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SURFACE MINING OVERLAY PLANNING COMMISSION RECOMMENDATION WITH STAFF RECOMMENDED CHANGES OCTOBER 21, 2014

The following text amendments to the comprehensive plan regarding the surface mining overlay, and proposed changes to the mining code in Title 40 are reflect the Planning Commission (PC) recommendations to the Board of County Commissioners from December 5, 2013.

Staff has proposed changes to the PC recommendation, which are shown as double underlined or ~~struck~~.

A. Planning Commission recommendation regarding Comprehensive Plan Goals and Policies, with proposed changes.

Current mineral lands policies can be found in the Comprehensive Plan Rural and Natural Resource Element, Chapter 3. The PC proposal is to retain the Goal language below, and to adopt new policy language. Storedahl requested GOAL language similar to what's below. Policy changes below were also suggested by Storedahl.

Mineral Resource Lands

GOAL: To identify and designate mineral resources and to protect and ensure appropriate extraction and use of gravel and mineral resources of the county while and minimizing conflicts between surface mining and surrounding land uses.

3.5 Policies

3.5.1 Support the conservation of mineral resource lands for productive economic use by identifying and designating lands with a surface mining overlay that have long-term commercial significance for mineral extraction and that are not already characterized by urban growth.

3.5.2 Designate mineral resource lands based on the following:

- a. Geological, environmental, and economic factors, including, without limitation, consideration of the evidence of the quality, quantity and characteristics of the resource deposits in the area of interest; proximity to unstable slopes, riparian and wetland areas, habitat for endangered or threatened species, flood hazard areas, parks, public preserves, or other sensitive lands; and economic impacts of mining and other uses of the area;
- b. Surrounding land uses, zoning, and parcel size, including, without limitation, consideration of proximity to and impacts on residentially zoned areas with existing densities of predominantly one dwelling unit per five acres or higher,

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- 33 and proximity to and impacts on agricultural and forest lands; and
- 34 c. Suitability and safety of the existing transportation system to bear the traffic
35 associated with mining, including, without limitation, the suitability of public
36 access roads to be used as haul roads, the distance to market, the need to
37 route truck traffic through residential areas, and adequacy of intersections to
38 handle mining traffic plus other traffic. Consideration will include options for
39 mitigating proposed impacts to the existing transportation system.
- 40 d. The surface mining overlay shall not be designated on parcels zoned Rural (R)
41 within rural residential (R) zones except to allow the expansion of an existing
42 mining site.
- 43 e. Consideration that reclamation of mineral resource lands occurs after mining
44 and that such lands may be re-purposed consistent with the comprehensive
45 plan.

The above text replaces the designation criteria in the existing Matrix for Assessing Mineral Resources (Table 3.4) in the comprehensive plan matrix. The matrix is a cumbersome tool that is generally difficult to use as a policy document.

- 46 3.5.3 Ensure that mining-related activities on mineral resource lands follow best
47 management practices.
- 48 3.5.4 Ensure that mineral extraction and processing operations minimize and mitigate
49 any significant adverse impacts on water, fish, wildlife, and nearby land uses.
- 50 3.5.5 Ensure that the use of adjacent lands will not interfere with the continued use of
51 designated mineral resource lands for the extraction of minerals. ~~in the~~
52 ~~accustomed manner and in accordance with best management practices.~~
- 53 3.5.6 Establish notification standards whereby developments on lands in the vicinity of
54 designated mineral resource lands are given notice that they are locating in or
55 adjacent to a potential mining area.
- 56 ~~3.5.7 The surface mining overlay shall not be designated within rural residential (R)-~~
57 ~~zones except to allow the expansion of an existing mining site.~~

Moved to 3.5.2(d). 'Friends of Livingston Mountain' still have an issue with the way this is worded.

- 58 3.5.8₇ Surface mining other than Columbia River dredging shall not occur within the
59 100-year floodplains except for projects 1) with an approved Habitat Conservation
60 Plan, and 2) that are consistent with the shoreline master program.

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62 Implementation Chapter

63 Strategies for mineral resource lands:

- 64 • Maintain a map showing areas designated with the surface mining overlay and
- 65 permitted mining sites.
- 66 • Develop a program for coordinated monitoring and enforcement of conditions of
- 67 approval for active mining sites.

68 B. Planning Commission recommendation regarding Surface Mining Overlay
69 designation/amendment procedures in Title 40, with proposed changes.

The PC proposal is to add a new subsection (S) to Section 40.560.010 Changes to Districts, Amendments, Alterations; re-number subsequent sections; and correct citations.

70 40.560.010 CHANGES TO DISTRICTS, AMENDMENTS, ALTERATIONS

71 S. Additional Criteria for Surface Mining Overlay Changes.

- 72 1. ~~Amendments to the plan map to designate~~ Designation of additional areas with the
73 surface mining overlay shall only occur if demonstrate that the following criteria
74 ~~have been met:~~
 - 75 a. designation criteria in the comprehensive plan have been met; and ~~The~~
76 ~~quality of the resource is sufficient for the intended uses;~~
 - 77 b. ~~The quantity and characteristics of the resource including the size of the~~
78 ~~deposit, the depth of overburden, the distance to market, and the cost of~~
79 ~~transport and resource availability in the region, suggest that mining is~~
80 ~~economically viable;~~
 - 81 b.e. at least sixty percent (60%) of the area within one thousand (1000) feet of the
82 proposed mineral resource land is characterized by parcels of five (5) acres or
83 larger.
- 84 2. ~~Amendments to the plan map to remove~~ Removal of the surface mining overlay
85 shall only occur if demonstrate that one of the following conditions is met:
 - 86 a. The mineral resources have been depleted;
 - 87 b. There is evidence that the mining of the mineral resource is not economically
88 feasible based on the factors listed in Section 40.560.010(S)(1)(b);
 - 89 c. Environmental or access constraints make it impractical to mine the resource;
90 or
 - 91 d. The area has been brought into an urban growth boundary or adjacent land
92 uses or developments are incompatible with mineral extraction.

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93 T. S. Cumulative Impact.

94 U. T. Fees.

95 C. Planning Commission recommendation regarding Surface Mining Overlay Standards,
96 with proposed changes.

The PC proposal is to repeal the current Section 40.250.020 and replace it with new language below.

97 **40.250.020 SURFACE MINING OVERLAY DISTRICT**

98 A. Purpose.

99 The purpose of the surface mining overlay district is to ensure the continued
100 availability of rock, stone, gravel, sand, earth and mineral products without disrupting
101 or endangering adjacent land uses, while safeguarding life, property and the public
102 welfare.

103 B. Applicability.

104 1. The provisions in this section shall apply to parcels designated with the surface
105 mining overlay. ~~Surface mining activity and related processing within the~~
106 ~~Columbia River Gorge National Scenic Area is subject to Section 40.240. Where~~
107 ~~Section 40.250.020 is in conflict, the provisions of section 40.240 govern.~~

108 2. The provisions of this section shall apply only to new applications for surface mines
109 and related uses and expansions of existing mines. Operation of existing surface
110 mines and related uses shall conform to the conditions of approval adopted with
111 their site plan and/or conditional use approval.

112 3. Provisions of Chapter 78.44 RCW and Chapter 332-18 WAC pertaining to surface
113 mining that are applicable to Clark County are adopted by reference.

114 4. Surface mining activity and related processing within the Columbia River Gorge
115 National Scenic Area are subject to Chapter 40.240. Where Section 40.250.020
116 is in conflict with this section, the provisions of Chapter 40.240 govern.

117 C. Uses.

118 1. Permitted uses. In addition to uses allowed in the underlying zoning district, the
119 following uses are permitted in the surface mining overlay district:

120 ~~a. Extractions of rock, stone, gravel, sand, earth and minerals and the sorting,~~
121 ~~and stockpiling of such materials.~~

122 ~~a.~~ b. Temporary offices, shops or other accessory buildings and structures used for
123 the management and maintenance of onsite mining and processing
124 equipment; and

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125 b. short-term stockpiling of extracted materials at a road improvement site or
126 construction site, for use at that job site.

127 2. Conditional uses. In addition to uses allowed conditionally in the underlying
128 zoning district, the following uses are allowed in the surface mining overlay district,
129 subject to conditional use approval:

130 a. Extractions of rock, stone, gravel, sand, earth and minerals;

131 b.a. Asphalt mixing;

132 c.b. Concrete batching;

133 d.e. Clay bulking; and

134 e.d. Rock crushing.

This is a significant change from the PC recommendation. Under the PC recommendation, mining (by itself without an associated crusher or concrete batch plant) would be a Permitted use, subject to Type II review (a staff decision). Storedahl requested that stockpiling at a job site be a permitted use.

135 D. Standards.

136 1. Site area. When the activity includes both extraction and any one of the other
137 uses listed on Section 40.250.020(C)(2), the total site area shall be a minimum of
138 twenty (20) acres. Activities which are limited to extraction only shall not have a
139 minimum site size.

140 2. Setbacks.

141 a. Structures on designated mineral resource land shall be setback at least A-
142 minimum two hundred (200) one hundred fifty (150) feet ~~foot~~ ~~setback shall be~~
143 ~~required for all mining uses from abutting parcels with existing~~
144 lawfully-established residential structures or adjacent rural (R) residential-
145 zoning. The setback area shall be used only for roads, berms, landscaping,
146 signs, fencing and reclamation activities. The setback may be reduced by the
147 responsible official approval authority ~~approval authority~~ ~~if the purposes of this chapter can be met~~
148 ~~with the reduced setback. The setback area shall be used only for roads,~~
149 ~~berms, landscaping, signs, fencing and reclamation activities.~~

150 b. Structures on properties adjacent properties to designated mineral resource
151 land shall be setback at least maintain a one hundred fifty (150) (100) feet ~~feet~~
152 ~~setback from such designated mineral resource land. The setback may be~~
153 ~~reduced by the approval authority responsible official~~ responsible official ~~if the purposes of this~~
154 ~~chapter can be met with the reduced setback or if it is not feasible to meet the~~
155 ~~setback due to site constraints. Setbacks shall not apply to existing~~
156 ~~structures.~~

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The PC recommendation was for a 200-foot setback on mineral resource lands and a 100-foot setback on adjacent properties. For fairness, staff proposes that setbacks for both be 150 feet.

- 157 3. Access. Roads into the site shall be gated and the site or mining area shall be
158 fenced and posted "No Trespassing".
- 159 4. Noise. Maximum permissible noise levels must be in accordance with the
160 provisions of Chapter 173-60 WAC or as identified in the SEPA document.
- 161 5. Hours and days of operation.
- 162 a. No operations shall take place on Sundays or on the following holidays: New
163 Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Easter,
164 MLK Day, Veterans Day, and Christmas Day.
- 165 b. All operations and activities other than blasting and maintenance are restricted
166 to the hours of 6:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to
167 5:00 p.m. Saturday.
- 168 c. Blasting is restricted to the hours of 9:00 a.m. to 4:00 p.m. Monday through
169 Friday.
- 170 d. Maintenance activities, excluding mining, crushing, and loading, may be
171 performed outside the normal hours of operation, provided that no equipment
172 with narrow-band (beeping) back-up alarms is used. Noise levels must
173 comply with night-time noise requirements.
- 174 e. Loading and hauling outside of normal hours of operation may be approved by
175 the responsible official provided that:
- 176 (1) the applicant provides at least fourteen (14) days' notice to the county prior
177 to the event such that the county can provide at least ten (10) days' notice to
178 property owners within one-half (1/2) mile of the site boundary and to
179 owners of all parcels abutting local access roads to be used for hauling that
180 are between the site and roads designated in the Arterial Atlas as
181 connectors, arterials, or State highways;
- 182 (2) the applicant provides evidence that the contract requires delivery of rock or
183 rock products outside of normal operating hours; and
- 184 (3) all equipment shall utilize broadband back-up alarms or reverse-activated
185 strobe lights conforming to Mining Safety and Health Administration
186 (MSHA) requirements.
- 187 (4) In an emergency, the responsible official may waive the requirements of this
188 subsection.
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191 6. Stormwater and erosion control must meet the standards of Chapter 40.385.

192 7. Blasting and mining activities ~~shall~~ must not:

193 a. adversely affect the quality or quantity of groundwater or groundwater wells; or

194 b. cause damage to offsite structures, where such structures were constructed

195 pursuant to an approved permit, as required.

196 8. Notice of blasting events shall be provided by the operator to property owners
197 within one-half (1/2) mile of the mining limits by mail at least seven (7) days prior to
198 blasting. Any person requesting notice via electronic communication shall be
199 notified at least twenty-four (24) hours prior to blasting.

200 9. Mining activities must meet applicable Federal, State and county standards
201 governing odors, dust, smoke, blasting and vibration. Lighting shall not cast
202 significant light or glare on adjacent properties.

203 10. The director of public works may require pavement wear agreements for public
204 roads used to access the site. Public access roads to mining sites must be
205 maintained to the satisfaction of the director of public works, to minimize problems
206 of dust, mud, potholes, runoff and traffic safety. All vehicles shall comply with
207 RCW 46.61.655 (escape of load materials and cleaning of vehicles).

208 11. Internal access roads shall be paved within one hundred (100) feet of a paved
209 county road or state highway to reduce tracking of dirt, mud and rocks.

210 12. The applicant shall identify the source or potential source and approximate amount
211 of water anticipated to be used on the site. If this amount exceeds the exemption
212 provided for under RCW 90.44.050, the applicant must present evidence that
213 adequate water can be made available without adversely affecting nearby uses.

214 13. Consistent with CCC 32.04.040, the operator shall grant access for inspection of
215 the mine operation in order for the county to monitor and, if necessary, enforce the
216 provisions of the conditional use permit.

217 E. Approval Process.

218 1.2. Site plan approval is required prior to any surface mining use.

219 2.4. Plans shall be drawn to an engineer's scale and shall be of sufficient clarity to
220 indicate the nature and extent of the work proposed and show in detail that they will
221 conform to the provisions of this section and all other relevant laws, ordinances,
222 rules and regulations. The first sheet of each set of plans shall give the location of
223 the work, the names and addresses of the owner, and the person by whom they
224 were prepared. The plans shall include the following minimum information:

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- 225 a. General vicinity maps of the proposed site;
- 226 b. Property boundaries and ~~accurate~~ contours of existing ground, details of
227 existing terrain, and details of existing area drainage;
- 228 c. Proposed elevations and contours of the greatest extent of the proposed
229 mining and proposed drainage channels and related construction;
- 230 d. Detailed plans of all surface and subsurface drainage devices, walls, cribbing,
231 dams, berms, settling ponds and other protective devices to be constructed
232 with or as a part of the proposed work, together with the maps showing the
233 drainage area and the estimated runoff of the area served by any drains;
- 234 e. Location of any buildings or structures on the property where the work is to be
235 performed, and the location of any buildings or structures on land of adjacent
236 property owners which are within two hundred (200) feet of the property;
- 237 f. Location of access roads and primary haul routes.
- 238 g. Stormwater calculations and proposed treatment facilities for runoff from
239 access roads and impervious areas; ~~and~~
- 240 h. A hydrogeology report which characterizes the groundwater and surface water
241 and identifies wells within one-half (1/2) mile of the proposed mining limits and
242 a monitoring and mitigation plan if there are existing wells within one-half (1/2)
243 mile of the proposed site; and
- 244 i. A traffic impact analysis including the following elements, or as directed by the
245 director of public works:
- 246 (1) Trip generation, including passenger & haul vehicles;
- 247 (2) Trip assignment and distribution;
- 248 (3) Capacity analysis: Existing and proposed operational level of service at the
249 site access and intersections along primary and secondary haul routes
250 including any proposed mitigations;
- 251 (4) Safety analysis: Sight distance at intersections and crash history at
252 intersections and along all haul route corridors, including any proposed
253 mitigations;
- 254 (5) Vehicle maneuvering analysis: Turning movements at intersections and
255 tracking at intersections and horizontal curves including any proposed
256 mitigations; and
- 257 (6) Structural capacity analysis: Remaining life of primary and secondary haul
258 routes under current and proposed loading including any improvements
259 needed to achieve a fifteen- (15-) year structural capacity.

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260 ~~2. Site plan approval is required prior to any surface mining use.~~

The requirement for site plan approval is not removed, just re-ordered to number (1) in this section.

261 ~~3. For those uses permitted under Section 40.250.020(C)(1), the responsible official~~
262 ~~shall review and approve plans, specifications, and other supporting data through~~
263 ~~a Type II-A process pursuant to Section 40.510.025.~~

264 3.4. Conditional uses permitted under Section 40.250.020(C)(2) shall be reviewed
265 through a conditional use process pursuant to Section 40.510.030.

266 4.5. For temporary uses permitted under Section 40.250.020(C)(1) ~~(b)~~ that are not
267 exempt from review per Section 40.260.220(C)(3)(b), the responsible official shall
268 review and approve plans and specifications through a Type I process pursuant to
269 Section 40.510.010.

270 5.6. Notice required by Sections 40.250.020(E)(3) and (4) above shall be sent to
271 owners of property within a radius of one (1) mile of the site and to owners of all
272 parcels abutting local access roads identified as the primary haul route that are
273 between the site and roads designated in the Arterial Atlas as collectors, arterials
274 or State highways.

The PC requested that staff develop a Monitoring and Enforcement section. The following Subsection (F) is new language developed by staff that has not been reviewed by the PC.

275 F. Monitoring and Enforcement.

276 1. Operating requirements and standards shall be implemented through compliance
277 with conditions of approval as specified in this section and in the conditional use
278 permit issued by the county.

279 2. In order to ensure compliance with conditions of approval the applicant shall
280 develop and conduct a monitoring program. The monitoring program shall be
281 approved by the county prior to beginning operations under the permit, and shall
282 include the following:

283 a. A statement of the operating requirements and standards for each condition of
284 approval in the permit for mineral extraction, materials processing, and
285 materials transport;

286 b. A description of the methodology for determining compliance with each
287 requirement and standard; and

288 c. A schedule for conducting the required monitoring.

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289 3. At the applicant's expense, all results of the required monitoring shall be kept for at
290 least 10 years, and included in a report submitted to the county;

291 a. beginning twelve (12) months after approval of the conditional use permit;

292 b. continuing at twelve- (12-) month year intervals thereafter; and

293 | c. as needed, in the determination of the responsible official, to correct any
294 instances of non-compliance.

295 4. The county will conduct a periodic performance review of permit requirements and
296 | standards at the end of the first three years, and at three-year intervals after that.
297 The periodic review shall be a Type 2 land use decision. The periodic review shall
298 determine whether the facility is operating consistent with all existing permit
299 conditions.

300 5. The county will conduct an inspection of the mining facility no less than once per
301 year in order to assess the accuracy and effectiveness of the monitoring program
302 and, if necessary, enforce the provisions of the conditional use permit.

303 6. Failure to comply with the operating requirements and standards specified in the
304 conditional use permit may result in revocation of the conditional use permit.

305 G. Resource Activity Notification.

306 1. All approvals for subdivisions, short plats, site plans, zone reclassifications,
307 manufactured home park site plan approvals, variances, conditional use permits,
308 shoreline permits and building permits issued or approved for land on or within one
309 thousand (1,000) feet of lands designated as natural resource land (agricultural,
310 forest or mineral lands), pursuant to RCW Chapter 36.70A.170, shall contain or be
311 accompanied by a notice stating the following:

312 "The subject property is adjacent or in close proximity to designated mineral resource
313 land on which a variety of commercial mining activities may occur that are not compatible
314 with residential development. Potential disturbances or inconveniences may occur 24
315 hours per day and include but are not limited to: noise, blasting, odors, fumes, dust,
316 smoke, and operation of heavy machinery".

317 2. In the case of plats, short plats and binding site plans, notice shall also be included
318 in the plat or binding site plan dedication.

319 D. Planning Commission recommendation on other Title 40 changes, with proposed
320 changes.

321 **40.260.220 TEMPORARY USES AND STRUCTURES**

322 C. Uses and Exceptions.

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323 3. Exceptions. Certain structures and uses are exempt from the requirement to
324 obtain a temporary use permit. However, building and fire code requirements still
325 apply. The following are exempt from the requirement for a temporary use permit:

326 b. For nonresidential districts:

327 (1) Temporary construction trailers, construction materials, and equipment
328 storage areas, and construction offices accessory to a construction or
329 mining site.