

8-27-14
BoCC WS

PLANNING COMMISSION FINAL RECOMMENDATIONS
TO THE BOARD OF COUNTY COMMISSIONERS WITH CITIZENS' CHANGES
(Submitted December 5, 2013)

(Please note that all Proposed Policy Changes from the PC to the BoCC are shown in bold. The changes that, we, the citizens of Clark County propose can be found in (non-bold italicized) print below. We also underlined key language from the PC which we believe supports our position.

A. Proposed Policy Changes

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 public 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 the use of adjacent lands will not interfere with the continued use of designated Mineral Resource lands for the extraction of minerals in the accustomed manner and in accordance with best management practices. [Dentler paraphrased for clarity and consistency]

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 or expanded within rural residential (R) zones ~~except to allow the expansion of an existing mining site.~~

(3.5.7 Surface mining other than Columbia River dredging shall not occur within the 100-year Floodplain except for projects with an approved Habitat Conservation Plan.)—added after Public hearing

3.5.8 *Location of Designated mineral resource lands shall be separated by a distance of, at least, 1000 feet from public preserves which includes parks, national wildlife refuges, state conservation areas, wildlife areas, and other government-owned preserves. In addition, designated mineral resource lands shall be, at least, 1000 feet from urban growth areas and rural residential areas with existing densities predominantly one dwelling unit per five acres or higher in order to minimize land use conflicts during the long term operation of the mine.ⁱ*

3.5.9 *Restoration of mineral extraction sites will proceed at the earliest opportunity following completion of surface mining activity, consistent with the requirements identified in RCW 78.44*

1. *Within 90 days of a surface mining operation becoming idle, the operator shall submit to the county and DNR a proposed interim management plan (IMP). The proposed IMP shall provide measures the operator will implement to maintain the site in a stable condition, taking into consideration public health and safety. The proposed IMP shall be submitted on forms provided by the county, and shall be processed as an amendment to the reclamation plan.*
2. *The IMP may remain in effect for a period not to exceed five years, at which time the County and the DNR shall require reclamation to proceed in accordance with its approved reclamation plan.ⁱⁱ*

****Move to Transportation policies: Capital improvement plans should take into consideration maintaining and upgrading public roads adequate to accommodate transport of mineral commodities.**

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 that conform to Conditional Use Permits already in place.

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

(Keep Section 40.560.020 Changes to Districts, Amendments, Alterations as is. 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 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, the cost of transport and resource availability in the region, suggest that mining is economically viable;**

~~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 five (5) acres or larger.~~

c. The site shall be separated by a distance of at least 1000 feet from public preserves which include parks, national wildlife refuges, state conservation areas, wildlife areas, and other government-owned Preserves. In addition, designated mineral resource lands shall be at least 1000 feet from urban growth areas and rural residential areas with existing densities predominantly one dwelling unit per five acres or higher.ⁱⁱⁱ

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

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. 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 only to new applications for surface mines and related uses and expansions of existing mines. 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.

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

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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.

2. Setbacks.

a. A minimum 200-foot setback shall be required for all mining uses abutting existing residential structures or adjacent rural residential zoning. 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.

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.

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 legal 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, *except as required in Conditional Use Permits prior to the adoption of these changes. In older CUPS, hours of operation will remain the same as provided in Hearing Examiner Conditional Use Permits.*

c. Blasting is restricted to the hours of 9:00 a.m. to 4:00 pm 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 must not adversely affect the quality or quantity of groundwater or groundwater wells or cause damage to offsite structures.

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.

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:

- 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;
- 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.
- 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 LOS 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 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.

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.

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.

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.

[The Planning Commission recommended that staff draft monitoring and enforcement provisions that would be practical given current County resources.]

The Citizens of Livingston Mountain agree and are prepared to negotiate on monitoring and enforcement provisions for Surface Mining.

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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:

b. For nonresidential districts: Temporary construction trailers, construction materials, and equipment storage areas, and construction offices accessory to a construction or mining site.

ⁱ Thurston County, WA Policy for Surface Mining

ⁱⁱ Chula Vista County, CA Policy for Surface Mining

ⁱⁱⁱ Thurston County, WA Policy for Surface Mining