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RESOURCE STEWARDSHIP DEPARTMENT

Creating Solutions for Our Future

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MEMORANDUM (1)

TO: Thurston County Planning Commission

FROM: Maya Bühler, Associate Planner
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DATE: October 12, 2017

SUBJECT: Comprehensive Plan Update - Mineral Resource Lands: Designation Scope

Overview

Staff is looking for a recommendation from the Planning Commission on the scope of options to consider further for designation of mineral lands. This recommendation is not a final decision on designation, but will affect the policy information considered going forward.

To aid in this discussion, staff are providing the following materials for the Planning Commission's review prior to the October 18 meeting:

1. June 15, 2017, memo with background information on mineral lands designation
2. *Designating Mineral Resource Lands Under the Growth Management Act* – an issue paper prepared for Thurston County, September 1, 2017
3. October 12, 2017, memo #1 (this memo) on Designation Scope, plus Draft Maps 1-7
4. October 12, 2017, memo #2 with responses to Planning Commission questions from the June 21st meeting
5. October 12, 2017, memo #3 with responses to some stakeholder questions from the September 19th meeting

Below is staff's proposed timeline for next steps:

- October 18, 2017 - By the end of this meeting, staff hopes to have an idea of any additional questions or suggestions that the Planning Commission may have regarding potential criteria for designation of mineral lands. The Planning Commission will have time to review the materials and discussion again before the next Planning Commission meeting.

Thurston County Planning Commission
October 12, 2017 – Mineral Resource Lands Designation Options

- November 1, 2017 – Staff will bring forth any additional information in response to questions from the previous meeting on October 18. Discussion will continue on designation options. A recommendation may be made at this meeting.
- November 15, 2017 – A recommendation from the Planning Commission is desirable at this meeting.

The recommendation from the Planning Commission may include: which approach to take towards designation (broad vs. strict inclusion – see below); certain criteria to be eliminated from further consideration for designation; and certain criteria to be considered further for designation. The Planning Commission may opt to hold a public hearing on this recommendation, but it is not required, as there will be a hearing held as part of the overall Comprehensive Plan Update.

After the Planning Commission makes a recommendation on designation criteria for Mineral Resource Lands, staff will bring that information before the Board of County Commissioners to receive their direction on a general approach to designation. Designation criteria will be included in the review of the Comprehensive Plan Update (Chapter 3). The criteria will receive a public hearing through the Comprehensive Plan Update before both the Planning Commission and the Board of County Commissioners. Designation criteria is not final until it is adopted with the Comprehensive Plan Update.

Background

Under the Growth Management Act, Thurston County is required to designate mineral resource lands of long-term commercial significance as part of its Comprehensive Plan (RCW 36.70A.170). This designation must be reviewed as part of the periodic Comprehensive Plan update (RCW 36.70A.131).

Mineral resource lands include areas where geology and other factors may support the commercial extraction of minerals, including sand, gravel, and metals. The County adopted the current amended designation criteria on April 17, 2012 (*Res. 14739 and Ord. 14740*), and additional amendments on January 8, 2013 (*Res. 14847 and Ord. 14848*). The Growth Management Hearings Board (GMHB) found that Thurston County achieved compliance with RCW 36.70A.170 (1) and (2), WAC 365-190-020 and 365-190-040 with the additional amendments adopted in January and closed the case.

During the case, the County argued and the GMHB agreed that several of the issues raised by *Weyerhaeuser et al.* should be dismissed because the County had not yet updated its mineral lands designation on the official Future Land Use Map. This process was to be completed as part of the scheduled periodic update of the Comprehensive Plan, which is now underway.

The County currently is evaluating where and how to designate mineral lands of long term commercial significance. This approach must be a countywide process (WAC 365-190-070(1)), and must follow state guidelines, which state:

“(d) Successful achievement of the natural resource industries goal set forth in RCW [36.70A.020](#) requires the conservation of 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 to the management of designated lands.

(e) Mineral resource lands especially should be designated as close as possible to their likely end use areas, to avoid losing access to those valuable minerals by development, and to minimize the costs of production and transport. It is expected that mineral resource lands will be depleted of minerals over time, and that subsequent land uses may occur on these lands after mining is completed.”

WAC 365-190-040(5)

The designation process of Mineral Resource Lands follows the path below. We are currently at the designation stage.



Designation vs. Permitting

“Where should mineral lands of long-term commercial significance be designated?”

versus

“Where should mineral extraction be permitted?”

Not all considerations can be addressed through the designation mapping stage of mineral resource lands. Some criteria may not have corresponding available, reliable, spatial data; other issues may be better suited for an individual case-by-case evaluation and should be addressed at the permitting stage.

In 2004, the Mineral Lands Task Force¹ spent many hours discussing appropriate criteria for designating mineral lands of long term commercial significance (e.g., screening criteria applied by the Board) versus concerns that should be relegated to the permitting process (site-specific analysis and environmental review for determination by the Hearing Examiner). Finding an appropriate level of environmental protection at the designation level was a special challenge given the diversity and prevalence of critical areas and potential critical areas throughout the County. The majority of the Task Force agreed to broad-based environmental criteria that could be feasibly applied at the designation level, leaving more detailed analysis to the permitting stage.

¹ For a summary of the recommendations of the Mineral Lands Task Force, see Memorandum #2.

Scope of Mineral Resource Lands Designation

The County is working with a group of stakeholders to provide input on mineral lands designation, including several members of the original Mineral Lands Task Force. This group includes representatives from the mining industry, environmental interests, development community, tribes, and local jurisdictions. At their meeting on September 19, this focus group identified two general approaches the County could take on the designation of Mineral Resource Lands. These approaches are:

- **Approach 1:** Broad approach, designate everything that is a “potential” mineral land based on the inventory and classification. Additional, exclusionary criteria would be applied at the site scale, through the application and permitting process.

Pros:

- Allows for the largest designation of mineral lands, ensuring all areas with mineral resources that meet the basic criteria are included and conserved through designation;
- Lessens the amount of properties that would need a Comprehensive Plan Amendment to pursue mining activity;

Cons:

- Creates a misleading representation of where mining would ultimately be permitted, and thus an inaccurate understanding of the supply of mineral resources available for future growth;
- Could potentially mislead citizens to believe that mining is allowed in a certain area when at the permitting stage it is not;
- Could create an expectation that mineral extraction is a reasonable use of all properties included in the designation;
- Relies on code enforcement at the permitting stage;
- Relies on SEPA at the individual project level.

- **Approach 2:** Narrow approach, use countywide mapping and best available data to exclude lands that may not be eligible for mining. Greater onus would be placed on applicants to prove their property meets criteria at the site-specific scale.

Pros:

- Provides a more realistic estimate of where mining can occur within the county;
- Proactively conserves other competing resources;
- Does not rely as heavily on oversight at the permitting stage of mining operations.

Cons:

- Exclusions must be based on best available science, but some existing data layers may not be accurate at the site scale;

- Excludes lands that could potentially be used for mining, and may require more individuals to go through the Comprehensive Plan Amendment process.

Because Approach 2 could require substantial additional research that is beyond the scope of work adopted for the Comprehensive Plan Update, staff are seeking a recommendation from the Planning Commission on the general scope of the Mineral Lands designation. In addition to the two approach options outlined above, the Planning Commission alternatively could recommend a blended scope that includes some criteria and excludes others.

Review of Maps – Potential Mineral Lands Designation Criteria:

To aid in this discussion, staff have prepared a series of draft maps that display the effect of potential criteria on mineral lands designation. These maps were developed in response to the Planning Commission’s request on June 21, and incorporate initial feedback from stakeholders gathered at the September 19 meeting.

Map 1 – Current Designation Criteria

Map 1 shows mineral lands within Thurston County identified through the AESI Preliminary Inventory that also meet the current designation criteria, plus jurisdictional criteria:

- Removes areas within 1,000 feet of public preserves, parks, national wildlife refuges, and state conservation areas;
- Removes areas within 1,000 feet of Urban Growth Areas;
- Removes parcels smaller than 5 acres in size;
- Removes parcels 5 acres or larger in size when more than 40% of the surrounding parcels are less than 5 acres in size; and
- Removes areas of intersect with Long Term Agriculture.
- Additionally, non-county governmental jurisdiction, including military reservation, national forests, tribal land trusts, and cities are removed.

Considerations:

- The GMHB found the current designation criteria achieves compliance with RCW 36.70A.170 (1) and (2), WAC 365-190-020 and 365-190-040.
- Maps approximately 75% of mineral lands identified in the inventory.
- Does not co-designate Long Term Agriculture and Mineral Resource Lands. In instances where resource lands overlap, GMA and GMHB indicate that either both resource designations apply, or if there is a conflict between resource uses that the County should evaluate which has the greatest long term commercial significance and designate that one (WAC 365-190-040(7)(b)).

Map 2 – Current Designation Criteria, including Long Term Agriculture for co-designation

Map 2 shows the current designation criteria (Map 1), and includes mineral lands that intersect with Long Term Agriculture.

Considerations:

- Co-designates LTA and MRL, as required by (WAC 365-190-040(7)(b)) unless proven incompatible.
- Co-designation with LTA increases MRL designation by 2,229 acres (~ 1.5%).
- Co-designation of LTA lands that overlap with MRL has the potential to affect 2,229 acres of 12,320 existing LTA designated acres (18% of area designated LTA).

Map 3 – Current Designation Criteria, excluding FEMA flood zones, 1-, 5-, and 10-year wellhead protection areas, and community Group B water systems

Map 3 shows the current designation criteria (Map 1), also excluding areas that fall within:

- FEMA flood zones;
- 1-, 5-, and 10-year wellhead protection areas; and
- Community system Group B wellhead properties.

Considerations

- Criterion above protects groundwater, ecological systems, riverine habitat, floodplain functions, and existing drinking water supply.
- Excludes 6,358 acres (~ 5%) of mapped mineral resource lands included in Map 1.
- Mapping may not be 100% accurate – some data layers are more accurate at the parcel scale than others.
- Suggested protections, reclamation plans, and monitoring for protection of groundwater resources are identified in the development code and through the permitting process.

Map 4 – Current Designation Criteria, excluding Landslide Hazard Areas

Map 4 shows the current designation criteria (Map 1), also excluding mineral lands that fall within landslide hazard areas.

Considerations:

- Excludes 5.8 acres (< 1% of mineral resource lands in Map 1) of landslide hazard areas, which exist along the marine shoreline and may not be eligible for mining in the permitting stage.
- Steep slopes (which include areas with a slope of 40% or greater) still included through the remainder of the County, based on stakeholder feedback. Available steep slope data may not be a reliable county-wide metric to exclude due to inaccuracy at the site scale, and other considerations².
- Landslide Hazard areas are considered a critical area. Under WAC 365-190-040(7)(a), critical area designations should not necessarily be considered inconsistent with other resource land designations: “If a critical area designation overlies a natural resource land designation, both designations apply. For counties and cities required or

² The County’s steep slope data layer is based on LiDAR – and does not distinguish steep slopes that may have been created by human activities, including mining, or that may be stable slope, such as a bedrock cliffs.

opting to plan under the act, reconciling these multiple designations will be the subject of local development regulations adopted pursuant to RCW 36.70A.060.”

Map 5a/b – Current Designation Criteria, excluding habitat areas

Map 5a shows the current designation criteria (Map 1), and also excludes mineral lands that fall within mapped habitat areas for state and federal threatened or endangered species, including but not limited to Mazama Pocket Gopher, Taylor Checkerspot Butterfly, Streaked Horned Lark, Chinook salmon, and Oregon Spotted Frog.

Map 5b shows the current designation criteria (Map 1), and also excludes mapped gopher soils, in addition to everything on Map 5a.

Considerations

- Map 5a excludes 15,150 acres (~ 11%) of mineral lands included in Map 1
- Map 5b excludes 33,166 acres (~ 24%) of mineral lands included in Map 1
- May exclude sites that are not appropriate for mining from moving forward to the permit stage.
- Protects critical habitat area for federally and state listed threatened and endangered species in Thurston County.
- Potential inaccuracy of mapped locations of these habitats and species, due to data type or a “shift” in data to protect species.
- Excluding habitat areas could result in many large parcels (or groups of parcels) being excluded, making blocks of land difficult in areas (resulting in a “Swiss Cheese” effect).
- Important habitats and species are regulated by the Critical Areas Ordinance, and avoidance or mitigation for a mineral extraction activity is required by that Ordinance at the permit stage (SEPA). However, a portion of the stakeholder group felt that leaving these determinations to staff and the hearing examiner at the permit stage left critical areas too vulnerable.
- Habitat areas are considered an overlapping critical area designation, which under WAC 365-190-040(7)(a), critical area designations should not necessarily be considered inconsistent.

Map 6 – Current Designation Criteria, excluding historic sites

Map 6 shows the current designation criteria (Map 1), and excludes parcels of mineral lands that have a mapped historic site.

Considerations:

- Excludes 732 acres (<1%) of mineral lands included in Map 1
- Sites are easily identified through existing County data.
- Sites cannot be replaced if mined.
- Currently, parcels are excluded. Mining operations may be able to avoid a site after evaluation at the permitting stage, so strict exclusion may not be necessary.

Map 7 – Current Designation Criteria, excluding LAMIRD sites

Map 7 shows the current designation criteria (Map 1), and excludes mineral lands that fall within LAMIRDS.

Considerations:

- Excludes 110 acres (far less than 1%) of mineral lands included in Map 1
- Excludes areas identified for more intensive rural development.
- May exclude site eligible for mining.