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CLARK COUNTY
WASHINGTON

STAFF REPORT

TO: Clark County Planning Commission
FROM: Mike Mabrey, Planner III
DATE: August 28, 2013
SUBJECT: CPZ2013-00015 Surface Mining Overlay Update

Background

Clark County adopted a Surface Mining Overlay map and code standards as well as mineral lands policies in 1994. These standards and designations have not changed substantially since then.

Two events have prompted the County to initiate an update of our mineral resource lands regulations. In October 2005, the Washington Dept. of Natural Resources Division of Geology & Earth Resources produced an aggregate resource inventory map for Clark County using the best data available including 1,400 well logs and 140 geotechnical borings. Resources were classified and mapped as "Identified" where the distribution, grade, and quality could be confidently estimated based on specific geologic evidence, limited sampling, and laboratory testing. Areas were mapped as "Hypothetical" where available data appear to satisfy most, but not all, of the threshold criteria. Resources were classified as "Speculative" where geologic and production information is sparse, but where inferences can be made from existing geologic mapping or data to suggest that these rock units might potentially meet the threshold criteria for aggregate resources. Then, in 2009, the Washington State Legislature adopted changes to the regulations and guidelines for classifying and designating mineral resource lands which became effective February 2010.

Counties planning under the Growth Management Act are required to identify, designate, and protect mineral resource lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals (RCW 36.70A.170). There are four mandatory elements when updating the Surface Mining Overlay (SMO):

The County must approach the effort as a county-wide or regional process. The Surface Mining Overlay update will be county-wide and will provide opportunities for owner-initiated requests.

The County must identify and classify mineral resource lands from which the extraction of minerals occurs or can be anticipated.

The County must designate known mineral deposits so that access to mineral resources of long-term commercial significance is not knowingly precluded.

The County must review its policies and development regulations for mineral resource lands. (RCW 36.70A.131).

A scope of work and list of potential stakeholders was presented to the Board of County Commissioners at a worksession on August 3, 2011. The board appointed a Mineral Lands Task Force which held 13 meetings between November 8, 2011 and August 13, 2013 to

develop the recommendations for updating the surface mining overlay map, policies and standards. The task force used a consensus process to reach agreement on these recommendations. Staff received Board direction on the draft standards at worksessions held on March 20 & July 13, 2013.

Proposed Actions

The proposal is to modify the Comprehensive Plan and Zoning Map and amend the Unified Development Code as follows:

1. Delete the Mining and Mining Inside the CRSGA overlays from the Comprehensive Plan Map;
2. Amend the Surface Mining Overlay on the Zoning Map;
3. Amend the Mineral Lands Comprehensive Plan Policies;
4. Add a procedure and criteria for changing the Surface Mining Overlay to UDC 40.560.020 Changes to Districts, Amendments, Alterations:
5. Delete UDC 40.260.120 Mines, Quarries and Gravel Pits: and
6. Amend UDC 40.250.020 Surface Mining Overlay District

Rationale for Proposed Actions

1. Currently, there are mining-related overlays on both the Comprehensive Plan Map and the Zoning Map which are conflicting and inconsistent. The rationale for a dual map designation was the uncertainty about future land uses in Fisher's Quarry and Sections 30 & 31, which have now been annexed into Vancouver.
2. The Mineral Lands Task Force started with the 2005 Rock Aggregate Resources Land Inventory Map and the existing surface mining overlay. They agreed with the classification system developed by DNR and used in the map. Speculative and Hypothetical resource areas were excluded since they were overly broad and not mandatory. Areas within urban growth boundaries that were not currently designated were excluded because they were already planned for more intensive and potentially conflicting urban uses. Areas designated for rural residential uses (e.g., R-5) were excluded due to compatibility concerns. The remaining new areas were individually evaluated using the criteria developed for removing the surface mining overlay, e.g. mining would not be economically feasible, environmental constraints make it impractical or adjacent land uses are incompatible. Owners of property that are currently designated with the overlay were contacted to verify whether they wanted it to remain.
3. Proposed amendments to the Mineral Lands Comprehensive Plan Policies would reduce their number from 20 to 9 and eliminate "policies" which are actually standards or implementation strategies.
4. The current procedure for adding or removing the surface mining overlay is burdensome and confusing. It requires both a Comprehensive Plan Map and a Zoning Map change. The approval criteria are broad and ill-suited to the substantive issue. A new procedure and criteria are proposed which will make adding or removing the overlay much more straight-forward and logical.
5. This special use section was determined to be vague, confusing and unnecessary.

6. The overlay standards were re-written to expand the range of permitted uses, establish appropriate standards, delete standards that are not within the purview of the county and provide for a follow-up hearing after the use has been operating for several months to ensure that the conditions of approval are being met and that mitigation measures are working.

APPLICABLE CRITERIA, EVALUATION AND FINDINGS

CRITERIA FOR ALL MAP CHANGES

1. ***The proponent shall demonstrate that the proposed amendment is consistent with the Growth Management Act (GMA) and requirements, the countywide planning policies, the Community Framework Plan, Clark County 20-Year Comprehensive Plan, and other related plans.***

Growth Management Act (GMA) Goals

The GMA goals set the general direction for the county in adopting its framework plan and comprehensive plan policies. The GMA goals that apply to the proposed action are Goal 5 and Goal 8.

Goal: (5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

Finding: The designation of lands for mining and related activities promotes the retention and expansion of existing operations and supports economic development opportunities in rural areas, while recognizing the capacity of the county's mineral resources.

Goal: (8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses.

Finding: The proposed surface mining overlay map protects, maintains and provides opportunities for the expansion of mineral resource based industries, while discouraging incompatible uses.

Conclusion: The proposed actions support and are consistent with applicable State GMA Goals.

Community Framework Plan Policies

Policies applicable to this proposal include the following:

3.1.2 The county and its jurisdictions at a minimum are to consider mineral resource lands based on WAC 365-190-0603.1.6 Establish standards for compatible land uses on land designated for agriculture, forest, and mineral resource uses.

3.1.8 Mineral, forestry, and agricultural operations are to implement best management practices to minimize impacts on adjacent property.

WAC 365-190-070 Mineral resource lands.

(1) Counties and cities shall identify and classify aggregate and mineral resource lands from which the extraction of minerals occurs or can be anticipated. Other proposed land uses within these areas may require special attention to ensure future supply of aggregate and mineral resource material, while maintaining a balance of land uses.

(2) Classification criteria. Areas shall be classified as mineral resource lands based on geologic, environmental, and economic factors, existing land uses, and land ownership. The areas to be studied and their order of study shall be specified by counties and cities.

(a) Counties and cities should classify lands with long term commercial significance for extracting at least the following minerals: Sand, gravel, and valuable metallic substances. Other minerals may be classified as appropriate.

(b) In classifying these areas, counties and cities should consider maps and information on location and extent of mineral deposits provided by the Washington state department of natural resources and the United States Bureau of Mines.

Additionally, the department of natural resources has a detailed minerals classification system counties and cities may choose to use.

(c) Counties and cities should consider classifying known and potential mineral deposits so that access to mineral resources of long-term commercial significance is not knowingly precluded.

(d) In classifying mineral resource lands, counties and cities shall also consider the effects of proximity to population areas and the possibility of more intense uses of the land as indicated by:

- (i) General land use patterns in the area;
- (ii) Availability of utilities;
- (iii) Availability and adequacy of water supply;
- (iv) Surrounding parcel sizes and surrounding uses;
- (v) Availability of public roads and other public services;
- (vi) Subdivision or zoning for urban or small lots;
- (vii) Accessibility and proximity to the point of use or market;
- (viii) Physical and topographic characteristics of the mineral resource site;
- (ix) Depth of the resource;
- (x) Depth of the overburden;
- (xi) Physical properties of the resource including quality and type;

- (xii) Life of the resource; and
- (xiii) Resource availability in the region.

Findings: The proposed surface mining overlay map is based on the best available information. The classification scheme used by DNR is adopted by the county. Lands with known deposits of sand, gravel and bedrock that have long-term commercial significance are designated with the surface mining overlay. Consideration was given to land use patterns, adjacent uses, parcel size, topography, road access, resource depth, quantity and quality of aggregate and other factors before applying the surface mining overlay

The proposed standards are intended to address issues of compatibility of nearby land uses with designated mineral lands. The standards included innovative best practices for reducing noise by promoting the replacement of audible (“beeping”) backup alarms with quieter alternatives (“white noise” or “strobe light”) that still meet MSHA standards.

County-wide Planning Policy

3.0.2 The county and each municipality shall cooperate to ensure the preservation and protection of natural resources, critical areas, open space, and recreational lands within and near the urban area through adequate and compatible policies and regulations.

Finding: The proposed actions include designation of additional areas of mineral resource lands for protection without adversely affecting urban areas.

Clark County 20 Year Comprehensive Plan

Finding: The proposed actions would amend and update the Clark County Comprehensive Plan policies for mineral lands.

2. The proponent shall demonstrate that the designation is in conformance with the appropriate locational criteria identified in the plan;

Finding: One goal of the Surface Mining Overlay update is to revise the location criteria for the designation of mineral lands to meet statutory requirements while incorporating the best technical information available. The proposed overlay amendments were carefully considered by the Mineral Lands Task Force and found to be appropriate given the proposed criteria for adding and removing the overlay.

3. The map amendment or site is suitable for the proposed designation and there is a lack of appropriately designated alternative sites within the vicinity;

Finding: The proposed overlay amendments were carefully considered by the Mineral Lands Task Force and found to be appropriate given the proposed criteria for adding and removing the overlay. The lack of appropriately designated alternative sites within the vicinity is not an applicable criteria for an change to a resource based overlay.

4. The plan map amendment either: (a) responds to a substantial change in conditions applicable to the area within which the subject property lies; (b) better implements applicable comprehensive plan policies than the current map designation; or (c) corrects an obvious mapping error;

Finding: The proposed overlay amendments meet all three criteria. They respond to better information on where mineral resources are located, better implement applicable

comprehensive plan policies than the current overlay map in that these changes are the result of a systematic countywide update process and in many cases, the proposed map corrects obvious mapping errors in which the overlay was applied where no commercially significant resource exists.

5. ***Where applicable, the proponent shall demonstrate that the full range of urban public facilities and services can be adequately provided in an efficient and timely manner to serve the proposed designation. Such services may include water, sewage, storm drainage, transportation, fire protection and schools. Adequacy of services applies only to the specific change site.***

Finding: This criteria is not applicable to natural resource designations in the rural area.

Conclusion: All criteria for approval of a Comprehensive Map change have been met.

CRITERIA FOR COMPREHENSIVE PLAN POLICY OR TEXT CHANGES

Plan text or policy changes may be approved only when all of the following are met:

- a. ***The amendment shall meet all the requirements of and be consistent with the Growth Management Act (GMA) and other requirements, the countywide planning policies, the community framework plan, the comprehensive plan, local comprehensive plans, applicable capital facilities plans and official population growth forecasts.***

Growth Management Act (GMA) Goals

The GMA goals that best apply to the Mineral Lands Comprehensive Plan policy amendments are Goals 5 & 8 identified above.

Findings: The proposed policy amendments are consistent with and supportive of the applicable State GMA Goals.

Community Framework Plan and Countywide Planning Policies

See discussion of Community Framework Plan 3.12 and 3.18 and Countywide Planning Policies 3.02 above.

Finding: The proposed mineral lands policies are consistent with the applicable Community Framework Plan and Countywide Planning Policies cited above.

Clark County 20 Year Comprehensive Plan

Finding: The proposed actions would amend and update the Clark County Comprehensive Plan policies for mineral lands.

Local comprehensive plans, capital facilities plans and official population growth forecasts

Finding: The proposed Surface Mining Overlay update would bring the county's Comprehensive Plan into conformance with state regulations and provide additional opportunities for the production of aggregate materials needed to support local comprehensive plans, capital facilities plans and population growth.

- b. The amendment, when applicable, shall address the assumptions, trends, key indicators and performance measures established in the land use element, Chapter 1, of the comprehensive plan.***

Finding: Not applicable.

- c. The county shall assess the cumulative impacts of all plan policy or text changes against the comprehensive plan, plan text, map and relevant implementing measures.***

Finding: The assessment of cumulative impacts will be done as part of the final adoption of all Comprehensive Plan changes for 2013.

Conclusion: All criteria for the approval of Comprehensive Plan Policy or Text amendments have been met.

RECOMMENDATION AND CONCLUSIONS

Based upon the information and the findings presented in this report and in the supporting documents, staff recommends that the Planning Commission forward a recommendation of **APPROVAL** to the Board of County Commissioners.