

From: [Mabrey, Michael](#)
To: [Oriako, Oliver](#); [Cook, Christine](#); [McCall, Marlee](#)
Subject: FW: CALM Mineral Resource Lands Plan and Code Amendments
Date: Tuesday, November 05, 2013 1:27:58 PM
Attachments: [Proposed CALM Amendments to CCC for Mineral Lands v4.docx](#)
[Proposed CALM Policies for Mineral Lands v 7.docx](#)
Importance: High

We can forward this to the PC today along with other comments received on policies and standards. It's a fairly substantial re-write.

From: Eric Eisemann [<mailto:e.eisemann@e2landuse.com>]
Sent: Tuesday, November 05, 2013 12:37 PM
To: Mabrey, Michael
Subject: CALM Mineral Resource Lands Plan and Code Amendments

Hello Mike,
As promised, CALM offers the attached amendments to Chapter Three of the County Comprehensive Plan and associated development code provisions relating to mineral lands. I hope you will be able to forward these documents to the Planning Commission prior to the November 7th work session. Members of CALM and I will attend the work session this Thursday and will be available to address any comments or questions the Commission raises.

Thank you for taking the time to meet with Elizabeth Decker and me last week. We appreciate your insight and willingness to consider our suggestions. If you have any questions about these materials, please do not hesitate to contact me.

Thank you.
Eric

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CALM proposes the following amendments to the Mineral Lands Task Force 8/27/2013 draft of Clark County Development Code regulations. Proposed CALM amendments are underlined and ~~struck through~~. Explanations for proposed changes are provided in the right-hand column.

Code Section	Proposed Text	CALM Rationale
40.250.020 Surface Mining Overlay District	<p>A. Purpose.</p> <p>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.</p>	<p>No changes proposed.</p>
40.250.020 Surface Mining Overlay District	<p>B. Applicability.</p> <p>1 The provisions in this section shall apply to parcels designated with the surface mining overlay.</p> <p>2. The provisions in this section shall only apply to new applications for site plan approval <u>surface mines and related uses</u>. Operation of existing surface mines and related uses shall conform to the conditions of approval adopted with their site plan <u>initial</u> approval.</p> <p>3. Provisions of RCW 78.44 and WAC 332-18 pertaining to surface mining that are applicable to Clark County are adopted by reference.</p>	<p>Reflect that site plan review is not the only channel for approval of mining related uses.</p>
40.250.020 Surface Mining Overlay District	<p>C. Uses.</p> <p>1. Permitted uses. In addition to uses allowed in the underlying zoning district, the following uses are permitted in the surface mining overlay district:</p> <p>a. Extractions from deposits of rock, stone, gravel, sand, earth and minerals.</p> <p>b. Asphalt mixing;</p> <p>c. Concrete batching;</p> <p>d. Clay bulking;</p> <p>e. Rock crushing, processing and stockpiling; and</p> <p><u>b f.</u> Temporary offices, shops or other accessory buildings and structures used for the management and maintenance of onsite mining and processing equipment.</p> <p>2. Conditional uses that are allowed in the underlying zoning district are allowed in the surface mining overlay district. <u>Conditional uses. In addition to uses allowed conditionally in the underlying zoning district, the following uses are permitted conditionally in the surface mining overlay district:</u></p>	<p>Retain intensive mining-related uses as conditional uses, similar to existing Section 40.250.020(B)(2).</p> <p>Clarify how the temporary uses listed n Section 40.250.020(C)(1)(b), which require a Type I permit, are related to temporary uses in Section 40.260.220(C)(3)(b), which are exempt from permitting; descriptions seem to overlap.</p>

Code Section	Proposed Text	CALM Rationale
	<p>a. <u>Asphalt mixing;</u> b. <u>Concrete batching;</u> c. <u>Clay bulking; and</u> d. <u>Rock crushing, processing and stockpiling.</u></p>	
<p>40.250.020 Surface Mining Overlay District</p>	<p>D. Standards. 1. <u>Site area. When the activity includes both extraction and any one of the uses listed in 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.</u> 2. <u>Setbacks.</u> a. <u>A minimum 200-foot setback shall be required for all mining uses. The setback may be reduced by the approval authority if, due to topography, or adjoining easements or designated resource lands of long-term commercial significance, the purposes of this chapter can be met with the reduced setback. The setback area shall not be used for any other use in conjunction with mining except access roads, berms, fencing, landscaping, signs, and reclamation activities.</u> b. <u>Adjacent properties shall maintain a 100-foot setback from the mineral resource designated land. The setback may be reduced by the approval authority if, due to topography or adjoining easements, the purposes of this chapter can be met with the reduced setback. The setback may also be reduced by the approval authority if it is infeasible to locate the 100-foot setback on the property due to site constraints, such as parcel size or presence of critical areas. Setbacks shall not apply to pre-existing structures located within the setback of adjacent property.</u> 3 1. <u>Access roads into the site shall be gated and</u> At a minimum, the portion of the site being mined shall be fenced, <u>screened,</u> and posted <u>to safeguard safety and health, and to prevent illegal dumping of materials.</u> 4 2. Maximum permissible noise levels must be in accordance with the provisions of WAC 173-60 or as identified in the SEPA document. 5 3. Hours of operation shall be as follows: a. Holidays - No operations shall take place on Sundays or on the following legal holidays: New Year’s Day, Memorial Day, July 4th, Labor Day,</p>	<p>(1) Retain site area requirements in existing code to ensure operations are economically feasible, in relation to minimum five-acre SMO parcel size required by Section 40.560.020(G)(2)(a). (2) In addition to any setbacks required by the DNR, require setbacks to minimize conflicts between mines and adjacent uses that are proportional to the impacts of mines and adjacent uses. (3) Strengthen fencing and screening provisions. (6) Blasting notification via electronic communications 24 hours in advance is not an adequate substitute for notification by mail seven days in advance. Although communications technology is advancing, there is no central County resource for the mine operators to obtain all electronic contact information for residents within the notification area, whereas Clark County GIS can provide an accurate and complete list of addresses. Additionally, 24 hours is significantly shorter notification period than seven days. A preblast notification letter is required seven days in advance of blasting under RCW 296-52-720(10)(3)(c). (7)(a) Strengthen dust control provisions by explicitly tying to SW Clean Air Agency and</p>

Code Section	Proposed Text	CALM Rationale
	<p>Thanksgiving Day and Christmas Day.</p> <p>b. Normal hours of operation - Mining, processing, loading, hauling, batch plant operation, drilling and all activities that include the use of equipment with audible (“beeping”) backup alarms are restricted to the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday.</p> <p>c. Blasting is restricted to the hours of 9:00 a.m. to 4:00 p.m. Monday through Friday.</p> <p>d. Maintenance activities may be performed outside the normal hours of operation provided that equipment with audible (“beeping”) backup alarms are not used and noise levels meet the standards of 40.250.020(D)(2).</p> <p>e. Loading and hauling of rock products outside of the normal hours of operation may be approved by the responsible official through a Type I procedure, provided that:</p> <p>i. the County provides notice to property owners within one-half (1/2) mile of the mining limits 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 at least ten (10) days prior to the event;</p> <p>ii. noise levels at the property line will not exceed 50 dBA when measured as per WAC 173-60;</p> <p>iii. all equipment used has the least intrusive backup alarms allowed by MSHA; and</p> <p>iv. the applicant provides proof that the contract is for a public purpose and requires delivery of rock products outside of normal operating hours.</p> <p>6. 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 24 hours prior to blasting.</p> <p>7. Mining activities must not cause unreasonable external effects such as offensive odors, increased lighting or glare, dust, smoke or vibration (except for blasting) detectable to normal sensory perception at the property line.</p> <p>a. <u>Dust and Smoke Control.</u> The operator shall obtain all required permits</p>	<p>additional opportunities for review authority to control dust.</p> <p>(7)(b) Limit lighting impacts and reduce glare.</p> <p>(8) Strengthen safety and maintenance requirements for both access roads and haul routes, coupled with increased submittal requirements detailing transportation impacts in Section F.</p> <p>(8)(c) Reflect that site plan review is not the only channel for approval of mining related uses.</p> <p>Throughout, renumber sections for clarity and to group similar provisions.</p>

Code Section	Proposed Text	CALM Rationale
	<p><u>from the Southwest Clean Air Agency, and shall comply with all of the regulations of the Southwest Clean Air Agency. In addition, the approval authority may require methods of dust control, such as water trucks or sprinklers, which will mitigate the dust from the site.</u></p> <p><u>b. Lighting. All lighting shall be limited to the lowest intensity which allows the permitted activity to be carried out in a safe manner. The lights shall be shielded and directed so that illumination affects only the premises of the site and does not result in glare outside of the permit site or on public rights-of-way.</u></p> <p><u>8. Traffic Safety and Road Impact Minimization.</u></p> <p><u>a. Accesses shall intersect existing streets and roads at locations and in a manner that will not endanger the safety of highway users and local residents and shall be in accordance with the County design standards, current edition.</u></p> <p><u>b.1. Access roads into the site shall be gated.</u></p> <p><u>c.9. Internal access roads within one hundred (100) feet of a paved county road or state highway shall be paved, oiled or watered. Internal access roads within two hundred fifty (250) feet of a residence existing at the time of site plan permit approval shall be paved, oiled or watered.</u></p> <p><u>d.8. Pavement wear agreements may be required for public roads used to access the site. Public access roads to mining and quarrying sites must be maintained and located to the satisfaction of the director of public works, to minimize problems of dust, mud, potholes, runoff and traffic safety.</u></p> <p><u>e. All vehicles leaving the site shall comply with RCW 46.61.655 (escape of load materials and cleaning of vehicles).</u></p> <p><u>9.4. Stormwater and erosion control must meet the standards of Chapter 40.385.</u></p> <p><u>10.5. Proposed blasting and mining activities must not adversely affect the quality or quantity of groundwater or wells or cause damage to offsite structures.</u></p> <p><u>11.10. The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site or is legally available.</u></p> <p><u>12.11. The county may impose additional special conditions to resolve issues</u></p>	

Code Section	Proposed Text	CALM Rationale
	specific to an individual site.	
40.250.020 Surface Mining Overlay District	<p>E. Plan Approval.</p> <p>1. Site plan approval is required prior to any surface mining use.</p> <p><u>2. For those uses permitted under Section 40.250.020(C)(1), the responsible official shall review and approve plans and specifications and other supporting data through a Type II-A process pursuant to Section 40.510.025.</u></p> <p><u>3. Conditional uses under Section 40.250.020(C)(2) shall be reviewed through a conditional use process pursuant to Section 40.520.030.</u></p> <p><u>4. For temporary uses permitted under Section 40.250.020(C)(1)(b) not exempt from temporary use review under Section 40.260.220(C)(3)(b), the responsible official shall review and approve plans and specifications through a Type I procedure pursuant to Section 40.510.010.</u></p> <p><u>5.2.</u> Notice 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.</p> <p>3. For those uses permitted under Section 40.250.020(C)(1)(a-e), the responsible official shall review and approve plans and specifications and other supporting data through a Type II A review process pursuant to Section 40.510.025. Temporary uses described in Section 40.250.020(C)(1)(f) can be approved through a Type I procedure.</p> <p><u>6.4.</u> A hearing shall be held within twelve (12) months of the approval of any uses permitted under Section 40.250.020(C)(1) and at intervals thereafter as determined by the Hearings Examiner. Public hearing notice and procedures shall be conducted pursuant to Section 40.510.030, and <u>notice shall be provided to all residents identified in Section 40.250.020(E)(5).</u> The scope of these hearings shall be limited to:</p> <p>a. assessing whether the conditions of approval were adequate or necessary to mitigate the actual impacts of the use;</p> <p>b. determining whether the conditions of approval have been met; and</p> <p>c. evaluating the effectiveness of any required monitoring programs.</p> <p><u>7. Owners of all mining operations shall submit completed registration forms to the county on an annual basis every year following the hearing required by</u></p>	<p>(2) and (3) Site plan review through a Type II-A process is appropriate for extraction uses only, as proposed by the Task Force, whereas a conditional use permit review process is appropriate for more intensive uses such as rock crushing and asphalt plants.</p> <p>(4) Temporary uses are linked to additional temporary uses allowed in the SMO elsewhere in the code for clarification.</p> <p>(6) Provide notice to all residents within a one-mile radius for the follow-up hearing consistent with initial notice procedures.</p> <p>(7) and (8) Require annual registration and inspections to ensure ongoing compliance with conditions of approval.</p> <p>(9) Require continued compliance with standards of this chapter as an operating condition, and cross-reference standard allowing revocation of conditional use permit for noncompliance as an enforcement mechanism.</p>

Code Section	Proposed Text	CALM Rationale
	<p><u>Section 40.250.020(E)(6). For existing operations, initial forms shall be submitted to the county by not later than six (6) months from date of adoption. Registration forms shall include: (1) location and ownership of parcel, (2) size and depth of mine, (3) current state and/or local permit status of mining activity on parcel, and (4) information contained on any annual report required by the Department of Natural Resources. Fees shall be assessed as adopted by the Board of County Commissioners.</u></p> <p><u>8. Mining operations shall be inspected annually for compliance in conjunction with the annual registration process. The operator shall provide access to the site for the purpose of such inspections. The inspection shall be based on conditions and standards ordered by the approval authority and the standards of this chapter. Fees shall be assessed as adopted by the Board of County Commissioners.</u></p> <p><u>9. Mining operators shall maintain compliance with all applicable standards. Deficiencies identified in the annual review and inspection shall be remedied. A conditional use permit may be revoked for noncompliance pursuant to Section 40.520.030(H).</u></p>	
<p>40.250.020 Surface Mining Overlay District</p>	<p>F. Information on Plans and in Specifications. 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, and the names and addresses of the owner and the person by whom they were prepared. The plans shall include the following minimum information:</p> <ol style="list-style-type: none"> 1. General vicinity maps of the proposed site. 2. Property boundaries and accurate contours of existing ground, details of terrain, and details of area drainage. 3. Proposed elevations and contours of the greatest extent of the proposed mining and proposed drainage channels and related construction. 4. 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 	<p>Add items (6), (9) and (10) to address transportation impacts.</p>

Code Section	Proposed Text	CALM Rationale
	<p>showing the drainage area and the estimated runoff of the area served by any drains.</p> <p>5. 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, or which may be affected by the proposed operation.</p> <p>6. <u>Location of access and internal roads, and primary haul routes.</u></p> <p><u>7.6.</u> Stormwater calculations and proposed treatment facilities for runoff from access roads and impervious areas.</p> <p><u>8.7.</u> A hydrogeology report which characterizes the groundwater and surface water and identifies wells within one-half mile of the proposed mining limits; and a monitoring and mitigation plan if impacts are anticipated to offsite properties.</p> <p><u>9.</u> A traffic impact analysis of the roads used as primary haul routes for mining operations and asphalt plants shall be completed showing the <u>estimated equivalent single axle loads (ESAL) for a minimum analysis period of twenty years and safety of specific vehicle types along primary haul routes. If the primary haul routes are unable to carry the increased ESALs as determined by the county, a pavement wear agreement may be required. These agreements may include, but are not limited to, safety, restoration, rehabilitation, and resurfacing of the affected roadways and/or financial participation in county road preservation projects. Pavement wear agreements may be executed by the director of public works.</u></p> <p><u>10.</u> A plan which addresses material entering the county right-of-way as a <u>direct result from mining operations and asphalt plants or accessory uses. The plan shall include methods to control material leaving the site and response should any material enter the right-of-way. Material may include, but is not limited to, rock, sand, mud, soil, water, asphalt, Portland cement concrete, and/or oil. The plan is subject to approval by the director of public works, and may be combined with the pavement wear agreement.</u></p>	
<p>40.260.120 Mines, Quarries and</p>	<p>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</p>	<p>No changes proposed; mining uses are not allowed in other zoning districts, so section is not needed.</p>

Code Section	Proposed Text	CALM Rationale
Gravel Pits	<p>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.</p>	
40.260.220 Temporary Uses and Structures	<p>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.</p>	<p>No changes proposed. County may wish to review exempt temporary uses against temporary uses requiring a Type I permit listed in 40.250.020(C)(3) to ensure there is no overlap or confusion.</p>
40.560.020 Changes to Districts, Amendments, Alterations	<p>A. Procedure, General. The UDC may be amended in any of the following ways: 1. By changing the boundaries of districts through a Type III map amendment (rezone) where the proposed zoning is consistent with the current comprehensive plan map designation; 2. By adding or removing the surface mining overlay through a Type III map amendment. <u>2</u>3. By changing the boundaries of districts through a Type IV comprehensive plan map and zoning map amendment pursuant to Section 40.560.010; or <u>3</u>4. By changing code text through a Type IV text amendment, whenever the public health, safety and general welfare requires such an amendment. Such a change may be proposed by the board on its own motion or by motion of the planning commission, or by petition as hereinafter set forth. Any such proposed amendment or change shall first be submitted to the planning commission and it shall, within ninety (90) days after a hearing, recommend</p>	<p>(2) A Type IV map amendment is required for any changes to the boundaries of the SMO because the SMO is an element of the Comprehensive Plan, in accordance with GMA requirements. A Type III map amendment is not legally sufficient.</p>

Code Section	Proposed Text	CALM Rationale
	to the board approval, disapproval or modification of the proposed amendment.	
40.560.020 Changes to Districts, Amendments, Alterations	<p>G. Approval Criteria.</p> <p>2. The Surface Mining Overlay may be applied to an area if both of the following <u>criteria conditions</u> are met:</p> <ul style="list-style-type: none"> a. The site is 5 acres or larger. b. The proponent submits data from test pits or borings which confirms the presence of a significant aggregate resource. c. <u>The proposed designation is based on current federal, state and private geological data and mapping;</u> d. <u>The proponent satisfies all of the following requirements:</u> <ul style="list-style-type: none"> i. <u>Calculate the distance of the mineral resources to market areas;</u> ii. <u>Demonstrate compliance with Comprehensive Plan policy 3.5.4 and other relevant plan policies;</u> iii. <u>Map identified critical areas on the proposed site;</u> iv. <u>Identify state or federal threatened or endangered species on site;</u> v. <u>Calculate the economic value of the mineral resources of long-term commercial significance on the site;</u> vi. <u>Assess the projected needs for mineral resources within the county consistent with WAC 365-190-070(4);</u> vii. <u>Map general land use patterns, including surrounding parcel size and uses, within one mile of the proposed site;</u> viii. <u>Identify and assess the availability of public services and utilities, including water supply and potential effects on the water table; and</u> ix. <u>Identify transportation haul routes, including road classification and projected improvements to road safety and mobility currently scheduled in the capital facilities plan and the effect of the proposed designation on transportation mobility and safety, and energy costs of transporting materials.</u> <p>3. The Surface Mining Overlay may be removed from an area if one of the following conditions is met:</p> <ul style="list-style-type: none"> a. The aggregate resources have been depleted; or b. There is evidence that mining of the aggregate resource is not 	<p>(2)(c) and (d) Develop specific designation criteria consistent with the Comprehensive Plan and WAC 365-190-070.</p>

Code Section	Proposed Text	CALM Rationale
	<p>economically feasible; or</p> <p>c. Environmental constraints make it impractical to mine the resource; or</p> <p>d. The area has been brought into an urban growth boundary or adjacent land uses or developments are incompatible with mineral extraction.</p>	

CALM proposes the following amendments to the adopted Clark County Comprehensive Plan and the revisions proposed by the Mineral Lands Task Force.

- Plain text that is not underlined or struck-through is current adopted County policy.
- Text that is ~~struck-through~~ is proposed for deletion by the Task Force.
- Text in ***[brackets and bold italic]*** is a Task Force statement.
- Amendments proposed by CALM are underlined and followed by an explanation.
- CALM retained the policy numbering system the current plan and Task Force employ to avoid potential confusion. However, we recommend reorganizing the flow of the policies to reflect the logic of designation - operation - enforcement - reclamation.

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Excerpt from Clark County Comprehensive Plan 2004-2024, Chapter 3 Rural and Natural Resource Elements, Pages 3-21 through 3-23.

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 Task Force Proposal:

3.5.1 Support the conservation of mineral lands for productive economic use by identifying and designating lands of long-term commercial significance ~~consistent with the 20-year planning horizon mandated by growth management.~~

CALM Proposal and Rationale:

3.5.1 Support the conservation of mineral resource lands that are not already characterized by urban growth and that have long-term commercial significance for the extraction of minerals.

The Proposed CALM language is an accurate reflection of RCW 36.70a.170 and GMA Goal 8 (RCW 36.70a.020(8), the identification of resource lands and critical areas. The concepts of “urban growth” and “long-term commercial significance” are RCW 36.70a.030, Definitions.

3.5.2 Task Force Proposal:

~~3.5.2 Capital improvement plans should take into consideration maintaining and upgrading public roads adequate to accommodate transport of mineral commodities.~~

CALM Proposal and Rationale:

Concur with deletion; the need for adequate capital facilities plans is incorporated into proposed Policy 3.5.4.

(New Policy) CALM Proposal and Rationale:

3.5.2 Balance the need to protect and conserve mineral resource lands against the potential significant adverse impacts development of mineral lands might have on surrounding land uses and public health, safety, and welfare.

The existing Goal reflects the County's desire to balance development and impacts. CALM proposed Policy 3.5.2 acknowledges the existing Goal's mandate to protect mineral lands and to consider and minimize potential conflicts. Together proposed Policies 3.5.1 and 3.5.2 clarify and strengthen the balance existing mineral lands Goal establishes.

3.5.3 (New Policy) CALM Proposal and Rationale:

3.5.3 Approach the designation of mineral resource lands as a county-wide or regional process. With the exception of owner-initiated requests for designation, the county will not review mineral resource lands designations solely on a parcel-by-parcel basis. Designate mineral resource lands as a legislative amendment to the Comprehensive Plan.

The proposed language relating to a county or regional wide approach and owner-initiated applications is consistent with WAC 365-190-070(1). The county designates other resource lands, agriculture and forest, through the legislative amendment process. The last sentence of the CALM proposal is consistent with the county's approach to resource lands.

3.5.3 Task Force Proposal

~~3.5.3 In identifying and designating commercial mineral lands, the following factors should be taken into consideration: geological, environmental and economic factors; existing and surrounding land uses; parcel size; and public service levels that are conducive to long-term production of mineral resources. [The designation criteria are set by statute; this is not a policy]~~

CALM Proposal and Rationale:

Delete existing policy, but replace with proposed Policy 3.5.4. Developing designation criteria is a central element of the comprehensive planning process.

3.5.4 (New Policy) CALM Proposal and Rationale:

3.5.4 Develop a classification scheme for designating or removing mineral resource lands from the county surface mining overlay based upon:

- a. Current federal, state and private geological data and mapping;
- b. Geology and distance to market;
- c. Other factors relating to the environment, economics, existing land use, and land ownership; and
- d. General public health, safety, and welfare.

The proposed classification criteria reflect the concerns addressed in existing County Policy 3.5.3 and reflect the classification factors allowed under WAC 365-190-070(3). The Task Force proposal would eliminate existing criteria and does not reference state administrative rules relating to designation and classification. The effect of the Task Force approach is to leave the county without any local policies for classification of mineral resource lands. CALM believes that the classification criteria it proposes reflect both the minimum criteria in the WACs and local values. The Comprehensive Plan should provide policy guidance and the development code should provide the necessary particulars to implement the plan. See CALM's proposal for CCC Section 40.560.020(G)(2).

3.5.5 Task Force Proposal:

3.5.5 Encourage recycling of concrete, aggregate and other materials.

CALM Proposal and Rationale:
Concur.

3.5.6 Task Force Proposal:

3.5.6 Encourage restoration of mineral extraction sites, ~~as the site is mined~~, consistent with requirements identified in RCW 78.44. ***[Reclamation is often delayed until the mining has been completed]***

CALM Proposal and Rationale:

3.5.6 Require restoration of mineral extraction sites, at the earliest opportunity following completion of surface mining, consistent with requirements of RCW 78.44.

Concur with Task Force explanation and propose language directly from RCW 78.44.020, the state statute requiring reclamation.

3.5.7 Task Force Proposal:

~~3.5.7 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. ***[Current code and practice does not preclude other uses permitted within the underlying zoning district]***~~

CALM Proposal and Rationale:

We address this issue below in policy 3.5.16.

3.5.8 Task Force Proposal:

~~3.5.8 Surface mining other than Columbia River dredging shall not occur within 100-year Floodplain. ***[The Shoreline Master Program addresses mining in the shorelines area including the 100-year floodplain; may add policy to address dredging]***~~

CALM Proposal and Rationale:

3.5.8 Ensure that surface mining operations, conducted within the jurisdiction of the Shoreline Management Act, are consistent with the county's Shoreline Master Program.

The preamble of RCW 36.70a.070 states that the comprehensive plan "shall be an internally consistent document..." Consequently, it is good planning practice to demonstrate how and where plan policies achieve the required internal consistency.

3.5.9 Task Force Proposal:

3.5.9 Mineral extraction operations shall be conducted in a manner, which will minimize the adverse effects on water quality, fish and wildlife, adjacent activities and the scenic qualities of the shorelines. Any adverse impacts shall be mitigated.

CALM Proposal and Rationale:

3.5.9 Ensure that mineral extraction and processing operations are conducted in a manner that minimizes the potential adverse effects of mining operations on water quality, fish and

wildlife, adjacent activities, and the scenic qualities of the locale in which mining operations occur. Ensure that all significant adverse effects of mining extraction and operations are fully mitigated.

Affirm need to minimize and mitigate mining-related impacts on critical areas and other resources, consistent with the County Comprehensive Plan's Environmental goals and policies in Chapter Four and CCC Chapters 40.410 through 40.450.

3.5.10 Task Force Proposal:

3.5.10 Land use activities adjacent to mineral lands should be located and designed to minimize conflicts with mineral activities on such lands. ***[Review – should this apply just to land adjacent to permitted mining sites or any parcel with the surface mining overlay?]***

CALM Proposal and Rationale:

3.5.10 Ensure that land use activities adjacent to mineral lands are located and designed to minimize conflicts with mineral activities and ensure that mining operations are designed to maximize compatibility with adjacent uses.

Affirm dual responsibility to minimize conflicts potentially created by both adjacent land uses' impacts on mining operations and mining operations' impacts on adjacent users; aim for mutual compatibility of uses. In response to the Task Force's question, the policy should address compatibility between adjacent users and **both** active, permitted mining sites and SMO-designated parcels, to minimize current and future incompatibility.

3.5.11 Task Force Proposal:

3.5.11 Designated mineral operations of long-term commercial significance are not exempt from the normal environmental review process of the county or state agencies.

CALM Proposal and Rationale:

3.5.11 Ensure that mining operation demonstrate continuous compliance with county critical area ordinances and applicable state and federal regulations relating to mining operations and protection of environmental resources.

Clarify applicability of federal, state and local environmental and mining regulations for mining-related uses.

3.5.12 Task Force Proposal:

3.5.12 Establish standards and programs whereby residents of rural lands adjacent to designated resource lands are informed that they are locating in a natural resource area and that will be subject to normal and accepted mining practices that comply with federal, state and local regulations. ***[Review language]***

CALM Proposal and Rationale:

3.5.12 Establish standards and programs to notify property owners on or within five hundred feet of designated mineral resource lands of potential for future mining-related activities. ~~are informed that they are locating in a natural resource area and that will be~~

~~subject to normal and accepted mining practices that comply with federal, state and local regulations.~~

Simplify language and align with RCW 36.70a.060(1)(b), which requires such notification. Implement policy through CCC Section 40.510.030(D)(7)(a), which applies to plats, development approvals and building permits, and make additional code improvements to ensure notification is provided to applicants for all plats, short plats, development permits and building permits.

3.5.13 Task Force Proposal:

~~3.5.13 Prior to removal of the surface mining designation, the landowner needs to show that the extraction of the mineral resource is not commercially feasible. ***[The county shall establish specific criteria for adding or removing the surface mining overlay]***~~

CALM Proposal and Rationale:

Delete this Policy. Designating or removing a SMO requires a legislative amendment to the SMO map based upon criteria consistent with the WAC and the Comprehensive Plan. See Policies 3.5.3 and 3.5.4.

3.5.14 Task Force Proposal:

3.5.14 The county shall allow continued mining at existing active sites.

CALM Proposal and Rationale:

3.5.14 ~~The county shall~~ Allow continued mining at existing active sites that are being operated consistent with county land use approval and conditions of approval, and that continue to comply with applicable state and federal regulations pertaining to surface mining and reclamation.

Mining operations, like all permitted and conditional uses, have the right to continue operations consistent with approved permits and applicable law. The additional clause clarifies that there is a right to continue operations and an equal responsibility to comply with all permitting requirements.

3.5.15 Task Force Proposal:

~~3.5.15 Potential aggregate sites or expansion shall not be designated within rural zoning categories. ***[Not easily defensible under existing statutes. Was this intended to apply to just rural residential zones?]***~~

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

CALM Proposal and Rationale:

3.5.15 Prioritize mineral lands designation on non-rural residential lands and discourage mineral resource land designation where residential density of the surrounding area is equal to or greater than 1 dwelling unit per ten acres.

Designation of resource lands is an imperative under the GMA. The county may not have the authority to preclude mineral land designation on a particular base zone. However, the

WACs do not preclude prioritizing which mineral lands shall develop first. The WACs explicitly allow a county to consider other factors, such as those described in Policy 3.5.4 and WAC 365-190-070(3). This policy establishes the county's policy on what types of adjacent land use patterns are compatible with mining, listed as a consideration for designation under WAC 365-190-070(3)(e)(ii)

3.5.16 Task Force Proposal:

~~3.5.16 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. *[The underlying zoning should already limit future uses to those that are compatible with adjacent property.]*~~

CALM Proposal and Rationale:

3.5.16 Ensure reclamation of former mining sites consistent with county and state regulations and that the reclaimed land will have an ultimate economic use which will complement and preserve the value of adjoining land.

This policy deals with the issue of what happens to mineral lands after mining ceases. This policy prioritizes reclamation consistent with RCW 78.44 and would help ensure that new uses are compatible with the surrounding area.

3.5.17 (New Policy) CALM Proposal and Rationale:

3.5.17 Ensure that the development review approval process for siting or expanding mining operations includes a public process that carefully balances the county's demonstrated need for mineral lands of long-term commercial significance against the potential adverse impacts mining operations may create within established residential communities.

When mining operations are proposed for rural lands this policy ensures that the County employs a robust public participation process and carefully balances both the benefits of the mining operation against its potential impacts.

3.5.18 (New Policy) CALM Proposal and Rationale:

3.5.18 Develop a program for monitoring and enforcement of active mining activities to ensure that the county's surface mining program operates efficiently, complies with applicable local, state and federal regulations, and upholds the local values expressed in the goals and policies of this chapter.

Recent experience in the County underscores the importance dedicating resources to monitor and enforce its policies and regulations relating to mineral lands on an ongoing basis, rather than during a crisis.

3.5.17 Task Force Proposal:

~~3.5.17 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 in county jurisdiction]*~~

CALM Proposal and Rationale:

Delete this policy; it is no longer relevant.

3.5.18 Task Force Proposal:

~~3.5.18 Some level of processing should be associated with mineral extraction. [No evident justification or public purpose; would force all mines to get a CUP]~~

CALM Proposal and Rationale:

Delete this policy; the development code will address types and levels of uses.

3.5.19 Task Force Proposal:

~~3.5.19 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. [Criteria for adding overlay should be based on demonstration that rock is present; should not require proof of economic feasibility.]~~

CALM Proposal and Rationale:

Delete this policy; it is addressed in the CALM proposed policy 3.5.4.

3.5.20 Task Force Proposal:

~~3.5.20 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. [Not a mining policy; coordinate with PA and Gordy]~~

CALM Proposal and Rationale:

Delete this policy; it is not relevant. Compatibility with Shorelines requirements is addressed in Policy 3.5.8.

STRATEGIES FOR RESOURCE LANDS [Review and modify or delete.]

Maintain an inventory of gravel and mineral resource sites. The inventory should comprise of:

- a list of designated sites;
- a list of "potential" sites for which information about the quality and quantity of the site is not adequate to allow a determination of long-term commercial significance;
- a list of current sites; and,
- a list of active sites.

CALM Proposal:

We concur that the inventory requires additional consideration.



TAPANI INC.

PO Box 1900 • 1904 SE 6th Place • Battle Ground, WA 98604
(360) 687-1148 • (360) 687-7968 FAX

RECEIVED NOV 06 2013

November 11, 2013

Clark County Commissioners

Tom Mielke
Steve Stuart
David Madore

Clark County Planning Commissioners

Ron Barca
Valerie Uskoski
Steve Morasch
Eileen Quiring
James Gizzi
Karl Johnson
John Bloom

RE: Comprehensive Plan and Surface Mining Overlay Review

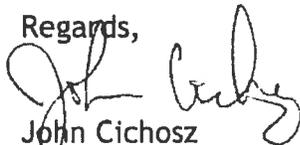
Dear Commissioners,

I am writing to extend my support for the attached letter prepared by J.L. Storedahl in regard to the proposed changes in Comprehensive Plan (CP) (designation of mineral resource lands) and the revision of the Surface Mining Overlay (SMO) Code.

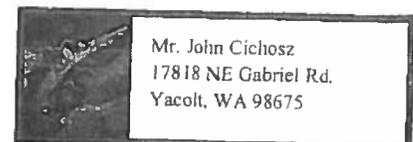
I know you have a tough job to do and can't please everyone, and I thank you for all your hard work. Affordable infrastructure is critical to the economic health of the county and the decisions you make regarding mining of aggregates and mining operations will have direct impact on the future cost and constructability of projects.

Please carefully consider the decisions you make regarding changes to the Comprehensive Plan and Surface Mining Overlay Code.

Regards,


John Cichosz
Project Manager

Attachment



TAPANI/CICHOSZ 1/16



TAPANI INC.

PO Box 1900 • 1904 SE 6th Place • Battle Ground, WA 98604
(360) 687-1148 • (360) 687-7968 FAX

October 30, 2013

Clark County Commissioners
Tom Mielke
Steve Stuart
David Madore

Clark County Planning Commissioners
Ron Barca
Valerie Uskoski
Steve Morasch
Eileen Quiring
James Gizzi
Karl Johnson
John Bloom

RE: Comprehensive Plan and Surface Mining Overlay Review

Dear Commissioners,

I am writing regarding my concerns about the review process and the way this is going. I have been a resident of Clark County for almost 35 years. During this time I have become a part of the community and have seen and experienced much in the way of growth and change. This has been both me personally, as well as with all of our cities, neighborhoods, communities and throughout the county. I now have my own children in the schools, driving the roads, and making their livings in our wonderful county.

My father started an underground utility and road construction company in 1983. And through this, and growing up here, we as a family have been deeply integrated in the growth and protection of our county. For all of these reasons, I am interested in the planning and forward action regarding the proposed changes to the comprehensive plan and the surface mining overlay code. I am appreciative of all the effort and commitment of the individuals who have been working on this. And want to express my desire that the county continue the effort to set aside areas to preserve our natural resources. As you all are well aware, the ability for any area to utilize its natural resources is the foundation of its ability to sustain a long term employment and living viability.

Your actions will have a long term effect on how competitive our county is for both people and businesses. We want them to choose to live here as well as to do business here. Less available resources will increase the costs of almost everything that is purchased. This increase will come in the form of increased transportation costs, less tax revenue(to pay for schools, roads, police etc.), higher costs of housing, less jobs for our people, and more of our local money leaving the county to other counties. Also, if the rock and gravels have to be imported in, it will increase the impacts to the environment in the form of increased transportation costs, more fuel used, and increased safety hazards as the miles increase.

In my view, although I am sure I do not understand it to the depth I should, The Comprehensive Plan GMA Review, is to set aside enough areas of resource to fill future needs of the county. Included, but not limited to, all public, residential, business, and private needs of the county. This should be done with the thought that a certain % of that land will not meet the requirements and condition's to be an actual source, and other areas may be land that the owners will not want to mine. So, I was surprised at the public hearing that the planning commission voted to remove so many areas from the overlay map.

In response to the Surface Mining Overlay Code changes, I agree with Storedahl's recommendations and have attached a copy of their letter to this letter.

Please review my concerns and vote to preserve as much land as is needed in the mining overlay areas and keep the code changes minimal to avoid unneeded restrictions on the operators of our aggregate sources locally. This will help keep jobs and money flowing in our local economies.

Sincerely,

A handwritten signature in cursive script that reads "Kevin Tapani". The signature is written in black ink and is positioned above the printed name and title.

Kevin Tapani
Vice President

Jerry L. Storedahl, Owner



Office: (360) 636-2420
FAX: (360) 577-3906

2233 Talley Way • Kelso, Washington 98626
ROCK PRODUCTS, GRADING & EXCAVATING

October 14, 2013

Clark County Planning Commission
Attn: Michael Mabrey,
P.O. Box 9810,
Vancouver, WA 98666

BY ELECTRONIC TRANSMISSION & PERSONAL DELIVERY

Dear Commissioners

I am writing on behalf of J.L. Storedahl & Sons, Inc. with regard to the proposed changes in Comprehensive Plan (CP) (designation of mineral resource lands) and the revision of the Surface Mining Overlay (SMO) Code.

Before setting out our comments and concerns with the designation of mineral resource lands and amendment of the SMO Code, I want to thank each of you for the important public service you have rendered and continue to render. Citizen involvement is central to ensuring that our government achieves conditions that foster a sustainable living environment and good livable communities. Sustainable modern communities also need affordable resources such as agricultural products, forestry products, and even mineral products, such as the sand and gravel that we produce. These products must be accessible and affordable in order to construct and maintain infrastructure (roads, highways, public works, homes) needed by both governmental entities and the citizens of our communities.

We are acutely aware that very few people want a mine as a neighbor. On the other hand, governments, individuals and communities in the County want and need our products. Our aggregates form the basis of the foundations of homes, provide concrete for playgrounds, and provide the basis of our transportation networks, streets, roads highways and even railroads. This conundrum led the Washington State Legislature to enact the Growth Management Act (GMA). The GMA requires counties to identify and conserve natural resource lands (RCW 36.70A.060). This includes designating mineral resource lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals (RCW 36.70A.170). Conservation in this context is intended to maintain such lands for potential mineral extraction. Counties must also protect these lands by ensuring that the use of adjacent lands does not interfere with mineral extraction (RCW 36.70A.060 (1)).

It is our overarching hope that the Planning Commission will carefully consider the need to identify and protect sufficient mineral resource lands from encroaching development and to ensure our industry can operate in a reasonable manner. In this regard, I ask that each of you keep in mind that it is relatively easy to create additional regulations. However, additional regulations, requirements and procedures

increases the cost of construction and the ability of the County and cities in Clark County to maintain and construct infrastructure, such as roads, schools, etc. These costs must be passed on to consumers of sand and gravel resources. For these reasons, we ask that the Commission use caution and care in evaluating whether each new rule or regulation it is proposing is truly necessary. Further, we urge you to consider the benefits *and the costs* of proposed regulation -- is each regulation or limitation worth the cost that will be exacted in the ultimate availability and price of sand and gravel products?

Before moving on to the CP and SMO Code, I would like to tell you about our company.

1. Background on J.L. Storedahl & Sons, Inc.

Storedahl is a family-based business and we employ approximately 90 workers. We pay our workers a family based wage and provide significant health and fringe benefits to our workers. We provide high quality aggregate products to our clients, which includes contractors, builders, Washington, Department of Transportation, and local governments, including Cities within Clark County and the County's Department of Public Works.

In Clark County, we operate the Daybreak Mine, the Yacolt (Mountaintop) mine, and the Livingston Mine. In operating these mines, we make substantial efforts to control, limit and reduce adverse impacts to our neighbors and the environment. An example of our approach to mining is the Daybreak Mine Habitat Conservation Plan (HCP). The Daybreak Mine HCP was developed over a ten-year period in consultation and coordination with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service as well as Washington Department of Fish and Wildlife and other agencies. Through the HCP, mining is used to create, enhance and preserve fish and wildlife habitat -- in perpetuity -- on lands near the East Fork Lewis River. These lands once, reclamation is complete, will be conveyed, with a conservation easement to prevent future development, to a conservation organization with a financial endowment that will support the protection and management the lands for fish and wildlife habitat and low-impact recreational uses by the citizens of Clark County. The Washington Department of Natural Resources has told Storedahl that the Daybreak Mine HCP serves as a model for the rest of our State's mining industry.

I now will to turn to some of the more troubling of the proposed changes in the SMO code and finally to the Mineral Resource designation process.

2. Comments on the Proposed Changes to the Surface Mining Overlay Code

- a. **Days and Hours of Operation:** The proposed amendments regarding days and hours of operation and the process for obtaining approval to operate outside the normal days and hours of operation, if adopted in its current form, will substantially impede future mining and, as a consequence, road construction and maintenance as well as adversely impact the general construction industry.

The proposed amendments regarding days and hours of operation provide:

3. Hours 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. Mining, processing, loading, hauling, batch plant operation, drilling, and all activities that include the use of equipment with audible (beeping) back-up alarms are restricted to the hours of 7:00 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 pm Monday through Friday.

d. Maintenance activities may be performed outside the normal hours of operation, provided that equipment with audible (beeping) back-up alarms are not used and noise levels meet the standards in Section 40.250.020(D)((2) [sic].

e. Loading and hauling of rock products outside of normal hours of operation may be approved by the responsible official through a Type I process , provided that:

(1) the applicant provides notice to the county such that the county can provide notice to property owners within one-half (1/2) mile of the mining limits 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 at least ten (10) days prior to the event;

(2) noise levels at the property line will not exceed 50 dBA when measured as per WAC 173-60.

(3) all equipment used as the least intrusive back-up alarms allowed by the Mining Safety and Health Administration (MSHA); and

(4) the applicant provides proof that the contract is for a public purpose and requires delivery of rock products outside of normal operating hours

We believe the proposed amendment, if adopted in its current form, will be unworkable. It will make supplying aggregate materials for major works project nearly impossible. Many of these projects can only be performed at night due to traffic congestion and safety concerns. Moreover, if adopted, these changes will substantially increase the difficulty and cost of maintenance and construction work in the County.

The current code authorizes mining from 6 am to 8 pm each day of the week and the "responsible official" (typically the Director of Public Works) may authorize hours of operation outside these hours. CCC 40.250.020.

The proposed amendments would prohibit mining activities on Sundays as well as New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day and would limit operations from 7 am to 6 pm Monday through Friday and from 8 am to 5 pm on Saturdays (40.250.020(D)(3)(a), (b)).

Many construction contractors require aggregate materials at their work sites at 7 am so materials and the work force arrive together. Sometimes, it is possible to stockpile aggregate at or near a construction site; however, sometimes this is not possible. Moreover, handling materials more than once increases the cost and transfers more noise (with more handling) to urban environments. In addition, the amendment will make future efforts to meet non-peak hour delivery requirements of the Washington Department of Transportation and local government roadway construction (non-peak hour and nighttime work due to traffic concerns) impossible and will cause undue problems, delays and costs in the roadway and construction industry. Moreover, many concrete applications require continuous concrete pours so that concrete hardness and integrity complies with modern earthquake standards. As an example, modern high rise buildings must be supplied aggregate and concrete in sufficient quantities to meet continuous concrete pours.ⁱ However, under the proposed change, because high rise building construction is typically not for a "public purpose" they would not even qualify for an exemption to the hours of operation.

Prohibiting our industry from working on holidays and Sundays is and unnecessary regulatory burden. As a general matter Storedahl does not work on holidays or Sundays except when projects, such as public works, demand work on such days, or there is an emergency.ⁱⁱ Presuming the days and hours of work limitations are due to noise concerns, we ask that you keep in mind that we are already a highly regulated industry and we must comply with Department of Ecology and County noise limitations and requirements. For many reasons, we do not believe the County should regulate any business's operation on the basis of selected holidays or certain days of the week that may be sacrosanct for a specific religion.ⁱⁱⁱ Further, the outright prohibition of work on Sundays may have legal implications relative to the U.S. Constitution's First and Fourteenth Amendment (generally prohibiting government from enacting laws establishing religion or interfering with the free exercise thereof -- separation of church and state).

Procedural requirements for approval to operate outside authorized days and hours are unworkable. The proposed amendments would authorize only loading and unloading outside of the authorized days and hours *if and only if the responsible official approves such activity through a Type I approval process under 40.510.010 and numerous conditions are met* (notice to all property owners within 1/2 mile and all owners on all access roads, noise limits of 50 dBA, etc.)(40.250.020(D)(3)(e)).^{iv} The notification requirement for all land owners within 1/2 mile including abutting roads would require a significant increase in notification efforts.

The extensive notification requirements proposed, and the Type I hearing process would require a minimum of 56 days (assuming there were no notification or other issues). Moreover, the decision would be subject to appeals and, if appealed, a final decision would not be rendered for many months. Moreover, authority for operating outside these days and hours is limited only to projects with a "public purpose" so that if an important and needed private construction or maintenance activity is required, it cannot proceed.

Prohibition on backup alarms is inconsistent with federal regulations. While the proposed amendment (40.250.020(3)(d)) would authorize maintenance activity outside of the normal hours of operation, it would prohibit the use of back up alarms. Should an operator need to move a machine, meeting County requirements would require violating OSHA and MSHA standards. Further, if industry maintenance staff is needed to ensure that a backup alarm was producing the correct sound levels, it would mean the equipment could not be tested. For these reasons, this provision should be deleted or amended.

The proposed exception to normal work hours would also require that "all equipment used as the least intrusive back-up alarms allowed by the Mining Safety and Health Administration (MSHA)". Storedahl has no desire to produce back up warning noise required by MSHA any greater than necessary to meet the regulations and make our workers safe. However, insofar as we are aware, there is no definition of the "least intrusive back-up alarm". Who in the County will judge which back-up alarm meets MSHA requirements *and* is the least intrusive? The County simply lacks the expertise, staff and resources to undertake this role and exercise this judgment. For that reason, among others, this provision should be eliminated.

Noise limitations outside normal days and hours are unnecessary and conflict with Ecology's rules on noise limits. The proposed amendments exception to normal work hours would also require that noise be limited to 50 dBA as measured at the property boundary. The Department of Ecology (Ecology) has expended considerable effort to establish maximum noise levels. The rules promulgated by Ecology are very stringent and take into consideration the nature of the receiving area; lower noise levels are required where the receiving area is residential in nature as opposed to a commercial or industrial area. These limitations also take into consideration the time that the noise is produced with reduced levels at nighttime and early morning. The establishment of special rules by Clark County, above and beyond those already established is not justified. For these reason we recommend that the County utilize rules currently in effect.

Recommendation: For the above reasons we recommend that the current code hours be reinstated and the same process for operating outside normal hours be retained -- the approval of the responsible official. Should the Commission not return to existing hours and days, we recommend the provision should be amended as follows:

Hours 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.~~

~~ba.~~ Mining, processing, loading, hauling, batch plant operation, drilling, and all activities that include the use of equipment with audible (beeping) back-up alarms are restricted to the hours of 7:00 a.m. to 6:00 p.m. ~~Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday.~~

~~cb.~~ Blasting is restricted to the hours of 9:00 a.m. to 4:00 pm Monday through Friday.

~~dc.~~ Maintenance activities may be performed outside the normal hours of operation, provided that ~~equipment with audible (beeping) back-up alarms are not used and~~ noise levels meet the standards in Section 40.250.020(D)(2).

~~ed.~~ ~~Loading and hauling of rock products~~ Operations outside of normal hours of operation may be approved by the responsible official ~~through a Type I process~~ , provided that:

(1) the applicant provides notice to the county such that the county can provide notice to property owners within one-half (1/2) mile of the mining limits ~~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~~ at least ten (10) days prior to the event.

(2) noise levels at the property ~~line~~ boundary ~~not exceed 50 dBA when measured as per~~ will comply with the procedural measurement requirements and substantive standards set forth in WAC 173-60.

(3) all equipment used ~~as is the least intrusive back-up alarms allowed by in~~ conformance with the requirements of the Mining Safety and Health Administration (MSHA); and

(4) the applicant provides ~~proof~~ evidence that the contract is for a public purpose and requires delivery of rock products outside of normal operating hours ~~or a private purpose where construction operations or standards require aggregate to be supplied outside of normal operating hours.~~

We will next take up the proposed rules regarding smoke, vibrations, lighting, etc.

- b. Vibrations, smoke, glare, etc.: The proposed changes regarding vibrations, smoke, odors, lighting and glare, in many instances, are duplicative, vague, and require clarification.

The proposed section 40.250.020.D.7 provides

Mining activities must not cause unreasonable external effects such as offensive odors, increased lighting or glare, dust, smoke or vibration (except for blasting) detectable to normal sensory perception at the property line.

The proposed amendment is vague and lacks any performance standards and thus it provides little in the way of predictive value to mining owners or operators. Most if not all mining activity will create additional noise, increased lighting or glare during winter operations (or at night traffic on federal, state and local roads requires nighttime surfacing or resurfacing), vibrations from vehicles or rock crushing, as well as some dust from vehicle traffic and extraction activity. Many of these items are regulated by State agencies. For example, the Southwest Clean Air Agency issues permits governing the production and control of pollutants such as smoke and dust. Moreover, lighting and glare are typically controlled by requiring indirect lighting. However, mining will cause increased artificial lighting during winter hours. What amount of light or vibration is "unreasonable" as "detectable to normal sensory perception"? What is "normal" sensory perception? It is easy to foresee that the Planning Staff will need significant resources to respond to allegations of such things as "increased light" or other alleged violations. Currently, the State Environmental Policy Act (SEPA), Ch. 43.21C RCW provides the framework for agencies, including Clark County to consider and address environmental consequences of a proposal before taking approval action. It also gives agencies the ability to condition or deny a proposal due to identified probable significant adverse impacts. The Site Plan Review process will trigger SEPA review for any mining proposal. Between SEPA and existing regulatory standards, we believe this provision is duplicative, unnecessary, and is too vague. It will result in a drain on County planning resources.

Recommendation: For these reasons we suggest that the proposed amendment be deleted. If it is not deleted, at a minimum, we believe the proposed section 40.250.020.D.7 should be amended as follows:

Mining activities must not cause unreasonable external effects such as meet applicable Federal, State or County standards governing, dust, odors, blasting, vibrations and smoke and shall use practicable methods to control light and glare, (such as indirect lighting) ~~as offensive odors, increased lighting or glare, dust, smoke or and excessive vibration (except for blasting)~~ and the SEPA process may be used to address significant adverse environmental impacts. ~~detectable to normal sensory perception at the property line.~~

We next will address the provision adding a CUP process to the Surface Mining Overlay Code.

- c. **The "additional conditions" provision creates an additional CUP process. The proposed provision regarding "Additional Conditions" creates another CUP process and defeats the apparent purpose of the new rules and should be stricken or substantially amended.**

The proposed amendment 40.250.020(D)(10) provides:

The county may impose additional special conditions to resolve issues specific to an individual site.

The most obvious issue with this provision is that it recreates the Conditional Use Permit process which the proposed SMO Code was apparently designed to eliminate. We understood that the intent of the SMO Code was to establish standards under which mining could occur within those areas in the

Comprehensive Plan holding the Surface Mining Overlay. However, proposed provision (D)(10) simply re-creates a "de facto" CUP process.⁹ Moreover, the language is so vague that any "issue" can be the subject of special conditions. The language is void of any threshold. We urge the Commission members to keep in mind that the SEPA process is already available to the County and will be triggered by proposals for new mining. Should the County wish to retain the CUP process, then there is no need for the proposed revisions to the SMO Code (Title 40.250.020) whatsoever.

Recommendation: For these reasons, the proposed section (D)(10) should be stricken.

Should the provision be retained then it should be amended as follows:

The county Hearings Examiner during site plan review and the SEPA evaluation may impose additional special conditions to ~~resolve issues specific to an individual site~~ reduce, control or minimize significant adverse impacts not otherwise adequately addressed through the standards established under 40.250.020, other County, State or Federal laws, statutes, or rules.

We now will address the authorization for multiple subsequent open record hearings.

- d. **The requirement for subsequent hearings:** The proposed provision calling for subsequent and repetitive hearings before the Hearings Examiner will be costly, unnecessary and likely violates Washington law.

The proposed section 40.250.020.E.4 provides:

A hearing shall be held within twelve (12) months of the approval of any uses permitted under Section 40.250.020(C)(1) and at intervals thereafter to be determined by the Hearings Examiner. Public hearing notice and procedures shall be conducted pursuant to Section 40.510.030. The scope of these hearings shall be limited to:

- a. **assessing whether the conditions of approval were adequate or necessary to mitigate the actual impacts of the use;**
- b. **determining whether the conditions of approval have been met; and**
- c. **evaluating the effectiveness of any monitoring programs.**

This provision requires subsequent and potentially *ad infinitum* hearings, the frequency of which is wholly within the unfettered discretion of the Hearings Examiner. The provision for multiple hearings seems like an attractive and potentially lucrative proposition for any Hearings Examiner being paid by the County and for attorneys and experts representing project proponents and opponents. However, the Planning Commission members should be aware that hearings of this type are very costly both to the County and to the applicant. Such hearings will typically require legal counsel, County planning staff, and experts in various disciplines (stormwater, acoustics, traffic, fish and wildlife, etc.). Already, the cost of permitting sand and gravel mines is several hundreds of thousands of dollars. This provision would increase those costs and would likely create a moving target for mine operators. As noted elsewhere,

additional burdensome regulatory costs will be passed on to consumers and public agencies and governments, including state and local governments. The stage would thus be set for prolonged political conflict which will require much time of the County staff and County Commissioners.

Ample authority resides in the County through Code Enforcement to address the situation where a mining operator is allegedly violating existing County rules or conditions of approval. Moreover, Ecology, the Department of Natural Resources and other agencies hold significant enforcement powers. Should these enforcement avenues fail, the County has at its disposal both civil and criminal sanctions against mining operators. Thus, the County currently holds the ability to address the failure of a mining operator to abide by the terms of Site Plan or SEPA mitigation requirements. Further, private citizens have at their disposal the ability to bring tort (civil) actions against any person including mining operators so long as the allegations made in Court are based in fact and law. Mining operators and owners need to know with some certainty whether they can competitively operate at a given site. Changing the rules through subsequent, numerous, and costly hearings will not achieve reasonable certainty.

There is one more important reason why this provision should be reconsidered -- it appears to be unlawful. Section 40.250.020.E.4 appears to directly violate RCW 36.70B.050 which allows only for *one and only one* open record hearing on any land use application. Moreover, RCW 36.70B.030(2) provides that the CP and development regulations "shall be determinative of the: (a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied." Finally RCW 36.70B.030(3) provides:

During project review, the local government or any subsequent reviewing body shall not reexamine alternatives to or hear appeals on the items identified in subsection (2) of this section, except for issues of code interpretation.

See also, RCW 36.70B.030(4) and (5) (noting that SEPA and development regulations at the time of project review are the means to condition a proposal). The citizens of Washington deserve to undertake land use development with some reasonable certainty that the rules and conditions established when land use permits are granted are the rules that will govern the land use. This is particularly important with regard to mining projects where literally hundreds of thousands if not millions of dollars may be at stake to even plan and prepare for mining.

Recommendation: For the above reasons, we strongly urge the County to strike in its entirety Section 40.250.020.E.4.

- e. **Agreements regarding use of public roads.** The proposed provision regarding public roads should be clarified.

Section 40.250.020.D.8 provides:

Pavement wear agreements may be required for public roads used to access the site. Public access roads to mining and quarrying sites must be maintained and located to the satisfaction of the director of public works, to minimize problems of dust, mud, potholes, runoff and traffic safety.

We are in agreement that the mining industry should pay its fair share for County roads. In fact, we pay substantial gas taxes for just this purpose. However, this section appears to assume that the problems of wear, safety, dust, mud, etc. are wholly a product of mining activity. For that reason, we believe this section needs some clarification.

Recommendation: We recommend the proposed section be amended as follows:

Pavement wear agreements may be required for County roads used to access the site. Public access roads to mining and quarrying sites must be maintained and located to the satisfaction of the Where there is evidence that the use of County roads is the direct cause of undue dust, mud, runoff, potholes or traffic safety, the director of public works, may require reasonable conditions to reduce, control or minimize problems of dust, mud, potholes, runoff and traffic safety such issues.

- f. **Internal access road controls.** The Provision Regarding Dust Control of Internal Access Roads Needs Flexibility in How Dust Impacts are Identified and Addressed.

Section 40.250.020.D.9 provides:

Internal access roads within one hundred (100) feet of a paved county road or state highway shall be paved, oiled or watered. Internal access roads within two hundred, fifty (250) feet of a residence existing at the time of site plan approval shall be paved, oiled, or watered.

There may be instances where some internal access roads are rarely used while others may be heavily used. Moreover, the nature of some roads may be such that the creation of additional impervious surface areas is unnecessary. In general, a "one size fits all" requirement may be wasteful of resources. As noted above, these costs will be passed on to consumers, including state and local government where maintenance and construction of roads is concerned.

Recommendation: For these reasons we urge that a more careful approach be followed and the provision be amended as follows:

Where mining traffic utilizes Internal access roads on a regular basis and results in the track out of significant amounts of mud or dirt that significantly and adversely affects safety or the environment , the director of public works may: (a) require that such internal access roads be within one hundred (100) feet of a paved county road or state highway shall be paved, oiled, or watered for a reasonable distance from paved County or State roadways in order to ameliorate or control the issue or (b) require sweeping, wheel washes or other methods to control such impacts. Where evidence

supports the conclusion that proposed mining activity on access roads will result in significant dust impacts to adjacent residences, the director of public works may require reasonable requirements to reduce or control such effects. Internal access roads within two hundred, fifty (250) feet of a residence existing at the time of site plan approval shall be paved, oiled, or watered.

- g. Requirement to show water has been appropriated. The Proposed provision on water availability would benefit from clarification.

The proposed section 40.250.020.D. 9 relating to water, should be renumbered (two sections are numbered as #9) as 40.250.020.D.10 and subsequent paragraphs should be renumbered accordingly: This proposed section provides:

The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site or is legally available.

This section is unnecessary. The Department of Ecology controls the permit application process and the allocation of water rights as well as the ultimate issuance of certificates of withdrawal or diversion of water. Ecology also enforces State water laws. Requiring an applicant to show that water has actually been appropriated (permitted and actually perfected by use on a site) may not be possible at the time of an application. Moreover it is not clear what amount or kind of evidence is sufficient to "demonstrate" that water is "legally available". This would require additional work for County staff and would be duplicative of the role of the Ecology. For that reason we believe the proposed provision should be eliminated.

Recommendation: We recommend the proposed provision should be eliminated or at a minimum the following substituted in lieu thereof:

The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site or is legally available. Proposals for mining shall identify the source or potential sources and approximate amounts of water anticipated to be used on the site. Where the amount of water anticipated for use is in excess of the exemption provided under state law, RCW 90.44.050, the applicant must present evidence that water is likely to be available to meet the needs of the proposed mining operation.

- h. Fencing and posting. The proposed provision governing fencing and posting should be clarified and include flexibility regarding where fencing is required.

Provision 40.250.020.D.1 States as follows:

"Access roads into the site shall be gated, and, at a minimum, the portion of the site being mined shall be shall be [sic] fenced and posted."

This provision is not clear. Does it require that the active mining area be fenced? Does a fence and "posting" bordering the overall property suffice? Would fencing and posting suffice if it covered the

"reclamation area" as defined by the Washington Surface Mining Act? The provision also uses the phrase "at a minimum". What is intended by this phrase? It's the phrase needed? What does "posted" mean? Presumably it means "no trespassing" signs need to be placed on the property borders. We wish to point out that posting the immediate area being mined may be difficult due to a number of reasons. For example, if the mine is a hard rock mine it may be difficult to place fences in hard rock in the "portion o the site being mined." Finally the provision repeats "shall be" in the same sentence.

Recommendation: We recommend the provision be amended as follows:

Access roads into the site shall be gated, and, ~~at a minimum, the portion of the site being mined site or mine shall be~~ fenced or utilize other methods approved by the Department of Natural Resources for limiting ingress and egress to the mining site and shall be posted "No Trespassing".

- i. **Site Plan Drawings.** The proposal requiring drawings of buildings and structures within 200 feet of the Mining Boundary should be reduced in scope.

The proposed section 40.250.020.F.5 provides that mining plans shall include:

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, or which may be affected by the proposed operation

Currently drawings of structures on adjacent properties are required only to a distance of 50 feet. There appears to be no rational basis to extend this distance another four times the current distance. Moreover, the requirement for drawings where the structure "may be affected" is filled with uncertainty. How does one know whether such a structure "may be affected"? What is the basis for the structure being affected? How will this be determined?

Recommendation: For these reasons we recommend that the provision be amended as follows:

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)~~ fifty (50) feet of the property, ~~or which may be affected by the proposed operation~~

- j. **Stormwater calculations:** The Provision Governing Stormwater Calculations Needs Significant Revision.

The proposed section 40.250.020.F.6 requires that mining plans include:

Stormwater calculations and proposed treatment facilities for runoff from access roads and impervious areas not within the mine.

It would be logical to require stormwater calculations and proposed treatment facilities for areas and roads *within the proposed mining area*. In fact, stormwater runoff is already regulated under the

stormwater section of the Clark County Development Code. See Clark County Code, Ch. 40.385. For that reason alone, the proposed clause should be stricken in its entirety. In addition, as drafted, the proposed language has no stopping point at all. Existing conditions for the baseline of operations and environmental conditions within the County and mining applicants should not be expected to undertake extensive analysis of or propose treatments facilities for existing and extensive road networks *outside of the proposed mining area*. Requirements of this kind require highly qualified engineers and the process is costly to carry out. These costs will ultimately be borne by consumers and the County and its citizens.

Recommendation: The proposed provision stricken in its entirety or at the very least amended as follows:

Stormwater calculations and proposed treatment facilities for runoff from access roads and impervious areas ~~not~~ within the mine.

k. **Conclusions:** Conclusions regarding proposed amendments of the Surface Mining Overlay Code.

We believe that many of the proposed changes to the Surface Mining Overlay Code are unworkable, particularly: (a) the hours and days of operation and the method of obtaining approval to operate outside these days and hours, (b) the requirement for many subsequent hearings by the Hearings Examiner, and (c) the authorization of a CUP process in addition to Site Plan Review, SEPA review, etc. In short, we urge the Commission members to give the proposed amendments additional and careful review, analysis and revision. We are hopeful the members of the Planning Commission recognize that each additional regulatory requirement comes at a cost. Many of the proposed requirements are duplicative or vague and would require the County staff's time and energy and/or additional expertise. Any new proposed requirements should pass muster only if the requirements is truly necessary and would provide a benefit that exceeds the cost of the new regulation. We believe more time is needed to consider the future effects of the measures currently before the Planning Commission. We now turn to the issue of designation of Mineral Resource lands.

3. Comments on Designation of Mineral Resource Lands (Surface Mining Overlay).

The designation of mineral resource lands is determinative of where mining will take place in the future and forms the basis of the County's obligation under the Growth Management Act (GMA) protect mineral resource lands for future use.

The designation of Mineral Resource lands appears to have been done on somewhat of an ad hoc basis. The Washington Department of Commerce has adopted GMA rules identifying criteria for the designation of mineral resource lands and requiring protection of such lands from incompatible land uses. WAC 365-190-170. These rules require "the conservation of a land base sufficient in size and quality to maintain and enhance those industries and the development and use of land use techniques that discourage uses incompatible with the management of designated lands." WAC 365-190-070(3)(e).

The guidelines also provide that in designating mineral resource lands, counties and cities should determine if adequate mineral resources are available for projected needs from currently designated

mineral resource lands. The guidelines also specify criteria for designating such lands, such as the underlying geology, distance to market of potential mineral resource lands, physical and topographic characteristics of the mineral resource site, the depth and quantity of the resource and depth of the overburden; physical properties of the resource including quality and type; projected life of the resource; resource availability in the region; and accessibility (e.g. sufficient roads) and proximity to the point of use or market. Additional factors to be considered are surrounding parcel sizes and surrounding uses; availability of public roads and other public services; energy costs of transporting minerals, etc.

It is not clear to us that the prepared an analysis and matrix of criteria to assist in the identification of mineral resource lands. Further, without forecasts on mineral resource supply from currently designated mineral resource lands, and from current and projected uses of such designated lands, it is uncertain if the County has designated sufficient lands to meet future demand for mineral resources. Moreover, the County's apparent ad hoc designation of mineral resource lands (based on requests by land owners for inclusion or deletion) can create the potential for unnecessary land use conflict and misunderstanding.

Recommendation: The County should delay action on the final designation of Mineral Resource lands until it can show it has met the minimum guidelines issued by the Department of Commerce rules and the mandates of the GMA.

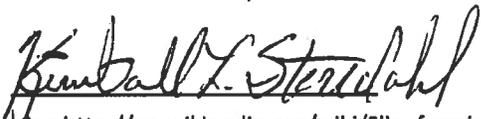
We thank the staff and the members of the Planning Commission for its work on this issue and for the opportunity to submit these comments. We would be pleased to answer any questions you might have.

Sincerely,

Kimball Storedahl

President,

J.L. Storedahl & Sons, Inc.



ⁱ See http://en.wikipedia.org/wiki/Slip_forming.

ⁱⁱ Currently, there appears to be no provision for emergency situations and that is an oversight.

ⁱⁱⁱ It also seems illogical to prohibit all operations on the Fourth of July due to noise concerns as pyrotechnics and loud noises are synonymous with the holiday.

^{iv} The proposed amendment states:

Loading and hauling of rock products outside of normal hours of operation may be approved by the responsible official through a Type I process, provided that:

- (1) the applicant provides notice to the county such that the county can provide notice to property owners within one-half (1/2) mile of the mining limits 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 at least ten (10) days prior to the event;

(2) noise levels at the property line will not exceed 50 dBA when measured as per WAC 173-60.

(3) all equipment used as the least intrusive back-up alarms allowed by the Mining Safety and Health Administration (MSHA); and

(4) the applicant provides proof that the contract is for a public purpose and requires delivery of rock products outside of normal operating hours.

^v As a matter of internal consistency, the proposed section 40.250.020(D)(10) should be renumbered 40.250.020(D)(11).

McCall, Marilee

From: Mabrey, Michael
Sent: Tuesday, October 15, 2013 4:16 PM
To: McCall, Marilee
Subject: Hearings Examiner Comments
Attachments: Mining Ord Comments.doc

We asked Joe Turner to review the draft surface mining overlay standards in 40.250.020 from the perspective of a Hearings Examiner. His comments and suggestions are attached. Please forward to the Planning Commissioners.

Mike

Mike, here are my comments on the proposed Surface Mining Overlay code changes. I am no expert in mining processes and terms, so some of the issues I raise, especially definitions, may not need to be addressed, since they are terms of art or accepted definitions. In addition, some issues are more important than others. However I raised all of the potential issues that I see in order to ensure that all potential issues are at least considered in the rewrite process.

1) 40.250.020.A – I like the changes to the purpose statement. The proposed language is limited to the purpose of the overlay and, unlike the current purpose statement, does not contain any language that could arguably be considered approval criteria.

2) 40.250.020.B(2) provides, in relevant part:

Operation of existing surface mines and related uses shall conform to the conditions of approval adopted with their site plan approval.

Certain mining uses and activities were subject to conditional use approval under the existing code. Therefore, consider modifying this section to provide:

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) 40.250.020.C(2) provides:

Conditional uses that are allowed in the underlying zoning district are allowed in the surface mining overlay district.

This section could be modified to note that CUP approval is still required.

Conditional uses that are allowed in the underlying zoning district are allowed in the surface mining overlay district, subject to conditional use permit approval.

4) 40.250.020.D(1) requires that mining sites be “fenced and posted.” – posted with what? Signs I assume. But are there standards for such signs? Specific text, size and spacing of signs, etc.?

5) 40.250.020.D(1) also requires that access roads into a mining site be “gated.” What does “gated” mean? Is the gate required to be closed when the mine is not operating? Locked? Is there a minimum standard for the type of gate?

6) 40.250.020.D(3)(b) limits “mining” to certain days and hours

a) Is the term “mining” defined?

b) Would it better/clearer to modify this section to limit “all operations and/or activities other than blasting and maintenance”, then address blasting and maintenance as you have done in (c) and (d) below? That way 40.250.020.D(3)(b) does not need to include a specific list of activities that are subject to this limitation. This also avoids the need to include a definition of “mining.”

7) 40.250.020.D(3)(e) allows the loading and hauling of rock products outside normal hours when needed for “a public purpose.”

a) Is “public purpose” defined?

b) Should there be a limit on the duration of such activities? (a week, a month, ??)

c) This exception is limited to loading and hauling of “rock products.” Is “rock products” defined? It could be argued that asphalt is a “rock product” since rock is a primary ingredient. Is sand a “rock product”? Clay?

8) 40.250.020.D(3)(e)(1) requires the applicant to, “provide notice to the county such that the county can provide notice to [certain property owners].” - What kind of notice will the County provide, mailed or ? What will the notice say?

9) 40.250.020.D(3)(e)(2) prohibits noise levels beyond 50 dBA measured at the property line – Does this noise limit exclude onsite or offsite traffic noise? WAC generally does, but it may be good to explicitly say that, since this section of the Code only refers to the measurement provisions of the WAC. (I assume that noise generated by some vehicles will exceed 50 dBA. Absent a specific exclusion for vehicle noise, such a vehicle would violate this standard as soon as it left the site).

10) 40.250.020.D(3)(e)(3) – has a typo. The current version says:

(3) all equipment used as the least intrusive back-up alarms allowed by the Mining Safety and Health Administration (MSHA); and

This section should be modified something like this:

(3) all equipment ~~used as~~ shall utilize the least intrusive back-up alarms allowed by the Mining Safety and Health Administration (MSHA); and

11) 40.250.020.D(5) – has a couple of punctuation typos. The current version says:

5. Proposed blasting and mining activities must not adversely affect the quality or quantity of groundwater or wells cause damage to offsite structures.

This section should be modified something like this to clarify that the phrase, "quality or quantity" is intended to modify both groundwater and wells, but not structures:

5. Proposed blasting and mining activities must not adversely affect the quality or quantity of groundwater or wells, or cause damage to offsite structures.

a) Also, given the proposed Code language, I assume the reference to "wells" means "groundwater wells." If so, it would be clearer to say so:

5. Proposed blasting and mining activities must not adversely affect the quality or quantity of groundwater or groundwater wells, or cause damage to offsite structures.

12) 40.250.020.D(6) requires that a mine operator provide notice of blasting events to surrounding property owners by mail or by "electronic communication."

a) Is "electronic communication" defined? I initially construed that to mean email. But what about telephone, text message, and social media? (Personally, I would limit it to email, text and telephone. Social media may be used in addition, but not as a substitute for direct communication with affected property owners).

b) What if the applicant is unable to obtain electronic contact info for the owners of affected properties? Is mailing required if a property owner refuses to provide a phone number, email address or some other type of "electronic communication" contact, or is the notice requirement waived? (Property owners could potentially delay the blasting process by refusing to provide an electronic contact, forcing the operator to provide mailed notice 7 days in advance).

c) The proposed Code language only provides notice to property owners. Have you considered providing notice to the *occupants* of affected properties (renters) as well, if different than the property owner?

d) The notice requirement is limited to properties within ½ mile of "the mining limits." Is the term "mining limits" defined? Does it mean the boundaries of the site, the maximum extent of mining proposed on the site, or only the area of the site that is currently excavated?

13) Should the Code require that all offsite access roads be paved to prevent dust?
- Such a requirement would facilitate compliance with 40.250.020.D(7), which prohibits, "unreasonable external effects" including dust.

a) 40.250.020.D(8) appears to assume that all public access roads are paved. Is that a correct assumption?

b) 40.250.020.D(9) requires that all internal access roads within 100 feet of a paved County road or state highway be paved, oiled or watered. What about unpaved offsite access roads = access easements?

14) 40.250.020.D(8) provides, "Pavement wear agreements may be required..."

a) Who determines whether a pavement wear agreement is required in a particular case? The decision maker (planning director for Type II or Hearings Officer for Type III reviews) or the public works director?

b) Are there any standards, criteria, or guidelines for when such pavement wear agreements should be required? The proposed language appears to provide the decision maker with complete discretion.

c) This section also requires that public access roads be "maintained and located to the satisfaction of the director of public works." - I would assume that any public roads would already be in existence, making a requirement to "locate" public roads unnecessary. Would a quarry ever create a new public road, the location of which requires approval by the director of public works?

d) 40.250.020.D(8) refers to, "[p]ublic roads used to access the site" and "Public access roads to mining and quarrying sites..." 40.250.020. D(3)(e)(1) and E(2) both refer to "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." - The Code should use the same words to refer to offsite access roads.

15) 40.250.020.D(9) requires that certain roads be "paved, oiled or watered..." - I assume the purpose of this requirement is to control dust. If so, the Code should expressly state this purpose, modify this section as follows:

9. Internal access roads within one hundred (100) feet of a paved county road or state highway shall be paved, oiled or watered to control [or limit, or prevent] dust. Internal access roads within two hundred, fifty (250) feet of a residence existing at the time of site plan approval shall be paved, oiled, or watered to control [or limit, or prevent] dust.

16) There are two sections labeled 40.250.020.D(9). The second one should be relabeled 40.250.020.D(10) and 40.250.020.D(10) should be relabeled 40.250.020.D(11).

17) 40.250.020.E(2) requires that "notice" be sent to certain persons. Notice of what? I assume public notice of the application consistent with CCC 40.510.020.D(1) and E. The Code should say so. Maybe something to the effect of:

Notice required by CCC 40.510.020.E 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.

18) It might clarify the Code if you were to reverse the order of 40.250.020.E(2) and (3). Proposed E(3) discusses the review process, which includes a notice requirement. Proposed E(2) discusses the persons to whom the required notice must be sent. I think it would be more clear to first state what notice is required (E(3)), then state the persons who are entitled to notice (E(2)).

19) 40.250.020.E(4) requires that approved surface mining and processing facilities be reviewed within 12 months of the date of the initial approval (“and at intervals thereafter”) and that such review occur at a hearing – i.e., a Type III review.

a) The initial application is subject to Type II-A review, so why is a Type III review required for subsequent reviews of the ongoing operation? Wouldn't it be more efficient to conduct the reviews via a Type II-A process, which allows any person to request a hearing? That way the public can request a hearing for projects that may be seen as causing impacts and projects that are not having any impacts can be reviewed through a Type II process.

b) As an aside, the County should consider amending 40.510.020.E(1) to include a statement in the notice of Type II-A projects that anyone may request a hearing within twenty-one (21) days from the start of the public comment period, as allowed by 40.510.025.C(4)(a)(3).

c) If the periodic review is changed to a Type II-A process, 40.250.020.E(4) must be further amended, something to this effect:

4. ~~A hearing shall be held~~ Any use permitted under Section 40.250.020(C)(1) shall be subject to a Type II-A review within twelve (12) months ~~of from the date of the initial approval of any uses permitted under Section 40.250.020(C)(1) and at intervals thereafter to be determined by the Hearings Examiner Responsible Official.~~ Public hearing nNotice and procedures shall be conducted pursuant to Section 40.510.03025. The scope of these ~~hearings~~ reviews shall be limited to:

d) Is this type of periodic review needed for Temporary uses described in Section 40.250.020(C)(1)(f), which can be approved through a Type 1 procedure? If not, then amend 40.250.020.E(4) to provide:

4. A hearing shall be held within twelve (12) months of the approval of any uses permitted under Section 40.250.020(C)(1)(a) through (e) and at intervals thereafter...

e) Regardless of any other changes, a space is needed after the phrase, "permitted under Section 40.250.020(C)(1) ..." It currently reads, "permitted under Section 40.250.020(C)(1)and..."

20) I think that Sections 40.250.020.E and F should be reversed. As proposed 40.250.020.D and F contain approval criteria for mining and processing activities. 40.250.020.E establishes a process for review. Therefore it would be appropriate to group all of the approval criteria together, by placing proposed 40.250.020.F before proposed 40.250.020.E.

21) 40.250.020.F should be amended for clarity as follows:

F. Plans and Specifications.

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, ~~and~~ the names and addresses of the owner, and the person by whom they were prepared. The plans shall include the following minimum information:

22) 40.250.020.F(2) should be amended for clarity as follows:

2. Property boundaries and accurate contours of existing ground, details of existing terrain, and details of existing area drainage.

or

2. Property boundaries and accurate contours of existing ground, ~~details~~ of terrain details, and ~~details of~~ area drainage details.

23) 40.250.020.F.5 requires that plans show "[b]uildings or structures... which may be affected by the proposed operation." – what does "affected" mean? It could be argued that a building or structure located near an offsite road that provides access to the site is "affected" and therefore must be shown on the plans. Also, buildings and structures located a considerable distance from the site could be "affected" by blasting. – The Code should either define the term "affected" or limit this requirement to a clear and objective distance.

24) 40.260.120 – I think it is a good idea to delete this section. However, I wonder if the County should consider moving 40.250.020 from the “overlay district” section of 40.250 to the Special Uses and Standards section of 40.260. Most of 40.250 is limited to descriptions of the overlay districts, without any approval or review criteria. However 40.250.020 contains all of the review and approval criteria for mines, quarries and processing facilities. As a Code user, if I am looking for approval criteria for such activities, I would turn to 40.260 first.

25) 40.250.020. D(3)(e)(1) and E(2) both require that notice be provided to the owners of properties 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.” 40.250.020.D(8) imposes maintenance requirements for “public roads used to access the site.”

a) Should applicants be required to designate such offsite “haul roads” in the application?

b) Should mine related truck traffic be restricted to the offsite “haul roads” identified in the application?

i) If mine related truck traffic is restricted to the offsite “haul roads” identified in the application, should there be a process for modifying routes if necessary due to landslide, construction or other issues that block the public haul roads or for delivery of gravel to projects located near the mine, but accessed by roads that are not identified in the application? This could avoid issues with residents calling the County to report drivers being off-route

McCall, Marilee

From: David S. Mann <mann@gendlermann.com>
Sent: Tuesday, October 15, 2013 4:10 PM
To: McCall, Marilee
Subject: Comments for Planning Commission on Surface Mining Overlay
Attachments: 20131015 Letter to Clark County Planning Commission.pdf; 20131015 Exhibits to 10-15-2013 Letter.pdf

Dear Ms. McCall:

Please include the attached comments and exhibits for the Planning Commissioners.

David S. Mann
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October 15, 2013

Clark County Planning Commission
c/o Marilee McCall
Clark County Community Planning
PO Box 9810
Vancouver, WA 98666-9810

email: marilee.mccall@clark.wa.gov

Re: Surface Mining Overlay

Dear Clark County Planning Commissioners:

I write on behalf of the Friends of Livingston Mountain to provide comments on the proposed amendments to Clark County's Surface Mining Overlay Map and Comprehensive Plan. The comments are intended to supplement comments you will receive directly from members of the Friends of Livingston Mountain.

I. Summary

At this point, the County does not have sufficient information in front of it to adopt the proposed mineral resource overlay amendments. In particular, the County does not have sufficient information on: (1) the likely impacts resulting from increased truck traffic on rural substandard roads necessary to serve the proposed mineral resource overlays; (2) the likely impacts of mining and processing on the environment and quality of life for existing residents owning property and living within and adjacent to the mineral resource overlays, including, but not limited, to impacts from noise, dust, and vibration, and impacts to both water quality and the availability of water; and (3) the likely impact to the property rights, property values, and right to peaceful and quiet enjoyment of the properties located within and adjacent to the proposed mineral resource overlays.

Because of this lack of information, we ask that you take the following actions:

1. Recommend delaying action on the mineral resource overlay until it can be examined in the context of the next major comprehensive plan update scheduled for June, 2016.
2. Recommend no further action until the County has complied with the State Environmental Policy Act and collected sufficient information to understand the likely impacts of mining within the proposed mineral resource overlays.
3. Recommend that future amendments to the mineral resource overlay remain a

Type-4 legislative process.

4. Recommend elimination of the proposed Livingston Mountain mineral Resource overlay outside of the existing mines.
5. Recommend rejecting several of the proposed amendments to the existing Comprehensive Plan Mineral Lands Policies.
6. Recommend against relaxing the development standards allowing accessory uses such and crushing and processing to be treated as allowed uses.

II. Revisions to the Comprehensive Plan Policies, Development Regulations and the Surface Mining Overlay are Pre-mature

At the outset, it should be noted that the process the County is undertaking to update its mineral resource land policies, regulations and overlay is premature. While the August, 28, 2013, Staff Report is correct that the Washington Department of Commerce (Community Development) did recently revise the regulations and guidelines for classifying and designating mineral lands,¹ these revisions do not mandate immediate action. Indeed, under the controlling GMA statutory requirements, amendments should be done as part of the County's overall update process in 2016. RCW 36.70A.131 expressly requires Counties and Cities to review their mineral resource lands designations as part of the review cycle required by RCW 36.70A.130(1). Clark County's next update under RCW 36.70A.130 is not due until on or before June 30, 2016.²

Because the update is not required until 2016, and for the reasons discussed below, the County should slow down this process, collect the information required by the State Environmental Policy Act, the GMA and the Clark County Comprehensive Plan, and then move forward with a thoughtful and holistic review and update process ensuring that the mineral resource land overlay and policies remain consistent with the rest of Clark County's Comprehensive Plan.

III. The Planning Commission Should Recommend No Further Action Until the County Has Fully Complied with SEPA

The purpose of the State Environmental Policy Act ("SEPA") and the EIS process is to provide decision-makers – in this case both the Planning Commission and the County Commissioners -- with all relevant information about the potential environmental consequences of their actions and to provide a basis for a reasoned judgment that balances the benefits of a proposal action against its potential adverse effects.³ Consistent with this purpose, "SEPA mandates governmental bodies consider the total environmental and ecological factors to the fullest in deciding major

¹ See WAC 365-190-020 (definitions); WAC 365-190-040 (Process for classifying and designation natural resource lands) WAC 365-190-070 (requirements for mineral resource lands). All of these regulations were revised January 19, 2010, and became effective February 19, 2010.

² RCW 37.70.130(5)(b).

³ *Citizen Alliance to Protect our Wetlands v. City of Auburn*, 126 Wn.2d 356, 362 (2005).

matters.”⁴ These considerations must be integrated into governmental decisionmaking processes so that “presently unquantified environmental amenities and values will be given appropriate consideration in decision making along with economic and technical consideration.”⁵ The environmental analysis must “accompany the proposal through the existing agency review processes” so that officials will use it in making decisions.⁶ SEPA’s ultimate quest has been described as ensuring “environmentally enlightened government decision making.”⁷

SEPA requires the preparation of an EIS all “major actions significantly affecting the quality of the environment.” The normal first step is the “threshold determination process.” A threshold determination *not* to prepare an EIS requires a determination that the action is not major and will not significantly affect the environment.⁸ Because the policies of SEPA are thwarted whenever an incorrect threshold determination is made, the process and information reviewed during the threshold determination is critical.⁹

The threshold determination process requires “local government to consider all environmental and ecological factors *before* taking action that might significantly affect the quality of the environment.”¹⁰ Indeed, the SEPA rules mandate consideration of the environmental review “at the earliest possible time to ensure that planning and decisions reflect environmental values... ”¹¹ The SEPA rules state establish follow requirements for timely environmental review:

(2) Timing of review of proposals. The lead agency shall prepare its threshold determination and environmental impact statement (EIS), if required, *at the earliest possible point* in the planning and decision-making process, when the principal features of a proposal and its environmental impacts can be reasonably identified.

(a) A proposal exists when an agency is presented with an application or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal *and* the environmental effects can be meaningfully evaluated.

(i) The fact that proposals may require future agency approvals or environmental review shall not preclude current consideration, as long as proposed future activities are specific enough to allow some evaluation of

⁴ *Eastlake Comm'ty Coun. v. Roanoke Assocs.*, 82 Wn.2d 475, 490 (1973).

⁵ RCW 43.21C.030(2)(b); *Eastlake*, at 492.

⁶ RCW 43.21C.030(2)(d), WAC 197-11-655.

⁷ Settle, Richard; *The Washington State Environmental Policy Act*, § 14.01(2)(b), p. 14-56 (Release 21, 2009).

⁸ *Juanita Bay Valley Community Ass'n. v. City of Kirkland*, 9 Wn.App. 59, 73 (1973).

⁹ *King County v. Boundary Review Board*, 122 Wn.2d 648, 663-64 (1993); *Norway Hill Preservation and Protection Ass'n v. King County Council*, 87 Wn.2d 267, 273 (1976).

¹⁰ *Lanzce G. Douglass, Inc., v. City of Spokane Valley*, 154 Wn. App. 408, 422 (2010).

¹¹ WAC 197-11-055. *King County*, 122 Wn.2d at 663 (1993); *Stempel v. Department of Water Resources*, 82 Wn.2d 109, 118 (1973); *Loveless v. Yantis*, 82 Wn.2d 754, 765-66 (1973).

their probable environmental impacts.¹²

Here, there is no reasonable dispute that the County has a “goal” and is “actively preparing to make a decision” to create new and expanded mineral resource overlays, as well as eliminate some existing overlays.¹³ It is irrelevant that further approvals may be necessary. The County knows the location of the proposed mineral resource overlays, and while additional review may be necessary before mining may commence, the act of designating the land with a mineral resource overlay opens it up for mining use and mining becomes an allowed use subject only to administrative review. Sufficient information is available or can easily be collected to review the environmental impacts.¹⁴

Consistent with WAC 197-11-055(2), the County was required to at least consider the environmental effects as part of its threshold determination. SEPA requires that the threshold determination be “based on information reasonably sufficient to evaluate the environmental impact of a proposal” and that the County *actually consider* this information prior to making the threshold determination.¹⁵ Instead of meeting these requirements, however, the SEPA DNS for the mineral resource lands amendments provides *absolutely no information* on impacts, but instead defers *all* analysis to a later time.

While WAC 197-11-060(5) confirms that the “level of detail and type of environmental review may vary with the nature and timing of proposals ...” this does not mean that review can be avoided. *Phased review* is not the same as *no review*. As the SEPA regulations confirm:

A nonproject proposal may be approved *based on an EIS assessing its broad impacts*. When a project is then proposed that is consistent with the approved nonproject action, the EIS on such a project shall focus on the impacts and alternatives including mitigation measures specific to the subsequent project and not analyzed in the nonproject EIS. (emphasis added)¹⁶

This mandate to review the impacts during the Comprehensive Plan amendment process is supported also by the GMA regulations. WAC 365-196-620 explains:

(3) Phased environmental review.

(a) The growth management process is designed to proceed in phases, moving, by and large, from general policy-making to more specific implementation measures. Phased review available under SEPA can be integrated with the growth management process through a strategy that identifies the points in that process

¹² WAC 197-11-055(2).

¹³ WAC 197-11-055(2)(a).

¹⁴ WAC 197-11-055(2)(a)(i).

¹⁵ WAC 197-11-335(1); *Norway Hill*, 87 Wn.2d at 275; *Moss*, 109 Wn. App. at 14.

¹⁶ WAC 197-11-443(1).

where the requirements of the two statutes are connected and seeks to accomplish the requirements of both at those points.

(b) In an integrated approach major emphasis should be placed on the quality of SEPA analysis at the front end of the growth management process - the local legislative phases of plan adoption and regulation adoption. *The objective should be to create nonproject impact statements, and progressively more narrowly focused supplementary documents, that are sufficiently informative. These impact statements should reduce the need for extensive and time consuming analysis during subsequent environmental analysis at the individual project stage.* (emphasis added).

In other words, it is clearly erroneous to ignore review of potential impacts during the non-project review. While a "barebones" EIS addressing the potential impacts of surface mining within the new or amended mineral resource overlays may be appropriate, it is *not* appropriate to simply defer all analysis to a later date.¹⁷ The impacts, at least the broad impacts, must still be analyzed.

In a similar situation addressed in *King County v. Boundary Review Board*, the Washington Supreme Court reviewed the City of Black Diamond's action approving a DNS for a proposed annexation. The City's position was that the proposed annexation was a non-project "map change" and that "any future development of the property is speculative and thus not suitable for full environmental review."¹⁸ The City argued that this was particularly true where no "official proposals have been submitted to Black Diamond for development of the annexation property."

The Supreme Court soundly rejected the City's DNS:

One of SEPA's purposes is to provide consideration of environmental factors at the earliest possible stage to allow decisions to be based on complete disclosure of environmental consequences. Decision-making based on complete disclosure would be thwarted if full environmental review could be evaded simply because no land-use changes would occur as a direct result of a proposed government action. Even a boundary change, like the one in this case, may begin a process of government action which can "snowball" and acquire virtually unstoppable administrative inertia. Even if adverse environmental effects are discovered later, the inertia generated by the initial government decisions (made without environmental impact statements) may carry the project forward regardless. When government decisions may have such snowballing effect, decisionmakers need to be apprised of the environmental consequences *before* the project picks up

¹⁷ See *Organization to Preserve Agricultural Lands ("OPAL") v. Adams Cy.*, 128 Wn.2d 869, 879-880 (1996); citing *Cathcart-Maltby-Clearview Community Council v. Snohomish County*, 96 Wash.2d 201, 208-11, 634 P.2d 853 (1981).

¹⁸ 122 Wn.2d at 662.

momentum, not after.¹⁹

The Court concluded:

We therefore hold that a proposed land-use related action is not insulated from full environmental review simply because there are no existing specific proposals to develop the land in question or because there are no immediate land-use changes which will flow from the proposed action. Instead, an EIS should be prepared where the responsible agency determines that significant adverse environmental impacts are probable following the government action.²⁰

As discussed below, it is critical that both the Planning Commission and County Commissioners have sufficient information before them to understand the impacts of their decision. Impacts that include, but are not limited to, traffic impacts, public safety impacts, noise and dust impacts, impacts to quality of life, and impacts to water supply and water quality.

IV. Amendments to the Surface Mining Overlay Should Remain a Type IV Legislative Process

The mineral task force is recommending that the County amend CCC 40.560.020.A. to allow amendment of the surface mining overlay through a Type III map amendment. Because this would eliminate both legislative review by the Planning Commission and County Commissioners and result in piecemeal review of natural resource designations, it conflicts with the GMA.

The process of designation natural resource lands, including mineral resource lands is required to be done on a county-wide basis and not in a piecemeal manner. The GMA clearly mandates that the review and amendment process be carried out by the legislative body – the County Council. RCW 36.70A.131 set out that the review and designation of mineral resource lands and mineral resource lands development regulations are to be done in context of the County's overall Comprehensive Plan Amendment process set out in RCW 36.701.130(1). According to RCW 36.70A.130(1):

(1)(a) Each comprehensive land use plan and development regulation shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city **shall take legislative action**, to review, and if needed, revise its comprehensive land use plan and development regulations to ensure that plan and regulations comply with the requirements of

¹⁹ 122 Wn.2d at 664 (internal citations omitted, emphasis in original).

²⁰ While the court recognized that the City *could* treat the annexation as a "nonproject" proposal, it rejected the concept that SEPA review of a nonproject action meant it evaded review. To the contrary, the court confirmed that under the SEPA rules for nonproject proposals "agencies can limit the scope of an EIS to "the level of detail appropriate to the scope of the nonproject proposal" *Id.* at fn 10. *See also, Magnolia Neighborhood Planning Council v. City of Seattle*, 155 Wn. App. 305 (2010)

this chapter.... (emphasis added).

This requirement for county-wide and legislative approvals is carried forward in GMA's implementing regulations. WAC 365-190-040(10)(b) provides that when reviewing and amending natural resource lands designations:

“(10)(b) In classifying and designating natural resource lands, counties must approach the effort as a county-wide or regional process. Counties and cities should not review natural resource lands designations solely on a parcel-by-parcel process.”

Similarly, WAC 365-190-070(1) makes abundantly clear that “Counties and cities should not review mineral resource lands designations solely on a parcel by parcel basis.”

Amendments to the surface mining overlay should be restricted to the Type 4 legislative process and then conducted county-wide during the county-wide review and update process. The Planning Commission should recommend against modifying the process for reviewing amendments.

V. The Planning Commission Should Eliminate the Proposed Livingston Mountain Overlay

The presence of minerals alone does not justify inclusion of land within the mineral resource overlay. To the contrary, prior to designation, it is incumbent upon the County to first collect and assess the necessary information to compare the proposed designation for consistency with the GMA and the County's existing Comprehensive Plan. This means collecting sufficient information to make a rational and educated decision. Because the County has neglected even cursory review under SEPA, it has not collected the information necessary to amend its mineral resource overlay. This is particularly true for the proposed Livingston Mountain mineral resource overlay.

A. The proposed Livingston Mountain overlay is not consistent with GMA's goals

Contrary to the conclusion reached in the August 28, 2013, Staff Report, the Livingston Mountain overlay is not consistent with several of GMA's goals. For example:

Goal 12 (Public facilities and services) requires the County to “ensure that those public facilities and services necessary to support development shall be adequate to serve the development.”²¹ In this case, the County does not have evidence to support a finding that it has adequate, and safe, road capacity to serve even the existing level of mining on Livingston Mountain, much less any expansion.

²¹ RCW 36.70A.020(12).

The entire eastern portion of the proposed Livingston Mountain overlay (east of the existing mines) is served only by NE Livingston Rd or NE 282nd Ave/NE Hancock Roads. As explained by the County's Traffic Engineer Ejaz Khan, P.E., in his October 1, 2013, Memorandum to Michael Mabrey, these roads are far from sufficient to accommodate heavy truck traffic. See Exhibit 1. See also Exhibit 2 (Beginning of Hancock Road looking east); Exhibit 3 (Corner of NE 282nd Ave. and NE 61st St.); Exhibit 4 (Hancock Road between NE 68th St. and NE 66th St.).

Similarly, the entire western portion of the exposed Livingston Mountain overlay is served only by NE 26nd Ave. As recently as 2008 a Clark County Hearing Examiner already determined that this road was inadequate to support the mining that existed at that time, much less the proposed expansion. See Exhibit 5 (Excerpts from decision). See also Exhibit 6 (Greenlight Engineering Report, February 22, 2008).

While some minor improvements have been done in response to the 2008 Hearing Examiner decision, these improvements remain insufficient to support even the current level of truck traffic, much less a significant expansion that would become an allowed use under the new mineral resource overlay. NE 262nd Ave. remains narrow with poor sight lines and insufficient to support increased truck traffic. Moreover, road conditions along the SR500 approach to NE 262nd Ave. are also insufficient to handle additional heavy truck traffic. See Exhibit 7. Since this is a broad scale change, not subject to the artificially limited view that individual applications receive, the County must take into account the true potential impacts of its actions in the entire area of any proposed change. That has not been done, and Goal 12 is clearly not met.

Similarly, while the Staff Report concludes that Goal 5 (Economic development) is satisfied, this conclusion ignores that that the County is required to encourage economic development only where the development is *within* the capacity of the "state's ... public services and public facilities."²² As with Goal 12, because the proposed mineral resource overlay is not served by adequate county or state roads, Goal 5's mandate to focus economic development where public services and public facilities can support development, is not met.

Goal 10 (Environment) requires the County to "protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water."²³ But without conducting environmental review, the County does not have sufficient information to conclude that Goal 10 is or can be met. Even a cursory review, however, confirms that there will be significant impacts to existing traffic and public safety. Moreover, despite that much of the land proposed for the Livingston Mountain overlay is already built out with residential development, the County has not analyzed the impacts to these properties from noise, dust, water quality and the availability of clean water. See Exhibit 9 (Excerpt of Testimony from David Rodgers and Dick Dryland re: Yacolt Quarry). Without additional analysis, the County cannot demonstrate that Goal 10 is met.

Finally, Goal 6 (Property rights) requires that "property rights of landowners shall be protected

²² RCW 36.70A.020(5).

²³ RCW 36.70A.020(10).

from arbitrary and discriminatory actions.” But despite this requirement, the proposed Livingston Mountain overlay includes multiple properties that are already developed into single family residences. For example, a large portion of the proposed expanded area is already developed as the Diamond Ridge subdivision. The CC&Rs for Diamond Ridge limit development within the 15 lots to residential uses and would certainly prohibit mining. See Exhibit 8 (Map, Articles, CC&Rs). Similarly, the two large tracks to the east of Diamond Ridge are already built out with single family residences and an equestrian facility (parcels 170622000 and 17612000).²⁴

Pursuant to CCC 40.510.020.D.5, all properties within and nearby the mineral resource expansion would be forced to encumber their property by placing a deed restriction on any building permit or plat notifying prospective purchasers of the mineral overlay. This would at least potentially dramatically affect the value of many properties in the area. It would be arbitrary and discriminatory to modify the property rights of existing land holders without first doing a thorough and careful (rather than a rushed) analysis of the potential impacts. The Task force did not do that sort of analysis. The Planning Commission has not been given the time or the facts to do that analysis. To go forward at this time would be contrary to Goal 6.

B. The proposed Livingston Mountain overlay does not meet the County’s locational criteria

Amendments to the mineral resource overlay must also be consistent with the Clark County Comprehensive Plan. The Comprehensive Plan includes a matrix for assessing whether property is suitable for the mineral resource overlay.²⁵ Once again, because the County has not yet subjected the proposed Livingston Mountain overlay to review under SEPA, the County lacks sufficient knowledge to add this new designation.

For example, the County has not assessed the “impact of truck traffic” on the surrounding community. If it had, however, as the information discussed above illustrated, the County would likely find that because of the limited inadequate roads and the already developed residential properties that a the properties within the proposed overlay are “not suitable.”

Similarly, the County has not yet assessed whether quarry operations would be “compatible with [the] nearby areas,” or whether the impacts of noise or impacts of blasting will affect these adjacent properties. Here, many of the properties included within the proposed overlay and immediately adjacent to the proposed overlay are already developed as residential properties. This includes the entirety of the Diamond Ridge subdivision and Parcels 170622000 and 17612000.

The County must assess the impacts and compatibility before designation. Until it does so, it appears that the evidence supports a finding that the area proposed for near Livingston Mountain

²⁴ The January 10, 2013, meeting minutes for the Mineral Lands Task Force recognized that these tracts should be removed from the overlay, but they have not been removed.

²⁵ Table 3.4 Matrix for Assessing Mineral Resources.

is “not suitable” for the mineral resource overlay under the Comprehensive Plan matrix.

C. The proposed Livingston Mountain overlay is not consistent with the Comprehensive Plan Policies

Amendments to the mineral resource overlay must also be consistent with the current Comprehensive Plan Policies. The proposed Livingston Mountain overlay is inconsistent with at least 3 of the current policies. These inconsistencies are largely the result of attempting to amend the mineral resource overlay in a vacuum without looking at the entire comprehensive plan. This is yet another example of why consideration of amendments to the mineral resource overlay should be deferred until the County completes its 2016 Comprehensive Plan update.

Mineral Lands Policy 3.5.2 requires that Capital improvement plans should take into account maintaining and upgrading public roads adequate to accommodate transport of mineral commodities. There is no evidence, however, that the current Capital improvement plan includes any consideration for maintain up upgrading public roads sufficient to safely allow the use of heavy trucks on the roads approaching the Livingston Mountain overlay area.

Mineral Lands Policy 3.5.3 requires that in identifying and designation mineral lands the County take into consideration factors including environmental impacts, surrounding land uses and public service levels. As the discussion above illustrates, the County has not yet considered the environmental impacts, impacts on existing surrounding land uses and the impacts to the existing public road system that will result from the Livingston Mountain overlay.

Mineral Land Policy 3.5.7 requires that mineral lands “shall not be used for any other activity other than surface mining or uses compatible with surface mining” until the resource has been mined. Because much of the land in the propose Livingston Mountain overlay is already devoted to residential uses that are inconsistent with mining the adoption of the overlay would conflict with this policy.

VI. The Planning Commission Should Recommend Rejecting Many of the Proposed Comprehensive Plan Policy Amendments

Several of the proposed Comprehensive Plan Policy amendments should be rejected because they would be inconsistent with the GMA.

Current Mineral Land Policies 3.5.3 and 3.5.19 should be retained. RCW 36.70A.170(2) requires Counties to consider the GMA guidelines in designation natural resource lands, including mineral lands. Mineral Land Policies 3.5.3 and 3.5.19 are largely a restatement of the designation guidelines set out in WAC 365-190-070 for mineral resource lands. Removal of these policies will result in the County not having a clear policy confirming that that actions to designate or amend mineral resource areas will take into consideration the GMA guidelines.

Proposed Mineral Land Policy 3.5.11 should be amended to state that “the surface mining

overlay shall not be designated within rural residential (R) zones.” The proposed language would allow the expansion of existing mining sites into rural residential zones. Allowing open ended expansion outside the designated overlay interferes with GMA’s Goal 6 (property rights), Goal 10 (environment), and Goal 4 (Housing). Further, because it does not provide for an assessment of impacts of unfettered expansion on existing roads it interferes with Goals 5 and 12.

VII. The Planning Commission Should Recommend Rejecting Relaxation of the Surface Mining Overlay District Development Regulations (CCC 40.250.020)

The mineral task force has recommended amending CCC 40.250.020 to allow asphalt mixing, concrete batching, clay bulking and rock crushing and processing to be considered as “allowed” uses instead of their current classification as “conditional uses.” The Planning Commission should recommend rejecting this change.

The purpose of the conditional use permit process is to provide a more thorough review of uses with unusual characteristics to ensure that appropriate conditions are imposed to restrict the size and intensity of uses and eliminate unreasonable interference with property rights of neighboring properties. Where, as on Livingston Mountain, the neighborhoods near existing and proposed mine sites are already populated with residential properties, it is critical that uses that result in an increase in noise, dust and odors be carefully reviewed using the Type II-A process.

VIII. Conclusion

Once again, Friends of Livingston Mountain respectfully requests that the Planning Commission:

1. Recommend delaying action on the mineral resource overlay until it can be examined in the context of the next major comprehensive plan update scheduled for June, 2016.
2. Recommend no further action until the County has complied with the State Environmental Policy Act and collected sufficient information to understand the likely impacts of mining within the proposed mineral resource overlays.
3. Recommend that future amendments to the mineral resource overlay remain a Type-4 legislative process.
4. Recommend elimination of the proposed Livingston Mountain mineral Resource overlay outside of the existing mines.
5. Recommend rejecting several of the proposed amendments to the existing Comprehensive Plan Mineral Lands Policies.
6. Recommend against relaxing the development standards allowing accessory uses such as crushing and processing to be treated as allowed uses.

Clark County Planning Commission
October 15, 2013
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Please do not hesitate to contact me if you have any questions.

Very truly yours,

GENDLER & MANN, LLP



David S. Mann

C: Client
Karl G. Anuta, Esq.

Enclosures: Ex. 1. October 1, 2013 Memo from Ejaz Khan, P.E.
Exs. 2-4. Photos along Hancock Road
Ex. 5. Excerpts from 2008 Hearing Examiner decision
Ex. 6. February 22, 2008, Report by Greenlight Engineering
Ex. 7. Map and Photos along SR 500 approach to 53rd Street and 262nd Ave.
Ex. 8. Map, CC&Rs for Diamond Ridge
Ex. 9. Excerpt of PC Testimony 9-1-13

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Greene 10/17/2013

Clark County Planning Commission
C/O Mike Mabrey, Community Planning
P.O. Box 9810
Vancouver, WA 98666

RE: Surface Mining Overlay

Dear Ladies and Gentlemen:

I. Mineral Lands Comprehensive Plan Policies

3.5 Policies

Please **DO NOT** delete **Section 3.5.3.**

Please consider changing **Section 3.5.3.** to convey the following Policy:

"In identifying and designating commercial mineral lands, the following factors should be taken into consideration; geological, environmental, and economic factors; existing and surrounding land uses", ***including but not limited to residential, agricultural, timber or forestry resources***, "parcel size; and public service levels that are conducive to" ***or preclude the long term production of mineral resources.***

Section 3.5.64: Please **DO NOT** delete: ...***"as the site is mined"***...

Section 3.5.15:

Please consider including and changing **Section 3.5.15.** to convey the following Policy:

Potential mining or aggregate sites or expansion shall not be designated within or upon:

- 1.** Any rural residential zones.

2. Any land parcel, whether zoned rural residential, forest land, timber land, forestry resource, timber resource, agricultural, open space, or any other zoning upon which a residence or dwelling is situated.
3. Within 1000 feet of any residence or dwelling. The responsibility to provide for such 1000 foot buffer shall NOT be the responsibility of the landowner of any residence or dwelling. This shall be interpreted to mean that the 1000 foot buffer shall be within the proposed mining overlay or area to be mined AND SHALL EXCLUDE any distance or buffer on any parcel upon which any residence or dwelling is situated.
4. Clark County shall identify each and every any residence or dwelling located within 1000 feet of any parcel boundary to be considered to be part of any proposed mining overlay. Clark County shall exclude from consideration in any new or expansion of any mining overlay, any area, which is less than 1000 feet from the parcel boundary upon which any residence or dwelling, is located.
5. Within 1000 feet of any of any body of water or stream, except for man made retaining ponds or ditches related to the containment of water run off from a mining operation.

6. Upon any land parcel which has identified map contour lines or has "Slope Stability" designated as "Erosion Hazard Areas" or "Geological Hazards": Slopes Greater than 10% - 15% by the USGS, Washington State, Clark County, or by a geologist or hydrologist.
7. In any area where a "traffic survey" or road system analysis conducted by a "Traffic Engineer" has determined that the current public road system in an area that is inadequate to provide for public safety and without a diminished public service level.

Section 3.5.11: Please consider changing **Section 3.5.11 to read:**

1. "The surface mining overlay shall not be designated within rural residential (R) zones and shall NOT allow the expansion of an existing mining site into residential (R) zones.
2. The production of commercial timber upon any lands designated as forestry or timberland resource lands shall be paramount in importance to and shall prevail over any designation of mineral resources or

mining. Mining is incompatible with the growing of commercially
productive timber.

Section 3.5.19: Please DO NOT delete.

Respectfully submitted,
Alan Greene
P.O. Box 2844
Battle Ground, WA 98604

September 19, 2013

Clark County
Community Planning
Mr. Mike Mabrey
PO Box 9810
Vancouver, WA 98666

RE: Comment on Clark County Surface Mining Overlay Map and Proposed Mining Overlay Code

Thank you for the opportunity to provide comment regarding Clark County's proposed changes to the Surface Mining Overlay map and supporting code. We own two properties that are adjacent to the Washougal Pit mine east of Washougal WA (Taxlots 133034-000, 133046-000, which has our home on it).

We recognize the current existence of this mine adjacent to our home; we are not challenging the existence of the mine, nor the operator's right to operate the mine. However, we are concerned about the County's ability and interest in ensuring compliance with the proposed mining overlay code for the portions that apply to noise and visual impacts, as well as water quality impacts to Gibbons Creek, a perennial, salmon-bearing stream. Note that County biologists, Brent Davis and Dave Howe (now a manager at the Washington Department of Fish and Wildlife) were invited to visit our property to view the spawning coho salmon in Gibbons Creek a couple of years ago. They have photos of the fish (as do we) validating the use of Gibbons Creek by these sensitive fish species.

However, we have a right to protect the rural character of our property. One of the defining characteristics of rural properties is that it's generally quiet, lacking the standard noise associated with cities. This is certainly the case at our home in the Columbia River Gorge Scenic Area.

Last summer, the Washougal pit operated for a period of several weeks to accept excavated material from a WSDOT project on Highway 14. Continual activity during the day and early evening of truck-and-pup dump trucks, excavators, and bulldozers/heavy equipment resulted in continuous, significant noise pollution that could be heard clearly within our home (in the kitchen, in our home office (Mr. Streeter works from home), in our kids bedrooms) and outside on our patio and deck. It was highly disruptive to everyone in our family—we could not escape the backup beepers, the banging of the equipment, and the constant engine and heavy equipment sounds. Since no notice had been given about the new operation of the mine, ourselves and our neighbors were highly displeased and irritated. Complaints were filed with the appropriate agencies (including the County), lawyers were consulted with, consultants hired. Fortunately for us, the work ceased once the project down Highway 14 reached a point where there was no more dirt to move, but we now have a taste for what could be a permanent condition at our house. We are highly sympathetic with other County landowners who have experienced similar actions from these mining activities.

We are noting that the County is proposing to add the Washougal Pit mine to the Surface Mining Overlay map. What is the benefit/purpose of doing this for an 'active' mine (also as designation on the map)? Please respond to this question in writing.

Comments/Proposed Amendments to Surface Mining Overlay District Code

STREETER 2/4

We have reviewed the proposed code, and have the following clarifications to suggest. These clarifications, we feel, will help the County implement and determine compliance for the situations that are likely to develop for active mines.

40.250.020.D.2 Maximum Noise Levels

This code references a SEPA document. In the case of the mine adjacent to our property, a Project SEPA document for mine operation was not processed (a non-project SEPA is all that is on the record, which does not cover specific mine activity evaluation and impacts). We propose that the County amend this language to ensure that a correct SEPA process is followed, or reference the SEPA part of County code.

40.250.020.D.3 Hours of Operation

a. Holidays: Please add the following federal holidays to this list: Easter, MLK Day, Veterans Day.

b. Please amend the Saturday start time to 9am. We feel as adjacent landowners that we should be able to enjoy morning hours quietly; an 8am start time for the beepers and loud activities is inappropriate.

e.ii. We have a comment on the measurement "at the property line". In our case, the property line is in a deep canyon, and noise measurements "at the property line" are lower than noise measurements "at our dwelling unit", which is interior to our property line up the hill and in a direct line of sight of the pit. Amend the code to state that noise measurements shall not exceed 50dBA at the property line, AND INTERIOR TO THE PROPERTY LINE ON ADJACENT PROPERTIES.

This clarifies that the 50dBA limit applies, as assumed, at the property line and beyond on adjacent properties.

40.250.020.D.6 Notice of Blasting

Please strike the statement regarding public notice of blasting shall be provided "... by electronic communication at least 24 hours prior to blasting." I do not know how the operators of these mines will acquire accurate and current email addresses of all parties within ½ mile of their mine, and it seems like a very poor method of communication. The 7 day notice is standard and sufficient.

40.250.020.D.7 Offsite Effects Prohibited

Please amend this section to read as follows:

"Mining activities must not cause..... offensive odors, NOISE, increased lighting.... detectible to normal sensory perception at the property line, OR AS MEASURED/OBSERVED ON ADJACENT PROPERTIES INTERIOR TO THE PROPERTY LINE."

40.250.020.F Information on Plans and Specifications

Please add the following requirement for Plans and Specifications:

"The operator shall provide a noise analysis that includes ambient noise levels, measured in decibels (dBA) documenting pre-mining activity noise levels. Also include a proposal to estimate cumulative noise levels at full operation, and measures that can be considered to reduce noise pollution if necessary."

Background: We learned through our experience that the backup beepers, which are an important safety requirement, can be substituted for other methods of back up notification. Use of these alternate methods can alleviate the noise pollution that occurs from the back up beepers, alleviating the potential for problems, complaints, and compliance issues.

In addition to these code comments, we have concerns of the County's interest and ability to ensure mine operators comply with County code. The burden will be on the County to apply this code consistently and fairly, and to respond quickly to landowner complaints. In our experience, we learned that the responsibility was placed heavily on us to prove there was a problem. We faced paying noise consultants \$10,000 to \$15,000 to conduct a noise analysis sufficient for legal or code compliance action. We learned that because the noise was pretty much constant during the day, that we could not get pre-mine/ambient background noise levels measured (it was never quiet enough) in order to determine the amount of noise increase being generated by solely the mine activity. We would like some of these costs to be borne by the mine operators, who make significant profit from the material they are selling, and for the operators to fulfill their community responsibility and recognize the negative impact that their operations have on adjacent landowners.

We will be looking to Clark County to fairly and responsively apply and ensure compliance of the County code related to surface mining activity.

Also note that we wish to be formally noted as a Party of Record for all actions related to the Surface mining overlay code, the surface mining committee and specifically permits and actions of the Washougal Pit mine. Please acknowledge this request in writing.

Thank you again for the opportunity to comment, we look forward to your response.

Respectfully,

Sean and Karen Streeter
36861 SE Woodings Road
Washougal, WA 98671
360-835-3806

STREETER 4/4

The Policies:

Again, as indicated above, the policies were driven and influenced by special interests without strong representation from the residents with that will be most impacted by these changes. This was not an objective process. There should have been a more diverse group making these decisions and determining future policy related to mining and permit process. The proposed policies summarize an industry "wish list" rather than a responsible policy to control long term growth and high impact activities such as mining. Of particular concern are the Type 4 to Type 3 review proposed changes.

In addition, the rubber stamp approval proposed to allow all uses currently requiring CUP approval is a poor idea. Each individual use (crushing, asphalt plant concrete plant, clay bulking) have differing impacts, and cannot just be lumped into a catch all one time automatic approval. The applicants are free to add these uses with their mining permit application as the County did for Livingston Quarry, for analysis of the cumulative impacts of the requested activities.

The Shortfalls:

The analysis and recommendations fail to discriminate between resource types and the prediction of resource type needs for the future. The quantity predictions or history of aggregate demand are not factored. At the previous planning commission working session, it was stated that these numbers were not available. In the cases of the Livingston Quarry and Livingston Mountain quarries, this is not correct. The operator of Livingston Quarry is obligated by contract to report hauled quantities and pay royalties to the County for rock materials removed from the site. The County should also have an audit of materials purchased and paid by the County under the terms of Professional Services Contract 595.

The Livingston Mountain Quarry owned by Tower Rock is also obligated per the terms of their CUP to report quantities and pay road use fees as a condition of operation. These numbers should also be used when factoring calculations for the remaining life of these quarries.

All rock resources are not the same:

Materials from sand and gravel sites have far more utilitarian uses in the majority of construction products than materials generated from hard rock quarries such as Livingston Mountain and Yacont. The County has been less than a good guardian of overlay resources in the past, allowing development of some of the best sand and gravel mines in southern Washington, and rendering them unusable. The current plan also appears to remove sizeable acreage of sand and gravel, while adding hard rock sites in the new overlay to offset. This will cause a substantial imbalance in necessary resources.

Examples:

For example a cubic yard of 4000PSI concrete contains only 36% coarse aggregate which could be a product from a hard rock mine, but basalt is not a common constituent

BOB WEBER / FRIENDS OF ^{3/6} LIVINGSTON MTN

Mabrey, Michael

From: Clapp, Jim <jim_clapp@fws.gov>
Sent: Monday, September 16, 2013 3:54 PM
To: Mabrey, Michael
Cc: Randy Hill; Alex Chmielewski
Subject: Surface Mining Overlay Update

Follow Up Flag: Follow up
Flag Status: Flagged

Mr. Mabrey:

Please pass the following comment on to the planning commission regarding UDC 40.250.020.

Under Section E. Plan Approval, Item 2. Include that landowners downstream and adjacent to streams that are located within 1/4 mile of planned sites also be notified of plans for additional sites.

Thanks,

--

James R. Clapp, Refuge Manager
Steigerwald Lake, Franz Lake, and Pierce
National Wildlife Refuges
P.O. Box 1136
35302 S.E. Lewis & Clark Highway
Washougal, WA 98671
Phone (360) 835-8767 (o)
(360) 607-2698 (c)
Fax (360) 835-9780
E-mail - jim_clapp@fws.gov

To the Planning Commission:

Effects of changing from a Type IV to a Type III map amendment combined with proposed policy 3.5.11 **The surface mining overlay shall not be designated within rural residential (R) zones except to allow expansion of an existing mining site.**

The immediate affect is, the significant monetary burden of getting a zoning change affected in a type IV process gets shifted from industry to the surrounding land owners to defend their own property value and rights. It is not the government role to make it easier for industry to achieve monetary gain at the expense of the individual. Keep in mind, most people have owe more on the homes than have equity. This can be devastation to surrounding owners and their families. Not just on Livingston Mountain but anywhere in Clark County. A notice should have been sent to any rural residential land owner that is adjacent to resource land to weigh in on these proposed changes. That is the REAL scope of going to a Type III map change.

There is a reason this is currently in the Type 4 process; Rock is a NON renewable resource. You cannot plant rock like you would a tree or agriculture. Yet forestry and agriculture are staying in the type IV process?

The county received their map in 2005 identifying showing were the identified rock is from the DNR. After this, the county pushed to get the Livingston Quarry opened, and tried to expand the SMO on Livingston Mountain. The county failed to expand the SMO because they applied in a Type III process: **Case # CUP2009-0004; PSR2009-00014; CPZ2009-0024; HA2009-00016; SEP2009-00028.** Soon after this we have a mineral lands task force appointed by the county that is proposing just this change.

Combine move to a Type III zoning change with 3.5.11 **The surface mining overlay shall not be designated within rural residential (R) zones except to allow expansion of an existing mining site.** Now a mine can grow into a rural residential neighborhood. The task force originally excluded rural residential, then they create a back door. The result of this combination is not only bad policy, it is not consistent with the GMA and should be sent back to the planning department to be reassessed.

I understand since this is a Type IV process it will have to be approved by the end of the year or it will roll into future years. This is no excuse for incomplete and inconsistent policy and code.

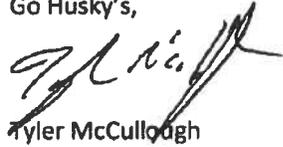
In the very first meeting minutes on the mineral task force meeting it was stated that **"We are in a unique situation and one that other counties will be looking at as precedence for their process."** This is NOT the precedence Clark County wants to set to its bigger brothers in the state.

We look to you, as our citizen's representatives on the planning to recognize this. Please, we need to ask for a complete, new, pragmatic draft of a new plan. One that starts with, how much rock do we have, and how much rock do we "the county" need. Then address the compatibility of the surrounding home owners. The county has permitted us to live in these areas, and they need to address the environmental concerns before a map change. This is what is responsible.

2/13/12

Thank you for your time and consideration.

Go Husky's,

A handwritten signature in black ink, appearing to read 'Tyler McCullough', written in a cursive style.

Tyler McCullough

29400 NE 70th Cir

Camas WA 98607

3/13 2/2