therefore, the site meets the requirements of this Section.

B. *Setbacks:*

(1) *Mineral and aggregate extraction*

- (a) *One-hundred (100) feet from any District A boundary.*
- (b) *Five-hundred (500) feet from a noise sensitive use existing at the time this District was applied.*
- (c) *When a District A boundary abuts another District A boundary or a designated mineral or aggregate resource in an adjacent county, no setback for mineral and aggregate extraction is required along the common boundary line.*

STAFF: Subsection (a) requires a 100-foot setback from any District A boundary for mineral extraction. The applicant provided a site plan that demonstrates that the site meets the 100-foot requirement.

Subsection (b) requires a 500-foot setback from a noise sensitive use existing at the time the District A designation was applied. At this location, the only noise sensitive uses in the area are dwellings. The District A designation was first applied to the site as a part of the adoption of the Rural/Natural Resource Plan which became effective on March 26, 1985. As a part of the final approval for Casefile 89-007-Q, the applicant provided a site plan that showed the setback line required by subsections (a) and (b). No changes have been proposed as part of this application.

In addition to these setbacks, an additional setback was required along the northern property line of the subject site due to the landslide in December 2021. This additional setback required all quarry activities to remain suspended in the landslide affected area until authorized to continue through subsequent review of conditions, and continues to apply at the time of this review. It includes all of the roadway from a point 250 feet west of the existing gate at the terminus of NW Dixie Mountain Road, any parking or other areas west of the eastern edge of NW Dixie Mountain Road, and the former truck scale and scale house area.

Based on the above findings, staff concludes that this operation complies with the requirements of this section.

- (2) *Processing of mineral and aggregate materials*
 - (a) *Five-hundred (500) feet from any District A boundary.*
 - (b) *Seven-hundred and fifty (750) feet from a noise sensitive use existing at the time this District is applied.*

STAFF: Subsection (a) requires a 500-foot setback from any District A boundary when processing mineral and aggregate materials.

Subsection (b) requires a 750-foot setback from a noise sensitive use (dwelling) existing at the time the District A designation was applied. The District A designation was first applied to the site as a part of the adoption of the Rural/Natural Resource Plan which became effective on March 26, 1985. In Casefile 89-007-Q the applicant demonstrated that the site and the proposed use met the dimensional requirements of this section, except for setbacks for processing equipment. Casefile 89-007-Q did not require the applicant to meet the setback requirements for processing equipment (500 feet from the District A boundary) to the north of the site, because the quarry had received land use approval and had been in operation prior to adoption of the setback requirements. Under Section 379-17.2 existing quarries approved via a previous conditional use permit are not required to meet the setback requirements to the extent that such imposition would interfere with the existing operation.

Therefore, the applicant is not required to meet the 500-foot setback requirement to the north. The applicant is required to meet the 500-foot setback to the east, south, and west. Staff notes that as the quarrying activities move south on the property, the setback distance to the north will increase as the crusher is moved closer to the extraction area (see Staff Report for Casefile 89-007-Q). The crusher is situated outside the landslide affected area.

- (3) *Office, shop or other accessory structure*
 - (a) *Fifty (50) feet from an exterior property line.*
 - (b) *One-hundred (100) feet from a noise sensitive use existing at the time this District is applied.*

STAFF: Following the landslide, the office, scale and erosion control mats were relocated outside the slide zone and closer to the active access approach to the quarry at the northwest corner of the subject site. The applicant has reflected these changes in an updated site plan that shows the above setbacks are met.

- (4) *Detached dwelling unit or manufactured dwelling and related accessory structures for a caretaker or watchman.*
 - (a) *Fifty (50) feet from the front property line.*
 - (b) *Ten (10) feet from a side or rear property line.*

STAFF: Pursuant to Casefile 89-007-Q, the subject parcel has two dwellings on it, the owner's dwelling and a night watchman's dwelling. According to the applicant's site plan, both structures continue to meet these requirements.

(5) *Storage of operational or nonoperating equipment for the production and/or processing of mineral and aggregate materials.*

(a) *Fifty (50) feet from any District A boundary.*

(b) *One-hundred (100) feet from a noise sensitive use existing at the time this District is applied.*

(6) *Storage of overburden to be saved for reclamation uses may be allowed within setbacks subject to conformance with the reclamation plan.*

STAFF: Previously submitted site plans show the locations for equipment storage and overburden storage. All overburden storage is within the District A boundary. As required by Casefile L2200325-QREV, all storage has been removed from the area in the vicinity of the landslide to a location further south on the subject site. These updates have been reflected in the revised site plan submitted with this application.

C. *Height:*

The maximum height of any structure, except mineral and aggregate processing equipment, shall be thirty-five (35) feet.

D. *Signs:*

Maximum sign area shall not exceed thirty-five (35) square feet per entrance.

STAFF: The applicant is required to meet these standards. The site has an existing identification sign that is less than 10 square feet in size. No changes have been requested at this time.

379-13.2 *Screening and Fencing*

STAFF: In Casefile 89-007-Q, the applicant demonstrated that the site meets the requirements of this section. No additional screening or buffering was required, other than maintaining the existing vegetation within the 100-foot setback area as required by the State (DOGAMI) permit number 34-0043 (see casefile). Any modifications to this requirement will be regulated by DOGAMI.

379-13.3 *Access*

STAFF: The site's access is via NW Dixie Mountain Road, a county rural collector. The applicant's private road is graveled, and the access point is gated, and access is in compliance with the requirements of this section.

Staff notes that the access approach at the northern terminus of Dixie Mountain Road has been closed due to the landslide on the quarry site. The quarry site continues to utilize an alternate approved access approximately 800 feet west of the terminus, onto NW Dixie Mountain Road.

379-13.4 *Hours of Operations*

A. *Blasting shall be restricted to the hours of 9:00 a.m. to 6:00 p.m., Monday through Friday. No blasting shall occur on Saturdays, Sundays or the following holidays:*

- (1) *January 1*
- (2) *Memorial Day*
- (3) *July 4*
- (4) *Labor Day*
- (5) *Thanksgiving Day*
- (6) *December 25*

STAFF: The conditions of approval for Casefile 89-007-Q set specific limitations on the operating hours of this quarry which are carried forward in Attachment B. These conditions continue to apply to the site and the applicant has not proposed any modifications with this request.

379-13.5 *Environmental Standards*

STAFF: These issues were addressed in Section 423 of the report for Casefile 89-007-Q. The requirements of Section 423 continue to apply. The applicant continues to maintain an active discharge permit from DEQ and an operating permit from DOGAMI, as submitted with the application materials.

379-13.6 *Safety Standards*

- A. *All buildings, structures, and equipment used for the production of or processing of mineral and aggregate materials shall be maintained in such a manner to assure that such buildings, structures and equipment will not become hazardous.*
- B. *Access to all mineral and aggregate sites shall be gated and locked when not in operation.*

STAFF: The applicant must comply with this section. During the recent site visit on July 31, 2024, staff found that the access has the provision to be gated and locked, thus complying with the requirement of subsection 379-13.6 B. The landslide in 2021 had rendered the northern portion of the quarry operation site hazardous to operations and personnel. Building, equipment (mobile office, scale) in the northeastern portion of the site, and access roads were all negatively impacted by the landslide and relocated. Electric poles serving the quarry site were also relocated and placed outside the impacted slide zone. During the recent site visit staff noted that northern portion remains unusable and cordoned off for all users.

379-13.7 *Site Reclamation*

A site reclamation plan (prepared in conjunction with a State of Oregon surface mining operating permit) which demonstrates that the mineral and aggregate extraction site will be reclaimed for the land uses specified in the Primary District shall be submitted. The reclamation plan shall be prepared by the applicant or the

applicant's agent and approved by the State of Oregon Department of Geology and Mineral Industries pursuant to ORS Chapter 517, and the standards and procedures contained in OAR Chapter 632, Division 30 or Division 35, whichever is applicable.

STAFF: The applicant has a valid site reclamation plan approved and issued by the State under DOGAMI Permit Number 34-0043. Any modifications to that plan will be regulated by DOGAMI.

379-13.8 *Performance Agreement*

- A. *The operator of a mineral and aggregate site shall provide the County sufficient evidence on an annual basis that the operator has in full force and effect the bond or security deposit required by ORS 517.810 to assure conformance with the State-required reclamation plan. Failure of the applicant to maintain the required bond or security deposit shall constitute a violation of Section 379.*
- B. *Mineral and aggregate operations shall be insured for \$500,000.00 against liability and tort arising from production activities or operations incidental thereto conducted or carried on by virtue of any law, ordinance or condition and such insurance shall be kept in full force and effect during the period of such operations. A prepaid policy of such insurance which is effective for a period of one year shall be deposited with the County prior to commencing any mineral and aggregate operations. The policy shall be renewed annually with proof of renewal deposited with the County annually. Failure to deposit such policy or to maintain continual insurance coverage shall constitute a violation of Section 379.*

STAFF: Staff notes that DOGAMI requires annual renewal of the Surface Mining Permit and assures that the operator maintain the appropriate annual performance agreements. Therefore, the operator is only required to verify the Surface Mining Permit issued by DOGAMI is renewed and valid. As noted on the permit, the current Operating Permit is valid and renewal is required by October 31, 2024. Compliance with all applicable DOGAMI standards is a recommended condition for this approval, as well as a condition that is included within the five-year review of conditions for this site.

379-15 *Review and Enforcement*

379-15.1 *Initial Review:*

- A. *Initial Review of a mineral and aggregate resource operation shall be processed as a Type II action.*
- B. *Within six (6) months of commencing a mineral and aggregate resource extraction and processing operation, the operator shall submit appropriate evidence, prepared by qualified personnel, documenting that the operation conforms to the standards contained in Section 379-13 and other applicable standards imposed by the Review Authority.*

- C. *Should the documentation required by Section 379-15.1(B) indicate that the operation does not conform to the applicable standards, the operator shall be given sixty (60) days in which to make necessary modifications. Should the operator fail to make the necessary modifications within the allotted sixty (60) day period, the Planning Director shall begin revocation proceedings as outlined in Section 201-7.*

STAFF: Section 379 for the Mineral and Aggregate Overlay District provides a process for ongoing review for compliance with conditions of approval for quarries. After the county grants approval to operate a quarry, the operator is required to submit an application for Initial Review documenting compliance with all conditions of approval. In this case, Casefile 95-268-QREV served as both the 6-month initial review for this quarry and the first five-year periodic review.

379-15.2 *Periodic Review:*

- A. *Following the initial review of operations required in Section 379-15.1(B), any permit issued to operate a mineral and aggregate operation pursuant to Section 379 shall be reviewed every five (5) years from the date of the initial review to determine whether additional conditions are necessary to bring the operation into compliance with the applicable land use regulations. Notwithstanding this periodic review, the permit may be reviewed by the Director at any time deemed necessary to update the conditions due to amendments to the requirements of this District or primary land use district at the time of the original approval, or if evidence exists that the operation is not in compliance with the conditions of approval. Should it be determined that an operation is not in compliance with the conditions of approval, the Director shall begin revocation proceedings as outlined in Section 201-7.*
- B. *The Planning Director shall send a notice by first class mail to the operator no less than sixty (60) days prior to the date of the scheduled periodic review.*
- C. *Periodic review of a mineral and aggregate resource operation shall be processed as a Type II action.*

STAFF: This operation will continue to be reviewed periodically, as required by this section. Applications for Periodic Review must be submitted in a timely fashion and require notice to surrounding properties. This review is not the periodic review of conditions; rather, an additional review afforded by this subsection following the landslide at the quarry site.

The initial Quarry Review under the current code was approved on May 15, 1990 by the Hearings Officer. The next (seventh) periodic review submittal is a Type II application due by **May 15, 2025**.

Staff's reading of the above code section allows for additional review other than the five-year periodic review, as necessary to address compliance issues. Following the initial appeal of the periodic review of conditions per Casefile L2100205-QREV (APPEAL), additional conditions were imposed and reviewed at six-months via Casefile L2200325-QREV. The 2022 casefile further required the applicant to submit an additional review of conditions within twelve (12)

months of the Hearings Officer's decision, which is this current review. This twelve (12) month review is intended to assess mitigating measures incorporated onsite that modified quarry operations so as to prevent quarry activities from contributing to the inherent geological instability in this area. Based on information within the application, a site visit on July 31, 2024, and findings presented earlier in this report, the applicant has implemented management practices on site as required by the County's Building Engineer and has allowed staff to review these updates. Staff finds that the applicant has satisfied the requirements of the conditions of Casefile L2200325-QREV. Staff also finds that the conditions relevant to the landslide that continue to apply to the site relate to long term continuing quarry operations and hence are appropriate for further review via subsequent periodic Type II review of conditions. Attachment B recommends conditions requiring the applicant to maintain the mitigating measures incorporated onsite to minimize disturbance of the slide zone by quarry activities, and in doing so, subsequent review of these conditions are appropriately incorporated into the Type II 5-year periodic review of conditions, per subsection 379-13.5.C.

379-15.3 Enforcement:

The Planning Director or his/her authorized designee, or a duly authorized peace officer, may issue a Uniform Citation for violation of Section 379, as provided for in Section 215, Enforcement.

STAFF: The county relies on surrounding property owners to notify the county of noncompliance with the conditions. This input can be through two different processes, one being through the 14-day comment period in conjunction with the Initial Review and the subsequent Periodic Review conducted every five years. In order for the county to document problems, it is essential that public comments be received.

The second process is available at any time through Section 215. Section 215 is the enforcement section of the code. When a written complaint is received, the Code Enforcement officer investigates the alleged violation. If a violation is found to occur, the owner/operator can be cited into a civil violation hearing. The county can assure compliance with the requirements of this permit as provided by Section 215 Enforcement.

IV. SUMMARY

This application is a twelve-month Review of Conditions as required by Casefile L200325-QREV for the Dixie Mountain Quarry in response to the effect of a landslide on mining operations at the subject site. Based on the findings listed in Section III of this report, staff concludes that this request complies or can comply with applicable land use standards and all adopted conditions of approval. Therefore, staff recommends the Hearings Officer approve this request, subject to the recommended conditions of approval in Attachment B of this recommendation and staff report.