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November 19, 2014

Clark County Planning Commission
Clark County Board of County Commissioners
PO Box 9810
Vancouver, WA 98666-9810

Re: Surface Mining Overlay –Comprehensive Plan and Development Regulation
Amendments

Dear Clark County Planning Commissioners:

I write on behalf of the Friends of Livingston Mountain to follow up on our October 30, 2014, comments on the proposed amendments to Clark County's Comprehensive Plan Goals and Policies, and Title 40 related to mineral resource lands. The purpose of this letter is to set out our proposed changes to the Staff Recommended changes in a format that is easier to review. The justification for our proposed changes is explained in our earlier letter which is attached for reference.

The following are our proposed changes to October 21, 2014, Staff Recommendation. If we do not recommend a change, then we support the October 21, 2014 Staff Recommended changes.

A. Comprehensive Plan Goals and Policies

1. Mineral Resource Lands Goal

Staff Recommendation:

GOAL: To identify and designate mineral resources and to protect and ensure appropriate extraction and use of gravel and mineral resources of the county while minimizing conflicts between surface mining and surrounding land uses.

Friends of Livingston Mountain Recommendation:

GOAL: To protect and ensure appropriate extraction and use of gravel and mineral resources of the county while minimizing conflicts between surface mining and surrounding land uses.

2. Mineral Resource Lands Policies

a. Policy 3.5.2.a:

Staff Recommendation:

3.5.2 Designate mineral resource lands based on the following:

- a. Geological, environmental, and economic factors, including, without limitation, consideration of the evidence of the quality, quantity and characteristic of the resource deposits in the area of interest; proximity to unstable slopes, riparian area and wetland areas, habitat for endangered or threatened species, flood hazard areas, parks, public reserves, or other sensitive lands; and economic impacts of mining and other uses of the area;

Friends of Livingston Mountain Recommendation:

- a. Geological, environmental, and economic factors, including, without limitation, consideration of the evidence of the quality, quantity and characteristic of the resource deposits in the area of interest; proximity to geologically hazardous areas including steep and unstable slopes, riparian area and wetland areas, habitat for endangered or threatened species, flood hazard areas, parks, public reserves, or other sensitive lands; and economic impacts of mining and other uses of the area;

b. Policy 3.5.2.c:

Staff Recommendation:

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

Friends of Livingston Mountain Recommendation:

- c. Suitability and safety of the existing transportation system to bear the traffic associated with mining, including, without limitation, the suitability of public access roads to be used as haul roads, the distance to the market, the need to route traffic through residential areas, the adequacy of intersections to handle mining traffic plus other traffic. ~~Consideration will include options for mitigating proposed impacts to the existing transportation system.~~ of future improvements to the transportation system may be considered only if the specific improvements are identified and funded as part

of the County's current transportation plan.

c. Policy 3.5.2.d:

Staff Recommendation:

- d. The surface mining overlay shall not be designated on parcels zoned Rural (R) except to allow the expansion of an existing mining site;

Friends of Livingston Mountain Recommendation:

- d. The surface mining overlay shall not be designated on parcels zoned Rural (R); ~~except to allow the expansion of an existing mining site;~~

B. CCC 40.250.020 Surface Mining Overlay

1. CCC 40.250.020.B:

Staff Recommendation:

- B. Applicability.
2. The provisions of this section shall [CCC 40.250.020] shall apply only to new applications for surface mines and related uses and expansions of existing mines. Operation of existing surface mines and related uses shall conform to the conditions of approval adopted with their site plan and/or conditional use permit.

Friends of Livingston Mountain Recommendation:

- B. Applicability.
2. With the exception of CCC 40.250.020.F, the provisions of this section shall [CCC 40.250.020] shall apply only to new applications for surface mines and related uses and expansions of existing mines. Operation of existing surface mines and related uses shall conform to the conditions of approval adopted with their site plan and/or conditional use permit. CCC 40.250.020.F (Monitoring and Enforcement) is applicable to all existing, expanded, and new surface mines and related uses.

2. CCC 40.250.020.D.2

Staff Recommendation:

2. Setbacks
 - a. Structures on designated mineral resource land shall be set back at least one hundred fifty (150) feet from abutting parcels with existing lawfully established residential structures or adjacent rural (R) zoning. The setback area shall be used only for roads, berms, landscaping, signs, fencing and reclamation activities. The setback may be reduced by the responsible official if the purposes of this chapter can be met with the reduced setback.

Friends of Livingston Mountain Recommendation:

2. Setbacks
 - a. ~~Structures~~ Mineral uses, including extraction, crushing, mixing, batching and bulking, on designated mineral resource land shall be set back at least ~~one hundred fifty (150)~~ two hundred (200) feet from abutting parcels with existing lawfully established residential structures or adjacent rural (R) zoning. The setback area shall be used only for roads, berms, landscaping, signs, fencing and reclamation activities. The setback may be reduced by the responsible official if the purposes of this chapter can be met with the reduced setback.

3. CCC 40.250.020.D.7:

Staff Recommendation:

7. Blasting and mining activities shall not:
 - a. adversely affect the quality or quantity of groundwater or groundwater wells; or
 - b. cause damage to offsite structures, where such structures were constructed pursuant to an approved permit, as required.

Friends of Livingston Mountain Recommendation:

7. Blasting and mining activities shall not:
 - a. adversely affect the quality or quantity of groundwater or groundwater wells; or
 - b. cause damage to offsite structures, ~~where such structures were constructed pursuant to an approved permit, as required.~~

3. CCC 40.560.010 Changes to Districts, Amendments, Alterations

Staff recommendation:

S. Additional Criteria for Surface Mining Overlay Changes:

1. Designation of additional areas with the surface mining overlay shall occur only if :
 - a. designation criteria in the comprehensive plan have been met; and
 - ~~b. The quantity and characteristic of the resource including the size of the deposit, the depth of the overburden, the distance to market, and the cost of transport and resource availability in the region, suggest that mining is economic viable.;~~
 - eb. at least sixty percent (60%) of the area within one thousand (1000) feet of the proposed mineral resource land is characterized by parcels of (5) acres or larger.

Friends of Livingston Mountain Recommendation:

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 - a. designation criteria in the comprehensive plan have been met; and
 - b. The quantity and characteristic of the resource including the size of the deposit, the depth of the overburden, the distance to market, and the cost of transport and resource availability in the region, suggest that mining is economic viable.;
 - c. at least sixty percent (60%) of the area within one thousand (1000) feet of the proposed mineral resource land is characterized by parcels of (5) acres or larger.

Once again, thank you for the opportunity so submit these comments. Please do not hesitate to contact me if you have any questions.

Very truly yours,

GENDLER & MANN, LLP



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cc: Client
Gordon Euler
Marilee McCall
Axel Swanson