

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Upholding the Planning)
Commission's Decision to Approve Planning)
Docket SU-02-22; Permitted Use Review for) Board Order 22-361
Rock Quarry Exploration; Tax Lot 2406-0700;)
Applicant: Turner Rock Products, LLC)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on December 1, 2022, Commissioners Lindsay Berschauer, Casey Kulla, and Mary Starrett being present.

IT APPEARING TO THE BOARD as follows:

A. WHEREAS, The applicants, Turner Rock Products, LLC, requested a "Similar Use" interpretation of the Yamhill County Zoning Ordinance (YCZO) to add the following use to the list of permitted uses in the RC, Recreation Commercial zoning district:

Operations conducted for the exploration of aggregate resources, subject to the requirements in section 404.10; and

B. WHEREAS, The Yamhill County Planning Director issued a decision letter approving the request on August 12, 2022; and

C. WHEREAS, The Planning Commission's decision was appealed and considered by the Board at a hearing held on November 3, 2022; and

D. WHEREAS, Following deliberation, the Board voted unanimously to uphold the Planning Commission's decision, deny the appeal, and approve the application; and now, therefore,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

Section 1. Planning Docket SU-02-22 is hereby approved, subject to the following conditions:

1. The exploration activities shall occur at the sites identified on the site plan submitted by the applicant (see Exhibit A, attached hereto and incorporated herein). A new land use application shall be submitted prior to any exploration activities occurring at a location not identified on the site plan submitted by the applicant.

2. The applicant shall abide by the setback standards provided in YCZO 404.10(D)(1).
3. Aggregate exploration activities shall start no earlier than 8:00 a.m. and end no later than 6:00 p.m.
4. The Applicant shall remove all equipment and materials associated with the exploration operation from the subject parcel and the site shall be reclaimed in accordance with DOGAMI standards.
5. The applicant shall provide to the Yamhill County Planning Department a copy of the DOGAMI exploration permit prior to commencement of exploration activities.
6. Modification of any of the above conditions requires approval of a new exploration permit and site design review under YCZO 404.10 and YCZO 1101.

Section 2. The Board hereby adopts the following findings in support of this Order:

1. The applicable approval criteria and review standards are as set forth in YCZO 404.10, 601.04, 1101.02, 1206.01, and 1206.02.
2. The Board adopts and incorporates the August 3, 2022 staff report, attached hereto as Exhibit B and incorporated herein, which identifies the applicable approval criteria and explains how each respective criteria has been met.

DONE this 1st day of December, 2022, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

KERI HINTON
County Clerk



Chair

Lindsay Berschauer

LINDSAY BERSCHAUER

By: *Carolina Rook*
Deputy Carolina Rook

Commissioner

Casey Kulla

CASEY KULLA

FORM APPROVED BY:

Jodi M. Gollehon

Commissioner

MARY STARRETT

Jodi M. Gollehon
Assistant County Counsel

979-22-207-PLNG

SU-02-22

YAMHILL COUNTY DEPARTMENT OF PLANNING & DEVELOPMENT

LAND USE APPLICATION

Docket

Date

Rec'd by

Receipt #

Fee

6-21-22

J. B. ...

918700

796.00

525 NE Fourth Street, McMinnville, OR 97128 • Tel: 503-434-7516 • Fax: 503-434-7544

APPLICANT			LEGAL OWNER (IF DIFFERENT)		
Turner Rock Products, LLC					
Last name	First	MI	Last name	First	MI
Mailing address (Street or PO Box)			Mailing address (Street or PO Box)		
573 NE 25th Court					
City	State	Zip	City	State	Zip
Hillsboro	OR	97124			
Telephone			Telephone		
503 348-7546					
E-mail address			E-mail address		
turnerlogmt@yahoo.com					

If the applicant is not the legal owner, state interest in property:

PROPERTY INFORMATION

Tax Lot(s): R2406 00700 Zone: Recreation Commercial (RC)

Size of Tract (include all adjacent tax lots) TL R2406 00700 is 93.9 acres, of which approximately 34 acres is RC

1. TYPE OF APPLICATION (what is requested?): To add aggregate exploration to the list of permitted uses, in the RC zone.

2. JUSTIFICATION FOR REQUEST YCZO Section(s): See attached written justification memorandum.

A Planner will assist you in identifying the review criteria that apply to your request. The review criteria are used to determine whether your application will be approved or denied. It is your responsibility to provide adequate written justification and any other evidence you feel is relevant to explain how your request complies with the review criteria. Failure to provide adequate justification may result in your application being denied, or deemed incomplete until additional information is provided.

3. Present use of property: The entirety of TL R2406 00700 is used for commercial timber production.

4. Please list the type of buildings that are currently on the property (i.e. manufactured home, pole building, agricultural barn, etc.):

None

- 5. Is there a septic system on the property? Yes No
- 6. How will water be provided? Well City Other Water truck
- 7. What road and/or easement is the property accessed from? Mt Richmond Road

B.O. 22-361

8. To your knowledge, do any of the following natural hazards exist on the property?

Floodplain

Areas of erosion

Steep slopes

Fish or wildlife habitat

Soil limitations for building or septic

THE APPLICANT MUST SUBMIT:

1. Completed application form, signed by the applicant and property owner (if different). The owner's signature must be notarized.
2. Site plan drawn to scale showing property lines, location and size of all existing buildings, existing and proposed access roads, and location and size of any proposed new buildings.
3. Written justification of how the application complies with the approval criteria. Attach additional sheets to this form.
4. Filing fee (make check payable to Yamhill County).

NOTE: Fees are not transferrable or refundable.

I hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that the above information is true and correct to the best of my knowledge. I understand that issuance of an approval based on this application will not excuse me from complying with other effective ordinances and laws regulating the use of the land and buildings.

I hereby grant permission for and consent to Yamhill County, its officers, agents, and employees coming upon the above-described property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this application.

Mark E. Turner 6/20/22
 Applicant's signature Date

 Property owner's signature (if different) Date

State of Oregon

County of Washington

Signed before me on this 20 day of June, 20 22

by Mark Turner



Shasta Hardwick
 Notary Public for Oregon
 My Commission expires 5/6/25

Turner Rock Products, LLC

To: Yamhill County Department of Planning & Development
525 NE Fourth Street
McMinnville, OR 97128

From: Mark E. Turner
Turner Rock Products, LLC

Date: June 11, 2022

Subject: Request to add aggregate exploration to the list of permitted uses in Recreation Commercial (RC) zone.

The majority of Tax Lot R2406 00700 is zoned Forestry District (F80). A portion of the property, however, is zoned Recreation Commercial (RC). This was done to accommodate a business venture from a previous owner.

We purchased the property in 1987 and have since used it for the production of timber. We would like to do some exploratory drilling, to determine the extent of aggregate on the property. The portion of the property zoned F80, explicitly permits the exploration for mineral and aggregate resources. Section 401.02 Permitted Uses, Part H.

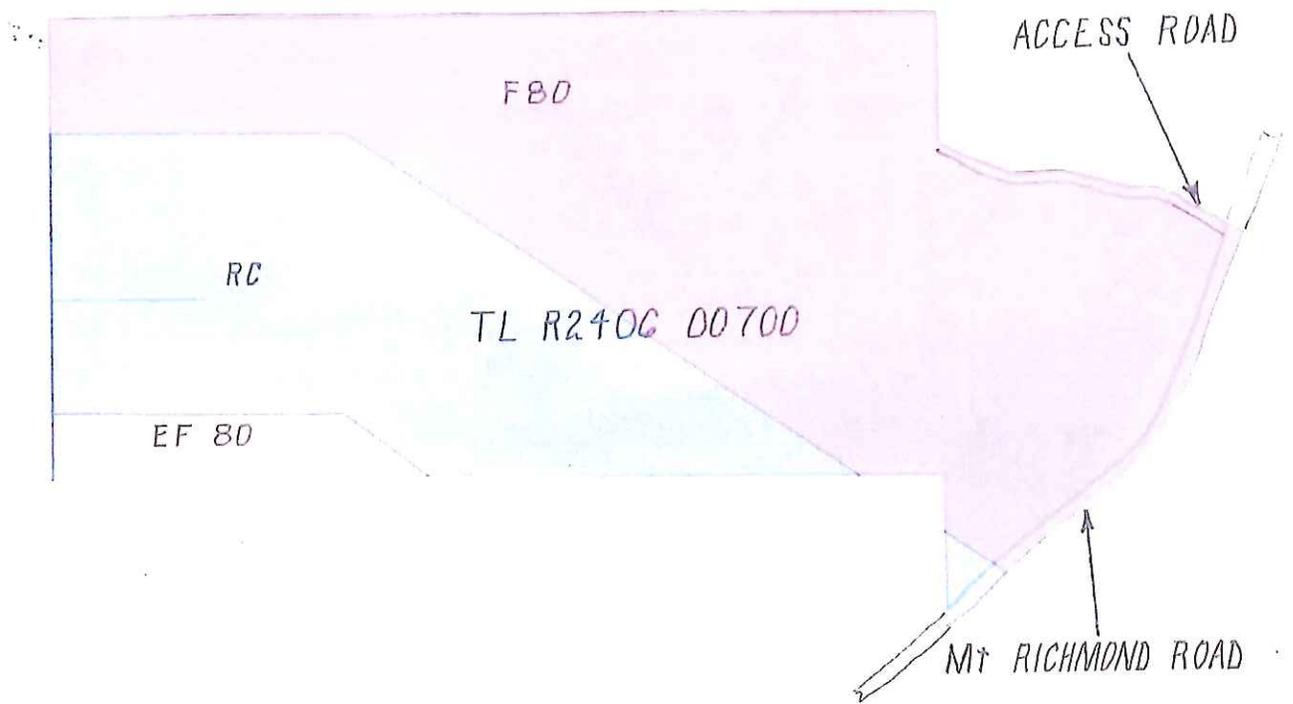
Recreation Commercial District (RC), lists "operations conducted for the exploration of oil, natural gas or geothermal resources" as a permitted use. Section 601.02 Permitted Uses, Part J. This does not specifically include aggregate. However, Section 601.04 states "any use not specifically listed as a permitted or conditional use in this district that is similar in character, scale and performance to the permitted uses specified in subsection 601.02 may be allowed as a similar use".

We believe that exploration for aggregate resources, in the Recreation Commercial District (RC) portions of TL R2406 00700, would be appropriate for the following reasons.

- 1) Operations conducted for the exploration of those natural resources stated in Section 601.02 Part J, would be very similar, if not identical to the exploration for aggregate resources.
- 2) The RC zoned portion of this property shares a long and arbitrary border with the portion zoned F80, which lists the exploration for aggregate resources as a permitted use.

Turner Rock products, LLC

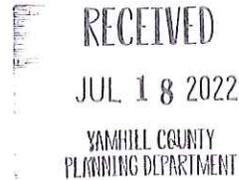
Tax Lot R2406 00700



a. Applicant's Addenda

Lance Woods

From: John Hook <John.Hook@nv5.com>
Sent: Monday, July 18, 2022 10:00 AM
To: Lance Woods
Cc: Ken Friday; 'Claire Turner'; 'Mark Turner'
Subject: Turner Rock Products exploration plan - NW Mt. Richmond Road
Attachments: RE: Pausing application for Turner Rock Products; TurnerRock-1-01 revised exploration plan 070822_edit.pdf



[This email originated outside of Yamhill County]

Lance –

I am writing to confirm details of the exploration plan for the Turner Rock Products property on NW Mt. Richmond Road. Previously, you had correspondence with my supervisor, Erick Staley, and gave a list of required information for the staff report for the similar use. Please see below for answers to questions from the code, as well as the attached exploration map.

For 404.10(A)(3):

The following information shall be included with the application for an exploration permit:

(a) A surface plat of the property to be explored;

See attached map.

(b) The approximate location of exploration points on the surface plat;

See attached map.

(c) A description of the type of equipment to be used during the exploration process; and

Two phases of exploration will be conducted:

- Air rotary drilling to a depth of approximately 100 feet below ground surface at the locations with an X-1 etc. label. A maximum of 42 locations are currently planned. Air rotary drilling will use a tracked air rotary rig, approximately the size of a large excavator and/or dump truck. A support truck (4x4 pickup) will be used to carry spare equipment and backfill material for completed borings.
- Mud rotary coring to a depth of approximately 250 feet below ground surface at the locations with the C-1 etc. label. A maximum of three locations are currently planned. Mud rotary coring will be completed with a tracked drill rig, approximately the size of a large excavator and/or dump truck. Two support trucks will be used to carry water, spare equipment, and backfill material for the completed borings.

(d) Anticipated time frame for exploration.

Air rotary drilling will be completed within a span of three days shortly after DOGAMI exploration permit approval, anticipated in September 2022.

Mud rotary coring will be completed within the span of one week starting in mid-October, pending DOGAMI exploration permit approval.

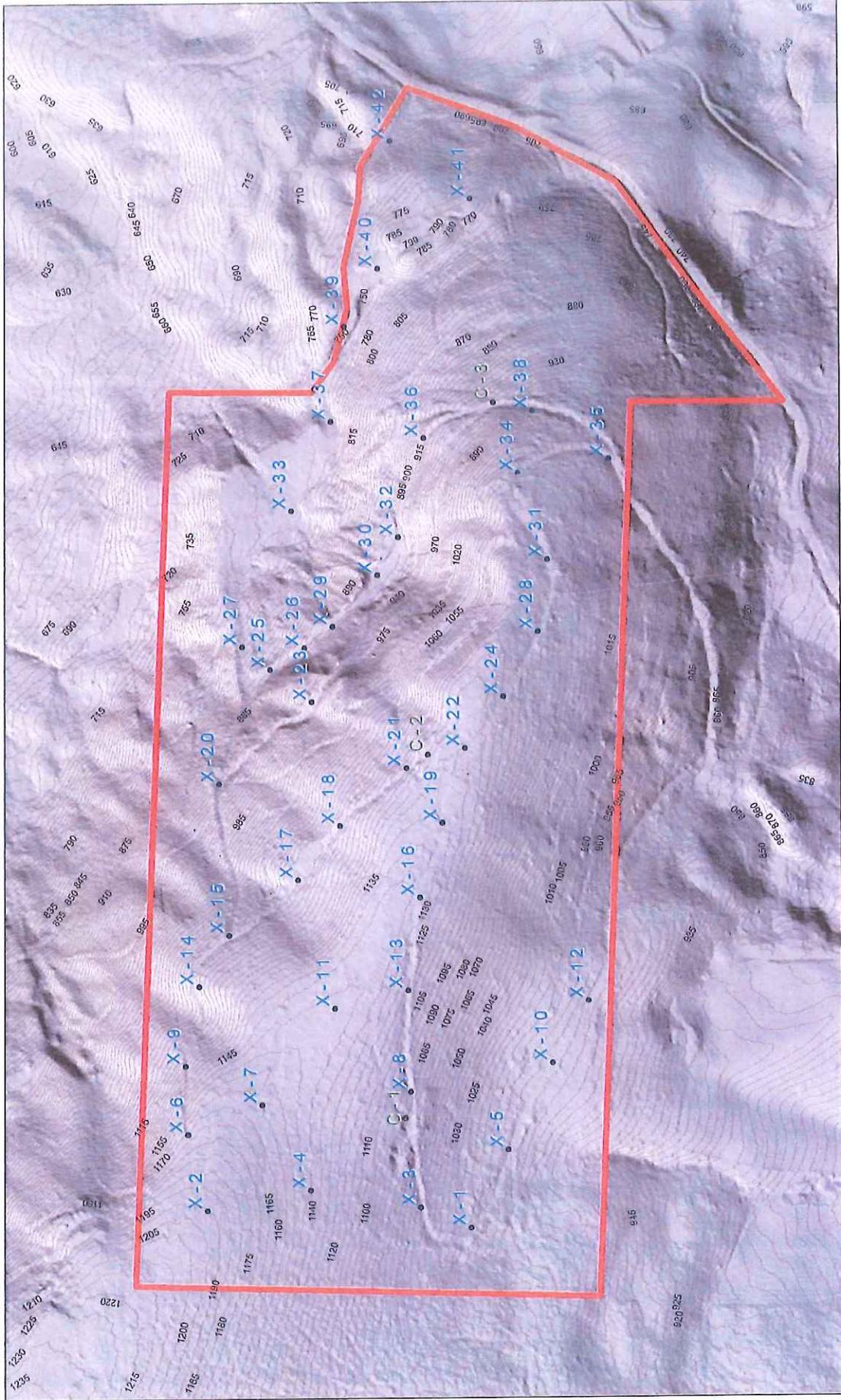
With regard to 404.10(A)(6), we will provide a copy of the DOGAMI exploration permit upon receipt of their approval. Their permit will carry a performance bond requirement. Thus, we request that a separate bond not be required by Yamhill County for exploration activities. Explorations will be conducted on forestry roads on the site and will have a minimal impact on adjacent land use activities.

Thank you, and call or write if you have any questions or concerns, or wish to clarify any of the above information.

John Hook, RG | Geologist | [NV5](#)

9450 SW Commerce Circle, Suite 300 | Wilsonville, OR 97070 | Office: 503.968.8787 | Direct: 503.726.3110 | Cell: 971.205.4130

[Electronic Communications Disclaimer](#)



Lance Woods

From: Lance Woods
Sent: Friday, July 01, 2022 11:41 AM
To: 'Mark Turner'
Cc: Ken Friday; Claire Turner; Erick Staley
Subject: RE: Pausing application for Turner Rock Products
Attachments: Yamhill County Zoning Ordinance - Section 404 - Mineral Resource District.pdf

Hello Mark,

I am working on the staff report for the similar use and for the proposed exploration activities on the property in question. Before I can complete processing the staff report I will need the information listed in sections 404.10(A)(3) and 404.10(A)(6) of the county zoning ordinance, attached. This information is related to the aggregate exploration permit and the following information is needed,

For 404.10(A)(3):

The following information shall be included with the application for an exploration permit:

- (a) A surface plat of the property to be explored;*
- (b) The approximate location of exploration points on the surface plat;*
- (c) A description of the type of equipment to be used during the exploration process; and*
- (d) Anticipated time frame for exploration.*

For 404.10(A)(6):

The application for an exploration permit shall be reviewed for compliance with the following criteria for approval:

- (a) The parcel lies within appropriate zoning districts;*
- (b) The applicant has submitted all information required under this subsection;*
- (c) DOGAMI has issued an exploration permit for the operation (not required for seismic exploration);*
- (d) The applicant has posted a performance bond, if required by the Director or the Road Department; and*
- (e) The applicant has demonstrated that the proposed location and method of exploration will have a minimal impact on adjacent land use activities.*

Thank you and best regards,

Lance Woods
Associate Planner
Yamhill County Planning & Development

525 NE 4th Street, McMinnville, OR 97128, USA
Telephone: +1 503 434 7516 | Fax: +1 503 434 7544

From: Mark Turner <turnerlogmt@yahoo.com>
Sent: Wednesday, June 15, 2022 5:59 PM
To: Lance Woods <woodsl@co.yamhill.or.us>
Cc: Ken Friday <fridayk@co.yamhill.or.us>; Claire Turner <cbclturner@yahoo.com>; Erick Staley <erick.staley@nv5.com>
Subject: Re: Pausing application for Turner Rock Products

[This email originated outside of Yamhill County]

Thanks Lance.

I will likely be in, next week, with the similar use application.

Mark

[Sent from Yahoo Mail for iPhone](#)

On Monday, June 13, 2022, 11:32 AM, Lance Woods <woods1@co.yamhill.or.us> wrote:

Hello Mark,

I believe the application may be extended up to 215-days, per ORS 215.427(5). Another option would be to withdraw this request until the exploration activities are complete. Typically our office will any unused portion of the application fee for a withdrawal, but the amount is at the discretion of the Planning Director. I have checked with the Director and he has indicated if you withdrew it now, he would refund all but \$250.00 (to pay for the newspaper notice/staff time).

I hope this information is helpful and I am happy to accommodate whichever path is preferred.

Best regards,

Lance Woods
Associate Planner
Yamhill County Planning & Development

525 NE 4th Street, McMinnville, OR 97128, USA
Telephone: +1 503 434 7516 | Fax: +1 503 434 7544

-----Original Message-----

From: Mark Turner <turnerlogmt@yahoo.com>

Sent: Tuesday, June 07, 2022 8:16 PM

To: Lance Woods <woods1@co.yamhill.or.us>

Cc: Ken Friday <fridayk@co.yamhill.or.us>; Claire Turner <cbclturner@yahoo.com>; Erick Staley <erick.staley@nv5.com>

Subject: Pausing application for Turner Rock Products

[This email originated outside of Yamhill County]

Hi Lance:

Thanks for setting up the Zoom meeting today. I found it very helpful.

I know we talked about pausing the application for Turner Rock Products, LLC.

We have decided that we would like to do that. However, I would like to clarify how that process will work?

How long can we pause the application process for? Also, if we pause the process for a set amount of time and later realize that we will need additional time, will we be able to add more time to the pause?

I ask these questions because, we not only need to submit the type A application with Yamhill County. We will also need to rework our application with DOGAMI. We are not sure how long that process will take?

Sincerely,

Mark E. Turner

YAMHILL COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT

DOCKET: SU-02-22

APPLICANT: Turner Rock Products, LLC

OWNER: Turner Rock Products, LLC

REQUEST: A “Similar Use” interpretation of the *Yamhill County Zoning Ordinance* (YCZO) to add the following use: “Operations conducted for the exploration of aggregate resources, subject to the requirements in section 404.10” to the list of permitted uses in the RC, Recreation Commercial zoning district. This request was also subject to site design review and the mineral resource exploration permit standards provided in section 404.10 of the YCZO.

TAX LOT: 2406-00700

LOCATION: All Recreation Commercial-zoned properties in Yamhill County, and more specifically a property located adjacent to NW Mount Richmond Road, Gaston, directly west of the property located 28600 NW Mount Richmond Road and north of the property located at 28399 NW Mount Richmond Road.

ZONE: The property is split-zoned with a portion of the property located in the RC, Recreation Commercial Zoning District as well as the F-80, Forestry Zoning District, and the southwest corner of the property located in the EF-80, Exclusive Farm Use District.

CRITERIA: Sections 601, 404.10, 1101 and 1206 of the *Yamhill County Zoning Ordinance*.

FINDINGS:

A. Background Facts

1. *Parcel size:* Approximately 93.9-acres.
2. *Access:* NW Mount Richmond Road.
3. *On-site Land Use:* The subject parcel is located along the eastern slopes of Mount Richmond, with a maximum elevation of approximately 1,200-feet in the northeast corner of the property that slopes steeply to the east to the minimum elevation of approximately 700-feet along the eastern property line which runs along the Mount Richmond Road right-of-way. A ridgeline bisects the property, running approximately southeast-to-northwest and there are little roughly level benches located along this ridgeline. The steepest slopes appear to be facing northward and this region of the property has slopes that range from approximately 10% to 30%. The subject property is

unimproved and has been used historically for commercial timber production. There is no record of wetlands or permanent water features located on the property.

4. *Surrounding Land Use and Zoning:* Adjacent properties to the north and west are located in the F-80 zone, the Forestry District. The majority of the land zoned for Forestry use in this area appears to be used for commercial timber production with the occasional homesite. Adjacent properties to the east and south-southwest are located in the EF-80 zone, the Exclusive Farm Use District, and farm uses in the area include livestock pasturage and hay fields. There are homes located on the three lots to the south (Tax Lots 2406-00800, 2406-00900, 2406-00901), a lot to the southeast (Tax Lot 2406-01000), and the lot kitty-corner to the northwest (Tax Lot 2501-00100).
5. *Water Supply:* The application indicates that a water truck will be used to supply water to the property for aggregate exploration activities, if the similar use request is approved.
6. *Sewage Disposal:* There is no septic system located on the property.
7. *Fire Protection:* Provided by the Gaston Rural Fire District.
8. *Previous Actions:* A lot line adjustment was approved in 2013 (Docket L-04-13), which led to the current configuration of the property.
9. *Request:* The application is for a similar use interpretation to add “Operations conducted for the exploration of aggregate resources, subject to the requirements in subsection 404.10” to the list of permitted uses in the Recreation Commercial (RC) zoning district. As it relates to this specific property, the subject parcel is split-zoned and the applicant will be conducting aggregate exploration activities in the area of the property located in the Forestry (F-80) zone, which is a permitted use. The approval of this similar use request will allow the property owner to conduct a comprehensive exploratory assessment of this property to determine whether there are aggregate resources of sufficient quantity and quality to justify further land use actions in order to extract these resources. The similar use request needs to comply with sections 601.04, 1206.01, and 1206.02 of the *Yamhill County Zoning Ordinance*.

B. Ordinance Provisions and Analysis

1. Subsection 601.04 in the Recreation Commercial (RC) zoning district states that “*Any use not specifically listed as a permitted or conditional use in this district, that is similar in character, scale and performance to the permitted uses specified in subsection 601.02, may be allowed as a similar use subject to the provisions of Section 1206 . . .*”. The application is a similar use request to allow for aggregate exploration in the RC zone. Once a similar use is approved in the RC zone, said use is allowed in all RC zoned properties. Therefore, the character of the use is not compared against the appropriateness at the applicant’s site, but rather the uses permitted in the RC zone.

The purpose of Section 1206 of the YCZO is to provide for those uses not specifically listed in a particular zoning district but which are similar in character, scale and

performance to the permitted uses specified in zoning districts in which a similar use may be authorized. The RC zoning ordinance states, *“The purpose of the RC District is to provide specialized commercial services in conjunction with a recreational use. This district is intended to meet present foreseeable demand for recreational commercial services both inside and outside urban growth boundaries where special location and space requirements are necessary for the recreational use. The size and intensity of development or facilities and uses within this district shall be commensurate with the capability of land and water areas to support the uses intended, and shall not result in any unusual service demands on nearby urban centers.”* The proposed use will not result in any unusual service demands on nearby urban centers and appears to be commensurate with the capability of land and water areas on the property and in the surrounding area. The proposed use would allow for the exploration of aggregate but would not allow for aggregate extraction or processing. The exploratory phase for evaluating a site for mineral or aggregate resources is a vital first step that allows a property owner to better determine whether onsite resources are available in sufficient volumes and quality to justify further land use requests. The exploratory activities typically include the removal of topsoil in discrete locations and drilling to depths of 50+ feet for the collection of samples and these activities are minimally invasive and easily remediated once the exploration use is complete. One of the uses currently permitted in the RC zone includes, *“Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to the requirements in subsection 404.10”*. The proposed aggregate exploration use would appear to be consistent with the purpose and scope of the underlying RC zone. The complete list of uses permitted in the RC Zone include:

- A. *Resort;*
- B. *Entertainment facility, food store (maximum floor area of two thousand (2,000) square feet), gift, souvenir or antique shop, motel, restaurant or other similar uses in conjunction with a resort;*
- C. *Indoor commercial recreation facility;*
- D. *Golf course, golf course and driving range or driving range, not in conjunction with a golf course;*
- E. *Miniature golf;*
- F. *RV park, subject to the RV park provisions of Section 1003;*
- G. *Dwelling in conjunction with a permitted use. Site design review is not required for the dwelling;*
- H. *Accessory uses;*
- I. *Temporary structures as may be required during construction of an authorized permanent structure. Such temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector;*

- J. *Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to the requirements in subsection 404.10;*
- K. *Community or municipal water supply system;*
- L. *Community or municipal sewer system; and*
- M. *Signs, pursuant to the sign provisions set forth in Section 1006.*
- N. *Country inn.*

The conditional uses in the RC zone include 601.03:

- A. *Drive-in theater;*
- B. *Open-land commercial or private recreation use, such as zoo, racing circuit, motorcycle hill climb, skydiving facility and similar uses;*
- C. *Home occupation, subject to the standards and limitations set forth in Section 1004;*
- D. *Utility facility, subject to Section 1101 for site design review.*

- 2. Subsection 1206.02 of the YCZO lists the review criteria which must be met before a similar use may be authorized pursuant to subsection 1206.01 above and subject to the application procedure set forth in Section 1301 and provided that the applicant demonstrates that the proposed use satisfies the following criteria:

- A. *The use is consistent with the purpose and scope set forth in subsection 1206.01 and with the purpose of the underlying zoning district; and*

- 3. Similar in Character: YCZO Section 1206.01 permits uses in a Recreation Commercial Zone that are similar in character, scale and performance to those listed in YCZO Section 601.02. The applicant has requested a determination that operations conducted for the exploration of aggregate resources, subject to the requirements in subsection 404.10, is similar to uses listed in the applicable section, specifically “*Operations conducted for the exploration of oil, natural gas or geothermal resources, subject to the requirements in subsection 404.10*”, provided by subsection 601.02(J) of the YCZO. The applicant states that this use is very similar, if not identical, to the exploration for aggregate resources.

Staff agrees that the cited use does have some obvious similarities to operations conducted for the exploration of oil, natural gas, or geothermal resources. Both uses require additional permitting and oversight from the Oregon Department of Geology and Mineral Industries (DOGAMI). Both uses can involve the disturbance of surface soils and/or drilling to greater than 50-feet to determine the presence, location, extent, grade or the economic viability of a resource deposit. Both uses require the use of heavy

machinery to conduct the exploration activities and require some restoration work to be conducted once the exploration activities have been conducted.

4. Similar in Scale and Performance: The RC zone includes a wide range of uses. Likely, the most intensive uses allowed in the RC zone are the retail uses such as resorts, full-scale or miniature golf courses, entertainment facility, food store, souvenir or antique shops, motel, RV park, or restaurant which are all listed as outright permitted uses. These uses are more intensive in scale and performance than the proposed use in most respects with the possible exception of the amount of noise that may be generated by the exploration activities, although this depends on the techniques and equipment employed. The retail uses that make up the preponderance of uses in the RC zone are likely to generate much greater volumes of traffic than the proposed aggregate use. Many of these uses would likely require as much or more earth moving in order to facilitate the construction of a resort, entertainment facility, food store, or RV park. In many respects though, aggregate exploration may be a less intensive use than the majority of the uses permitted in the RC zone. The proposed use will place minimal stress on local roads due to the limited nature of activities associated with aggregate exploration which typically involve moving topsoil and drilling for core samples to a depth of 50+ feet. There will be no need for permanent potable water or wastewater improvements to facilitate the proposed aggregate exploration use. Noise generated from the exploration activities may be comparable in volume to what could be emitted from a resort with a restaurant and gift shop.

Staff finds that the proposed aggregate exploration use is in many ways nearly identical to an existing permitted use in the RC zone, that being an operation conducted for the exploration of oil, natural gas or geothermal resources and therefore is consistent with the purpose of the underlying zoning district.

5. Subsection 1206.02(B) requires

B. The use conforms with the applicable standards and limitations of the underlying zoning district.

All uses allowed as permitted or conditional uses in the RC zone are subject to site design review. The proposed use will not impact the dwelling density, parcel size, or dimensional standards of the RC zone. Exploration activities conducted in the RC zone in the future would be required to meet all the standards of sections 404.10, 1101, and 601.07 of the YCZO. The subject parcel appears to be of more than sufficient size to comply with the standards provided these sections of the county zoning ordinance.

C. Site Design Review

1. Section 1101.02(A) of the YCZO governs site design review.

Review of a site development plan shall be based upon consideration of the following:

Section 1101.02(A)(1): Characteristics of adjoining and surrounding uses;

Regarding standard (1) above, as discussed in section A.4 of this report, the surrounding area is characterized by the presence of Mount Richmond which dominates the landscape in the area. The surrounding properties are generally hilly and sloped which can be an obstacle to commercially farming the properties in the Exclusive Farm use zone. Farm uses in the area appear to predominantly consist of livestock pasturage and hay fields. For this reason, many of the surrounding properties are managed for commercial or passive forest uses. Surrounding properties to the north and west are located in the F-80 zone, the Forestry District. The majority of the land zoned for Forestry use in this area appears to be used for commercial timber production with the occasional homesite. Adjacent properties to the east and south-southwest are located in the EF-80 zone, the Exclusive Farm Use District, and farm uses in the area include livestock pasturage and hay fields. There are homes located on the three lots to the south (Tax Lots 2406-00800, 2406-00900, 2406-00901), a lot to the southeast (Tax Lot 2406-01000), and the lot kitty-corner to the northwest (Tax Lot 2501-00100).

The Applicant is requesting site design review approval for the exploration of aggregate resources in the Recreation Commercial (RC) zoned area of the subject parcel. This area encompasses approximately 32.3-acres of the subject parcel. The Applicant is also conducting aggregate exploration activities in the area of the property located in the Forestry (F-80) zone, which constitutes approximately 57.6-acres of the property. Aggregate exploration is a permitted use in the F-80 zone. These aggregate exploration activities typically involve the clearing of the upper soil horizons and drilling of depths that can exceed 50-feet. There are no construction activities planned in conjunction with the proposed exploration activities. The exploration activities will not require the development of a well or septic system, although the Applicant notes that a water truck will be used to bring water to the site, as needed. Traffic to the site is expected to be minimal during the exploration activities conducted on the property. This review does not allow for any aggregate or other mineral resource extraction or processing activities. Any extraction or processing activities will require further land use action which will be provide notice for comment from surrounding property owners and other agencies.

2. *Section 1101.02(A)(2): Economic factors relating to the proposed use;*

Regarding standard (2) above, the Applicant is making the similar use request to allow for aggregate exploration activities for the majority of the subject parcel. With this information, the Applicant will be able to determine whether there are viable aggregate resources located on the property that warrant further land use action to allow for aggregate extraction.

3. *Section 1101.02(A)(3): Traffic safety, internal circulation and parking;*

Regarding standard (3) above, the proposed exploration activities will result in minimal traffic to and from the subject property. There are no construction activities planned to support these exploration activities. There will be minimal need for parking because the only parties visiting the site will be the Applicant and the geological team that will be collecting the aggregate exploratory samples.

4. *Section 1101.02(A)(4): Provisions for adequate noise and/or visual buffering from noncompatible uses;*

Regarding standard (4) above, the exploratory activities will involve removing the upper soil horizons and drilling to depths of 50+ feet to collect samples. The noise from these activities will occur over a short window of time and are comparable to the noise that might be generated in conjunction with the farm and forest resource activities that are permitted on the subject parcel and in the surrounding area. A condition of approval will require that these exploratory activities may only occur between the hours of 8:00 a.m. and 10:00 p.m. The exploration activities will be visually and audibly buffered by the dense forest located on the subject property. With conditions the request can be made compatible with surrounding uses.

5. *Section 1101.02(A)(5): Retention of existing natural features on site;*

Regarding standard (5) above, the Applicant states that there will be no development occurring on the property. The exploratory activities will include the removal of the upper soil horizons and drilling on discrete locations on the property. These areas can be remediated once the exploratory activities are complete, and a condition of approval will require that the Applicant remediate the areas of work once exploration is complete. With the application of applicable conditions, the request complies with this review standard.

6. *Section 1101.02(A)(6): Problems that may arise due to development within potential hazard areas.*

Regarding standard (6) above, the property is not located in the Floodplain Overlay District or other identified hazard area. There are no known hazard areas located on the property or surrounding area that may be exacerbated by the proposed exploration activities.

7. *Section 1101.02(A)(7): Comments and/or recommendations of adjacent and vicinity property owners whose interests may be affected by the proposed use.*

Regarding standard (7) above, the Applicant's request was processed under the Type A procedures, so no comments were solicited from surrounding property owners. If the County's decision is appealed, then notice of the appeal will be sent to surrounding property owners and any comments or recommendations submitted will be entered into the record.

D. Mineral Resource Exploration and Extraction

Section 404.10(A) of the YCZO provides procedures, review criteria, and operating standards for a permit for the exploration of mineral resources. In this context, the term exploration includes both non-surface and surface disturbance activities, such as sonar sightings and test drilling, necessary to locate potential resource sites. The applicable review criteria follow.

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1. *Section 404.10(A)(1): An application for the exploration of oil, natural gas and/or geothermal resources shall be prepared on an approved form available from the Department of Planning and Development. The applicant shall provide all information required under this section and any additional information deemed necessary by the Director.*

Regarding criterion 404.10(A)(1) above, an application was submitted using the applicable form. The application was deemed complete on July 18, 2022, following the submission of an addendum to the Similar Use application submitted on June 21, 2022.

2. *Section 404.10(A)(2): An application for the exploration of oil, natural gas and/or geothermal resources shall be made by the mineral property owner or the lessee of the property, if the application also bears the signature of the mineral property owner.*

Regarding criterion 404.10(A)(2) above, the application for the exploration of aggregate resources was submitted by the property owner on June 21, 2022.

3. *Section 404.10(A)(3): The following information shall be included with the application for an exploration permit:*
 - (a) A surface plat of the property to be explored;*
 - (b) The approximate location of exploration points on the surface plat;*
 - (c) A description of the type of equipment to be used during the exploration process; and*
 - (d) Anticipated time frame for exploration.*

Regarding criterion 404.10(A)(3) above, on July 18, 2022, the Applicant submitted an addendum which included a surface plat of the property to be explored. The plat map identifies the approximate location of the aggregate exploration points. The Applicant states that a maximum of forty-two (42) sites will be explored on the subject parcel. The Applicant states that there will be two phases of exploration with air rotary drills used initially to depths of approximately 100-feet, and mud rotary coring used to a depth of approximately 250-feet. The air rotary drilling activities include a tracked air rotary rig which is approximately the size of a large excavator or dump truck, and this phase of exploration will also include a 4x4 support truck. The mud rotary coring exploration activities will also employ a tracked drill rig with two support trucks that will carry water, spare equipment, and backfill material for the completed borings.

4. *Section 404.10(A)(4): For zoning districts in which exploration is allowed as a permitted use, the application shall be reviewed pursuant to the Type A application procedure set forth in Section 1301. And Section 404.10(A)(5): For zoning districts in which exploration is allowed as a conditional use, the application shall be reviewed pursuant to the Type B application procedure set forth in Section 1301 and the conditional use review criteria listed in Section 1202.*

Regarding criterion 404.10(A)(4), the subject parcel is split-zoned with some aggregate exploration activities conducted in the Forestry (F-80) zone where these exploration activities are considered a permitted use, per subsection 401.02(C) of the YCZO. For the

exploration activities proposed in the Recreation Commercial (RC) zoned area of the property, the Applicant submitted a Similar Use request to add the following use: “Operations conducted for the exploration of aggregate resources, subject to the requirements in subsection 404.10” to the list of uses permitted in the RC, Recreation Commercial zoning district. The exploration request is being processed under the Type A application procedures because the exploration activities conducted in the Forestry zoned area of the property are a permitted use and pending approval of this Similar Use request the proposed aggregate exploration activities will be considered a permitted use.

5. *Section 404.10(A)(6): The application for an exploration permit shall be reviewed for compliance with the following criteria for approval:*
- (a) The parcel lies within appropriate zoning districts;*
 - (b) The applicant has submitted all information required under this subsection;*
 - (c) DOGAMI has issued an exploration permit for the operation (not required for seismic exploration);*
 - (d) The applicant has posted a performance bond, if required by the Director or the Road Department; and*
 - (e) The applicant has demonstrated that the proposed location and method of exploration will have a minimal impact on adjacent land use activities.*

Regarding criterion 404.10(A)(6) above, the aggregate exploration activities are permitted in the Forestry (F-80) zone, per subsection 401.02(C) of the YCZO. The exploration activities are being considered in conjunction with a similar use request that will permit “Operations conducted for the exploration of aggregate resources, subject to the requirements in subsection 404.10” as a permitted use in the Resource Commercial (RC) zone. The Applicant has submitted all the information required under section 404.10 of the YCZO. The Applicant has initiated the exploration permitting process with DOGAMI, and DOGAMI will not issue an exploration permit until an Applicant receives local land use approval. A condition will be placed on any approval that prohibits exploration activities until the Applicant has received an exploration permit from DOGAMI. The Applicant notes that a performance bond must be filed with DOGAMI prior to exploration activities occurring onsite and requests that a separate performance bond not be required by the county. There will be no performance bond requirement from the county due to the types of equipment and vehicles that will be using the county road to access the property for these proposed exploration activities. A condition will be placed on any approval that will limit the hours of operation for exploration activities to start no earlier than 8:00 a.m. and end no later than 9:00 p.m. This will help ameliorate the noise impacts to surrounding property owners. With the imposition of conditions, the exploration activities as described by the Applicant will have minimal impact on adjacent land use activities

6. *Section 404.10(A)(7): If the applicant proposed to drill an exploration well, it shall be sited according to the set back standards outlined in subsection 404.10 (D)(1).*

Regarding criterion 404.10(A)(7), a condition will be placed on any approval that requires the Applicant to conduct exploration activities by abiding by the setback

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standards provided by subsection 404.10(D)(1) of the YCZO. With the imposition of conditions, the request complies with criterion 404.10(A)(7).

7. *Section 404.10(A)(8): If the Director determines that the applicant has satisfied the criteria noted above, the Director shall issue a one hundred twenty (120) day exploration permit. The Director may establish conditions of approval deemed necessary to carry out the intent of this Ordinance.*

Regarding criterion 404.10(A)(8), if approved conditions of approval will limit the exploration permit to no more than 120-days from the date of final approval.

8. *Section 404.10(A)(9): At the discretion of the Director, the applicant may be required to file a performance bond to provide for the repair of any County roads which may be damaged or diminished in quality due to exploration activities. The amount of the performance bond shall be determined by the Road Department.*

Regarding criterion 404.10(A)(9), based on the limited nature of the activities proposed and the nature of the equipment that will be used during the exploration activities it has been determined that the Applicant will not be required to file a performance bond with the Road Department.

9. *Section 404.10(A)(10): Upon expiration of the exploration permit, all equipment and materials associated with the exploration operation shall be removed from the site and the site shall be reclaimed in accordance with DOGAMI standards. If the exploration is successful, the applicant may apply for an extraction permit.*

Regarding criterion 404.10(A)(10), a condition will be placed on any approval that shall require all equipment and materials associated with the exploration operation to be removed from the site and the site shall be reclaimed in accordance with DOGAMI standards.

CONCLUSIONS FOR APPROVAL:

1. The request is for interpretation of the Yamhill County Zoning Ordinance to allow operations conducted for the exploration of aggregate resources, subject to the requirements in subsection 404.10 as a similar use in the RC, Recreation Commercial zoning district.
2. The request complies with the similar use standards in Sections 1206.01 and 1206.02 of the YCZO.
3. The request includes a site design review for aggregate exploration activities in the Recreation Commercial (RC) zone which is a use that has been approved as a similar use in the course of this application process, subject to site design review and the mineral resource exploration requirements in subsection 404.10.

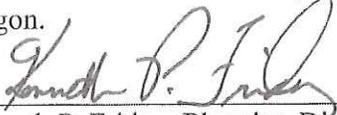
DECISION:

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Based on the above findings, analysis, and conclusions, the request by Turner Rock Products, LLC for interpretation of the *Yamhill County Zoning Ordinance* to allow operations conducted for the exploration of aggregate resources, subject to the requirements in Sections 404.10 as a similar use in the RC, Recreation Commercial zoning district, is hereby approved. The aggregate exploration permit is approved subject to the following conditions:

1. The exploration activities shall occur at the sites identified on the site plan submitted by the Applicant (enclosed). A new land use application shall be submitted prior to any exploration activities occurring at a location not identified on the site plan submitted by the Applicant.
2. The Applicant shall abide by the setback standards provided by subsection 404.10(D)(1) of the *Yamhill County Zoning Ordinance*.
3. Aggregate exploration activities shall start no earlier than 8:00 a.m. and end no later than 9:00 p.m..
4. The Applicant shall remove all equipment and materials associated with the exploration operation from the subject parcel and the site shall be reclaimed in accordance with DOGAMI standards.
5. The Applicant shall provide to the Planning Department a copy of the DOGAMI exploration permit prior to commencement of exploration activities.
6. Modification of any of the above conditions requires approval of a new exploration permit and site design review under Sections 404.10 and 1101 of the *Yamhill County Zoning Ordinance*. Violation of any of the above conditions may result in revocation of the exploration permit.

DATED AND SIGNED this 3rd day of August, 2022, at McMinnville, Oregon.



Kenneth P. Friday, Planning Director
Yamhill County Planning and Development

KF:lw