

RECOMMENDATIONS TO THE PLANNING COMMISSION

November 14, 2013

At the November 7th worksession, the Planning Commission requested that staff review all the public comments regarding mineral lands policies, procedures and the surface mining overlay code and draft a revised text that strikes a balance between the various interests while meeting the statutory requirements.

The following text incorporates suggestions from multiple parties. The language is intended to be simple, clear and unambiguous. It is presented without strikethrough and underline format for the sake of clarity. The policy and code sections could be adopted by a motion to delete existing and replace with the draft mineral lands policies and Section 40.560.010 (as amended).

A. Draft Policy Changes

Rationale: Policies should be clear, meaningful and few. They should support applicable state statutes and local values and provide a framework for development regulations.

Mineral Lands Comprehensive Plan Policies

GOAL: To protect and ensure appropriate use of gravel and mineral resources of the county, and minimize conflict between surface mining and surrounding land uses.

3.5 Policies

- 3.5.1 Support the conservation of mineral lands for productive economic use by identifying and designating lands 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;
 - b. surrounding land uses, zoning, and parcel size; and
 - c. the suitability of access roads to be used as haul roads.
- 3.5.3 Ensure that mineral extraction and processing operations minimize and mitigate any significant adverse impacts on water, fish, wildlife, and nearby land uses.
- 3.5.4 Ensure that land use activities adjacent to designated mineral resource lands and mining activities are located and designed to minimize conflicts with each other.
- 3.5.5 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.
- 3.5.6 The surface mining overlay shall not be designated within rural residential (R) zones except to allow the expansion of an existing mining site.

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.

EXISTING POLICIES RECOMMENDED TO BE DELETED

Capital improvement plans should take into consideration maintaining and upgrading public roads adequate to accommodate transport of mineral commodities. *Capital improvement funding priorities are addressed in Chapter 5 Transportation*

Encourage recycling of concrete, aggregate and other materials. *Not a County activity. Industry does this.*

Encourage restoration of mineral extraction sites as the site is mined, consistent with the requirements identified in RCW 78.44. *Not a County activity. DNR does this.*

Land shall not be used for any activity other than surface mining or uses compatible with mining until the gravel or mineral resource is commercially depleted, reasons for not mining the site are clearly demonstrated, or the site has been reclaimed. *Appears to conflict with WAC 365-190-040(6): "Classifying, inventorying, and designating lands or areas does not imply a change in a landowner's right to use his or her land under current law."*

Surface mining other than Columbia River dredging shall not occur within the 100 -year Floodplain. *Conflicts with Shorelines Master Program standards.*

The county shall allow continued mining at existing active sites. *Not necessary or meaningful. These are existing permitted, conditional or non-conforming uses.*

Designated mineral operations of long-term commercial significance are not exempt from the normal environmental review process of the county or state agencies. *Not necessary or meaningful; no such exemption is contemplated or implied.*

Prior to removal of the surface mining designation, the landowner needs to show that the extraction of the mineral resource is not commercially feasible. *This is more like a standard than a policy.*

Designation to alternative land uses at the time of reclamation shall take into consideration surrounding land uses and other policies of this 20-Year Plan. *No longer relevant; all mineral resource lands have underlying Comp Plan and zoning designations.*

Future land use designations for those areas designated Mineral Lands (Fisher Quarry and Section 30/31) should be made consistent with city land use and at the time of annexation. *No longer applicable; all three areas have been annexed or zoned.*

Some level of processing should be associated with mineral extraction. *There is no clear rationale for this policy.*

Future sites designated with a surface mining overlay shall be assessed on a case by case basis, based on the commercial or industrial value of the resource, and the relative quality and quantity of the resource as well as the following conditions:

- the resource should be of a quality that allows it to be used for construction materials or meet applicable quality specifications for the intended use(s);
- the resource should be of a quantity sufficient to economically justify development based upon the characteristics of the aggregate, life of the resource site, cost of extraction, accessibility, opportunity, type of transportation and the location of high demand areas; and,
- designation of these mineral resource lands should follow the "Criteria for Designating Mineral Resources," as outlined in the Designation Criteria component of the Rural and Natural Resource Element.

The Criteria for Designating Mineral Resources were adopted because of "limited geological information regarding mineral resources within the county." This table will be deleted and designation criteria should be adopted in Code. See Section 40.560.010(S) below.

Clark County's Shoreline Master Program shall be reevaluated for consistency with the Growth Management legislation and Clark County's 20-Year Comprehensive Growth Management Plan. Any areas of inconsistency shall be reviewed and resolved with either modification of the Shoreline Master Program or Comprehensive Plan policies, which ever is more appropriate.

This policy is outdated and not directly related to mineral resource lands.

B. Procedure & Draft Criteria to Amend the Surface Mining Overlay

Rationale: Convincing testimony has been submitted that designation of mineral resource lands must be accomplished through a Type IV procedure. Staff believes that these criteria for adding and removing the overlay are consistent with WAC 365-190-070 and the draft policies above.

Keep Section 40.560.020 Changes to Districts, Amendments, Alterations as is. Delete the changes proposed by the Mineral Lands Task Force that would make the surface mining overlay a zoning overlay subject to change through a Type III procedure.

Adopt the following as a new Section 40.560.010(S), re-number subsequent sections and

correct citations:

- S. Additional Criteria for Surface Mining Overlay Changes.
1. Amendments to the plan map to designate additional areas with the Surface Mining Overlay shall demonstrate that the following criteria have been met:
 - a. The quality of the resource meets applicable specifications for the intended uses;
 - b. The quantity of the resource is sufficient to economically justify development based on the size of the deposit, the depth of overburden, the distance to market, the cost of transport and resource availability in the region;
 - c. The site is accessible and haul road conditions are suitable for safe truck travel or will be improved to meet County standards;
 - d. At least sixty percent (60%) of the area within one thousand (1000) feet of the proposed mineral resource land is characterized by parcels of five (5) acres or larger.
 2. Amendments to the plan map to remove the Surface Mining Overlay shall demonstrate that 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. Environmental or access constraints make it impractical to mine the resource; or
 - d. The area has been brought into an urban growth boundary or adjacent land uses or developments are incompatible with mineral extraction.

C. Draft Surface Mining Overlay Standards

Rationale: This draft restores the conditional use permit requirement for rock crushers, asphalt plants and concrete plants to allow for site specific mitigation and monitoring measures. The revised standards reflect or respond to many of the comments and suggestion submitted to date.

40.250.020 SURFACE MINING OVERLAY DISTRICT

(Repeal current 40.250.020 and replace)

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.
2. The provisions of this section shall apply only 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. *[CALM + Turner]*

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.

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 from deposits of rock, stone, gravel, sand, earth and minerals.
 - b. Temporary offices, shops or other accessory buildings and structures used for the management and maintenance of onsite mining and processing equipment.
2. 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. Asphalt mixing
 - b. Concrete batching;
 - c. Clay bulking;
 - d. Rock crushing, processing and stockpiling. *[CALM]*

D. Standards.

1. Site area. When the activity includes both extraction and any one of the 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. *[Retains existing language.]*
2. Setbacks.
 - a. A minimum 200-foot setback shall be required for all mining uses abutting residential uses. The setback may be reduced by the approval authority if 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. *[similar to CALM proposal]*
 - b. Adjacent properties shall maintain a 100-foot setback from designated mineral resource land. The setback may be reduced by the approval authority if the purposes of this chapter can be met with the reduced setback or if it is not feasible to meet the setback due to site constraints. Setbacks shall not apply to existing structures. *[similar to CALM proposal]*
3. Access. Roads into the site shall be gated and the site or mining area shall be fenced and posted "No Trespassing". *[similar to Storedahl proposal]*
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 legal holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving 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. *[Turner - format]*
 - c. Blasting is restricted to the hours of 9:00 a.m. to 4:00 pm Monday through Friday.
 - d. Maintenance activities may be performed outside the normal hours of operation, provided that no equipment with narrow-band (beeping) back-up alarms is used.
 - 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.

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 must not adversely affect the quality or quantity of groundwater or groundwater wells or cause damage to offsite structures. *[Turner]*
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 or by electronic communication 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. *[Storedahl and 40.340.010(7)]*
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). *[CALM]*
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. Wheel washes or other methods may also be used to control these impacts. *[similar to Storedahl]*
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. *[similar to Storedahl]*

E. Approval Process.

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: *[Turner]*
 - a. General vicinity maps of the proposed site;
 - b. Property boundaries and accurate contours of existing ground, details of existing terrain, and details of existing area drainage; *[Turner]*
 - 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; *[Turner]*
 - f. Location of internal access roads and primary haul routes. *[CALM]*
 - 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 impacts are anticipated to offsite properties.
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. *[CALM]*
 4. Conditional uses permitted under Section 40.250.020(C)(2) shall be reviewed through a conditional use process pursuant to Section 40.520.030. *[CALM]*
 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. *[CALM]*
 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 to be used for hauling that are between the site and roads designated in the Arterial Atlas as collectors, arterials or State highways. *[Turner]*

~~40.260.120 Mines, Quarries and Gravel Pits~~

~~Extractions from deposits of rock, stone, gravel, sand, earth, minerals, or building or construction materials shall not be construed to be permitted uses in any district established by this title except as provided in specific districts, unless a surface mining overlay district has been obtained, as provided for in Section 40.250.020, except for on-site excavation and grading in conjunction with a specific construction or improvement project. Odor, dust, noise or drainage shall not be permitted to create or become a nuisance to surrounding property. The responsible official may approve a request for an aggregate extraction for a single construction project for a period not to exceed ten (10) days in operation and not requiring a state permit, in accordance with Section 40.260.220, Temporary Uses.~~