



June 23, 2008

Via FedEx

Mr. Al Scalf
Director
Jefferson County Community Development
621 Sheridan Street
Port Townsend, WA 98368

Dear Mr. Scalf:

Enclosed is Iron Mountain Quarry's Notice of Appeal in response to your Unified Development Code Interpretation dated June 11, 2008. Also enclosed is a check in the amount of \$729 for the appeal fee.

We are appealing the code interpretation to the Hearing Examiner and will seek a ruling that Iron Mountain Quarry is not required to apply for and obtain a conditional use permit in order to exercise its existing non-conforming mineral resource use rights at this location.

Please let me know of the earliest available dates for this appeal hearing.

Thank you for your attention to this matter.

Very truly yours,

GORDONDERR LLP

Keith E. Moxon

Attachments

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Jefferson County Department of Community Development

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Notice of Appeal

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1. Decision being appealed

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Unified Development Code Interpretation dated June 11, 2008 MLA08-00239
(ZON07-00062) (Exhibit A).

2. Name, address, and phone number of Appellant and Appellant's interest in the matter.

The Appellant is Iron Mountain Quarry, LLC. Contact information is: Mr. James E. Burnett, Iron Mountain Quarry, LLC, 22121 17th Avenue SE, Suite 117, Bothell, WA 98021-7404; Tel: 425-481-0999; Fax: 425-486-3346.

Iron Mountain Quarry has legal non-conforming mineral resource use rights to mine 142 acres of property for which it has mineral lease rights from Pope Resources ("the Property"). This Property is located on the north side of SR-104 approximately four miles west of the Hood Canal Bridge, east of the SR-104/SR-19 intersection in unincorporated Jefferson County. Iron Mountain Quarry's non-conforming mineral resource use rights were confirmed by the Jefferson County Hearing Examiner in a Report and Decision issued on April 10, 2008 (Exhibit B). The Hearing Examiner's decision constitutes Jefferson County's final decision regarding Iron Mountain Quarry's non-conforming rights at the Property. A Land Use Petition Act ("LUPA") appeal has been filed against Jefferson County and Iron Mountain Quarry regarding that decision. The LUPA appeal does not stay or otherwise impair Iron Mountain Quarry's non-conforming use rights because no party has sought to stay the County's decision pending the Court's review of the LUPA appeal pursuant to RCW 36.70C.100.

Iron Mountain Quarry intends to exercise its non-conforming mineral use rights by expanding mining operations on the Property. By letter dated May 7, 2008, the Jefferson County Department of Community Development advised Iron Mountain Quarry that a conditional use permit will be required for Iron Mountain Quarry's operations pursuant to JCC 18.20.240(2)(g)(i) (Exhibit C). JCC 18.20.240(2)(g)(i) states that a conditional use permit is required "[i]f increased off-site impacts (noise, vibration, dust, traffic) would result from expansion, intensification, or modification" of "existing gravel pits and surface mining operations."

Iron Mountain Quarry interprets JCC 18.20.240(2)(g)(i) to apply to an expansion, intensification, or modification of an existing surface mining operation except where non-conforming mineral resource use rights have been established, as is the case for Iron Mountain Quarry's 142-acre lease area. The County's final decision confirming Iron Mountain Quarry's non-conforming mineral resource use rights precludes the County from requiring a conditional use permit for IMQ's proposed mineral resource operation. Iron Mountain Quarry's use rights have been established and cannot be subjected to a permit process that could deny or terminate Iron Mountain Quarry's existing mineral use rights. As the Hearing Examiner clearly set forth in his recent decision, Iron Mountain Quarry has legal non-conforming use rights to mine the entire 142-acre leased parcel pursuant to the doctrine of diminishing asset as set forth in *University Place v. McGuire*, 144 Wn. 2d 640, 30 P.3d 453 (2001). These existing use rights are not subject to any other use permit requirements that could result in the County's denial or termination of those rights.

Iron Mountain Quarry filed a Code Interpretation request pursuant to Article VI, Chapter 18.40 JCC on May 14, 2007. The Director of the Department of Community Development issued a Code Interpretation on June 11, 2008 (Exhibit A). The Director concluded that a Conditional Use Permit shall be required for further mining activities within the 142-acre lease area. Iron Mountain Quarry has a vital interest in obtaining a Code Interpretation recognizing that it is not subject to a conditional use permit process that could result in denial or termination of its existing non-conforming mineral resource use rights.

3. **Appellant's statement describing standing to appeal:**

a. **Prejudice to Appellant:**

The Director's Code Interpretation decision fails to recognize Appellant's non-conforming mineral resource use rights as previously established by Jefferson County. The Director's Code Interpretation would subject Appellant to a conditional use permit process that could deny or terminate Appellant's existing mineral resource use rights. Thus, the Director's Code Interpretation directly conflicts with the County's final decision recognizing the existence of Iron Mountain Quarry's non-conforming mineral resource use rights and will prejudice the Appellant's exercise of those rights.

b. **The interest of Appellant is among those the local jurisdiction was required to consider:**

Jefferson County is required to consider Appellant's existing non-conforming mineral resource use rights when interpreting and applying its land use regulations. In this case, the Jefferson County Department of Community Development disregarded the existence of these existing rights.

c. **A decision in favor of Appellant would substantially eliminate or redress the prejudice caused by the decision:**

A decision in favor of Iron Mountain Quarry reversing the Code Interpretation regarding the conditional use permit requirement found in JCC 18.20.240(2)(g)(i) would eliminate or redress all of the prejudice caused by the Code Interpretation decision. A favorable interpretation would allow Iron Mountain Quarry to apply for performance standard based permit approvals to exercise its non-conforming mineral use rights without being subjected to a discretionary conditional use permit process to determine whether it has mineral resource use rights.

d. **Appellant has exhausted its administrative remedies:**

There is no administrative remedy available prior to appeal of the Director's Code Interpretation under Article VI of the Unified Development Code. JCC 18.40.390 provides that "[w]hen an interpretation is made in response to a written request pursuant to the provisions of this article, the person filing the written request may appeal the decision of the Director to the Hearing Examiner within 14 calendar days of the decision using the process for appeals of Type II permit decisions as set forth in JCC 18.40.330." The Appellant has followed these appeal procedures.

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4. Specific reasons why the Appellant believes the decision to be wrong.

The Director's Code Interpretation decision is wrong because the County's final decision confirming Iron Mountain Quarry's non-conforming mineral resource use rights precludes the County from requiring a conditional use permit. Iron Mountain Quarry's use rights have been established and cannot be subjected to a permit process that could deny or terminate those rights. As the Hearing Examiner clearly set forth in his recent decision, Iron Mountain Quarry has legal non-conforming use rights to mine the entire 142-acre leased parcel pursuant to the doctrine of diminishing asset as set forth in *University Place v. McGuire*, 144 Wn. 2d 640, 30 P.3d 453 (2001). Those rights are not subject to any other use permit requirements that could result in the County's denial or termination of Iron Mountain Quarry's existing use rights.

The Hearing Examiner found that, as an applicant with existing non-conforming use rights, Jefferson County may subject Iron Mountain Quarry to reasonable police power regulations as reflected in SEPA, DNR regulations and the JCC. Iron Mountain Quarry does not dispute that finding. Compliance with such regulations, however, cannot result in the immediate termination of Iron Mountain Quarry's nonconforming use rights. *Rhod-A-Zalea and 35th Inc. v. Snohomish County*, 136 Wn.2d 1, 11 (1998)).

The Director's Code Interpretation decision erroneously concludes that *Rhod-A-Zalea* allows the County to require Iron Mountain Quarry to obtain a conditional use permit. In that case, however, the Washington Supreme Court specifically recognized that a party with a valid non-conforming use "was not required to obtain a general conditional use permit (because it is a valid non-conforming use). . ." *Rhod-A-Zalea*, 136 Wn.2d 1, 11 (1998)). The Court distinguished the conditional use permit requirement from "more specific permitting requirements, even if they regulate some of the same operations." *Id.* Thus, the Court concluded that "the fact that *Rhod-A-Zalea* does not have to obtain a conditional use permit does not operate as a shield to [a] grading permit." *Id.*

Consistent with Washington law as prescribed by the Supreme Court in *Rhod-A-Zalea*, and the Hearing Examiner's decision in this case, Iron Mountain Quarry does not have to obtain a conditional use permit in order to exercise its non-conforming use rights to engage in mining operations on the Property. Iron Mountain Quarry concedes, however, that it is subject to reasonable JCC provisions which are intended to "safeguard the health, safety, and welfare of the community," *Rhod-A-Zalea*, 136 Wn.2d 1, 15. Such "reasonable provisions" include those regulations set forth in JCC 18.20.240(2)(a)-(f) and (h), provided that Jefferson County does not seek to terminate Iron Mountain Quarry's non-conforming use rights by applying those regulations in an arbitrary and unreasonable manner as to render further mineral uses on the Property impractical. See *Rhod-A-Zalea* at 12-13.

The conditional use permit requirement in JCC 18.20.240(2)(g)(i), if applied to Iron Mountain Quarry, would clearly allow the County to deny the permit and terminate Iron Mountain Quarry's existing mineral use rights.¹ Because the conditional use criteria exceed

¹ In relevant part, the conditional use permit provisions of JCC 18.40.490 provide that upon submission of a conditional use permit application, a review "shall determine whether the proposed use should be permitted by weighing the public need or the benefit to be derived from the use

the "reasonable police power regulations" set forth in SEPA, DNR regulations or elsewhere in the JCC, and could result in termination of Iron Mountain Quarry's existing non-conforming mineral resource use rights,² application of the conditional use permit requirement to Iron Mountain Quarry's proposed mineral use project would constitute an unlawful regulation of Iron Mountain Quarry's non-conforming mineral use rights. Thus, the County cannot subject Iron Mountain Quarry to the conditional use permit requirement of JCC 18.20.240(2)(g)(i). Enforcement of the Director's Code Interpretation would violate Iron Mountain Quarry's non-conforming use rights by effectively allowing the County to deny non-conforming mineral use rights that are vested and protected from termination.

5. **The desired outcome or changes to the decision**

Appellant requests that the Hearing Examiner issue a decision reversing the Director's Code Interpretation decision and holding that the conditional use permit requirement in JCC 18.20.240(2)(g)(i), is not applicable to Iron Mountain Quarry's existing non-conforming mineral resource use rights to conduct mining operations on the Property.

6. **Appellant's statement and signature.**

On behalf of Iron Mountain Quarry, LLC, I have read the notice of appeal regarding the appeal of the Unified Development Code Interpretation issued by the Jefferson County Department of Community Development on June 11, 2008, and I believe the contents of the notice of appeal to be true.

Iron Mountain Quarry

By: 
James E. Burnett

Date: 6-23-08

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against the impact that it may cause." (emphasis added). In addition, JCC 18.40.530(1) provides that the "County *may approve* or approve with modifications an application for a conditional use permit" subject to satisfying specified criteria, and JCC 18.40.530(2) provides that "where all of the above findings [(a) through(l)] cannot be made, *the application shall be denied.*" (emphases added).

² For example, JCC 18.15.040(a) would allow the County to deny a conditional use permit based upon whether the proposed use is harmonious with the quality of development in the vicinity of the subject property. JCC 18.40.530(j) would allow the County to deny a conditional use permit based on whether the proposed use has merit and value for the community as a whole. Similarly, JCC 18.40.530(l) would allow the county to deny a conditional use permit if the County determines that the public interest will suffer substantial detrimental effect as a result of the proposed use.



JEFFERSON COUNTY

DEPARTMENT OF COMMUNITY DEVELOPMENT

621 Sheridan Street

Port Townsend, WA 98368

Al Scalf, Director

Unified Development Code Interpretation

This interpretation is made according to Article VI of Chapter 18.40 of the Unified Development Code, Jefferson County Code (JCC 18.40.350). An interpretation of the provision of the UDC is intended to clarify conflicting or ambiguous wording, interpret proper classification of a use, or interpret scope or intent. The "Factors for Consideration" listed in JCC 18.40.360(4) were considered in making this UDC interpretation, including applicable policies of the Jefferson County Comprehensive Plan.

Date: June 11, 2008
Case: ZON08-00062/MLA08-00239

Applicant: Gordon Derr, Attorneys at Law
Attn: Keith Moxon
2025 First Ave Suite 500
Seattle, WA 98121

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Property Owner: Pope Resources
C/O Olympic Resource Management
19245 10th Ave NE
Poulsbo, WA 98370

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Subject: Iron Mountain Quarry (IMQ) seeks clarification and interpretation of Jefferson County Code (JCC) 18.20.240(2)(g)(i).

Request: IMQ requests that the County confirm that JCC 18.20.240(2)(g)(i) which requires a conditional use permit "if increased off-site impacts (noise, vibration, dust, traffic) would result from expansion, intensification, or modification" of "existing gravel pits and surface mining operations" does not apply where the applicant has existing non-conforming mineral use rights for the proposed mineral resource uses.

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Relevant Law, Code, Plans, Ordinances or Policies:

This interpretation is made according to Article VI, Chapter 18.40 JCC. An interpretation of the provision of the Unified Development Code is intended to clarify conflicting or ambiguous wording, interpret proper classifications of a use, or interpret scope or intent. The "Factors for Consideration" listed in JCC 18.40.360(4) (identified below) were considered in making this UDC interpretation, including applicable goals and policies of the Jefferson County Comprehensive Plan.

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- (a) The applicable provisions of this code, including its purpose and context;
- (b) The implications of the interpretation for development within the county as a whole, including the precedent the interpretation will set for other applicants; and
- (c) Consistency with the Jefferson County Comprehensive Plan and other relevant ordinances and policies.

JCC 18.20.240 Mineral extraction, mining, quarrying and reclamation.

(2)

The following standards apply to all surface mining and reclamation activities:

- (g) states: "The alteration, intensification, and expansion of existing gravel pits and surface mining operations is allowed subject to reasonable performance standards to ensure that alteration, intensification, and expansion of such uses have minimal adverse impacts on surrounding areas and uses; and provided, that:"
- (i) states: "If increased off-site impacts (noise, vibration, dust, traffic) would result from expansion, intensification, or modification, a conditional use permit shall be required."

Hearing Examiner Decision:

On April 9, 2008 the Jefferson County Hearing Examiner ordered a decision on appeal of a Department of Community (DCD) Code Interpretation (MLA07-00638) in which IMQ sought relief from the JCC 18.20.240(1)(a) 10 acre at a time mining restriction without a Mineral Resource Land (MRL) overlay by demonstrating they had nonconforming use rights under the Diminishing Asset Doctrine. The Hearing Examiner concluded the following relevant to the subject Code Interpretation:

3. The appellant has a conforming use under the applicable CF zone classification to mine the entire 142 acre leased parcel subject to disturbing no more than ten gross acres at any one time. The appellant also has nonconforming use rights to mine the entire parcel which are not subject to the ten acre limitation. *However, the appellant must meet requirements of the JCC and the DNR pursuant to Rhod-A-Zalea, supra. (emphasis added)*
4. Pope has not abandoned its nonconforming use rights by development of Port Ludlow. However, *the location of Port Ludlow and its amenities must be*

considered in both SEPA review and review under the JCC mining requirements.
(emphasis added)

Rhod-A-Zalea:

Although the Hearing Examiner Decision allows mining beyond the ten acre limitation without an MRL, he refers to the Supreme Court of Washington case Rhod-A-Zalea as a basis for the applicant to meet County Code requirements exclusive of JCC 18.20.240(1)(b). Relevant cites from Rhod-A-Zalea as they relate to the Hearing Examiners requirements and the subject Code Interpretation are as follows:

Referring to a supporting case, Dock Watch Hollow Quarry, Inc v. Township of Warren, the Court states "The court found that although the quarry's status as a nonconforming use 'may protect it from later zoning restrictions, its status as such does not render it immune from reasonable regulations pursuant the police power in the interest of the public health, welfare and safety,' including 'those designed for the preservation of the environment and protection of ecological values.'" Dock Watch, 361 A.2d at 20.

"the welfare of the community should not be sacrificed for the purpose of permitting Dock Watch the most profitable use of that land." Id. at 25.

"Thus, courts agree that nonconforming uses, although protected from zoning ordinances which immediately terminate their use, are subject to later enacted regulations enacted for the health, safety and welfare of the community."

"A successful defense to the imposition of one regulation does not erect a constitutional barrier to all other regulation. The first suit was brought to enforce a zoning ordinance, while the present one is to enforce a safety ordinance." Goldblatt, 369 U.S. at 597, 82 S.Ct. 987

"In conclusion, we find that Rhod-A-Zalea's nonconforming use is subject to the grading permit requirement contained in SCC 17.04.280. Nonconforming uses have only a vested right not to have the use immediately terminated in the face of a zoning ordinance which prohibits the use. The case law overwhelmingly holds that nonconforming uses are subject to later enacted reasonable police power regulations."

Comprehensive Plan Goal & Policy:

NRG 7.0 Provide for mitigation of potential adverse impacts associated with mining extraction and processing operations.

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Policies:

NRP 7.1 Require environmental review on all mineral lands designation requests and/or conditional use permits

NRP 7.2 Provide for the following factors in mineral resources land use decisions:

- a. The range of environmental impacts, including short-term and long-term effects arising over the lifetime of the proposal;
- b. The ability of the site to confine or mitigate all operational impacts;
- c. The compatibility of operations with adjacent land uses when mitigating measures are applied;
- d. The capacity of transportation facilities to handle safely the transport of products from the site; and,
- e. The adequacy of plans for reclamation of the site for appropriate future use.

NRP 7.3 Develop standards and guidelines to identify and address the impact of mining operations on adjoining properties. Such conditioning should not have the intent of rendering mining operations economically unfeasible.

NRP 7.4 Evaluate small mining operations to determine when the cumulative impact of small operations becomes a significant adverse impact upon the land or upon adjacent lands.

Findings of Fact:

The Hearing Examiner Decision issued April 10, 2008 requires IMQ comply with JCC mining requirements exclusive of JCC 18.20.240(1)(b).

JCC 18.20.240 Mineral extraction, mining, quarrying and reclamation, are the JCC mining requirements referred to in the Hearing Examiner's Decision.

Rhod-A-Zalea states, "Nonconforming uses have only a vested right not to have the use immediately terminated in the face of a zoning ordinance which prohibits the use."

JCC 18.20.240 Mineral extraction, mining, quarrying and reclamation, are not zoning restrictions, regulations or ordinances that prohibit the use, but are the Performance Standards (regulations) enacted for the health, safety and welfare of the community.

JCC 18.20.240(2)(g)(i), states, "The alteration, intensification, and expansion of existing gravel pits and surface mining operations is allowed subject to reasonable performance standards to ensure that alteration, intensification, and expansion of such uses have *minimal adverse impacts on surrounding areas and uses; and provided, that:*

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- (i) If increased off-site impacts (noise, vibration, dust, traffic) would result from expansion, intensification, or modification, *a conditional use permit shall be required.*" (emphasis added)

The subject parcel 821291002 which IMQ proposes to mine a portion of abuts the Single Family Residential zone of the Port Ludlow Master Planned Resort (MPR) boundary. The "leased area" indentified by IMQ for mineral extraction activities are within 1/2 a mile of the MPR boundary.

The Hearing Examiner Decision specifically identifies Port Ludlow and its amenities as important considerations when reviewing any mining under JCC mining requirements.

The Hearing Examiner Decision does not specifically state that a Conditional Use Permit shall not be required.

Conclusion:

The Hearing Examiner's Decision of April 10, 2008 allows IMQ to mine the entire 142 acre leased area without a ten acre limitation as long as IMQ meets the JCC mining requirements. JCC 18.20.240(2)(g)(i), which is part of the JCC mining requirements, requires a Conditional Use permit if increased off-site impacts would result from an intensification or expansion of mining activities. Due to the proposed mining activities within close proximity to the Port Ludlow MPR, and the potential for IMQ to mine 142 acres at one time, Jefferson County believes that the proposed mining by IMQ will result in increased impacts to Port Ludlow.

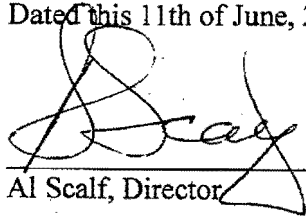
Decision:

A Conditional Use Permit shall be required for further mining activities on parcel 821291002.

Appeal:

As outlined in JCC 18.40.390, the applicant requesting a code interpretation may appeal the decision to the Hearing Examiner within fourteen (14) calendar days of the decision using the process for appeals of Type II permit decisions as set forth in JCC 18.40.330.

Dated this 11th of June, 2008.



Al Scalf, Director

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OFFICE OF THE HEARING EXAMINER

JEFFERSON COUNTY

REPORT AND DECISION

CASE NO.: UNIFIED DEVELOPMENT CODE INTERPRETATION
IRON MOUNTAIN QUARRY, MLA07-00638 (ZON07-00098)

APPELLANT: IRON MOUNTAIN QUARRY

APPELLANT'S ATTORNEY: KEITH MOXON
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SUMMARY OF REQUEST:

JEFFERSON COUNTY DCD

The appellant is appealing the Code Interpretation issued by the Jefferson County Department of Community Development on January 5, 2008. The appeal was filed on January 11, 2008.

SUMMARY OF DECISION:

Appeal granted.

PUBLIC HEARING:

After reviewing the Jefferson County Department of Community Development and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on March 14, 2008.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

SEE ATTACHED INDEX LIST

MICHELLE FARFAN appeared, presented the Department of Community Development Staff Report, and introduced Log Item "61"; the Examiner introduced Log Item "62", which is an email from Mr. Loomis. In 1994, the County began requiring a Mineral Resources Overlay to mine more than ten acres at one time. The County has consistently taken such position since 1995. The map showing the Mineral Resources Overlays is identified in the

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comprehensive plan. The MRO protects the mine from neighboring property owners and allows outright mining without a conditional use permit. GMA required the County to identify mineral resource lands, and originally they did not identify enough so they had to identify more. The adopted policies later became part of the code. The County has not determined as yet if the applicant's mine is conforming or nonconforming.

DALE JOHNSON, attorney at law, appeared and introduced Attachments "B" and "E2" to the appellant's brief.

KEITH MOXON, attorney at law, appeared on behalf of the appellant and referred to log item 60. They have no ability or intent to circumvent the permit process. This interpretation will determine which course they must follow. The question is whether the County considers only the development code, or does it also need to consider decisions of the Washington Supreme Court issued after the adoption of the UDC. The County has not dealt with the mine as a nonconforming use, nor has it confirmed it as a nonconforming use. The appellant has presented a voluminous record establishing nonconforming use rights. The area of the subject expansion is part of a 182 acre tract. Forty acres already consist of an existing quarry. The leased area covers the balance of 142 acres. The original mining on the site included areas in both Sections 29, and 30. Mineral use rights are not determined by the area of past extraction. We look at areas around the mine that are intended for extraction. Mining on the parcel began in the 1970s and has continued through the present time. Mining has occurred in areas which are subject to a lease. He then discussed the Supreme Court's language in McGuire. That case makes it clear that Pope's nonconforming use rights cover the entire 182 acre parcel. The parcel provides a 50 year reserve. The comprehensive plan recognizes nonconforming uses as set forth on pages 4-6 of his brief. The mine was legally established prior to the adoption of the ordinance. The original Shine quarry is within the footprint of the lease. He then introduced a chronology as log item 63. The ten acre limit became effective in 2001. Tab A contains a map showing the location of the existing Shine quarry in relation to the project site. A declaration says the old mine operated in 2006. He referred to Tab F2 and noted that the mine will not extend to 13, but is located in Sections 29 and 30. In 2004 the County authorized expansion of the Shine pit from 20 acres to 40 acres through Case No. MLA04-00314. The County allowed the expansion pursuant to the McGuire case and did not require an MRO even though the expansion was well in excess of ten acres. Attachment E2 concerns the Shine pit. The Jefferson County Code applies only to new mines. A mine has operated on the leased area since the 1970s. Section 18.20.240(G) allows the expansion of an existing mine. The only issue before us today is whether the appellant must obtain a comprehensive plan amendment. If they have a nonconforming use right, they do not have to go through the discretionary permit process. The Texas case cited by others is not applicable since the leased area covered the entire parcel and the mine area was set by the leased area. That decision in no way says that the mine lease determines the area of the mine. The original owner of the mine was not involved in the McGuire case. The County is looking only at its code but must also look at the Supreme Court decision. The SM-6 is a DNR document that the County signs. It says that the County has given the mining use permission to expand. The same fact pattern present here was present in

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McGuire. They have no argument that they do not have a MRO. Their request is for the Examiner to apply the diminishing asset doctrine to the 182 acre Pope parcel, and only that parcel. Section 18.05.085 provides that the Examiner must apply the case law. An alternative argument is that the mine is new, but that McGuire allows it to operate on part of the underlying parcel. He referred again to the administrative expansion granted to Shine which allowed it to go from 20 to 40 acres without a conditional use permit. He referred to the nonconforming use section of 18.20.260.

MS. FARFAN reappeared to refer to the comprehensive plan and the Interim Overlay which requires a conditional use permit for related activities and accessory uses. If a mine were within a MRO, it would have to measure ten acres minimum. The Shine quarry has existed since 1989. It underwent SEPA review by DNR which issued a DNS. She also referred to page 48 of log item 57 and noted that even though the Shine quarry covered 20 acres, Shine had actually leased 40 acres in 1989.

JIM MASON appeared and testified that he owns the Shine quarry and began his operation in 1989. The mining referred to as occurring in the 1970s was for the purpose of constructing logging roads. It is common to mine when logging to construct the roads. They mined rock for the roads. The appellant's argument opens 72,000 acres to mining. They have an SM-6 for 40 acres. It took them one year to get the permit as opposed to the 30 days referred to by the appellant.

DAVID ARMITAGE appeared and read his statement into the record. He questioned the intent of the owner, Pope, to actually mine the parcel. Pope started Port Ludlow in 1968, and since that time has promoted the Port and installed trails and other improvements on their land. The trails are an important part of the community. One tract goes through Section 29. The McGuire decision extends the mining to the property borders, but if the applicant abandons the mining rights, then McGuire does not apply. Pope abandoned mining when it promoted and developed the master planned resort. Trails go in and out of the MPR. One trail is only a couple thousand feet from the mining area. Pope intended to use the land for Port Ludlow and not mining. Pope gave up its mining rights in 1967.

MR. MOXON reappeared and testified that if Pope extended recreational trails through portions of the section, then it probably abandoned those areas for mining. He does not disagree. Mining is heavily regulated. Road construction doesn't open up a mine. The County relied upon the SM-6 before 2004. The County processed the expansion in 30 days as shown in log item 67. However, the applicant may have worked on the expansion for a long time prior to that.

MR. ARMITAGE reappeared and testified that the 140 acres are part of a larger parcel. The McGuire case says that a nonconforming use applies to all of the parcel or none. If the appellant gave up part of the parcel, then it gave up all of the parcel.

No one spoke further in this matter and the Examiner took the matter under advisement. The hearing was concluded.

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NOTE: A complete record of this hearing is available in the office of Jefferson County Department of Community Development.

FINDINGS, CONCLUSIONS AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, and taken this matter under advisement.
2. This appeal is exempt from SEPA review.
3. Appropriate notice was provided pursuant to the Jefferson County Code.
4. The appellant, Iron Mountain Quarry, LLC, (IMQ), appeals an interpretation of the Jefferson County Code (JCC) by the Jefferson County Department of Community Development (DCD). The appellant asserts that it has legal, nonconforming use rights to mine 142 acres of property leased to it by the owner, Pope Resources (Pope), pursuant to the doctrine of diminishing asset. The Washington Supreme Court determined that the doctrine is applicable in Washington in its decision entitled The City of University Place v. Brian P. McGuire, 144 Wn. 2d 640, 30 P3d 453 (2001). Appellant also asserts that its mining rights are not subject to the ten gross acre limitation set forth in JCC 18.20.240 as it is an existing mine, and that said code section applies to "new" mines only. For the reasons set forth hereinafter the doctrine of diminishing asset authorizes the appellant to mine the entire 142 acre parcel subject to meeting JCC requirements and undergoing review pursuant to the State Environmental Policy Act (SEPA).
5. Pope owns a 182 acre parcel of property located on the north side of SR-104 approximately four miles west of the Hood Canal Bridge, east of the SR-104/SR-19 intersection in unincorporated Jefferson County. The entire parcel is located within the Commercial Forest (CF) designation of the Jefferson County Comprehensive Plan and the CF zone classification of the JCC. Section 18.15.040 JCC authorizes mineral extraction activities as an outright permitted use in the CF classification. However, Section 18.20.240 JCC, entitled "Mineral Extraction, Mining, Quarrying, and Reclamation", provides the following limitation for mines located in areas outside of a Mineral Resource Land (MRL) overlay district:
 - (1) In addition to meeting all other applicable requirements of this code, including this section, all new mineral extraction and mineral processing activities located outside of an approved Mineral Resource Land (MRL) overlay district designation (as specified in Article VI-C of Chapter 18.15

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JCC) shall be subject to the following standards:

- (a) New mineral extraction and mineral processing activities in Rural Residential districts shall require a conditional use permit subject to a Type III permit approval process.
- (b) The total disturbed area of mineral extraction, mining and quarrying sites (excluding access roads) and any associated mineral processing activities shall not exceed 10 acres. Any proposed mineral extraction which would create disturbed areas in excess of 10 gross acres shall require an MRL designation in accordance with Article VI-C of Chapter 18.15 JCC...(emphasis added).

Article VI-C sets forth the designation procedures for an MRL overlay district. Thus, mines located in a CF zone classification in an area covered by a MRL overlay district have no area limitation. However, new mines located in a CF zone classification in an area not covered by a MRL overlay district are subject to the 10 acre limit even though permitted outright. To expand a mine beyond the 10 acre limit an owner must process a comprehensive plan amendment through the legislative process to add the MRL overlay district to the property proposed mining.

6. Subsequent to adoption of the State Growth Management Act (GMA) the County adopted the following ordinances:

- A. July 5, 1994. Jefferson County Interim Ordinance 06-0705-94 (Conservation of Mineral Lands).
- B. October 28, 1994 – November 28, 1994. Series of emergency ordinances addressing interim mineral and forest land designation.
- C. June 5, 1995. Ordinance 09-0525-95 becomes effective and addresses interim mineral resource lands.
- D. August 28, 1998, interim mineral resource land map incorporated into comprehensive plan.
- E. January 16, 2001. The Jefferson County Unified Development Code (Title 18 JCC) becomes effective to include JCC 18.20.240(1)(b) setting forth the maximum ten acre mining limit as quoted above.
- F. September 6, 2001. Washington Supreme Court issues its decision in City of University Place v. McGuire.

7. Mining activities previously occurring on Pope's 182 acre parcel are as follows:

- A. 1972 aerial photograph shows no disturbance of the site.

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- B. 1979 aerial photograph shows commencement of mining activity. However, it is unclear whether aggregate was exported from the site or used to construct on-site logging roads.
- C. 1981 aerial photograph shows an expansion of the quarry, but also extension of logging roads into the interior of the site.
- D. 1985 photograph shows extensive timber harvest and significant on-site road construction.
- E. 1990 photograph shows significantly more equipment in the mine and additional timber harvest.
- F. 1997-2005 photographs show continuation of the mining to include two separate mining sites.
- G. December 1, 1989. The State Department of Natural Resources (DNR) issues a surface mining permit for 20 acres for the Shine (Mason) quarry under Permit No. 01261-9.
- H. January 27, 1997. Shine quarry enters a lease agreement with Pope for 40 acres (20 additional acres).
- I. June 23, 2004. Jefferson County approves the Shine quarry expansion from 20 to 40 acres.
- J. 2006. Appellant enters into agreement with Pope to lease 142 acres which includes the old Shine quarry site.
- K. August 1, 2007. Appellant submits for pre-application conference with DCD for the purpose of developing and operating a hard rock quarry on the site.
- L. November 30, 2007. Appellant's attorney, Keith Moxon, requests an interpretation of JCC 240.20.240 by DCD as follows:

We request an interpretation of JCC 240.20.240. Specifically, we request that the County confirm that the 10-acre restriction found in JCC 18.20.240(1)(a), applicable to "new" mineral resource uses outside of designated mineral resource land, does not apply where the applicant can demonstrate that the property falls within the non-conforming mineral use rights established under the Diminishing Asset Doctrine of Mcquire [sic] v. City of University Place, 144 Wn. 2d 640, 30 P.3d 453 (2001).

- M. January 5, 2008. Stacy Hoskins, Planning Manager of DCD, interprets JCC 18.20.240 as requiring the appellant to obtain a MRL overlay to extend mining activities beyond the ten acre maximum.
 - N. January 10, 2008. Appellant timely files an appeal of DCD's interpretation.
8. The Shine quarry obtained a surface mining permit for 20 acres of Pope's 182 acre parcel in 1989 and expanded the permit to cover 40 acres in 2004. The County in recognition of the Shine permit and mine placed a MRL overlay district over some or

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all of the mine area. Thus, 40 acres of the 182 acre Pope parcel (22%) is or was actively mined and/or covered by a MRL overlay. Furthermore, the aerial photographs show that mining which predated GMA and the interim ordinances adopted pursuant thereto occurred on other areas of the parcel. The aerial photographs show that mining has occurred continuously on the Pope parcel from approximately 1979 to the present.

9. In its decision in McGuire, the Supreme Court quoted from several authorities in describing the diminishing asset doctrine:

[C]ourts have observed that the very nature of the excavating business contemplates the use of land as a whole, not a use limited to a portion of the land already excavated. Such a diminishing-asset enterprise is "using" all of the land contained in a particular asset...

...A mineral extraction operation is susceptible of use and has value only in the place where the resources are found, and once the minerals are extracted it cannot again be used for that purpose...The rock must be quarried at the site where it exists, or not at all....

We think that in cases of a diminishing asset the enterprise is "using" all that land which contains the particular asset and which constitutes an integral part of the operation, notwithstanding the fact that a particular portion may not yet be under actual excavation. It is in the very nature of such business that reserve areas be maintained which are left vacant or devoted to incidental uses until they are needed. Obviously it cannot operate over an entire tract at once.

Our Supreme Court then held:

We agree with the overwhelming number of jurisdictions considering the issue. The proper scope of a lawful nonconforming use in an exhaustible resource is the whole parcel of land owned and intended to be used by the owner at the time the zoning ordinance was promulgated. 144 Wn. 2d 640 @ 649-651 (emphasis the Court).

Thus, the Court noted several times in its decision that the doctrine of diminishing asset extends to "the whole parcel of land" and not just portions of the land presently utilized for mining. The doctrine allows mining to expand into in areas of the parcel where the mineral is located.

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10. Residents assert that a Texas Court of Appeals decision cited by the Washington Supreme Court in McGuire, supra, stands for the proposition that the diminishing asset doctrine extends only across portions of a parcel subject to a lease for mining purposes. In The Board of Adjustment of the City of San Antonio v. Steve Wende, Charles Brown, and the City of Shavano Park, 45 Tex. Sup. Ct. 674, 92 S.W. 3d 424 (2002), the Supreme Court of Texas overruled the Texas Court of Appeals decision cited in the McGuire decision. In Board of Adjustment, Martin Marietta operated the Beckman quarry on property that it owned. In April, 1998, Martin Marietta entered into lease agreements for quarrying purposes with owners of tracts of land adjacent to its mining parcel. The leases were executed a short time before the City of San Antonio annexed said parcels and zoned them for residential use. In discussing the court of appeal's decision, the Texas Supreme Court wrote:

...[T]he court of appeals noted that the Board's construction of the provisions would allow a person to obtain nonconforming use rights not only by leasing property for a nonconforming purpose, but also by merely intending to use a property for a nonconforming use. It reasoned that such a construction produced an absurd result because it would be so "diametrically at odds with the fundamental conception of nonconforming uses throughout this country"...Accordingly, the court of appeals held that the preexisting leases were not sufficient to establish nonconforming rights....

...The court of appeals also noted that well-settled common law requires "that a nonconforming use must be actual, rather than merely contemplated [at the time of annexation]"...Moreover, merely "[a]cquiring and setting aside property in contemplation of a future use is insufficient to establish a nonconforming use"...More specifically, the court of appeals determined that "leasing land in reliance on existing zoning laws has generally been held insufficient to establish nonconforming use".

The Texas Supreme Court then reversed the court of appeals decision, adopting Martin Marietta's argument as follows:

...They argue that the unambiguous definitions of "use" and "nonconforming use" compel the conclusion that a "nonconforming use" exists when the purpose for which land or structures thereon is designed, arranged, or intended to be occupied or used, or for which it is occupied, maintained, rented, or leased"...In this case, no one disputes that the tracts were leased for quarry purposes.

The Texas Supreme Court ruled that the leased parcels on which Martin Marietta had not commenced mining fell under the existing nonconforming use as it was

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property owned and intended for mining at the time of annexation. The fact situation in the instance case is even stronger than in the Texas case as Pope has owned the entire parcel for many years, has intended to mine it, and has leased portions of it for mining at least since the 1980s. Thus, in accordance with the Texas Supreme Court's decision, mining can continue across the entire parcel. Furthermore, the property owners of the parcels in question had leased their parcels to Martin Marietta for mineral extraction. In the present case Pope, the underlying parcel owner, has leased its property to the appellant for mineral extraction purposes. Thus, the Texas Supreme Court decision supports the appellant's position.

11. In its staff report, DCD acknowledges that operations at the Shine quarry began in 1989 after DNR approved a reclamation plan and issued a permit authorizing surface mining on 20 leased acres. Furthermore, since the Shine quarry had obtained a renewable lease agreement with Pope covering 40 acres, DNR and the County agreed to expand the mine to 40 acres in June, 2004. The County based its expansion on the doctrine of diminishing asset (Page 8, Staff Report). However, DCD now asserts that because the balance of the 182 acre parcel is not covered by a reclamation plan or permit issued by DNR, that to expand mining beyond the 40 leased acres, the appellant must either (1) limit mining to ten gross acres as allowed outright by JCC 18.20.240(1)(b) in the CF classification; or (2) petition the Jefferson County Board of Commissioners to place an MRL overlay district over the balance of the 182 acre parcel.
12. Neither the Texas Supreme Court nor the Washington Supreme Court held that the diminishing asset doctrine applied only to those areas of the parcel covered by a mining permit. Neither court ruled that such permit was required to establish an intent to mine. Indeed, the mine owner in the Texas case had only leased the parcels a few short months before an annexation and rezone to residential uses. In McGuire, the Supreme Court emphasized that the entire tract of a diminishing asset operation is considered the "lot", and that the enterprise is using "all that land" which contains the mineral. The Court emphasized that the parcel in question was part of the original mine, was within the ownership of the mine company, and thus included within the doctrine of diminishing asset.
13. DCD asserts that the appellant proposes to mine areas of the Pope parcel never before mined, not subject to a DNR permit, and not located within a MRL overlay district. Therefore, DCD asserts that the mine is "new" and subject to JCC 18.20.240 which governs "all new mineral extraction and mineral processing activities located outside of an approved Mineral Resource Land (MRL) overlay district designation". Subsection (b) limits disturbed areas to ten gross acres. Acquisition of a DNR permit covering the entire 142 acre parcel is not necessary to establish mining rights under the doctrine of diminishing asset. The McGuire case and cases in other jurisdictions have authorized extension of mines throughout an entire parcel under the mine's ownership as of the date the mine became nonconforming, whether or not a mining permit covered the entire parcel.

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14. DCD correctly asserts that if the appeal is granted that mining will extend into areas not previously mined and not previously subject to a mining lease, and that mining will extend into areas of Pope's parcel not covered by a MRL overlay district. However, DCD confuses the leasing and the areas covered by the lease with the overall underlying ownership of the parcel. If Pope itself was operating the Shine (Mason) quarry and proposed to extend its mine over its entire parcel, it could clearly do so under the doctrine of diminishing asset. Because Pope elected to lease portions of the parcel to experienced mining companies does not prevent application of the doctrine to the entire parcel. The doctrine does not penalize landowners for leasing all or portions of their parcels for mineral extraction to mining companies. According to the Texas Supreme Court and the Washington Supreme Court in McGuire, a lessee or the owner could mine the entire parcel.
15. DCD argues that applying the doctrine of diminishing asset in the manner proposed by the appellant would open thousands of acres of commercial forest land to mining:
 1. If the diminishing asset doctrine is applied in this case, then you could presume that the entire 72,000 acres owned by Pope Resources would also be subject to the diminishing asset doctrine (Page 6 Unified Development Code Interpretation, Log Item 35).

However, according to McGuire, a landowner asserting the diminishing asset doctrine must show the extent of the ownership at the date of adoption of the Unified Development Code and the intent to mine the site. Furthermore, the parcel must contain marketable minerals. In the present case, Pope officials have made it clear in their declarations that the company has always intended to mine the 182 acres only. Therefore, this application does not apply to the balance of the 72,000 acre Hood Canal Tree Farm. In a letter dated May 21, 2007 (Attachment B to Log Item 57), David L. Nunes in a declaration testified in part:

As further clarification of the landowner's intent regarding the extent of nonconforming mineral use rights at this location, Pope Resources confirms that the total area that is subject to the diminishing asset doctrine at this location is 182 acres – 142 acres that is the subject of Iron Mountain Quarry's appeal and 40 acres that is the expansion granted to the Shine Quarry operation at this location in 2004.

Furthermore, in Section 6.52 Anderson's American Law of Zoning, 4th Edition, cited by the Supreme Court in McGuire, the author writes:

...The courts have declined to permit great expansion of a very

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small operation commenced prior to enactment. Where, for example, the owner had striped loam from an area 30x35 feet, he was held not entitled to strip an entire 19 acre tract.

While expanding a 40 acre mine over a 182 acre parcel does not constitute a "great expansion of a very small operation", expanding a 40 acre mine to 72,000 acres would appear to fall within said prohibition.

16. Residents assert that Pope abandoned its intent to mine the parcel based upon its development of the Port Ludlow Master Planned Community, its golf course, and trails. The Timberton Trail established by Pope in 2001 extends beyond the borders of the Port Ludlow community and is considered an essential amenity of the community. Mining would extend to within 1,800 feet of the community and to within 1,250 feet of the Timberton Trail. However, the Washington Court of Appeals in Van Sant v. City of Everett, 69 Wn. App 641 (1993), held that once a nonconforming use is established, one asserting abandonment must show the intent to abandon and an overt act or failure to act which demonstrates that the owner does not retain an interest in the right to the nonconforming use. The Court held:

...Nonconforming uses are vested property rights which are protected...Protected property rights cannot be lost or voided easily. There is properly a high burden of proof that must be met by the City before Van Sant loses what was a vested property right....69 Wn. App 641 @ 649.

Development of Port Ludlow, the golf course, and the trails a minimum of 1,250 feet from the exterior boundary of the 182 acre parcel does not establish an intent to abandon a nonconforming use right to mine. However, the appellant acknowledges that it must meet all requirements of the JCC covering mines as well as undergo SEPA review. Such review may impose limitations on the mining of portions of the site. See Quality Rock v. Thurston County, 139 Wn. App 125 (2007), and Rhod-A-Zalea and 35th Inc. v. Snohomish County, 136 Wn. 2d 1 (1998).

17. In answer to the Examiner's question regarding whether the County considered the appellant's mining rights as a nonconforming or a conforming use, staff testified that the County had not decided as yet. Such is an understandable answer because the appellant has both conforming and nonconforming use rights to mine the site. The CF zone classification authorizes the appellant to mine the entire 142 acre leased parcel subject to disturbing no more than ten acres as any one time. Thus, the appellant has conforming use rights to mine the site. The appellant also has nonconforming use rights to mine the site which is more valuable than the conforming use. The nonconforming use, pursuant to the doctrine of diminishing asset, allows the appellant to mine the 142 acres, but does not limit the size of the disturbed area. The appellant desires to use its nonconforming use rights as opposed to applying for a comprehensive plan amendment to place a MRL overlay

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over the portion of the site not presently covered. The law does not require the appellant to forego its nonconforming use rights and attempt to obtain the MRL overlay through the legislative process.

18. At the hearing, staff advised that Al Scalf, DCD Director, planned on attending the hearing, but could not due to a family emergency. At the conclusion of the hearing the Examiner with the consent of the appellant left the record open for Mr. Scalf to provide written response to materials submitted at the hearing. However, Mr. Scalf phoned the Examiner on Monday, March 17th and stated that he thought that the Examiner wanted an oral response. He then indicated that he had nothing to add in response to materials submitted by the appellant at the hearing. However, he further stated that in clarification to staff's testimony at the hearing, the County considered the appellant's mine a new use and therefore a conforming as opposed to a nonconforming use. Mr. Scalf also advised the Examiner that he could contact David Alvarez, Deputy Prosecuting Attorney, regarding specific legal questions as the JCC provides that Mr. Alvarez is the Examiner's legal counsel. Mr. Scalf ended the conversation by stating that the County's position was fully set forth in the staff report and that the County stood by the staff report. On March 20, 2008, Keith Moxon, attorney for the appellant, requested that the Examiner exclude Mr. Scalf's phone conversation and "enter an order that the decision in this code interpretation appeal hearing will be based exclusively on the exhibits and testimony presented at the public hearing on March 14, 2008". The Examiner did not consider that Mr. Scalf presented additional testimony as he confirmed that the County's position was adequately presented in the staff report and that he had nothing further to add. The Examiner has considered nothing that Mr. Scalf said over and above that statement. Furthermore, the Examiner has not and will not contact Mr. Alvarez.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
2. The doctrine of diminishing asset as set forth by the Washington Supreme Court in University Place v. McGuire, supra., applies to the entire 182 acre parcel owned by Pope. Through aerial photographs and declarations, Pope has established that mining commenced on the parcel in the 1980s and that it intended to mine the minerals located on the entire 182 acre parcel.
3. The appellant has a conforming use under the applicable CF zone classification to mine the entire 142 acre leased parcel subject to disturbing no more than ten gross acres at any one time. The appellant also has nonconforming use rights to mine the entire parcel which are not subject to the ten acre limitation. However, the appellant must meet requirements of the JCC and the DNR pursuant to Rhod-A-Zalea, supra.
4. Pope has not abandoned its nonconforming use rights by development of Port

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Ludlow. However, the location of Port Ludlow and its amenities must be considered in both SEPA review and review under the JCC mining requirements.

5. The appellant's proposed mineral use operation is not a "new" mineral extraction and mineral processing activity governed by JCC 18.20.240(1)(b).
6. The doctrine of diminishing asset requires the County to consider the entire 182 acre parcel as one ownership and not as separate areas subject to separate leases. The nonconforming use rights for mining on the parcel belong to Pope as the underlying property owner. Pope may elect to mine the entire parcel itself or lease all or portions of the parcel to mining companies.
7. Section 18.05.085(1) JCC sets forth the "Hearing Examiner Rules of Procedure". Said section provides:

Conflicts Among Authorities. These rules may conflict with other sources or authorities of law. The order of precedence applicable to such conflict situations shall be (from top of to bottom) as follows:

- (a) State or federal constitution;
- (b) State or federal statute;
- (c) State or federal regulations;
- (d) State or federal published case law;
- (e) UDC or other applicable duly elected Jefferson County ordinance;
- (f) These rules.

Thus, for example, to the extent these rules conflict with the UDC, then the applicable UDC provision shall apply.

Based upon the above, the Examiner has applied the Washington Supreme Court decision in University Place v. McGuire, supra, where it conflicts with the UDC.

DECISION:

The appeal of Iron Mountain Quarry, LLC, is hereby granted. Pope Resources and therefore Iron Mountain Quarry, LLC, have legal nonconforming use rights to mine the entire 142 acre leased parcel pursuant to the doctrine of diminishing asset.

ORDERED this 9th day of April, 2008.


STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

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DEPARTMENT OF COMMUNITY DEVELOPMENT

Exhibit C

621 Sheridan Street
Port Townsend, WA 98368

MAY 09 2008

Gordon Derr, LLC

May 7, 2008

Al Scalf, Director

GORDON DERR ATTORNEYS AT LAW
Attn: Keith Moxon
2025 First Ave Suite 500
Seattle, WA 98121

Dear Mr. Moxon,

This letter is to introduce myself and inform you of my Department's (DCD) requirements for further processing of any mineral extraction by Iron Mountain Quarry, LLC on Pope Resources property parcel 821 291 002. I am the DCD designated Port Ludlow Lead Planner as required under the Port Ludlow Master Planned Resort Code JCC Title 17.05.060. Due to the close proximity to Port Ludlow, I will be the planner to review and process any applications for mineral extraction, or other mining activities on parcel 821 291 002.

Based upon the Hearing Examiner Decision dated April 9, 2008, it is our understanding that the mining activities proposed by Iron Mountain are not a new use, but an intensification of an existing use. JCC 18.20.240(g) allows expansion and/or intensification of existing surface mining activities subject to reasonable performance standards. JCC 18.20.240(g)(i) states, "If increased off-site impacts (noise, vibration, dust, traffic) would result from expansion, intensification, or modification, a conditional use permit shall be required."

We have good reason to believe that the Iron Mountain mining activities as proposed will create such impacts to the Port Ludlow community and therefore will require a Conditional Use Permit in addition to a Class IV General Forest Practice Application (FPA) which includes a Stormwater Management permit with SEPA review.

Let me know if you have any questions, or need further clarification or information.

David Wayne Johnson
Associate Planner
Port Ludlow Lead Planner
Jefferson County Dept of Community Development
dwyjohnson@co.jefferson.wa.us
360.379.4465

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cc: Iron Mountain Quarry