

**Community Development**

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12/8/2022

Clark County Community Planning  
c/o Oliver Orjiako  
1300 Franklin Street; 3<sup>rd</sup> Floor  
Vancouver, WA 98666-9810

**RE: ORL-2022-00014 – Cardai Hill Surface Mining Overlay**

Mr. Orjiako,

The city strongly recommends that Clark County deny the request for a Surface Mining Overlay (SMO), and that it find such designations are not appropriate within proximity to urban centers under any circumstances. Now or in the future. This recommendation is based on the review of the above referenced application materials and has the following concerns to be considered as part of this review:

Impacts to the City of Woodland

This site is within direct line of site from approximately 1,400 residences in the City of Woodland. That’s approximately 60% of the City’s housing units that will be affected by this decision. With roughly 2.5 residents per household, this decision will have a direct impact on approximately 2,100 people.

It also needs to be noted that the site is approximately 1,500 feet from the city limits. Having a surface mine (or any of the other primary uses associated with the SMO) within a quarter mile, and with direct line of site, will have significant adverse impacts on the residents of the city.

Is there no other property within Clark County that already has the overlay designation which would have less direct impact than the property that the County is now considering for the overlay?

It is recognized that the staff recommendation is narrowly looking at the comp plan amendment criteria in CCC 50.560 as a “met” or “not-met” question but it totally ignores the environmental implications of the decision, including:

Visual – The site is clearly visible from a large portion of the City of Woodland. This means that there will be impacts to the city which have not been considered.

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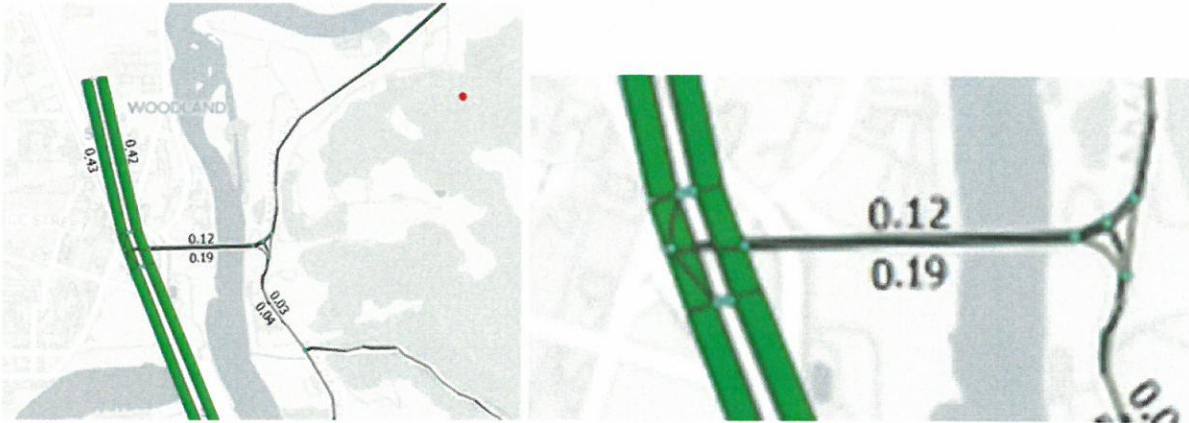
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Noise – The site is within the valley of the Lewis River and approximately 1,500 feet from the city. Designating the site for development of a surface mine without a full understanding of how the potential noise from such an operation will affect the valley, is a monumental mistake. A mine will cause noise, that noise will cross the valley unimpeded and will bounce back from the opposing valley wall, approximately 3,500 feet (or about .73 miles) away. The effects of that noise are not discussed. The impact of noise should be considered as part of an informed discussion when considering the impacts of an overlay.

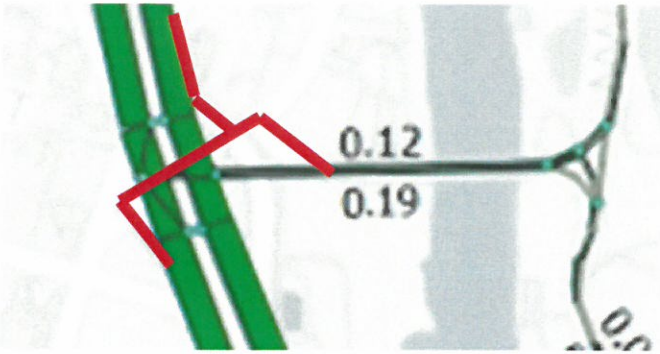
Noise is known to have effects on health, property values, standard of living, and quality of life. There is insufficient evidence that the proposal will not have significant adverse noise impacts.

Traffic – The designation will have impacts that are not typical for rural development. Specifically, site size, weight and number of trucks on the transportation system. The impacts from trucks carrying surface mining products will definitely impact city transportation infrastructure. The applicant's submittal ignores those impacts and makes assumptions that allow them to minimize the impacts that could occur from the SMO designation.

Truck Turning Movements - The staff report's analysis of traffic impacts are completely inadequate because the TIA appears to include only a partial analysis of the potential impacts. The staff report from the County Engineer does not appear to expect or discuss impacts beyond the impacts to county road system. For example, impacts to the city seem to assume a straight-line connection to Interstate-5 Exit 21 from Hayes Road (via the CC Street bridge AKA Bridge 80).



In reality, the connection from Hayes Road requires a sweeping right hand turn to a traffic light on State Route 503, followed by a left hand turn to a second traffic light at the Northbound off ramp of Exit 21 (approximately 40-feet away), followed by either right hand turn and a 1-mile run on Atlantic Avenue to the Exit 21 Northbound on-ramp, OR, the need go through the 2<sup>nd</sup> light, under Interstate-5, and to take a left had turn at a third traffic light, onto the Southbound on-ramp for Interstate-5.



Yes, the entire City of Woodland has three traffic lights and this site will eventually send the majority of its loaded truck traffic through at least two, or most likely through all three of those lights. Not to mention that there is not adequate spacing for a truck and trailer between the first two lights, nor is there adequate truck and trailer stacking for a left hand at the Exit 21 Southbound on ramp. Both of these problems warrant mitigation, but were not discussed in an adequate study.

The All of these movements are in the City of Woodland and beyond the County's jurisdiction and therefore seem to be undervalued as a consideration for the appropriateness of the decision being considered. Even if Clark County is willing to compartmentalize and piecemeal the review, that is not acceptable for the city because there is insufficient information to support even the non-project decision that is being requested.

Scope of this decision on multiple transportation systems - The fact that future traffic from this site will utilize the county road system, a county bridge (CC Street/Bridge 80 which is owned by Clark and Cowlitz counties), a city road (CC Street), a state route (SR-503) and a federal highway interchange (Interstate 5 Exit 21), should be considered. Both the County Engineer's staff report and the applicant's TIA fail to analyze the real-world conditions in which the SMO request is being considered. A commitment to do the analysis later after the decision is made fails to justify the impacts that will eventually result.

Wear on roads – This decision will likely result in vehicle traffic that may be above and beyond the design capacity of the city's road infrastructure. The ultimate development of this site will rely upon a road network that is owned by Clark County, the City of Woodland, and both State and Federal Departments of Transportation. The County Engineer's conclusion that service levels of LOS B are acceptable on Cardia Hill Road and Hayes Road does not adequately consider even the conceptual impacts of fully loaded rock trucks that could occur. SEPA analysis that defers to project review may not be justified unless they are willing prove that mitigation is possible. The SEPA checklist does the opposite by repeating that this is a non-project proposal and that all impact will be mitigated in the future. That inspires no confidence that the request can be supported.

#### Development specific review at a later time?

If the Surface Mining Overlay (SMO) is approved, even if a Conditional Use Permit (CUP) is required, approving a discretionary comp plan overlay designation as "appropriate" may well eliminate the ability for future reviews to be influenced by the argument about the inappropriateness of the use.

The obvious argument being that if the county used its discretion to approve a comp plan surface mining designation, it won't be possible for a Hearing Examiner to find that approval of a CUP is inappropriate. After all, the Examiner cannot substitute his discretion for that of the Clark County Board of Commissioners who approved the overlay by finding the site appropriate for a surface mining overlay.

Overlay designation without project specific review as a non-project

First, City staff recognizes that this is a non-project review for a comprehensive plan amendment, but questions whether an approval decision can be made without considering the impacts that such a decision will have on the types of development that can occur and by extension the impacts of the development that will occur.

The applicant is not asking for a mixed-use overlay, a transit-oriented development overlay, or some other type of urban overlay that will result in an undefinable range of development impacts because the exact character of the development can't be predicted.

This is a request for a surface mining overlay so it will result in a surface mine. There is no way an argument can be made that the impacts from a surface mine can't, or shouldn't be considered when the decision is made to place a Surface Mining Overlay.

The SMO will not result in unpredictable or unforeseeable types of development. The title of the overlay is predictive of the exact type of development that will occur as a result of this decision. Designation of the site for a mining overlay is a de facto approval for a surface mining operation. The only questions left to answer are when, where, how, and how much.

The applicant's SEPA checklist tries to be coyly argue "The proposed Surface Mining Overlay (SMO) to site is a singular action that demonstrates independent utility." Yet if approved, the applicant "could seek additional authorization in the future to establish and operate a rock quarry". (Page 3 of the DNS, Section A Question 7)

As if there is a question that the "rock quarry" will result from the completely independent utility of seeking approval of this overlay? It's a laughable attempt at piecemeal review. And the Clark County SEPA decision appears to find that a credible argument and that no mitigation is warranted.

The entire exercise is a piecemeal request to get permission for a quarry, as if there is some question as to what the site would be used as if it gets a surface mining designation. If that were true and they were considering other options, they would be asking to go from Forest Resource to one of the Rural designations with an associated zone change request. But they aren't. They are asking for a limited and focused overlay designation with an identified outcome, not a more flexible zoning designation that gives them more development choices. That wouldn't happen if there was a question of what the planned use for the site is.

This suspicion is bolstered by the fact that the applicant produced a Transportation Impact Analysis for a mine, and is basing their request on reports produced nearly 25 years ago on the hydrology and Geology & Geologic Hazards of Cardai Hill. One can assume that their focus on the "aggregate shortage" and

their desire to address that shortage, opens the door for the discussion of project specific impacts that will result from the SMO decision. Otherwise, they wouldn't have a 20+ year old document to justify the request.

#### Amendment of the Comp Plan as a discretionary decision

The prevalent answer in the SEPA checklist calls attention to this request as a "non-project action". While this is technically true, it fails to recognize that the checklist fails to provide the basic information necessary to justify the designation by putting off impact assessment of this discretionary decision, until such time as the County does not have the discretion to determine the appropriateness of putting a surface mine in that location.

If the information from 1999 was compelling and the location appropriate, Clark County would have applied the designation when the SMO was created, or during any number of the annual reviews from comp plan amendments that have occurred since.

The SEPA, and the staff's analysis of It also ignores that the appropriateness of the decision in light of the underlying zoning that results from the comp plan amendment. (More below.)

Which raises the question, if this site is such a valuable resource why wasn't it already in the SMO? According to the GIS, this property was purchased May 4<sup>th</sup>, 2000 and is owned by Cardai Hill Rock Quarry LLC. So, in spite of the coy allegation that they might want to do a quarry, having sat on the document and the property for more than 20 years, why now? After all, Cowlitz County just amended their mining codes to allow mines on virtually any property in the county. So, there are many more places where these activities could occur without such direct effects to the city.

The City argues that there is insufficient evidence in the record to justify approval of the designation. Additional analysis of the impact of this designation is needed in order to show the benefits of the SMO outweigh the significant adverse impacts which will occur from the surface mine which will occur.

Why?

#### Location matters when making decision on overlay designations

As stated above, the proposed location is not just a random remote rural property.

Nor is there an argument that the quality of the rock is so amazingly good that it can only be found at sites which will cause significant adverse impacts to urban areas. If that were the case, the applicant could argue that there is a public good that warrants the negative impacts that a mine in this location will cause to the residents of the City of Woodland. In other words, that the value of the rock outweighs the value of the property, lives, and health of those Woodland residents who will be impacted.

The county's experience with Livingston Mountain Quarry, Yacolt Mountain Quarry, and the Daybreak Mine, have already demonstrated how this type of activity can affect nearby residents for decades.

Designating a SMO within a quarter-mile of an urban population center like the City of Woodland is negligent unless you have a full understanding of the impacts of such a designation. Postponement of

the discussion about impacts may not be a defensible act in the event a Hearing Examiner may try to exercise the discretionary power of a CUP.

Surface Mining Overlay District (CCC 40.250.022)

The SMO zoning itself has standards that are applicable when making the decision about a comprehensive plan amendment. In fact, the only time a purpose statement can be used is when making decisions about whether the zoning designation should be applied. Otherwise, “purpose statements” have no regulatory authority. They are simply a policy statement.

The Clark County staff’s report reviews for consistency with CCC 40.560 (Plan and Code Amendments) but it completely fails to consider CCC 40.250.022 which is the zoning standard for the Surface Mining Overlay District.

For example, the request clearly fails the purpose statement in CCC 40.250.022 which states that the county desires to ensure the continued availability of mineral products “without disrupting adjacent land uses, while safeguarding life, property, and the public welfare.”

Nothing in the application demonstrates that the SMO can be implemented without violating that purpose statement. And, legal precedence has shown that you cannot regulate development projects using a purpose statement.

So, if you do not use the purpose statement to make your SMO decision, the argument that a surface mine would disrupt adjacent land uses may forever be moot.

Changing the comp plan designation without analyzing the appropriateness of the zoning is a bad policy decision. The city argues that the only option for the County is to deny this request as inappropriate given that it will disrupt adjacent land uses and be injurious to the public welfare. The County also needs to make a clear policy statement that locating new surface mining operations adjacent to urban centers.

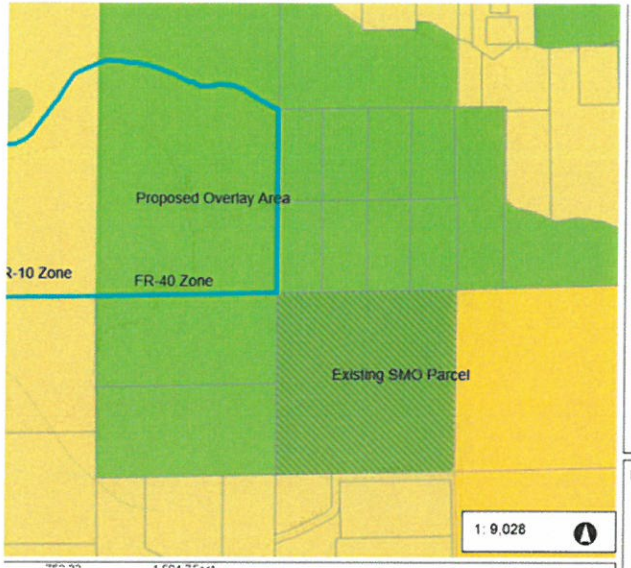
Concurrency and GMA consistency

In order for a request to be found compliant with the Growth Management Act (GMA), Clark County would need to show that the decision will be consistent with GMA. There is insufficient evidence in the record to show that the expansion of the SMO onto this site can meet concurrency standards. The presence of a county road may not be adequate to meet that standard. The assumption that the County can attach conditions of approval at the time of site development may also not justify a finding of concurrency.

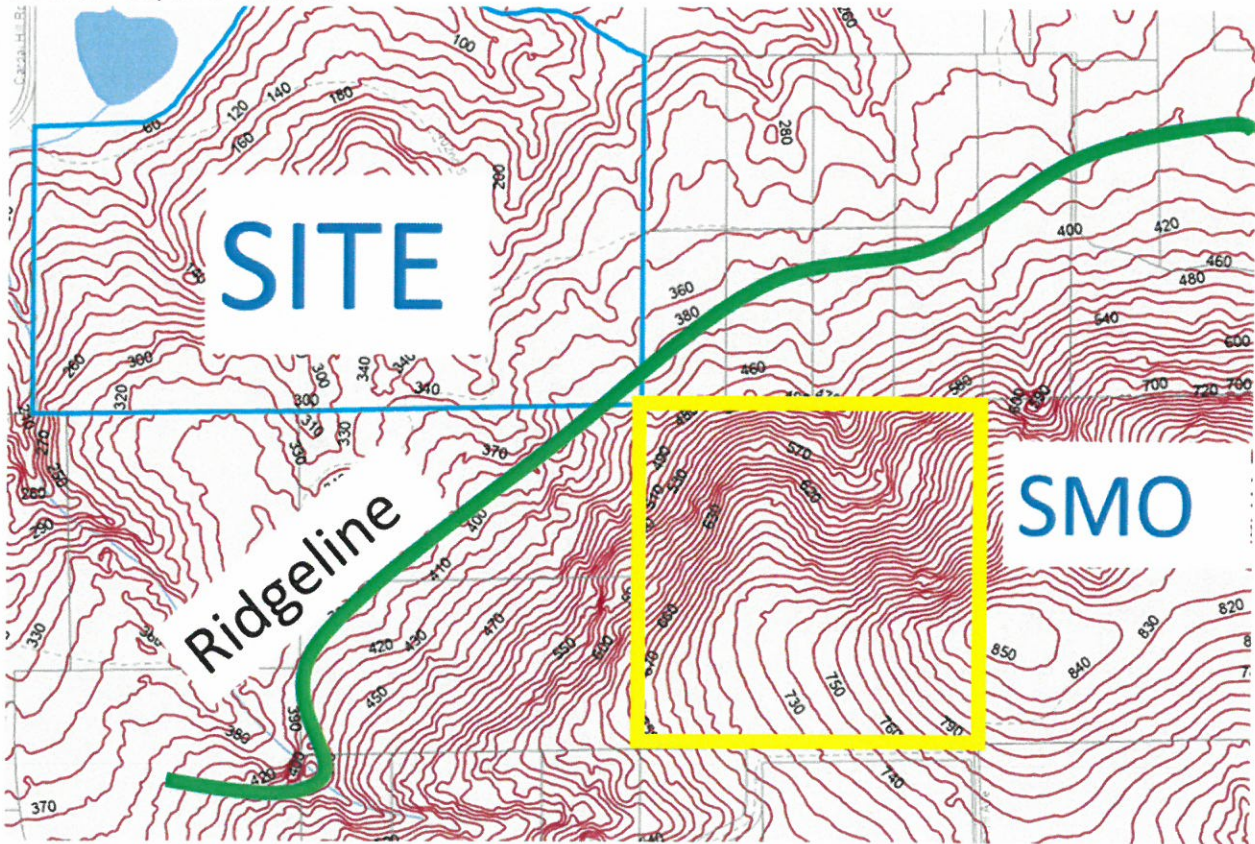
There are also other GMA goals that are not demonstrated to be consistent. The staff report seems limited to analysis of compliance with the Clark County Code for comp plan amendments. (CCC 40.560) Compliance with the local amendment process is not the same as compliance with state and local regulations. City staff does not believe that the SMO request can be completed without a concurrent review of the full development proposal, in order for the County to make an informed decision of this magnitude.

Existing SMO on adjacent property

A quick review of the GIS packet shows that there is already a parcel with the SMO immediately adjacent to the property.



Even a cursory review of the Clark County GIS system shows that the property with the SMO designation that is not in use as a surface mine. It also shows that the existing SMO is on the far side of the ridgeline from the City of Woodland.



This circumstance means that a surface mine on that property would direct it's noise up and away from the City of Woodland. This factor probably contributed to the fact that one property was found appropriate for the mining overlay while the other was not.

I suspect that the 1999 report was meant to justify a SMO designation at that time, but that the subject property was found to be completely inappropriate while the neighboring property was found to be appropriate. Otherwise, they both would have had the designation when the comp plan was written or updated. (Since they are both on the same geologic formation.)

It seems unlikely that the property owner, which is clearly a mining company...had the 1999 report in their possession but chose not to ask for the overlay. It seems more likely that they requested consideration decades ago but were not given the designation after rigorous review for reasons other than the quality of the rock. Waiting 20 years for staff and elected official turnover, doesn't change the fact that the location is bad for a mining pit.

Do not fall for this. For all the effort that has been put into the permitting and regulating of mining activity in the County, why would the County allow a new mine in such an inappropriate location?

#### Why create a Code Enforcement nightmare?

Clark County has a long and proud history of reviewing and permitting the operation of surface mines in the county. Permits for mining operations are always intense reviews that consider the impacts to both the natural and built environments in which they are located. But the intensity and thoroughness of that review does not guarantee that the operation of a mine can or will be free of negative impacts.

Clark County continues to struggle with providing the resources needed for the development industry. Surface mining operations are a prime example of that challenge. The County struggles with regulating several mining operations that currently exist within the county, including the Daybreak Mine on the East Fork of the Lewis River, Livingston Mountain Quarry, and Yacolt Mountain Quarry. In each of those cases, the operator was able to show that they could open and operate their mine in a manner that avoided, minimized, or mitigated for the impacts of their operation. And for the most part, those operations have been successful. Sometimes for decades.

However, history has shown that there are neighbors who are affected by mining operations. Permitting is not a perfect process and conditions of approval on any project can never be perfect. That means that even legal permits and permitted activities can have code enforcement issues of some type and to some degree.

From personal experience, I can say that all three of the mines listed above have had, and continue to have, code enforcement challenges when it comes to stormwater, noise, vibration, and especially truck traffic.

History has shown that decades of heavy truck traffic can have impacts on neighbors and roads. And the fact that surface mining operations can and will have impacts that span decades, the best and most



effective means for avoiding, minimizing and mitigating for those impacts is for the County to make good and reasoned siting decisions.

In the case of Yacolt Mountain, and Livingston Mountain, even with remote operations the county continues to deal with active code enforcement complaints. And those mines have been operating for approximately 20 years already. So, there is no denying that permitted uses create an ongoing workload for the County.

So, if you have mining operations that are located miles from the nearest urban center, and a small number of rural property owners get motivated to (and sometimes can) make life a living hell for the operator, county staff, and the County's elected officials, why would you even consider starting a new operation at the location being considered?

If you have 50 residents complaining about a rural mine that is 2 miles from their house, why would you ever consider opening a new mine that is a quarter mile from 2,100 residents?

Logic tells you your problem will be exponential if you don't make good discretionary decisions when the opportunity presents itself.

Even if you used a wild estimate that only 1% of those city residents will file a complaint on any given day (ranging from noise; dust; the impact on their view; or from the trucks on their roads; to the damage the trucks are causing to the city's streets, etc.) that means you could expect 21 complaints a day, 105 a week, 630 a month, and 7,665 a year. Over the 30-year life of the mine you are asking for 229,950 calls, complaints, or inquiries. And that only assumes that 1% make it their mission to punish the county. What if they get organized and call each commissioner individually? Plus, the County Administrator; the Code Enforcement office; Public Works staff; and the Sherriff? A motivated 1% group of citizens could easily generate 100 phone calls or complaints a day or a half-million calls a year.

(And trust me, the citizens of Woodland and Cowlitz County can do it. The city has gone from about 75 public records requests a year to over 350 public record requests in 2022, and the city has produced an estimated 50,000 public documents in response to those requests over the last couple years. It's so much workload that the city considered having to hire a new full-time employee to handle public records requests but instead opted to close its doors to the public on Fridays so that staff can compartmentalize their workload to work without disruption at least one day a week. So, I can tell you that there are citizens who think nothing of using the tools they have to make an effective point. Even if there is no constructive end to the effort. So doing it with a purpose means it will likely happen. A lot.)

Why would the county even consider opening itself up to that?

It might be mercenary but the question has to be asked...why would you anger 2,100 people when you could find another site where that number would be 50 people or less in some remote rural corner of the County? Especially when there are SMO properties, like the one right next door, that is already zoned for the exact same use? Why create a monumental point of conflict where none currently exists?

The city recommends denial of the comp plan amendment request.

There appears to be inadequate evidence that an appropriate SEPA decision has been made and that approval of the overlay designation is warranted. In spite of staff's recommendation of approval, the assertion that following the procedural steps in CCC 40.560 is what makes the proposal acceptable, is patently wrong.

The City of Woodland strongly recommends that Clark County deny the request for a surface mining overlay, and that it find such designations are not appropriate within proximity to urban centers under any circumstances. Now or in the future.

If you have any questions, please contact me at (360) 225-7299 or by email at [goddardt@ci.woodland.wa.us](mailto:goddardt@ci.woodland.wa.us).

Respectfully,



Travis Goddard  
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