

**SURFACE MINING OVERLAY  
PLANNING COMMISSION RECOMMENDATION  
WITH STAFF RECOMMENDED CHANGES**

**OCTOBER 21, 2014**

*With additional suggested changes included from discussions with Yacolt Mt. neighbors and other interested parties. Suggested changes are in double underlined bold italics or double strikethrough subscript. No suggested changes on pages 6, 7, and 9.*

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

Mineral Resource Lands

GOAL: To identify and designate mineral resources <sup>and-to-protect</sup> and ensure appropriate extraction and use of gravel and mineral resources of the county while 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 **steep or** 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 **and proximity to and impacts on existing residences in all other zoning areas**, and proximity to and impacts on agricultural and forest lands; and
- c. Suitability and safety of the existing transportation system to bear the traffic

associated with mining, including, without limitation, the suitability of public access roads to be used as haul roads, the distance to market, and the need to route truck traffic through residential areas, and adequacy of intersections to handle mining traffic plus other traffic. Consideration will include options for mitigating proposed impacts to the existing transportation system.

- d. The surface mining overlay shall not be designated on parcels zoned Rural (R) ~~except to allow the expansion of an existing mining site.~~
- e. Consideration that reclamation of mineral resource lands occurs after mining and that such lands may be re-purposed consistent with the comprehensive plan.

3.5.3 Ensure that mining-related activities on mineral resource lands follow best management practices.

3.5.4 Ensure that mineral extraction and processing operations minimize and mitigate any significant adverse impacts on water, fish, wildlife, and nearby land uses.

3.5.5 Ensure **that the extraction of minerals from designated mineral resource lands will not interfere with the continued use of adjacent lands.**

3.5.6 Establish notification standards whereby developments on lands in the vicinity of designated mineral resource lands are given notice that they are locating in or adjacent to a potential mining area.

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

## Implementation Chapter

Strategies for mineral resource lands:

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

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

## 40.560.010 CHANGES TO DISTRICTS, AMENDMENTS, ALTERATIONS

### S. Additional Criteria for Surface Mining Overlay Changes.

1. Designation of additional areas with the surface mining overlay shall only occur if:
  - a. designation criteria in the comprehensive plan have been met; **the extraction of the mineral resource is not hazardous to the public, nor detrimental to public safety or to public welfare, and the quality of the resource is sufficient for the intended uses;**
  - b. The quantity and characteristics of the resource including the size of the deposit, the depth of overburden, the distance to market, and the cost of transport and resource availability in the region, suggest that mining is economically viable;
  - b.c. at least sixty percent (60%) of the area within one thousand (1000) feet of the proposed mineral resource land is characterized by parcels of **ten (10) acres or larger, except for existing mines.**
2. Removal of the surface mining overlay shall only occur if one of the following conditions is met:
  - a. The mineral resources have been depleted;
  - b. There is evidence that the mining of the mineral resource is not economically feasible based on the factors listed in Section 40.560.010(S)(1)(b);
  - c. The resource or the extraction of the resource is hazardous to the public, or detrimental to public safety, or to the public welfare.**
  - d. Environmental or access constraints make it impractical to mine the resource;  
or
  - e. The area has been brought into an urban growth boundary or adjacent land uses or developments are incompatible with mineral extraction.

### T. S. Cumulative Impact.

### U. T. Fees.

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

**40.250.020 SURFACE MINING OVERLAY DISTRICT**

A. Purpose.

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

B. Applicability.

1. The provisions in this section shall apply to parcels designated with the surface mining overlay. ~~Surface mining activity and related processing within the Columbia River Gorge National Scenic Area is subject to Section 40.240. Where Section 40.250.020 is in conflict, the provisions of section 40.240 govern.~~
2. The provisions of this section shall apply <sup>only</sup> to **all existing surface mines, expansions of existing mines, and to new applications for surface mines and related uses. Operation of existing surface mines and related uses shall conform to the conditions of approval adopted with their site plan and/or conditional use approval. The operation of all existing surface mines and related uses wherein the operation is not pursuant to a conditional use permit shall come under Type IV review for conversion to conditional use permit approval.**
3. Provisions of Chapter 78.44 RCW and Chapter 332-18 WAC pertaining to surface mining that are applicable to Clark County are adopted by reference.
4. Surface mining activity and related processing within the Columbia River Gorge National Scenic Area are subject to Chapter 40.240. Where Section 40.250.020 is in conflict with this section, the provisions of Chapter 40.240 govern.

C. Uses.

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

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

1. **All mining uses shall be conditional uses.** In addition to uses allowed conditionally in the underlying zoning district, the following uses are allowed in the surface mining overlay district, subject to conditional use approval:

- a. Extractions of rock, stone, gravel, sand, earth and minerals;
- b.a. Asphalt mixing
- c.b. Concrete batching;
- d.c. Clay bulking; and
- e.d. Rock crushing.
- f. Temporary offices, shops or other accessory buildings and structures used for the management and maintenance of onsite mining and processing equipment; and
- g. short-term stockpiling of extracted materials at a road improvement site or construction site, for use at that job site.

D. Standards.

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

2. Setbacks.

a. All mining operations and structures on designated mineral resource land shall be setback at least a minimum three hundred (300') feet ~~one hundred fifty (150) feet~~ <sup>required for all mining uses</sup> ~~setback~~ shall be from abutting parcels with any zoning except for abutting parcels with existing ~~lawfully~~ established residential structures or adjacent rural (R) residential zoning. The setback from established residential structures or adjacent rural (R) residential zoning shall be five hundred feet (500'). The setback area shall be used only for roads, berms, landscaping, signs, fencing and reclamation activities. The setback may be reduced by the responsible official approval authority if the adjacent landowner does not object and the purposes of this chapter can be met with the reduced setback. ~~The setback area shall be used only for roads, berms, landscaping, signs, fencing and reclamation activities.~~

b. Structures on properties adjacent <sup>properties</sup> to designated mineral resource land shall be setback at least three hundred (300') feet ~~maintain a one hundred fifty (150)-(100) feet~~ <sup>foot</sup> setback from such designated mineral resource land. The setback may be reduced by the approval authority responsible official if the adjacent landowner agrees. Setbacks shall not apply to existing structures except as applies to any expansion of an existing mine.

3. Access. Roads into the site shall be gated and the site or mining area shall be fenced and posted "No Trespassing".

4. Noise. Maximum permissible noise levels must be in accordance with the provisions of Chapter [173-60 WAC](#) or as identified in the SEPA document.
5. Hours and days of operation.
  - a. No operations shall take place on Sundays or on the following holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Easter, MLK Day, Veterans Day, and Christmas Day.
  - b. All operations and activities other than blasting and maintenance are restricted to the hours of 6:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday.
  - c. Blasting is restricted to the hours of 9:00 a.m. to 4:00 p.m. Monday through Friday.
  - d. Maintenance activities, excluding mining, crushing, and loading, may be performed outside the normal hours of operation, provided that no equipment with narrow-band (beeping) back-up alarms is used. Noise levels must comply with night-time noise requirements.
  - e. Loading and hauling outside of normal hours of operation may be approved by the responsible official provided that:
    - (1) the applicant provides at least fourteen (14) days' notice to the county prior to the event such that the county can provide at least ten (10) days' notice to Property owners within one-half (1/2) mile of the site boundary and to owners of all parcels abutting local access roads to be used for hauling that are between the site and roads designated in the Arterial Atlas as connectors, arterials, or State highways;
    - (2) the applicant provides evidence that the contract requires delivery of rock or rock products outside of normal operating hours; and
    - (3) all equipment shall utilize broadband back-up alarms or reverse-activated strobe lights conforming to Mining Safety and Health Administration (MSHA) requirements.
    - (4) In an emergency, the responsible official may waive the requirements of this subsection.
6. Stormwater and erosion control must meet the standards of Chapter 40.385.
7. Blasting and mining activities shall must not:
  - a. adversely affect the quality or quantity of groundwater or groundwater wells; or
  - b. cause damage to offsite structures, where such structures were constructed pursuant to an approved permit, as required.

8. Notice of blasting events shall be provided by the operator to property owners within one-half (1/2) mile of the mining limits by mail at least seven (7) days prior to blasting. Any person requesting notice via electronic communication shall be notified at least twenty-four (24) hours prior to blasting.
9. Mining activities must meet applicable Federal, State and county standards governing odors, dust, smoke, blasting and vibration. Lighting shall not cast significant light or glare on adjacent properties.
10. The director of public works may require pavement wear agreements for public roads used to access the site. Public access roads to mining sites must be maintained to the satisfaction of the director of public works, to minimize problems of dust, mud, potholes, runoff and traffic safety. All vehicles shall comply with RCW 46.61.655 (escape of load materials and cleaning of vehicles).
11. Internal access roads shall be paved within one hundred (100) feet of a paved county road or state highway to reduce tracking of dirt, mud and rocks.
12. The applicant shall identify the source or potential source and approximate amount of water anticipated to be used on the site. If this amount exceeds the exemption provided for under RCW 90.44.050, the applicant must present evidence that adequate water can be made available without adversely affecting nearby uses.
13. Consistent with CCC 32.04.040, the operator shall grant access for inspection of the mine operation in order for the county to monitor and, if necessary, enforce the provisions of the conditional use permit.

#### E. Approval Process.

- 1.2. Site plan approval is required prior to any surface mining use.
- 2.1. Plans shall be drawn to an engineer's scale and shall be of sufficient clarity to indicate ~~the nature and extent of the work proposed and show in detail that they will conform to the~~ provisions of this section and all other relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give the location of the work, the names and addresses of the owner, and the person by whom they were prepared. The plans shall include the following minimum information:
  - a. General vicinity maps of the site;
  - b. Property boundaries and accurate contours of existing ground, details of existing terrain, and details of existing area drainage;
  - c. Proposed elevations and contours of the greatest extent of the proposed mining and proposed drainage channels and related construction;

- d. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, berms, settling ponds and other protective devices to be constructed with or as a part of the proposed work, together with the maps showing the drainage area and the estimated runoff of the area served by any drains;
- e. Location of any buildings or structures on the property where the work is to be performed, and the location of any buildings or structures on land of adjacent property owners which are within two hundred (200) feet of the property;
- f. Location of access roads and primary haul routes.
- g. Stormwater calculations and proposed treatment facilities for runoff from access roads and impervious areas; and
- h. A hydrogeology report which characterizes the groundwater and surface water and identifies wells within one-half (1/2) mile of the proposed mining limits and a monitoring and mitigation plan if there are existing wells within one-half (1/2) mile of the proposed site; and
- i. A traffic impact analysis including the following elements, or as directed by the director of public works:
  - (1) Trip generation, including passenger & haul vehicles;
  - (2) Trip assignment and distribution;
  - (3) Capacity analysis: Existing and proposed operational level of service at the site access and intersections along primary and secondary haul routes including any proposed mitigations;
    - (4) Safety analysis: Sight distance at intersections and crash history at intersections and along all haul route corridors, including any proposed mitigations
    - (5) Vehicle maneuvering analysis: Turning movements at intersections and tracking at intersections and horizontal curves including any proposed mitigations; and
    - (6) Structural capacity analysis: Remaining life of primary and secondary haul routes under current and proposed loading including any improvements needed to achieve a fifteen- (15-) year structural capacity.

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

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

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- 3.4. Conditional uses permitted under Section 40.250.020(C) (2) shall be reviewed through a conditional use process pursuant to Section 40.510.030.
- 4.5. For temporary uses permitted under Section 40.250.020(C)(1) (b) that are not exempt from review per Section 40.260.220(C)(3)(b), the responsible official shall review and approve plans and specifications through a Type I process pursuant to Section 40.510.010.
- 5.6. Notice required by Sections 40.250.020(E) (3) and (4) above shall be sent to owners of property within a radius of one (1) mile of the site and to owners of all parcels abutting local access roads identified as the primary haul route that are between the site and roads designated in the Arterial Atlas as collectors, arterials or State highways.

## F. Monitoring and Enforcement.

1. Operating requirements and standards shall be implemented through compliance with conditions of approval as specified in this section and in the conditional use permit issued by the county.
2. In order to ensure compliance with conditions of approval the applicant shall develop and conduct a monitoring program. The monitoring program shall be approved by the county prior to beginning operations under the permit, and shall include the following:
  - a. A statement of the operating requirements and standards for each condition of approval in the permit for mineral extraction, materials processing, and materials transport;
  - b. A description of the methodology for determining compliance with each requirement and standard; and
  - c. A schedule for conducting the required monitoring.
3. At the applicant's expense, all results of the required monitoring shall be kept for at least 10 years, and included in a report submitted to the county:
  - a. beginning twelve (12) months after approval of the conditional use permit;
  - b. continuing at twelve- (12-) month year intervals thereafter; and
  - c. as needed, in the determination of the responsible official, to correct any instances of non-compliance.

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4. The county will conduct a periodic performance review of permit requirements and standards at the end of the first three years, and at three-year intervals after that. The periodic review shall be a Type 2 land use decision. The periodic review shall determine whether the facility is operating consistent with all existing permit conditions.
5. The county will conduct an inspection of the mining facility no less than once per year in order to assess the accuracy and effectiveness of the monitoring program and, if necessary, enforce the provisions of the conditional use permit.

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

## G. Resource Activity Notification.

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

“The subject property is adjacent or in close proximity to designated natural <sup>mineral</sup>-resource land on which a variety of commercial agricultural, forestry, or mining activities may occur that are not compatible with residential development. Potential disturbances or inconveniences may occur 24 hours per day and include but are not limited to: noise, blasting, odors, fumes, dust, smoke, and operation of heavy machinery”.

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

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

## 40.260.220 TEMPORARY USES AND STRUCTURES

### C. Uses and Exceptions.

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

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- b. For nonresidential districts *where operations occur more than five-hundred feet (500') from any residential structure*: (1) Temporary construction trailers, construction materials, and equipment storage areas, and construction offices accessory to a construction or mining site.