

**SURFACE MINING OVERLAY
BOARD OF COUNTY COMMISSIONERS WORK SESSION
AUGUST 27, 2014**

What follows is the Planning Commission recommendations to the Board of County Commissioners on proposed comprehensive plan policies and draft code language related to the surface mining overlay dated December 5, 2013, plus staff recommendations in gray shading.

A. Comprehensive Plan Proposed Changes

Mineral Lands

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 resource 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, which include, without limitation, consideration of the proven quality, quantity and characteristics of the resource; 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 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, the need to route truck traffic through residential areas, adequacy of intersections to handle mining traffic plus other traffic.

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 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]~~

3.5.6 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.

3.5.7 The surface mining overlay shall not be designated within rural residential (R) zones except to allow the expansion of an existing mining site.

3.5.8 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.

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

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.

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B. Surface Mining Overlay designation/amendment procedures

(Keep Section 40.560.010 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.)

40.560.010 CHANGES TO DISTRICTS, AMENDMENTS, ALTERATIONS

93
94 S. Additional Criteria for Surface Mining Overlay Changes.

- 95 1. ~~Amendments to the plan map to designate~~ Designation of additional areas with the
96 surface mining overlay shall only occur if demonstrate that the following criteria
97 have been met:
98 a. The quality of the resource is sufficient for the intended uses;
99 b. The quantity and characteristics of the resource including the size of the
100 deposit, the depth of overburden, the distance to market, and the cost of
101 transport and resource availability in the region, suggest that mining is
102 economically viable; and
103 c. At least sixty percent (60%) of the area within one thousand (1000) feet of the
104 proposed mineral resource land is characterized by parcels of five (5) acres or
105 larger.
106 2. ~~Amendments to the plan map to remove~~ Removal of the surface mining overlay
107 shall only occur if demonstrate that one of the following conditions is met:
108 a. The mineral resources have been depleted;
109 b. There is evidence that the mining of the mineral resource is not economically
110 feasible based on the factors listed in Section 40.560.010(S)(1)(b);
111 c. Environmental or access constraints make it impractical to mine the resource;
112 or
113 d. The area has been brought into an urban growth boundary or adjacent land
114 uses or developments are incompatible with mineral extraction.

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116 I. S. Cumulative Impact.

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118 U. T. Fees.
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123 C. Draft Surface Mining Overlay Standards

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125 **40.250.020 SURFACE MINING OVERLAY DISTRICT**

126 *(Repeal current Section 40.250.020 and replace with new language below)*
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128 A. Purpose.

129 The purpose of the surface mining overlay district is to ensure the continued
130 availability of rock, stone, gravel, sand, earth and mineral products without disrupting
131 or endangering adjacent land uses, while safeguarding life, property and the public
132 welfare.
133

134 B. Applicability.

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

- 139 2. The provisions of this section shall apply only to new applications for surface mines
140 and related uses and expansions of existing mines. Operation of existing surface
141 mines and related uses shall conform to the conditions of approval adopted with
142 their site plan and/or conditional use approval.
- 143 3. Provisions of Chapter 78.44 RCW and Chapter 332-18 WAC pertaining to surface
144 mining that are applicable to Clark County are adopted by reference.
- 145 4. Surface mining activity and related processing within the Columbia River Gorge
146 National Scenic Area are subject to Chapter 40.240. Where Section 40.250.020
147 is in conflict, the provisions of Chapter 40.240 govern.

148
149 C. Uses.

- 150 1. Permitted uses. In addition to uses allowed in the underlying zoning district, the
151 following uses are permitted in the surface mining overlay district:
- 152 ~~a. Extractions of rock, stone, gravel, sand, earth and minerals and the sorting,~~
153 ~~and stockpiling of such materials.~~
- 154 a.b. Temporary offices, shops or other accessory buildings and structures used for
155 the management and maintenance of onsite mining and processing
156 equipment.
- 157 2. Conditional uses. In addition to uses allowed conditionally in the underlying
158 zoning district, the following uses are allowed in the surface mining overlay district,
159 subject to conditional use approval:
- 160
- 161 a. Extractions of rock, stone, gravel, sand, earth and minerals and the sorting,
162 and stockpiling of such materials:
- 163 b.a. Asphalt mixing;
164 c.b. Concrete batching;
165 d.c. Clay bulking; and
166 e.d. Rock crushing.

167
168 D. Standards.

- 169 1. Site area. When the activity includes both extraction and any one of the uses
170 listed on Section 40.250.020(C)(2), the total site area shall be a minimum of twenty
171 (20) acres. Activities which are limited to extraction only shall not have a
172 minimum site size.
- 173 2. Setbacks.
- 174 a. A minimum two hundred- (200-) foot setback shall be required for all mining
175 uses abutting existing residential structures or adjacent rural residential zoning.
176 The setback may be reduced by the responsible official approval authority if the
177 purposes of this chapter can be met with the reduced setback. The setback
178 area shall be used only for roads, berms, landscaping, signs, fencing and
179 reclamation activities.
- 180 b. Adjacent properties shall maintain a one hundred- (100-) foot setback from
181 designated mineral resource land. The setback may be reduced by the
182 approval authority if the purposes of this chapter can be met with the reduced
183 setback or if it is not feasible to meet the setback due to site constraints.
184 Setbacks shall not apply to existing structures.

- 185 3. Access. Roads into the site shall be gated and the site or mining area shall be
186 fenced and posted "No Trespassing".
- 187 4. Noise. Maximum permissible noise levels must be in accordance with the
188 provisions of Chapter 173-60 WAC or as identified in the SEPA document.
- 189 5. Hours and days of operation.
- 190 a. No operations shall take place on Sundays or on the following legal holidays:
191 New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day ,
192 Easter, MLK Day, Veterans Day, and Christmas Day.
- 193 b. All operations and activities other than blasting and maintenance are restricted
194 to the hours of 6:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to
195 5:00 p.m. Saturday.
- 196 c. Blasting is restricted to the hours of 9:00 a.m. to 4:00 p.m. Monday through
197 Friday.
- 198 d. Maintenance activities, excluding mining, crushing, and loading, may be
199 performed outside the normal hours of operation, provided that no equipment
200 with narrow-band (beeping) back-up alarms is used. Noise levels must
201 comply with night-time noise requirements.
- 202 e. Loading and hauling outside of normal hours of operation may be approved by
203 the responsible official provided that:
- 204 (1) the applicant provides at least fourteen (14) days notice to the county prior
205 to the event such that the county can provide at least ten (10) days notice to
206 property owners within one-half (1/2) mile of the site boundary and to
207 owners of all parcels abutting local access roads to be used for hauling that
208 are between the site and roads designated in the Arterial Atlas as
209 connectors, arterials, or State highways;
- 210 (2) the applicant provides evidence that the contract requires delivery of rock or
211 rock products outside of normal operating hours; and
- 212 (3) all equipment shall utilize broadband back-up alarms or reverse-activated
213 strobe lights conforming to Mining Safety and Health Administration
214 (MSHA) requirements.
- 215 (4) In an emergency, the responsible official may waive the requirements of this
216 subsection.
- 217 6. Stormwater and erosion control must meet the standards of Chapter 40.385.
- 218 7. Blasting and mining activities ~~shall must~~ not adversely affect the quality or quantity
219 of groundwater or groundwater wells or cause damage to offsite structures.
- 220 8. Notice of blasting events shall be provided by the operator to property owners
221 within one-half (1/2) mile of the mining limits by mail at least seven (7) days prior to
222 blasting. Any person requesting notice via electronic communication shall be
223 notified at least twenty-four (24) hours prior to blasting.
- 224 9. Mining activities must meet applicable Federal, State and county standards
225 governing odors, dust, smoke, blasting and vibration. Lighting shall not cast
226 significant light or glare on adjacent properties.
- 227 10. The director of public works may require pavement wear agreements for public
228 roads used to access the site. Public access roads to mining sites must be
229 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.

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

~~2.4.~~ 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; ~~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;

- 276 (5) Vehicle maneuvering analysis: Turning movements at intersections and
277 tracking at intersections and horizontal curves including any proposed
278 mitigations; and
279 (6) Structural capacity analysis: Remaining life of primary and secondary haul
280 routes under current and proposed loading including any improvements
281 needed to achieve a fifteen- (15-) year structural capacity.
282 ~~2. Site plan approval is required prior to any surface mining use.~~
283 3. For those uses permitted under Section 40.250.020(C)(1), the responsible official
284 shall review and approve plans, specifications, and other supporting data through
285 a Type II-A process pursuant to Section 40.510.025.
286 4. Conditional uses permitted under Section 40.250.020(C)(2) shall be reviewed
287 through a conditional use process pursuant to Section 40.510.030.
288 5. For temporary uses permitted under Section 40.250.020(C)(1)(b) that are not
289 exempt from review per Section 40.260.220(C)(3)(b), the responsible official shall
290 review and approve plans and specifications through a Type I process pursuant to
291 Section 40.510.010.
292 6. Notice required by Sections 40.250.020(E)(3) and (4) above shall be sent to
293 owners of property within a radius of one (1) mile of the site and to owners of all
294 parcels abutting local access roads identified as the primary haul route that are
295 between the site and roads designated in the Arterial Atlas as collectors, arterials
296 or State highways.
297

298 F. Monitoring and Enforcement.

- 299 1. ~~Operating permits and performance requirements and standards shall be~~
300 ~~implemented through compliance with conditions of approval as specified in this~~
301 ~~section and in the conditional use permit issued by the county. as specified in this~~
302 ~~section.~~
303 2. ~~In order to ensure compliance with conditions of approval the applicant shall~~
304 ~~develop and conduct a monitoring program. shall be developed by the applicant~~
305 ~~for approval by Clark County. The monitoring program shall be approved by the~~
306 ~~county prior to beginning operations under the permit, and shall include the~~
307 ~~following:~~
308 ~~a. A statement of the operating requirements and standards for each condition of~~
309 ~~approval in the permit for program shall contain evaluation of the conditions of~~
310 ~~approval pertaining to permits for mineral extraction, operating permit, and~~
311 ~~materials processing, and materials transport; permit.~~
312 ~~b. A description of the methodology for determining compliance with each~~
313 ~~requirement and standard; and~~
314 ~~c. A schedule for conducting the required monitoring.~~
315 3. At the applicant's expense, all results of ~~the required~~ monitoring ~~required under the~~
316 ~~approved conditional use permit~~ shall be kept for at least 10 years, included in a
317 report submitted to the county:
318 a. beginning twelve (12) months after approval of the conditional use permit;
319 b. continuing at twelve- (12-) month year intervals thereafter; and
320 c. as needed, as determined by the responsible official to correct any instances of
321 non-compliance. at least once a year.

- 322 4. The county will conduct a periodic performance review of permit requirements and
323 standards at the end of the first three years, and at three-year intervals after that.
324 Subsequent monitoring reports and mitigations shall be submitted to Community
325 Development Director or designee at three-year intervals. The periodic review
326 shall be a Type 2 land use decision. The periodic review shall determine whether
327 the facility is operating consistent with all existing permit conditions.
328 5. Failure to comply with the operating requirements and standards specified in the
329 conditional use permit may result in revocation of the conditional use permit.
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331 G. Resource Activity Notification

- 332 1. All approvals for subdivisions, short plats, site plans, zone reclassifications,
333 manufactured home park site plan approvals, variances, conditional use permits,
334 shoreline permits and building permits issued or approved for land on or within one
335 thousand (1,000) feet of lands designated as natural resource land (agricultural,
336 forest or mineral lands), pursuant to RCW Chapter 36.70A.170, shall contain or be
337 accompanied by a notice stating the following:
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339 “The subject property is adjacent or in close proximity to designated mineral resource
340 land on which a variety of commercial mining activities may occur that are not compatible
341 with residential development. Potential disturbances or inconveniences may occur 24
342 hours per day and include but are not limited to: noise, blasting, odors, fumes, dust,
343 smoke, and operation of heavy machinery”.
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- 345 2. In the case of plats, short plats and binding site plans, notice shall also be included
346 in the plat or binding site plan dedication.
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352 D. Other Title 40 changes

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354 **40.260.220 TEMPORARY USES AND STRUCTURES**

355
356 C. Uses and Exceptions.

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

360 b. For nonresidential districts:

- 361 (1) Temporary construction trailers, construction materials, and equipment
362 storage areas, and construction offices accessory to a construction or
363 mining site.
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367 **~~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.~~