

**SKAGIT COUNTY PLANNING & DEVELOPMENT SERVICES DEPARTMENT
FINDINGS OF FACT**

HEARING

AUTHORITY: Skagit County Hearing Examiner

HEARING DATE: November 16, 2016

Continued to: July 11, 2022

July 12, 2022

July 13, 2022 (If needed)

PROJECT NAME: Concrete Nor'West Gravel Mine

APPLICATION

NUMBER(S): PL16-0097, Special Use Permit Application
PL16-0098, Forest Practice Conversion Application

APPLICANT: Concrete Nor'West / Miles Sand & Gravel
C/O: Dan Cox, General Manager
P.O. Box 280
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LANDOWNER: Lisa Inc.
Attention: Concrete Nor'West
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AGENT / LAND

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APPLICANT'S

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STAFF REPORT

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SUBJECT PROPOSAL:

On March 7, 2016, Skagit County Planning & Development Services received an application for a **Special Use Permit (File: PL16-0097)** to permit a proposed gravel mine/quarry on the subject property. The proposed gravel mine would remove approximately 4,280,000 cubic yards of gravel from three parcels (P125644, P125645, & P50155) over a period of approximately 25 years. The three parcels total approximately 77 acres, of which 68 acres will be cleared, however the mining will occur on approximately 51 acres of the 68-acre cleared area. Gravel will be removed from the site by truck and trailer, generating an average of 46 trips per day, and the material will be transported to market or to one of Concrete Nor'West's nearby facilities for processing. The site is accessed from Grip Road on an existing private gravel haul road located approximately 0.70 miles east of the Prairie Road/Grip Road intersection. Operations onsite will be limited to excavation. No processing is proposed onsite. The applicant is proposing to haul material from 7:00 AM to 5:00 PM Monday through Friday.

In addition to the Special Use Permit application, the applicant also applied for a **Forest Practice Conversion application (File: PL16-0098)**. To facilitate the proposed mining/quarry operation onsite, the applicant proposes to harvest approximately 50,000 board feet of timber on 68 acres, remove the stumps, and convert the parcels to a gravel mining operation.

Both applications were determined to be complete on March 22, 2016 and a letter of completeness was issued for the applications.

ACREAGE INVOLVED:

Assessor's Records & Application Submittal:

According to Skagit County Assessors records, the 3 subject parcels where mining is proposed (P50155 = 37 acres; P125644 = 20 acres; P125645 = 20 acres) **cumulatively total 77 acres.**

According to the applicant's submitted narrative and SEPA environmental checklist, **a 68 acre sand and gravel mine is proposed** within the 3 subject parcels identified above.

The SEPA environmental checklist (page 4) further states that **mining will be within a 51 acre portion of the site.**

Project Description:

Consistent with both Assessors records and the applicant's application material submitted, the issued SEPA MDNS (2022) stated that "The three parcels total approximately 77 acres, of which 68 acres will be cleared, however the mining will occur on approximately 51 acres of the 68-acre cleared area."

Applicant's Corrected Acreage /Land Survey:

On March 11, 2022, Skagit County's Planning & Development Services Department received a letter (**See Exhibit 3**) from the applicant stating that the acreage that was listed in the issued (2022) SEPA MDNS consisting of 77 acres for the subject mine is incorrect. Instead of 37 acres which the Assessor's records indicates Parcel P50155 being, it more accurately is 29.6 acres in size. Additionally, parcels P125644 and P125645 are said to be more accurately 19.60 acres in size (for a total of 39.20 acres) instead of 20 acres per parcel per Assessor's records. These corrected acreages are based on a land survey of the subject property the applicant had performed.

The applicant further states, that the project description more accurately should state that the acreage of the mine is approximately 68 acres with an area to be cleared, mined, and reclaimed at 51 acres.

Staff Analysis:

The applicant's corrected acreages for the 3 subject parcels involved in the proposed sand and gravel mine is consistent with what was noticed and listed in the issued (2022) SEPA MDNS.

PROJECT LOCATION:

The proposed properties subject to the mining operation are located approximately 1.5 miles north of Grip Road and south/southwest of the Samish River, within a portion of the Southeast Quarter of Section 27; Township 36 North; Range 04 East; Willamette Meridian within unincorporated Skagit County, Washington.

SUBJECT PARCELS:

- **Proposed Mine/Quarry:**
P125644, P125645, & P50155
- **Haul Road (Under Same Ownership Providing Access to Mine):**
P125646, P125647, P125626, P125627, P125628, P125629, P125630, P125631, P125623, P125624, P125632, P125633, & P35704
- **Contiguous Subject Parcels (Under Same Ownership for Noticing Purposes):**
P125648, P125649, P50087, P125618, P125634, P125640, P125619, P125635, P125641, P125620, P125636, P125642, P125621, P125637, P125643, P125622, P125638, P125639, & P125625

DESCRIPTION OF SITE & TOPOGRAPHY:

The project area is approximately 68 acres in size and consists of a sand & gravel terrace above the Samish River Valley. The terrace consists of glacial outwash deposit composed of gravelly sand with some silt. This formation represents the southern extent of a glacial recessional outwash complex deposited during the Sumas Stade of the Fraser glaciation

period. The glacial formation at this location is unconformably underlain by older Vashon Stade glacial advance outwash.

Topographically, the northeast corner of the property is at an elevation of approximately 200 feet above mean sea level. The elevation rises to an elevation of approximately 280 feet along the southwest boundary of the proposed mining area for a site relief of 80 feet.

The hydrogeology report indicates the groundwater table elevation is approximately 145 near the northern portion of the site to 155 feet near the southern boundary of the parcel. The groundwater down gradient direction is to the north to northeast. The finished elevation of the base of the mine, as indicated on Figure 3 of the Hydrogeology report, is 165 feet near the Southwest corner of the site to 155 feet near the northeast corner. No structures exist on the site presently and the site is currently used for timber production.

COMPREHENSIVE PLAN LAND USE DESIGNATION & ZONING DISTRICT:

The subject properties lie in the **Rural Resource-Natural Resource Lands (RRc-NRL)** Zoning District & Comprehensive Plan Land Use Designation of Skagit County.

MINERAL RESOURCE OVERLAY (MRO):

The subject parcels (**P125644, P125645, & P50155**) where the gravel mine/ quarry is proposed, is located in a Mineral Resource Overlay.

SURROUNDING ZONING & LAND USES:

Direction:	Zoning:	Present Land-Use:
North:	Rural Resource Natural Resource Lands & Agricultural Natural Resource Lands	Forestry, Sporadic Single-Family Residences, & Farms/ Agriculture
South:	Rural Resource Natural Resource Lands	Forestry & Sporadic Single-Family Residences
East:	Rural Resource Natural Resource Lands, Agricultural Natural Resource Lands, & Rural Reserve	Forestry, Sporadic Single-Family Residences, & Farms/ Agriculture
West:	Rural Resource Natural Resource Lands, Rural Reserve, Agricultural Natural Resource Lands	Forestry, Sporadic Single-Family Residences, & Farms/ Agriculture

DESCRIPTION OF SURROUNDING LAND USES:

South, Southwest, and Southeast:

County records indicate that the areas south, southwest, and southeast of the proposed mine site are zoned as Rural Resource Natural Resource Lands (RRc-NRL) and managed by the applicant for commercial forest production.

North & West:

The lands adjacent to the west and north, also zoned as Rural Resource Natural Resource Lands are managed for commercial forest production.

North & East:

Aerial photographs indicate the lands further to the north and east are primarily used for agricultural purposes, are zoned as Agricultural-Natural resource Lands (AG-NRL), and include some widely spaced residential developments.

East:

Land use to the east, beyond the agricultural use, is the residential portion of the Prairie Lane Meadows development. Prairie Lane Meadows is located approximately 1,600 feet to the east, zoned as Rural Reserve and consists of 33, approximately 5 acre parcels. Prairie Estates is located adjacent and east of Prairie Lane Meadows (approximately 3,350 feet to the east of the proposed mining site), is also zoned as Rural Reserve and consists of 19, approximately 1 to 1.5 acre parcels. Additional moderate density residential developments are located further to the east.

West:

Land use to the west, beyond the forestry use, is the Wildlife Acres residential development located east of Prairie Road. The development is located approximately 1,300 feet to the west of the proposed mine, at its closest point, is zoned as Rural Reserve and consists of 52 parcels ranging in size from 0.4 to 20 Acres.

Proximity to Existing Single-Family Residences:

Based on recent aerial photographs of the area, it appears that one residential building is located to the north of the proposed mine site within 1,000 feet (930 feet). A dairy farm/residence and six other residences are located within 1,500 feet of the mine site and are located to the north, northwest and northeast of the proposed gravel mine. Other residences in the area appear to be located greater than 1,500 feet of the proposed gravel mine location.

SHORELINE JURISDICTION /ENVIRONMENT:

The Samish River flows along the eastern border of the project site. There are shoreline associated riparian wetlands that have been delineated. The shoreline environment designation for this portion of the Samish River is **Rural**.

All proposed mining activities will be located outside of shoreline jurisdiction. No development is being proposed within shoreline jurisdiction and thus no shoreline permit is required. The subject Special Use Permit has been conditioned below accordingly

CRITICAL AREA(S) REVIEW:

Aquifer Recharge Area:

As part of the submittal, the applicant included a “**Hydrogeologic Site Assessment & Maps**” (See Exhibit 9) that was prepared by: Associated Earth Sciences, dated August 21, 2015. According to this report, the following conclusions were set as follows:

- “Ground water is present beneath the site at a depth of approximately 70 feet, at an elevation of approximately 145 to 155 feet (msl).
- Ground water beneath the site generally flows to the north and/or northeast and presumably discharges to Samish River, located a minimum of 200 feet from the proposed mine boundary.
- There are no water supply wells located down gradient of the proposed mine, between the mine boundary and the Samish River.
- The proposal is for a dry, surface mining operation, with limited on-site processing. The potential for a negative impact to ground water quantity and/or quality from the proposed mining activities is low.”

Geologically Hazardous Area /Steep Slopes:

The applicant submitted a “**Response to Skagit County Geologic Hazard Requirement**” (See Exhibit 10) regarding geologic hazards of the haul road that was prepared by: Associated Earth Sciences, dated: December 16, 2021. According to this geologic report, the following conclusion and recommended mitigation is as follows:

“The proposed gravel mine will utilize the existing haul road to transport aggregate from the mine to Grip Road and will propose asphalt surfacing for a portion of the haul road north of Swede Creek. This section of haul road is located near a geologic hazard area which includes landslide and erosion hazards. No alteration through grading, stripping, or mining to the geologic hazard areas is proposed. The change in use of the existing gravel-surfaced road from a logging haul road to an aggregate mine haul road is considered by the County a form of site disturbance, and therefore is subject to the County’s critical areas review. From a geotechnical standpoint, the haul road will have a similar function and will be subject to similar truck loads compared to its past use. Review of the geologic mapping indicates the steep slope areas have a core of dense glacially consolidated sediments, which is consistent with our on-site observations. No evidence of significant slope instability, road instability, past deep-seated land sliding, or groundwater seepage, was observed on the steep slopes near the haul road or on the haul road itself. This is also consistent with review of LIDAR imagery of the site. Given these factors, it is our opinion that the impact to the identified geologic hazards near the haul road caused by the change in haul road usage based on truck type can be avoided. This conclusion is predicated on the project following the mitigation recommendations...”

“Mitigation for using the existing haul road near the geologic hazard areas for mining operation shall include:

1. *No clearing of vegetation within the geologic hazard areas.*
2. *Maintain roadside swales and check dams. Clean out material that has sloughed into the swale that could potentially block surface water. Avoid concentrated surface water discharge onto the steep slopes.*
3. *Do not place uncontrolled fill, strippings, or other debris over the top of steep slopes.”*

Wetlands / Fish & Wildlife Habitat Assessment:

As part of the submittal, the applicant included a “**Samish River Ordinary High Water Mark (OHWM) /Wetland Edge**” determination (See Exhibit 4) that was prepared by: Graham-Bunting Associates, dated: May 18, 2015. The report concluded that “*It is our opinion that the area of shoreline management jurisdiction extends 200-feet landward of the OHWM as identified in the field and depicted on the site plan prepared by Semrau Engineering and Surveying.*”

The applicant further submitted a “**Fish and Wildlife Site Assessment**” (See Exhibit 5) prepared by Graham-Bunting Associates, dated: August 20, 2015.

On page 7, this report provided reasoning for allowing use of the **moderate land-use intensity buffer rather than the high land-use intensity buffer** pursuant to SCC 14.24.240(3)(a). The **measures proposed to mitigate the impacts** from the proposed mine include:

- The mine site is located greater than 200 horizontal feet landward of the OHWM
- The mine site is also separated vertically approximately 90-feet above the OHWM
- Mining activities will be separated from the OHWM by a protective berm
- The dry mine floor will maintain a maximum depth of 10-feet above the underlying water table
- All surface water will drain through the gravel floor of the mine site – no surface water will drain directly to the Samish River
- The mine site is located in an area logged during the 1990s by a previous landowner
- No processing or industrial activity is proposed in conjunction with the project
- Aggregate extraction will be maintained at a relatively low volume level
- The project will utilize an interior road system
- The area contiguous to the berm will be mined first and reclaimed pursuant to a reclamation plan to be approved by the Washington State Department of Natural Resources. The goal of the reclamation plan will be to return the site to forest management or low density residential which are considered low and moderate land use intensities respectively.

The Assessment **recommended the following mitigation measures:**

1. The Samish River and associated wetland should be provided with the optional 200 foot buffer required for Type S Waters of the state and Category II wetlands with moderate intensity land uses and a habitat score of 30.
2. The buffer should be measured on a horizontal plane landward of the OHWM/associated wetland edge located at the toe of slope east of the proposed mine site.
3. The riparian buffer and associated wetland and 200-foot buffer should be designated as a Protected Critical Area to assure identification and long term protection. The site plan included as Attachment C is prepared in a format suitable for recording with the Skagit County Auditor.
4. Because the riparian and associated wetland buffers are also coexistent with the jurisdictional area regulated under the Shoreline Management Act (90.58 RCW) and Shoreline Master Program (14.26 SCC), consultation with Skagit County Planning and Development services should occur prior to initiating the application process for a Special use Permit.

On April 18, 2017, the applicant submitted an “**Addendum to Fish & Wildlife Site Assessment**,” (Exhibit 6) prepared by Graham-Bunting Associates. According to this Addendum:

“With the exception of identification of critical habitat associated with the [Oregon Spotted Frog] OSF, no additional endangered, threatened or sensitive species or habitats were identified. Application of the standard riparian buffer requirement established under SCC 14.24.530 is generally recognized as the preferred method of avoiding project impacts consistent with the mitigation sequence listed under SCC 14.24.080-(5)-(b). In our opinion establishment of a no disturb buffer of 200 feet is sufficient to protect aquatic life in the river and associated wetland.

Lacking a request for additional biological information from a federal agency of jurisdiction, it is our opinion that the analysis prepared by GBA and submitted by the applicant provides an appropriate level of detail to address Skagit County Code requirements.”

Lastly, in December 2021, the applicant submitted **both** a “**Critical Area Assessment (Wetland Delineation & Fish & Wildlife Habitat Conservation Area [HCA])**” and “**Impact Assessment & Mitigation Plan**” (Exhibit 8) prepared by Northwest Ecological Services” (NES) with regard to the haul road. The Assessment states as follows:

*“The project does not include any direct wetland, stream, or buffer impact. Therefore, traditional mitigation measures such as wetland or buffer enhancement have not been presented. The use of the haul road to transport material from the proposed gravel mine will result in a greater number of trips per day compared to the existing forestry practice. This may potentially result in indirect impacts to water quality and potentially wildlife functions associated with site critical areas or their buffers. For the reasons previously mentioned these indirect impacts are anticipated to be minor. However, the following **mitigation measures have been recommended:***

- *During resurfacing- establish erosion control and BMP's to ensure protection of downstream waters.*
- *Haul trucks shall be maintained in good working condition such that petroleum products or other harmful chemicals are not leaked into adjacent critical areas.*
- *During operation of the mine, maintain existing forested vegetation adjacent to the roadway, particularly in wetlands and buffers. This forested buffer along the road provides water quality filtration of surface waters prior to entering adjacent wetlands and streams and provides a buffer and screening for wildlife using the interior of the site.*
- *Review the proposal for compliance with applicable County/ State stormwater management requirements."*

Floodplain:

The proposed mining area is not located within a flood hazard zone.

CULTURAL RESOURCE REVIEW:

The applicant submitted a Cultural Resource assessment (**See Exhibit 11**) of the subject properties that was prepared by consultant Margaret Berger of “**Cultural Resource Consultants (CRC).**” Skagit County’s Planning & Development Services Department forwarded this report to the Washington State Department of Archaeology and Historic Preservation (DAHP). Per an email dated 2/25/2022 (**See Exhibit 38**), DAHP concurs with the results and recommendations in the survey report and recommends that the project move forward follow an Inadvertent Discovery Plan. The issued SEPA MDNS has been conditioned accordingly.

EXHIBITS:	
1.	Findings of Fact /Skagit County PDS Staff Report
2.	Assessor’s Parcel Information & iMap/GIS Images
3.	Special Use Permit Application, Forest Practice Permit Application, Narrative, Criteria of Approval, SEPA checklist/addendum, & Acreage Clarification Letter
4.	Samish River Ordinary High Water Mark (OHWM) /Wetland Edge Report; Prepared by: Graham-Bunting & Associates, Dated: May 18, 2015
5.	Fish and Wildlife Site Assessment by Graham Bunting Associates, Dated: August 20, 2015
6.	Addendum to Fish & Wildlife Site Assessment by Graham Bunting Associates, Dated April 18, 2017
7.	300-Foot Buffer Drawings, Semrau Engineering, Dated: July 2018
8.	Critical Area Assessment (Wetland Delineation and Fish & Wildlife HCA); & Impact Assessment & Mitigation Plan; Prepared by: Northwest Ecological Services, LLC; Dated: December 2021
9.	Hydrogeologic Site Assessment & Maps, Prepared by: Associated Earth Sciences, Dated August 21, 2015

EXHIBITS:

10.	Geotech Report /Geologic Hazard Requirement Grip Road Mine Haul Road, Prepared by: Associated Earth Sciences Incorporated, Dated: December 16, 2021
11.	Cultural Resources Assessment, Prepared by: Cultural Resource Consultants, Dated: March 9, 2017
12.	Preliminary Traffic Information Memorandum, Prepared by: DN Traffic Consultants, Dated: February 8, 2016
13.	Maximum Daily Truck Traffic Memorandum, Prepared by: DN Traffic Consultants, Dated: November 30, 2016
14.	Memorandum, Traffic Study Summary; Prepared by: DN Traffic Consultants, Dated: June 6, 2019
15.	<u>Traffic Peer Review</u> : Review Memorandum, Prepared by: Gibson Traffic Consultants (GTC); Dated: December 18, 2018
16.	<u>Traffic Peer Review</u> : Review Memorandum, Prepared by: HDR, Dated: April 28, 2020
17.	Response to Additional Information Request Letter, Prepared by: Semrau Engineering, Dated: October 8, 2020
18.	<u>Traffic Impact Analysis</u> , Prepared by: DN Traffic Consultants, Dated: September 10, 2020
19.	Private Internal Road As Built Drawings, Prepared by: Semrau Engineer, Dated: September 2018
20.	14' X 40' Bridge Rating Letter, Prepared by: Janicki Logging & Construction Company, Dated: October 5, 2015
21.	Bridge Load Rating Memorandum, Prepared by: DCG, Dated: April 13, 2017
22.	Fugitive Dust Control Plan, Prepared by: Concrete Nor'West, Updated 3/2016
23.	Timber Management Plan, Prepared by: Randy R. Bartelt Forester with Trillium Corporation, Dated November 5, 2009
24.	Updated Noise and Vibration Study, Prepared by: Ramboll US Corporation, Dated: November 21, 2018
25.	Site Management Plan Washington Department of Ecology Sand & Gravel Permit Prepared by Miles Sand & Gravel
26.	Sand & Gravel General Permit NPDES & State Waste Discharge General Permit Environmental Protection Plans, Miles Sand & Gravel, Dept. of Ecology
27.	February 22, 2022, Issued SEPA Mitigated Determination of Non-Significance (MDNS)
28.	1 ST & 2 ND Notice of Development Application
29.	List of Landowners within 300 Feet (Including Contiguous Parcels under same Ownership as Applicant/ Landowner)
30.	Notice of Public Hearing
31.	Parties of Record (To Date) Labels & Email List
32.	Skagit County GIS Map of Subject Parcels (& Neighboring Parcels under same ownership) Map
33.	Public Comments Received (From 2016 to end of 2021)
34.	Public Comments Received 2022 During SEPA MDNS Comment Period

EXHIBITS:

35.	Public Comments Received 2022 Before SEPA MDNS Issuance & Comment Period
36.	Public Comments Received 2022 After SEPA MDNS Comment Period
37.	Agency /Department Comments Received 2016 to end of 2021
38.	Agency /Department Comments Received in 2022 (To date)
39.	Applicant's Response to Comments Received
40.	Site Plan & Reclamation Plan
41.	Appeals of Project Received (to date) & Hearing Examiner Decisions <ul style="list-style-type: none">• PL22-0142, Appeal of Issued SEPA MDNS• PL21-0348, Appeal of Determination of Need for Critical Areas Review on Haul Road• PL18-0200, Appeal of County's Denial of Permit
42.	Site Visit Photos (Taken: April 15, 2022)
43.	Complete Beacon Plan

EMPLOYEES:

The applicant has indicated that up to 1 to 2 employees would be working onsite during maximum operation. No offices or buildings for the employees are proposed to be constructed onsite. Potable water for employees will be brought onsite from offsite sources.

RESTROOMS:

Restrooms for employees that work onsite will be provided by portable sanitation facilities.

PROPOSED HOURS & DAYS OF OPERATION:

The applicant proposes that the days and hours of operation will generally be limited to Monday through Saturday, from dawn till dusk. The applicant proposes that the hours of operation maybe expanded based on market conditions and seasonal demands. Skagit County Code 14.16.440 (10)(i) requires that hours of operation vary according to the zoning designation of the site, but may be shortened by the Hearing Examiner based on site-specific circumstances.

The proposed mine is located within the Rural Resource- Natural Resource Land (RRc-NRL) designated area. Mining operations on RRc-NRL designated land may be granted unlimited hours of operation. However, the Hearing Examiner may limit hours of operation to daylight hours or to such other reasonable limitation deemed necessary to address potential significant adverse impacts to existing adjacent land uses, on any portion of the mining site where mining activity is proposed to occur less than one quarter mile from existing Rural Intermediate, Rural Village, or Urban Growth Area designated lands. The proposed mining site is located greater than one quarter mile from any Rural Intermediate, Rural Village and Urban Growth Area designated lands.

PDS LIMITATION ON HOURS & DAYS OF OPERATION:

In order to mitigate potential impacts of the quarry on the neighborhood, the hours of operation were limited by Planning & Development Services Department in the issued SEPA MDNS. The hours were limited to Monday through Friday from 7:00 AM to 5:00 PM. No mining operations are permitted outside of these times including holidays. If seasonal (temporary) demand indicates a need for extended hours, or Saturday or Sunday operations, the applicant shall submit a request for a temporary deviation to these permitted hours to Planning & Development Services (PDS). If permitted by PDS, such operations may be subject to additional conditions by PDS.

DEVELOPMENT SCHEDULE:

The project proposal will consist of dry mining and is limited to excavation and removal of sand and gravel from the site. The project consists of excavation from the surface grade down to a depth of approximately 10 feet above the groundwater table (155 to 165 msl). The hydrogeology report indicates the groundwater table elevation ranges from 155 feet near the southwest corner of the parcel to 145 feet near the northeast corner, with a groundwater down gradient direction to the north to northeast. The finished elevation of the base of the mine, as indicated on the proposed mine contour map (sheet C4 of 7), will range from 165 feet near the southwest corner of the site to 155 feet near the northeast corner of the site. Mining is anticipated to yield approximately 3,942,000 cubic yards (with a 200 foot buffer from the Samish River approximately 4,280,000 cubic yards of gravel) of sand and gravel over an approximate 30 year period with an expected extraction rate of 150,000 cubic yards . The applicant proposes to mine to an elevation above the topographic contours indicated on the mine contour map (reclamation plan). Preparation for mining operations is proposed to begin the Spring of 2019.

The initial phase of the mining operation will include installation of site drainage facilities and designating stockpiling areas. All surface water runoff/drainage from mining operations will be directed into the gravel mining basin. Reclamation will be ongoing throughout the mining process, but is not anticipated to be completed until final mining. Timber harvest will be required and the applicant has applied for and received a class IV general forest practice conversion permit, PL16-0098, from the Washington Department of Natural Resources. After removal of timber, the area will be stripped of topsoil and stockpiled onsite for use in final reclamation of the site. After reclamation, the subject site will be reforested.

PROJECT ACCESS, TRAFFIC AND PARKING:

PROJECT ACCESS:

The proposed mining site is located approximately 1.5 miles north of Grip Road. As illustrated by plan Sheet C1 (See Exhibits 19 & 40), access to the proposed mining area from Grip Road is on an existing private gravel forestry road extending north from Grip Road. The forest practice road will be upgraded as necessary to meet Skagit County's private road standards.

INTERNAL BRIDGE:

The haul road used for ingress and egress to the proposed mine site crosses over an approximate 14 foot by 40 foot privately owned bridge that spans Swede Creek (**See Exhibits 19 & 40**). The bridge has been evaluated for loads associated with the proposed sand and gravel mine and deemed sufficient to support this operation (**See Exhibits 20 & 21**).

TRAFFIC IMPACTS ANALYSIS:

Based on the traffic impact analysis (TIA) that was submitted by the applicant, Skagit County-road standard level of service (LOS) requirements are met for each intersection impacted by the traffic generated by the Grip Road mine. No mitigation Level of Service measures were required based on the Traffic Impact Analysis report. However, to mitigate traffic related sight distance issues, a flashing beacons and signing system were proposed and agreed upon for traffic generated by the Grip Road mine. The recommendations listed in the TIA were incorporated as mitigation measures in the issued SEPA MDNS (**See Exhibit 27**) and conditions of approval for the subject permit conditions of approval /mitigation measures below.

TRAFFIC:

The traffic impact analysis prepared for the gravel pit operation assumed 150,000 yards of gravel would be processed from the pit on an annual basis which would require an estimated 5,883 full trucks from the mine per year. Truck trips generated by the proposal is anticipated to average 23 full trucks (46 trips) per day or approximately 8 truck trips per hour, assuming hauling times would be limited to off peak hours, between 9:00 am and 3:00 pm (6 hours/day) for 260 workdays per year.

The applicant has indicated that there may be times in which market demands exceed average production. Under high market demand conditions, the gravel mining operation is proposed to be increased, but not to exceed the county road standard level of service (LOS) C. In order to maintain the LOS C, the maximum operation limit may not exceed 30 full trucks (60 trips) per hour with a maximum operation limit of 720 full truck trips per day (24 hour workday). During such conditions, we recommend that Concrete Nor'West notify Skagit County Public Works at least two weeks before pit operations are forecast to exceed the 46 full trucks per day. This will allow Public Works to issue an informational public notice of the increased operation to warn the public of the growth in truck traffic and determine if any additional roadway traffic measures are necessary.

THIRD PARTY REVIEW OF TRAFFIC IMPACTS/ ANALYSIS:

On behalf of Skagit County, consultants GTC and HDR performed third party review (**See Exhibits 15 & 16**) of the applicant's traffic information, memorandums, and analysis. Their recommendations resulted in revisions to the applicant's traffic analysis /memos and ultimately in the submittal of a Traffic Impact Analysis (**See Exhibit 18**). The recommendations listed in the TIA were incorporated as mitigation measures in the issued SEPA MDNS (**See Exhibit 27**) and conditions of approval listed for the subject permit as listed below.

During the SEPA MDNS comment period, one comment was received from Kyle Loring, Loring Advising PLLC representing Central Samish Valley Neighbors. Included with this comment was who is a Traffic Impact Analysis Peer Review dated April 30, 2021 that was prepared by Transportation Solutions (**See Exhibit 34**).

PARKING:

Parking for employees, trucks, and operations vehicles will be available on-site. Traffic haul routes from the mine on public roads will include traveling west on Grip Road to Prairie Road, and then west on Prairie Road to Old Highway 99. Sand and gravel obtained from the Grip Road Mining site will be sold directly to market or processed at the existing Concrete Nor'West gravel mine processing operation located adjacent to Highway 99, south of the Samish River.

VISUAL/AESTHETIC IMPACTS:

The remote geographic location and topography of the site will largely prevent views of the gravel mining operation. Lights from trucks may be visible when trucks are accessing or traveling down Grip Road. Lights from trucks and equipment may be visible from Prairie Road or nearby properties in the early morning and early evening hours of the winter months. Perimeter vegetated buffers to the north, south, east and west will control most of the potential light and glare impacts. It is anticipated that the aesthetic impacts of operating trucks and equipment will decrease as the operational mining depth decreases. After completion of sand and gravel extraction, the area will be graded (reclamation) to simulate the natural topography of the area, the topsoil initially stripped from the mine area will be returned, and the mine area will be reforested.

STORAGE OF HAZARDOUS MATERIALS:

The applicant has indicated that a 2,000 gallon fuel storage tank may be brought onto the site for refueling of onsite equipment. The primary potential contaminant would be petroleum related fuels (diesel and/or gasoline) contained in both the storage tank and fuel tanks for the on-site machinery and vehicles. Another minor source of a potential contaminate would be oil based lubricants in the heavy equipment. The applicant has not indicated that any other hazardous materials will be stored or used onsite. Onsite fuel/oil sources combined with the increased susceptibility of the aquifer, due to increased mining depth, may represent a moderate risk to groundwater quality in the event of a fuel or oil spill onsite.

Surface water is considered to have a low risk of impact from proposed onsite fuel/oil sources. As one may expect, the sand and gravel resources onsite are highly permeable minimizing the risk of hazardous material runoff to the adjacent surface water sources (Samish River and associated wetlands) located a minimum of 300 feet to the east and north of the proposed gravel mine. Surface water impact is less likely as the gravel mining pit deepens. The possible fuel tank will be located either adjacent or within the mining pit. Any fuel released from fuel storage tank, or the equipment would drain into the pit away from surface water sources.

Sand and Gravel Mines are regulated by the Washington Department of Ecology and require a Sand and Gravel General permit for mining operations. The Sand and Gravel General Permit requires the applicant to comply with the provisions of the Washington State Water Pollution Control law (RCW 90.48) and the Federal Water Pollution Control Act (Clean Water Act), Title 33 United States Code, Section 1251. The Sand and Gravel permit is prepared upon local government approval and requires an inventory of hazardous materials stored onsite, requires best management practices for fuel storage onsite including secondary containment for all fuel storage tanks, and requires a spill response and control plan.

NOISE, EMISSIONS, & ODORS:

The applicant has indicated that the mining operation is anticipated to be in compliance with both day and night Skagit County noise regulations. The proposed use would not be expected to generate excessive emissions or odors with the exception of dust generation. The applicant has provided a Fugitive Dust Control Plan (**Exhibit 22**) which includes spraying water on roads and equipment to control fugitive dust.

The Department recommends that the applicant implement the Fugitive Dust Control Plan and during operations, if necessary, modify the plan as necessary to control dust emissions. At no time shall dust emissions exceed standards established by the Northwest Clean Air Agency (NWCAA).

SITE BUFFERS & SETBACKS:

Skagit County Code 14.16.440(10)(b)(iii) requires a 100-foot buffer be maintained around the perimeter of the mining site during mining operations. Once the extraction and transportation operations have been completed, the 100-foot buffer may be utilized for reclamation of the parcel. The applicant has volunteered a 50-foot setback from the mining area around the north, south, and west perimeter of the mining area. A 200-foot critical area buffer is required on the east perimeter of the subject site to protect wetlands and fish & wildlife habitat conservation areas. The 200-foot buffer will be designated as a protected critical area (PCA), through a PCA agreement with the applicant.

DEPARTMENTAL FINDINGS OF FACT:

1. The property proposed for development is zoned **Rural Resource Natural Resource Lands (RR-NRL)** as indicated in the Skagit County Comprehensive Plan and associated maps.
2. The subject properties are also a designated **Mineral Resource Overlay (MRO)**.
3. Extracting and processing of mineral resources (i.e., gravel mines) is an allowed land use in the underlying Rural Resource Natural Resource Lands Zoning District /Mineral Resource Overlay with a hearing examiner Special Use Permit per Skagit County Code 14.16.430(4)(g).

4. **PROJECT CHRONOLOGY:**

- A. On March 7, 2016, PDS received applications for both a Special Use Permit and Forest Practice Conversion Permit.

- B. The subject applications were deemed technically complete on March 22, 2016, under SCC 14.06.100(2).
- C. A “Notice of Development Application” was published in the Skagit Valley Herald on March 31, 2016. This notice was posted onsite and mailed to neighboring landowners located within 300 feet of the subject properties. The public comment period ended on April 15, 2016.
- D. A SEPA Mitigated Determination of Non-Significance (MDNS) was issued on May 26, 2016.
- E. A “Notice of Public Hearing” was issued, and the matter went before the Hearing Examiner on November 16, 2016. PDS however determined that proper notice of the subject applications was not given. Accordingly, the Hearing Examiner opened the hearing but decided to continue it for a future date due to the need to perform proper noticing.
- F. PDS issued a second “Notice of Development Application” which was published on the Skagit Valley Herald on December 15, 2016. This notice was also posted onsite and mailed to neighboring landowners located within 300 feet of the subject property. The public comment period ended on December 30, 2016.
- G. The County received numerous comment from the public. Consequently, PDS requested additional information on March 14, 2017. The applicant provided some additional information, which PDS did not believe was sufficient or complete.

PDS made an Administrative Decision on April 5, 2018, to deny the subject applications for failure to timely submit requested information pursuant to SCC 14.06.105.

The applicant appealed this administrative decision (PL18-0200) on April 16, 2018.

On October 17, 2019, the Hearing Examiner denied the County’s Motion for Summary Judgment, reversing PDS’s denial, and ordering the application to go before the hearing examiner for decision on the merits.

- H. Following the appeal, the Applicant continued to provide additional information.

On April 15, 2021, PDS withdrew the MDNS and issued a new, more substantial, MDNS addressing the concerns raised about this particular project.

On May 11, 2021, the County withdrew the Second MDNS. That County action was not appealed.

- I. On June 17, 2021, Skagit County’s Planning & Development Services Department informed the applicant that they were required to obtain Critical Areas review for the entire private haul road that would be used to access the proposed mine/quarry.

On June 24, 2021, an appeal (PL21-0348) from the applicant was received requesting the Hearing Examiner reverse this decision/ requirement by the county requiring critical area review of the haul road.

On August 30, 2021, the Hearing Examiner upheld the County’s decision.

- J. **2022 SEPA MDNS**: A SEPA Mitigated Determination of Non-Significance (MDNS) was issued on February 22, 2022. This SEPA MDNS was published in the Skagit Valley Herald newspaper on February 24, 2022. Additionally, this MDNS was mailed and emailed to all parties of record and the applicant.

During the appeal period, one appeal (PL22-0142) of the issued SEPA MDNS was received on March 25, 2022, by Skagit County’s Planning & Development Services Department.

- K. **NOTICE OF PUBLIC HEARING**: A Notice of Public Hearing was published in the Skagit Valley Herald newspaper on **June 23, 2022**, posted on the subject property, and mailed /emailed to both landowners located within 300 feet of the subject property as is required per Skagit County Code 14.06.150(3) along with parties of record that have commented on the project.

- L. **PUBLIC COMMENTS**: During the public comment periods associated with SEPA environmental review and the project as a whole, numerous comments were received. Most of the comments received however oppose the proposed development. These comments opposing the project can largely be categorized due to perceived impacts to county roadways from truck traffic from the gravel mine and potential environmental degradation associated with the proposed gravel mine/quarry.

- 5. **CRITICAL AREA & SHORELINE REVIEW**: The proposal was routed to Skagit County Critical Areas/Shoreline staff [Natural Resource Division] for review. Their comments/ requirements have become conditions of approval below and/or incorporated as mitigation measures in the issued SEPA MDNS.

- 6. **HEALTH UNIT REVIEW**: The application was routed to the Skagit County Public Health (both water and sewer) for review. Their comments/ requirements have become conditions of approval below and/or incorporated as mitigation measures in the issued SEPA MDNS.

WATER SUPPLY:

No well or water source is currently present onsite. Limited volumes of potable water (bottled water) for employees will be brought in from an offsite source. A water truck will be brought in for dust suppression. Water for dust suppression will be obtained from offsite sources. If the operation should change to include gravel

washing or other uses (over 5000 gallons per day or irrigation of over ½ acre of ground), a water right from the Washington State Department of Ecology Water Resources section will be required.

RESTROOMS AND SEWAGE DISPOSAL:

The application states that portable toilets will be provided for employee’s onsite.

CONTROL OF PETROLEUM PRODUCTS AND OTHER TOXICS:

The application states that a portable double walled diesel fuel tank may be brought onsite for fueling heavy equipment. The following mitigations are recommended conditions of approval and should be incorporated into the day to day operating practices.

- Department of Ecology “Best Management Practices need to be followed.
- Develop and follow a storm water control plan which includes BMP’s for Mobile fueling of vehicles and heavy equipment and a spill cleanup plan.
- Off-site discharge of surface water (if any) may require a NPDES permit from the Department of Ecology or discharge permit from the Skagit County Public Works Surface Water Division.

NOISE AND VIBRATION:

NOISE:

The maximum allowable noise level per Chapter 173-60 WAC allowed to be emitted from this property, a Class C EDNA property, onto a Class A EDNA property (residential) is 60 decibels and between the hours of 10:00 PM and 7:00 AM levels must be reduced by 10 decibels (or 50 decibels). Sound levels generated by the operation shall comply with 173-60 WAC “Maximum Environmental Noise Levels. The operator needs to be aware that minor changes in operation (e.g., Type of Equipment, location of equipment, state of equipment repair and maintenance, screening, presence or lack of berms, presence of reflective surfaces, weather conditions and etc.) can allow additional noise which can interfere with the peace and repose of neighbors. Limiting noise impacts on neighbors, therefore should be a constant goal. If noise complaints do occur in the future the operator of the pit may be required to hire a noise consultant to evaluate and recommend mitigation procedures. When major noise events such a blasting take place, neighbors need to be adequately notified in advance.

VIBRATION:

Vibration from equipment will not be transmitted into the ground and will be indistinguishable beyond a few feet.

7. **PUBLIC WORKS DEPARTMENT REVIEW:** The application was routed to Skagit County Public Works Department for review. Their comments/requirements have become conditions of approval below and/or incorporated as mitigation measures in the issued SEPA MDNS.

8. **FIRE MARSHAL:** The application was routed to the Skagit County Fire Marshal's Office for review. No comments were received.
9. **CURRENT PLANNING REVIEW:** The applicant is requesting a Special Use permit pursuant to Skagit County Code 14.16.430 Rural Resource-Natural Resource Lands (4)(g) and SCC 14.16.440 Mineral Resource Overlay (7). Hearing Examiner Special Use permits are processed as a Level II permit as outlined in SCC 14.06.120 Level II Review Procedures

Hearing Examiner special uses shall be reviewed as a Level II permit, pursuant to Chapter 14.06 SCC. The approving authority's decision may be to grant or to deny an application.

10. **SPECIAL USE CRITERIA OF APPROVAL:** According to SCC 14.16.900(1)(b)(v), applications for Special Use Permits must demonstrate that the proposed activity will not adversely affect or prevent those uses normally allowed within the respective district. The burden of proof shall be on the applicant to provide evidence in support of the application. The criteria for approval or denial shall include the following:

A. THE PROPOSED USE WILL BE COMPATIBLE WITH EXISTING AND PLANNED LAND USES:

STAFF ANALYSIS:

The proposed land use, including reclamation, is consistent with the goals and policies of the Comprehensive Plan and Growth Management Act (GMA) protecting and preserving Natural Resource Land of long-term commercial significance. In addition, many of the Skagit County Comprehensive Plan's goals and policies that support the development of mining operations in the Mineral Resource Overlay zone were specifically created to meet the criteria outlined in the Comprehensive Plan. The Comprehensive Plan states in Chapter 4 Natural Resource Lands Element that:

Skagit County supports environmentally responsible and safe mineral resource extraction and processing activities. Mineral resource lands of long-term commercial significance are to be designated to conserve the mineral resource. These designations apply to areas where mining and processing activities are economically and environmentally feasible and where conflicts with other land uses can be minimized. Because mineral resources cannot be replaced or relocated, Skagit County designates all commercially significant mineral resources to ensure that these lands are available for resource production far into the future.

The proposal is consistent with Goal's D-2, D-3, D-4, D-5 and D-6 of the Comprehensive Plan, Natural Resource Lands Element.

GENERAL POLICY GOALS: MINERAL RESOURCE OVERLAY:

Maintain and enhance conservation of long-term commercially significant mineral resource lands so that use of and access to these lands is not precluded by conflicting land uses through the designation of a Mineral Resource Overlay. These principles shall guide Skagit County’s actions to:

- Maintain and enhance conservation of long-term commercially significant mineral resource lands.
- Maximize compatibility between mineral extraction operations and other land uses.
- Reduce conflicts between mining operations and adjacent land uses so that access to mineral lands is not precluded by conflicting land uses; and
- Promote the economic and regulatory stability of the mining industry.

The proposal is consistent with the following Comprehensive Plan policies and objectives:

GOAL D-2: CONSERVE MINERAL RESOURCE LANDS:

Protect and conserve mineral resource lands of long-term commercial significance.

Policy 4D-2.1 Designate Mineral Resource Overlay:

Areas meeting the criteria for mineral lands of long-term commercial significance shall be identified as Mineral Resource Overlay on the Comprehensive Plan Land Use and Zoning Map.

Policy 4D-2.2 Allowable Mineral Extraction Activities:

Activities associated with mineral extraction operations are those activities that further develop the base product of the mineral being extracted. Examples of these activities include washing, crushing, asphalt plants, and concrete batch plants. Associated activities shall be allowed as a hearing examiner special use within the Mineral Resource Overlay or in areas designated Natural Resource Industrial – NRI. Those associated activities must meet the requirements of the Special Use Permit specific to those areas and must be listed as permitted uses in those Districts. Temporary activities associated with construction projects may be permitted as part of the related construction permit review and may be conditioned as necessary to address applicable mining regulations.

GOAL D-3: REDUCE LAND USE CONFLICTS:

Discourage incompatibility and reduce conflicts between mineral extraction operations and other land uses.

Policy 4D-3.1 Exclusive Mineral Resource Overlay:

The Mineral Resource Overlay adds additional uses and related requirements to the Industrial Forest, Secondary Forest, Rural Resource, and Natural Resource Industrial districts of the Comprehensive Plan/Zoning Map. New mining is limited to the MRO, subject to applicable permits. However, pre-existing, permitted mining operations outside the Mineral Resource Overlay may operate subject to the terms of the existing approval(s). Such operations may expand beyond the scope of the original permit but within the existing parcel provided that they receive a mining special-use permit.

Policy 4D-3.2 Right to Manage Mineral Resource Lands:

The provisions of Right-to-Manage Natural Resource Lands shall apply to all lands designated Mineral Resource Overlay (MRO) to protect mineral resource landowner rights to manage their lands for mining uses.

Policy 4D-3.6 Mining Site Buffer Standards:

Mining buffer standards shall maintain the purpose and functions of mineral resource lands. These standards shall require equivalent buffers on mining sites and on adjacent properties with the exception of mines adjacent to mines. Excavation shall not occur within the buffer of any mine except during reclamation and on mines adjacent to mines. Storage of topsoil and excavation associated with reclamation area may be allowed in buffers.

Policy 4D-3.7 Mining Activities Buffer Standards:

Buffers and setbacks should be provided for all activities associated with mineral extraction operations in addition to those required for mineral resource areas.

GOAL D-4: EFFECTIVE REGULATORY ENVIRONMENT:

Coordinate and implement administrative procedures that encourage consistency among permitting jurisdictions and simplify permitting procedures for the applicants and Skagit County.

Policy 4D-4.1 Coordinate State and Local Regulations:

Development regulations for mineral resource lands in the county shall be consistent with applicable Washington State mining regulations and Department of Natural Resources rules. Overlap in the regulatory authority between Skagit County and the DNR may occur to ensure public health and safety in matters not under the DNR’s jurisdiction.

GOAL D-5: SAFE OPERATIONS:

Ensure safety and minimize off site disturbances associated with operating equipment, noise, dust, glare, vibrations and truck traffic.

Policy 4D-5.1 Noise Impacts:

Sound levels, as measured on properties adjacent to the mining site, shall conform to the provisions of WAC Section 173-60-040, Maximum Permissible Environmental Noise Levels.

Policy 4D-5.2 Traffic Impacts:

Potential effects of truck traffic from mining operations shall be reviewed as part of the permitting process.

Policy 4D-5.3 Roads and Bridges:

New public roads and bridges accessing designated Mineral Resource Overlay Areas shall be designed to sustain the necessary traffic for mineral extraction operations. Existing roads and bridges shall be improved as needed as each new extraction operation is developed. Cost sharing for the improvement of roads and bridges shall be negotiated between the permitting authorities and the applicant.

Policy 4D-5.4 Operation Hours:

Standards for hours of operations, appropriate for the underlying land-use designation, shall be established for mineral extraction operations. In determining appropriate hours of operation, consider traffic impacts and requirements, nearby uses, and noise impacts. Project-specific circumstances that demand non-standard or ‘off-peak’ hours may also be considered.

Policy 4D-5.6 Noise and Blasting Mitigation:

The hours and days of operation for the subject gravel mine/ quarry is limited to Monday through Friday, 7:00 AM to 5:00 PM. The issued SEPA Mitigated Determination of Non-Significance (MDNS) limited the hours of the quarry to the above days of the week and times.

Additionally, the issued SEPA MDNS limited operations of the proposed gravel mine/ quarry to only excavation and transportation of mined material offsite as being permitted. The MDNS prohibited crushing, processing, recycling, or blasting activities as part of this Special Use Permit application. Any significant deviation from what was approved as part of this proposal would require additional review and approval by Skagit County Planning and Development Services.

GOAL D-6: WATER QUALITY:

Ensure that water quality protection standards associated with mining operations comply with best management practices.

Policy 4D-6.1 Reclamation Plan:

Support the Washington Department of Natural Resources (DNR) requirement that reclamation plans specify how overburden and spoil material is to be handled and placed in a manner which will control erosion, dust, sedimentation or leaching of material and hazardous substances into surface or ground waters.

Policy 4D-6.2 Storage Ponds:

Storage pond systems for holding mineral processing waters should be designed to preclude untreated discharge as required by federal and state laws.

Policy 4D-6.3 Erosion Prevention:

The flow of natural or process runoff from mineral extraction sites shall be dispersed or regulated such that soil erosion on receiving lands is prevented. Natural runoff includes: Any water that runs on disturbed ground, including stormwater and ‘process water’ that flows through operation.

Policy 4D-6.4 Aquifer Barriers:

Surface mining shall be vertically limited to only one aquifer unless specifically approved by the Washington State Department of Ecology. Hydrological barriers separating aquifers shall not otherwise be destroyed.

Policy 4D-6.5 Aquifer Reclamation:

Reclamation of disturbed aquifers shall be in accordance with federal, state and local law. Disturbed aquifers should be reclaimed as ponds or lakes. On-site material is preferred where an aquifer has been breached.

Policy 4D-6.6 Aquifer Protection:

Activities related to mineral extraction and processing operations in the vicinity of open aquifers must provide safeguards including containment, to prevent contamination to the open aquifer.

Policy 4D-6.8 Groundwater Study:

Before a new sand/gravel mine is permitted, the area ground water shall be characterized by a licensed geologist, hydrogeologist or engineer.

Policy 4D-6.9 Aquifer Monitoring:

Where a proposed mine will breach an aquifer, monitoring shall be established to measure the impact of the mining activity on water quality and supply to wells relying on the aquifer to be breached.

B. The proposed use complies with Skagit County Code.

STAFF ANALYSIS:

The subject parcel is designated as Rural Resource-Natural Resource Lands with a Mineral Resource Overlay. The proposed use is allowed by special use permit in this zoning designation. The zone is designed to protect and encourage resource utilization. The proposal complies with SCC 14.16.430 by providing site reclamation including re-vegetation. Some possibility of low density residential use is anticipated in the future. As per SCC 14.16.440, the proposal meets the requirements of the Mineral Resource Overlay and will comply with the requirements of the Surface Mining Act, Chapter 78.44 RCW.

- C. The proposed use will not create undue noise, odor, heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standards of SCC 14.16.840.**

STAFF ANALYSIS:

Rural residential development is present near the site. Potential residential development is limited to one home per 10 acres in the Rural Reserve zoning designation and one home per forty acres in the Rural Resource (NRL) zoning designation unless a CaRD design is proposed (4/40). Areas farther west, east and south are also zoned as Rural Reserve (RRv) which allows for a residential development of one residence per 10 acres. Potential impacts from noise, dust and traffic to surrounding, existing or potential dwelling units from the proposed operation are possible and exceed those currently experienced in the area.

Noise and Vibration:

The applicant has indicated that the proposal would not result in noise or vibration impact beyond the site boundaries.

Odor and Heat:

No odors or heat are projected to occur with the proposed activities that would impact surrounding residential land uses or the environment.

Air:

The Department concludes that fugitive dust emission is an environmental concern at the subject site and mitigation shall be necessary to continue mining operations. The Department recommends that the site operator be responsible for controlling dust impacts during operations and shall utilize both the “Fugitive Dust Control Plan” provided by the applicant and “Reasonably Available Control Technology” specified by the Northwest Clean Air Agency to abate dust emissions. All project related activities will use appropriate BMP’s to meet ambient air quality standards enforced by the Northwest Air pollution Authority.

Water Pollution:

Potential water pollutants associated with operations at the subject site are primarily limited to those materials associated with the operation of heavy equipment. These materials generally consist of fuel, oil, and associated equipment fluids. There would be a slight risk of spill during operation and maintenance of the equipment and subsequent release of these materials to waters on the subject site. It would be unlikely that waste materials would enter ground or surface waters due to the project proposal. As previously mentioned, BMP's will be used to minimize potential water pollution impacts.

Staff finds that conformance to the local and state environmental regulations and mitigation measures outlined in the staff report, as well as proposed permit conditions, will ensure that water pollution will not result from project implementation.

D. The proposed use will not generate intrusions on privacy of surrounding uses.

STAFF ANALYSIS:

The applicant has indicated the noise at receiving properties is expected to be relatively low and that excessive noise will be eliminated through equipment operation limitation. Potential visual impacts would primarily be mitigated by the maintenance of a 100 foot vegetated buffer around the mining site. Native vegetation will be maintained or enhanced as necessary to provide a visual and noise barrier along the site boundaries throughout the life of the mining operation.

E. The proposed use will not cause potential adverse effects on the general public health, safety, and welfare.

STAFF ANALYSIS:

Based on a review of the environmental documentation and the proposed mining operational plan, the general welfare of Skagit County or the surrounding area will not be negatively affected by the proposed mining operation as conditioned. The proposal is located in a designated Mineral Resource Overlay and is substantially compatible with surrounding land uses. The operation will provide needed resources for projects within Skagit County and will contribute to the area's economic base. Mitigation and project conditions have been designed to address any identified issues/concerns related to the public health, safety and general welfare.

Compliance with local, state and federal environmental regulations, as well as permit conditions, will ensure that the general welfare of Skagit County citizens is protected.

F. For special uses in Industrial Forest – Natural Resource Lands, Secondary Forest – Natural Resource Lands, and Rural Resource – Natural Resource

Lands, the impacts on long-term natural resource management and production will be minimized.

STAFF ANALYSIS:

The proposed site is located in a Rural Resource-Natural Resource Lands designated area. The proposed special use is in compliance with the intent of the Mineral Resource Overlay and its designation as Natural Resource Land. Such designation indicates that the proposed site has been through preliminary land use review during the County's comprehensive planning process to determine the suitability of the parcel as a mining resource site. The proposed site will be re-vegetated and upon completion of mining activities, long-term natural resource use such as timber production may resume.

G. The proposed use is not in conflict with the health and safety of the community.

STAFF ANALYSIS:

The approval of a Special Use permit for the proposed use would not impact the health and safety of the community, provided that best management practices are maintained, and all permit conditions and environmental mitigation measures are implemented.

Staff anticipates that the proposed mitigation will be sufficient to protect groundwater resources from the proposed mining activities. However, any activity in close proximity to groundwater resources may represent a risk of impairment to the resource.

H. The proposed use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

STAFF ANALYSIS:

Staff review indicates that the proposed land uses will be supported by adequate public facilities and services with no adverse effects on the services of the surrounding areas. County services are adequate to serve the proposed use.

The applicant has indicated relatively high truck traffic volumes during mining operations. The applicant indicates that the truck traffic would not significantly increase traffic volumes and would not require mitigation. No significant impact to the provision of public services in surrounding areas has been identified and the project can be served by adequate public facilities and services as proposed.

I. The proposed use will maintain the character, landscape and lifestyle of the rural area. For new uses, proximity to existing businesses operating

via special use permit shall be reviewed and considered for cumulative impacts.

STAFF ANALYSIS:

The proposed use area is not proximal to any existing businesses, except forest practice activities. As there are no ongoing mining activities in the area, it is anticipated that the proposed land use may temporarily disrupt the existing character and landscape of this rural area. Noise from mining operation and truck traffic may slightly alter the quiet lifestyle of this rural area. However, mining operations is not inconsistent with the allowed uses in this zoning district. After completion of mining operations, it is anticipated that the character, landscape and lifestyle will return to its previous functions.

11. Specific Criteria for Special Use Permits for Mining Operations Pursuant to SCC 14.16.440

STAFF ANALYSIS:

The Mineral Resource Overlay (MRO) overlaps with Natural Resource Lands (NRL) zoning districts and imposes regulations in addition to those normally required in the underlying NRL zoning district. Mineral extraction and processing activities are allowed as a Hearing Examiner Special Use, and must comply with the Surface Mining Act, RCW 78.44. The MRO recognizes those areas that are designated to protect long-term, commercially viable mineral Natural Resource Lands and recognizes that mineral resources must be in close and economic proximity to the market to be served.

The applicant submitted all application materials required for a Mining Special Use Permit under SCC 14.16.440(8). The proposal meets the purpose of the MRO zoning overlay and all of the special criteria related to mining operation special use permits outlined in SCC 14.16.440(1).

The purpose of the Mineral Resource Overlay designation is to maintain and enhance natural resource-based industries by conserving mineral resource lands, allowing continued operation of existing legally established uses, and by assuring that use of adjacent lands does not interfere with the extraction and quarrying of minerals. Adjacent land uses should not interfere with the processing of sand and gravel at this site.

The location of the project site should keep noise levels in compliance with the provisions of the WAC 173-60, Maximum Environmental Noise Levels. There will be no blasting at this mining site.

The applicant's proposal is in compliance with the operation standards criteria outlined in SCC 14.16.440. Surface mining at this site is proposed to be vertically limited to only one aquifer and hydrological barriers separating aquifers are not proposed to be disturbed.

Surface water protection will be accomplished through project design and compliance with the minimum requirements of SCC 14.32, as well as all pertinent requirements of the Washington State Department of Ecology, the Department of Natural Resources, Department of Fish & Wildlife, and other state and federal regulations regarding surface water protection.

Reclamation of surface mining sites shall be in accordance with the requirements of the State Department of Natural Resources. Reclamation activities shall not include land filling.

Chemical leach or metal mining are not proposed in this Special Use application.

All special use criteria relating to mining operations have been met by the proposal.

12. Hearing Examiner Review Criteria

Pursuant to SCC 14.16.440(9), the following criteria must be reviewed by the Hearing Examiner: Except as may be provided herein to the contrary, all applications for a mining operation special use permit shall be reviewed by the Hearing Examiner under the procedures set forth in SCC 14.06. The Hearing Examiner shall make a decision as to whether or not it should be approved based upon the special use approval criteria and the following provisions:

- A. When reviewing an application for mining operations special use permit, the Hearing Examiner should recognize that surface mining is an essential economic activity and that it is not possible to extract minerals without producing some environmental impacts. The Hearing Examiner shall consider all relevant evidence and conditions that will mitigate detrimental impacts to the environment and conditions that protect the general welfare, health and safety. The permit shall be granted if the impacts are mitigated. The burden of proof shall be on the applicant. Mitigating conditions shall be performance based, objective standards that:**
- (i) Are directly and proportionately related to limiting surface mining impacts;**
 - (ii) Are reasonable, practicable and generally capable of being achieved by the mine operator; and**
 - (iii) Take into consideration existing and available technologies applicable to mining operations.**

STAFF ANALYSIS:

The MDNS issued reflects an environmental analysis and review resulting in multiple mitigation measures that meet the intent of the review criteria.

- B. The Hearing Examiner shall consider the requirements of this Chapter as minimum standards based on unique site-specific factors or conditions as appropriate to protect public health, safety, and the environment.**

STAFF ANALYSIS:

Permit conditions listed should be considered by the Hearing Examiner to further protect the public health, safety, and the environment.

- C. Appropriate site-specific conditions shall be required to mitigate existing and potential incompatibilities between the mineral extraction operation and adjacent parcels. Such limitations shall reflect the differences in potential impacts based on the mineral extraction operation's location in resource, rural or urban growth areas and recognize that the purpose of designating mineral resource lands is to conserve mineral resource lands, allow continued operation of existing legally established mining operations, and assure that use of adjacent lands does not interfere with the extraction of minerals. The Hearing Examiner shall take into consideration the January 1996 publication *Best Management Practices for Reclaiming Surface Mines in Washington and Oregon*, published jointly by the Oregon Department of Geology and Mineral Industries and the Washington State Department of Natural Resources, Ch. 3, Operation and Reclamation Strategies, in determining appropriate mitigation requirements for operational impacts.**

STAFF ANALYSIS:

Skagit County Code 14.16.870 Notification of Development Activities on or Adjacent to Designated Natural Resource Lands is implemented to protect Natural Resource Lands from adjacent land uses. Reclamation will be done in accordance with an approved Department of Natural Resources Reclamation Permit.

- D. Appropriate site-specific conditions shall be required to mitigate stormwater runoff and erosion impact. The Hearing Examiner shall take into consideration the January 1996 publication *Best Management Practices for Reclaiming Surface Mines in Washington and Oregon*, published jointly by the Oregon Department of Geology and Mineral Industries and the Washington State Department of Natural Resources, Ch. 2, Storm Water and Erosion Control, and the National Pollutant Discharge Elimination System (NPDES) Surface Water Protection requirements in determining appropriate conditions for mitigating stormwater and erosion impacts.**

STAFF ANALYSIS:

Staff notes that compliance with existing regulations and plans reviewed by the Skagit County Department of Public Works in conjunction with the Washington Department of Ecology NPDES program will address these issues.

- E. The Hearing Examiner shall consider public interests such as fishing, boating, hiking and camping when reviewing a mining operation special use permit, and may impose mitigating measures as necessary and appropriate.**

STAFF ANALYSIS:

Staff does not recommend any mitigating measures related to surrounding recreational activities with the exception of installing secure gates and warning signage on the subject property near the boundary of the subject site notifying the public of ongoing mining activities. No substantial impacts to such activities have been identified.

II. STAFF RECOMMENDATION:

Based on a review of the application material submitted, special use criteria, environmental checklist, environmental studies, traffic impact analysis, issued SEPA Mitigated Determination of Non-Significance, and the above findings, staff **recommends to the Hearing Examiner that the subject Special Use Permit & Forest Practice Conversion Permit applications be approved subject to conformance with the conditions of approval as listed below.**

III. CONDITIONS OF APPROVAL:

1. The applicant shall obtain all necessary permits and approvals from federal, state, and local governments. Copies of permits obtained shall be provided to Skagit County's Planning & Development Services Department.
2. Prior to operation of the proposed mine, the applicant shall record a title notification with the Skagit County Auditor as per SCC 14.16.870.
3. The applicant shall develop and implement a Spill Prevention and Control Plan and a Storm Water Pollution Prevention Plan.
4. The applicant shall implement the Fugitive Dust Control Plan submitted with this application and utilize "Reasonably Available Control Technology" specified by the Northwest Clean Air Agency. During operations, the plan may be modified as necessary to control dust emissions. At no time shall dust emissions exceed standards established by the Northwest Clean Air Agency (NWCAA).
5. The maximum allowable noise level per Chapter 173-60 WAC allowed to be emitted from this property, a Class C EDNA property, onto a Class A EDNA property (residential) is 60 decibels. Between the hours of 10:00 PM and 7:00 AM noise levels must be reduced by 10 decibels and not exceed 50 decibels. Noise levels continuously exceeding maximum allowable noise levels allowed under Chapter 173-60 WAC may be considered a violation of permit conditions and result in revocation, suspension, or modification of this special use permit by the Hearing Examiner.

6. Appropriate permits will be obtained from Skagit County Public Works prior to construction activity occurring within the County right-of-way.
7. In the event that cut slopes from the mining operation exceed 50%. The top of the slope shall be fenced or otherwise marked to prevent access.
8. According to Skagit County Code 14.16.440(10)(b)(iii) a 100-foot buffer is required around the perimeter of the mining site during mining operations. Once the extraction and transportation operations have been completed, the 100-foot buffer may be utilized for reclamation of the parcel. The applicant has volunteered a 50-foot setback from the mining area around the north, south, and west perimeter of the mining area. As required in the issued SEPA MDNS, a 200-foot shoreline and critical area buffer is required on the east perimeter of the subject site. The 200-foot buffer shall be designated as a "Protected Critical Area (PCA), through a PCA agreement with the applicant.

Accordingly, the applicant's land surveyor shall provide Skagit County's Planning & Development Services Department with a revised site plan that shows the 100-foot buffer, 50-foot setback, and 200-foot PCA as stated above.

9. Development shall comply with Skagit County's Public Health Department including but not limited to:
 - A. The applicant will need to have spill plans and any necessary equipment and supplies in place to cleanup and report spills from equipment leaks and on-site fueling. For more information, contact Environmental Public Health at 360-416-1500.
10. All required internal and external improvements from both Skagit County's Planning & Development Services Department and Public Works Department shall be permitted, approved, and inspected prior to the subject gravel mine/quarry being open for business.
11. If any portable toilets are proposed for use onsite, the applicant shall comply Skagit County Public Health standards and obtain any required permits before use.
12. No development is permitted within the shoreline environment without first obtaining a shoreline permit from Skagit County's Planning & Development Services Department.
13. Development shall comply with all requirements of Skagit County's Fire Marshall's Office and Building Department.
14. The applicant shall comply with all Mitigation Measures of the February 22, 2022, issued SEPA Mitigated Determination of Non-Significance [MDNS] (**See Exhibit 27**).

Prepared by: KC

Reviewed by: BB