

**WHATCOM COUNTY**  
Planning & Development Services  
5280 Northwest Drive  
Bellingham, WA 98226-9097  
360-778-5900, TTY 800-833-6384  
360-778-5901 Fax



**Mark Personius, AICP**  
Director

# **Surface Mining Advisory Committee**

## **LOCATION**

**Hybrid Meeting: Zoom (details below) and  
Northwest Annex Conference Room  
Whatcom County Planning and Development Services  
5280 Northwest Drive, Bellingham, WA 98226**

**Date: February 28th, 2024  
Time: 3:00 PM Pacific Time (US and Canada)**

Whatcom County PDS is inviting you to a scheduled Zoom meeting.

Individuals who require special assistance to participate in the meetings are asked to contact Lucas Clark [Lclark@whatcomCounty.us](mailto:Lclark@whatcomCounty.us) at least 96 hours in advance.

Join Zoom Meeting

<https://us02web.zoom.us/j/81887836179?pwd=aGhoalpCM2luVUNnSndKbXFmRktDUT09>

Meeting ID: 818 8783 6179

Passcode: 427243

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One tap mobile

+12532158782,,81887836179#,,,,\*427243# US (Tacoma)

+12532050468,,81887836179#,,,,\*427243# US

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Dial by your location

• +1 253 215 8782 US (Tacoma)

Meeting ID: 818 8783 6179

Passcode: 427243

Find your local number: <https://us02web.zoom.us/j/kc3sH1CrHH>

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**Mark Personius, AICP**  
Director

**TO:** Surface Mining Advisory Committee  
**FROM:** Lucas Clark, Planner  
**DATE:** February 28, 2024  
**SUBJECT:** Meeting Agenda

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1. Roll call and determination of a quorum
2. Elect Chair and Vice-chair
3. Open session to take public comment on surface mining issues.
4. Review Business Rules
5. Review SMAC Purpose & Function WCC 2.120.020-.030
6. Comp Plan Periodic Update Overview - Lucas Clark
7. Brief review of last steps taken by the SMAC
8. Future Agenda Topics
9. New Business
10. Adjourn

**Attachments:**

- A. WCC 2.120
- B. SMAC Business Rules
- C. Surface Area Mining Advisory Committee Briefing Paper
- D. Mining Regulations (Chapter 20.73 MRL)
- E. Maps of current MRL

*Individuals who require special assistance to participate in the meetings are asked to contact us at least 96 hours in advance. The staff contact at Whatcom County Planning and Development Services is Lucas Clark, [lclark@co.whatcom.wa.us](mailto:lclark@co.whatcom.wa.us), 360-778-5940*

# Attachment A

## Chapter 2.120 SURFACE MINING ADVISORY COMMITTEE

Sections:

- 2.120.010 Established.**
- 2.120.020 Purpose.**
- 2.120.030 Function.**
- 2.120.040 Membership – Term of office.**
- 2.120.050 Organization – Meetings.**
- 2.120.060 Committee staffing.**

### 2.120.010 Established.

There is hereby established the Whatcom County surface mining advisory committee (SMAC). (Ord. 2000-017).

### 2.120.020 Purpose.

The committee is created to advise the Whatcom County planning and development services department and the Whatcom County council on implementing surface mining regulatory program consistent with the comprehensive plan. (Ord. 2000-017).

### 2.120.030 Function.

The committee will address the action items of the mineral resources element of the Whatcom County comprehensive plan. Upon appointment to the committee, members shall review the Whatcom County council's natural resources committee meeting minutes and handouts from the public meetings on the formation of the surface mining advisory committee. The committee shall take direction from the Whatcom County council as to the priority of the action items as follows:

Action #5: Implement a surface mining regulatory program, consistent with the comprehensive plan, which addresses those areas where there is a conflict between land uses. Maintain an ongoing advisory committee consisting of representatives of diverse interests.

Action #3: Develop a coordinated and consistent approach for the regulation and enforcement of mineral extraction and accessory uses. Eliminate unnecessary regulations and permit. Make the regulatory process more efficient and timely, while protecting the land use rights of those affected.

Action #11: Budget, initiate and complete a Comprehensive Construction Aggregate Study (CCAS) to document the short and long range availability and location of quality mineral resources, to be completed within five years of the adoption of the comprehensive plan. Update the CCAS as needed based on the outcome of the study.

Action #8: Develop a program for the use of alternative methods and materials in County projects.

(Ord. 2000-017).

### 2.120.040 Membership – Term of office.

A. The committee shall consist of the following individuals:

1. One civil or geotechnical engineer with no direct or indirect financial business ties to the industry;
2. One material user;
3. One geologist;

4. Two members of the surface mining industry;
5. One citizen who lives in close proximity to active mining, mineral overlay area, or quarry;
6. One representative of agriculture;
7. One representative of forestry;
8. One representative of ground water as a potable, domestic supply, specifically a public water system or private well owner;
9. One ecologist;
10. One environmental consultant.

B. Committee members shall be appointed by the county council. Member terms will be four years.

C. When a committee member has completed two consecutive full terms, if a position on the committee remains unfilled for one month, the county council shall have the right to waive the one-year period of separation set forth in WCC [2.03.030](#). The exiting committee member may apply for any vacant position for which they are qualified.

D. When considering applications for appointments to this committee, county council should stagger the terms such that the term limit requirement in WCC [2.03.030](#) does not cause more than five positions to expire simultaneously. (Ord. 2019-034 Exh. A; Ord. 2016-070 Exh. A; Ord. 2000-017).

#### 2.120.050 Organization – Meetings.

Meetings of the committee shall be open and accessible to the public and shall be subject to the Open Public Meetings Act. At every meeting, the committee will schedule an open session to take public comment on surface mining issues. Written and audio records of meetings, resolutions, findings and recommendations shall be kept and such records shall be public. The committee shall adopt its own rules and procedures for the conduct of business. The committee shall elect a chairperson from among its members who shall preside at its meetings. (Ord. 2002-030; Ord. 2000-017).

#### 2.120.060 Committee staffing.

The Whatcom County planning and development services department shall provide staffing for the committee. (Ord. 2000-017).

## **BUSINESS RULES AND PROCEDURES**

### **SURFACE MINING ADVISORY COMMITTEE OF WHATCOM COUNTY, WASHINGTON**

The Whatcom County Surface Mining Advisory Committee (SMAC), being formed by the County Council pursuant to Ordinance 2000-017, adopted May 2, 2000 (see also Ordinance 2002-030), does hereby adopt the following rules and procedures for the transaction of its business:

#### **1. NAME**

The official name is the "Whatcom County Surface Mining Advisory Committee."

#### **2. AUTHORITY AND PURPOSE**

The authority for the SMAC is set forth in Whatcom County Code 2.120. The purpose of the SMAC is to advise the Whatcom County Planning and Development Services Department and the Whatcom County Council on implementing a surface mining regulatory program consistent with the Comprehensive Plan (WCC 2.120.020).

#### **3. OFFICERS - ELECTION**

The SMAC shall elect a chairperson and vice-chairperson. These officers are elected for terms of one year.

In the event of a vacancy in the office of chairperson, the vice-chairperson automatically becomes the chairperson. A vacancy occurring in the office of vice-chairperson is filled by election of a replacement to serve for the un-expired portion of the term. A vacancy in an office automatically occurs upon the third consecutive unexcused absence of an officer from the regular meetings or upon a vote by a majority of the total membership.

#### **4. OFFICER DUTIES**

The chairperson has the responsibility of presiding at meetings of the SMAC, placing items on the agenda, calling special meetings, canceling meetings, and excusing members for valid reasons from attendance at SMAC meetings.

The vice-chairperson assumes the responsibilities of the chairperson in his/her absence.

## **5. MEETINGS**

The regular meeting times will be the fourth Wednesday of the month from 3 p.m. to 5 p.m., when called by the chair. The regular meeting place will be in the Whatcom County Northwest Annex Conference Room at 5280 Northwest Dr. A regular meeting that falls on a legal holiday is ordinarily held on the next business day.

Special meetings may be called by consensus of the members at a regular meeting. Special meetings may also be called by order of the chairperson upon giving written notice to other members at least 24 hours before the meeting. The written notice must state the time, place and business to be transacted. Final action cannot be taken on any item that is not included on the agenda.

All meetings shall be open to the public.

## **6. ATTENDANCE**

The chairperson, upon the fourth consecutive unexcused absence of any member from the regular meetings, shall bring forward the issue to the full SMAC to consider a recommendation to the County Council for replacement of that member.

## **7. QUORUM – DECISION MAKING**

A majority of the currently appointed members is required to conduct regular business.

Decision-making will be by majority vote, with a minimum of the majority of currently appointed members votes' required to pass. A vote by proxy shall be allowed with written documentation.

Any decision reached by vote may be accompanied by a majority or minority report at the discretion of the majority or the minority, provided that any report shall be specific to the decision.

## **8. ORDER OF BUSINESS**

The regular order of business is as follows:

- (a) Roll call
- (b) Determination of Quorum

- (c) Approval or modification of minutes
- (d) Open session for the public to speak on surface mining issues
- (e) Staff reports or agency presentations
- (f) SMAC discussion, deliberations and decision-making
- (g) Adjournment

**9. OPEN SESSION FOR THE PUBLIC TO SPEAK ON SURFACE MINING ISSUES**

The Chairperson or the committee may limit speakers to three (3) minutes per meeting to make their points, and open session may be limited to 20 minutes, at the discretion of the chair.

**10. REPORTING TO THE WHATCOM COUNTY COUNCIL**

- a. The SMAC shall forward any proposed amendments to the Whatcom County Code, deemed necessary to implement the Whatcom County Comprehensive Plan, to the County Council for consideration.
- b. A member may be chosen to represent the SMAC in front of the County Council or a Council Committee regarding a particular matter.
- c. All SMAC members will sign the report forwarded to the County Council to reflect the recommendations of the committee.
- d. Any SMAC member may address the County Council on any issue relating to surface mining. The member must state clearly if he/she is speaking on behalf of the SMAC or in another capacity.

**11. MINUTES AND RECORDS**

Meetings will be audio taped and minutes will be maintained (WCC 2.120.050). Minutes shall be approved by the SMAC and signed by the chairperson.

**12. NOTICE - AGENDA**

Copies of the agenda will be e-mailed or placed in the mail to SMAC members at least one week prior to the next meeting.

**13. STAFF**

The Planning & Development Services Department will provide staffing for the SMAC (WCC 2.120.060).

**14. AMENDMENT**


These rules may be amended by the SMAC, provided notice of the amendment has been placed in the mail or delivered to the member at least one week in advance.

ORIGINALLY ADOPTED ON THE 27<sup>TH</sup> DAY OF SEPTEMBER, 2000

REVISED ON THE 27<sup>TH</sup> DAY OF FEBRUARY, 2002

REVISED ON THE 16<sup>TH</sup> DAY OF NOVEMBER, 2005

REVISED ON THE 26<sup>TH</sup> DAY OF FEBRUARY, 2014

  
\_\_\_\_\_  
SMAC Chairperson

3/26/2014  
Date

# **Surface Mining Advisory Committee Briefing Paper**

The purpose of the Surface Mining Advisory Committee (SMAC) is to advise the Whatcom County Planning and Development Services Department and the Whatcom County Council on implementing surface mining regulatory program consistent with the Comprehensive Plan. The SMAC also provides a forum for all sectors of the surface mining community to contribute to discussions on the future of mineral extraction in Whatcom County.

## **Background**

One of the goals of the Growth Management Act is to maintain and enhance natural resource industries. To help meet the goal, Whatcom County must designate mineral resource lands and develop regulations conserving these designated lands. Designated mineral resource lands shall not already be characterized by urban growth, and are to have long-term significance for the extraction of minerals.

## **History**

To address the mandates of the Growth Management Act, Whatcom County formed a Surface Mining Citizens' Advisory Committee in the 1990s to produce, through a consensus process, the issues, goals, and policies found in Chapter 8 of the Whatcom County Comprehensive Plan. Planning staff drafted the sub-section on mineral designations following review and comments from the committee. The committee was comprised of a cross-section of community members including mining operators, foresters, farmers, and rural homeowners representing diverse interests and geographic areas in Whatcom County. The County Council adopted the original mineral resource provisions in the 1997 Comprehensive Plan. These provisions were updated in 2004-2006 after reviewing the GMA, Surface Mining Advisory Committee recommendations and new information.

## **Mineral Resource Lands**

Mining activities have taken place in Whatcom County for over 150 years, changing scope and extent over the years. Most recently, limestone, olivine, and sand and gravel, have been the primary resource being extracted.

There are 24 Mineral Resource Land designations in Whatcom County, covering nearly 4,200 acres. These sites are generally located in the northern half of the Whatcom County, east of The Guide Meridian. These upland pits provided an estimated 1.73 million cubic yards of extracted sand and gravel material annually between 1999 and 2001. Historically, river gravel has also provided a resource, though federal regulations and decreasing seasonal windows for removal have resulted in no river bar scalping in the Nooksack River since the mid 1990s.

Whatcom County is also home to one of the largest known deposits of olivine within the U.S. As recently as 10 years ago, extraction of olivine annually averaged 70,000 to 80,000 tons.

## Action Items – Tasks

When the Comprehensive Plan was adopted in 1997, a number of action items were identified for future work. These action items were modified by Ordinance 2005-024 as shown below. Staff comments on the status and assessment of these action items are shown below.

- 1) Investigate the problems associated with inactive and non-permitted mining sites and work with the appropriate government agencies to resolve such problems.

*Staff Comment: Not aware of problems associated with inactive and non-permitted mining sites. Target shooting/Parties/Illegal dumping? There are also different ways that sites can be considered "inactive". As an example, a company can pay their Whatcom County annual fees as an inactive site, so as to maintain their lawfully established right to mine the area, without currently being in the process of mining. It is also not clear whether the "non-permitted mining sites" are active or relic sites.*

- 2) Encourage mineral extraction operators in the county to voluntarily provide resource use information to nearby landowners, and to develop a good neighbor policy.

*Staff Comment: Encourage how? Incentives? What type of resource use information would be shared? When would this information be provided (Beginning of extraction? Upon completion of extraction? How often)? What is the benefit of providing this type of information to nearby landowners? What would a good neighbor policy look like, and is this action item for the County to develop what a good neighbor policy looks like, or to encourage mineral extraction operators to develop what a good neighbor policy looks like?*

- 3) Make regulatory processes more efficient and timely, while protecting the land use rights of those affected.

*Staff Comment: The type of information that is required, and with the number of agencies that must provide approval, permitting is inherently a long process and timely review may not be an issue.*

- 4) Implement a surface mining regulatory program, consistent with the comprehensive plan that addresses those areas where there is a conflict

between land uses. Maintain an ongoing advisory committee consisting of representatives of diverse interests

*Staff Comment: Completed through adoption of comprehensive plan and subsequent development regulations.*

- 5) Develop and/or implement standards that optimize the life cycles of roads, bridges, and buildings, favoring durability over low, initial cost. Such standards can include improved road sub-base preparation (better compaction), thicker road bases, reinforcement, alternative materials, and concrete surfaces for some applications.

*Staff Comment: Cost is considered during design of road projects, when considering the lifetime of the road. However, this method may not be the most conservative (from a resource use perspective). Action item appears to favor durability over cost.*

- 6) Encourage the use of alternative materials through educational programs.

*Staff Comment: The mineral extraction industry would be the most familiar with alternative materials and likely implement them when they are financially feasible. Until then, encouragement and educational programs may not be effective or necessary.*

- 7) Develop a program for use of alternative methods and materials in County projects.

*Staff Comment: This program would be a public works program.*

- 8) The Mineral Resource Land map designations and/or designation criteria should be reviewed at least once every seven years to determine if changes are necessary to meet mineral resource goals and policies. Such review should include consideration of the removal of land from Mineral Resource Designation after mining activity is completed and the addition of new designations in order to maintain a 50-year supply of mineral resources. Review may occur through subarea plan updates provided a complete review will occur within the seven year time frame.

*Staff Comment: Map designation and designation criteria review will be done as part of the 2016 Comprehensive Plan update.*

- 9) Investigate and implement methods to reduce inefficient uses of high quality gravel deposits.

*Staff Comment: Marketplace has figured it out. Resource users would not pay a premium price for high quality material unless the high quality material was required. If not required, then a lower quality, less expensive, product would be used.*

- 10) Budget for and update the aggregate Resource Inventory study to document the short and long range availability and location of quality mineral resources, to be completed by 2010.

*Staff Comment: Funding has been budgeted to update the 2003 GeoEngineers aggregate resource inventory study. Developing a scope of work for the update will be a task for the SMAC.*

- 11) Support and encourage legislation streamlining regulatory processes and other actions to encourage appropriate utilization of gravel from the Nooksack drainage as a resource where appropriate and a method to stabilize and/or reduce flooding events and/or reduce the loss of agricultural land to erosion.

*Staff Comment: Gravel extraction from within the Nooksack river is an allowed use, however there are a number of permits/approvals through a number of agencies from all levels of government that would be required prior to extraction. Streamlining may be outside the scope of this committee. Based on feedback from a pilot study, minimum requirements may include: Surface Mine Reclamation Permit from DNR, HPA, Sections 404 and 401 (WQC), Section 10, Coastal Zone Consistency, DNR Aquatic Lands permit, Fill and Grade Permit, Shoreline Substantial Development Permit, Army Corps of Engineers Individual Permit, NPDES Construction Stormwater general permit.*

## **Attachments**

1. Surface Mining Advisory Committee Enabling Ordinance (WCC 2.120) (ORD2000-017)
2. Current Comprehensive Plan Mineral Resource Goals and Policies

## Chapter 20.73 MINERAL RESOURCE LANDS SPECIAL DISTRICT (MRL)

### Sections:

- 20.73.010 Purpose.**
- 20.73.020 Application.**
- 20.73.050 Permitted uses.**
- 20.73.100 Accessory uses.**
- 20.73.130 Administrative approval uses.**
- 20.73.150 Conditional uses.**
- 20.73.200 Prohibited uses.**
- 20.73.250 Minimum lot size.**
- 20.73.650 Development criteria.**
- 20.73.651 Road access.**
- 20.73.652 *Repealed.***
- 20.73.700 Performance standards.**
- 20.73.701 Noise.**
- 20.73.702 Surface mining operations within critical aquifer recharge areas.**
- 20.73.703 Public safety.**

### 20.73.010 Purpose.

The primary purpose of this district is to implement the mineral resource lands designation of the Comprehensive Plan, established pursuant to RCW [36.70A.170](#), by allowing the type of activity that encourages and supports the opportunity for the extraction of minerals in areas of Whatcom County designated as containing resources viable for long-term commercial extraction. This district is also designed to discourage incompatible uses from locating upon mineral resource lands where the extraction of minerals occurs or can be anticipated. (Ord. 2005-079 § 1, 2005; Ord. 97-069, 1997; Ord. 92-029, 1992).

### 20.73.020 Application.

.021 The Mineral Resource Lands Special District is an overlay zone which covers only those areas designated as Mineral Resource Lands pursuant to the Washington State Growth Management Act. Any regulations contained herein which are more restrictive than those in the underlying zone districts or in the Shoreline Management Program shall apply. (Ord. 97-069, 1997; Ord. 92-029, 1992).

### 20.73.050 Permitted uses.

**.051** All permitted uses in the underlying zone districts are permitted except as expressly prohibited or made conditional, or further conditioned by this chapter.

**.052** *Deleted by 97-069.*

**.053** Gravel bar scalping projects within the jurisdiction of the Shoreline Management Program. (Ord. 97-069, 1997; Ord. 92-079, 1992; Ord. 92-029, 1992).

### 20.73.100 Accessory uses.

**.101** All accessory uses in the underlying zone districts are permitted as accessory uses. (Ord. 97-069, 1997; Ord. 92-029, 1992).

### 20.73.130 Administrative approval uses.

The following uses are permitted subject to administrative approval pursuant to WCC [22.05.028](#):

**.132** Rock crushing within Commercial and Rural Forestry Districts when located further than 2,000 feet from a rural or residential district. (Ord. 2015-016 Exh. A, 2015; Ord. 2003-061 § 2; Ord. 97-069, 1997).

#### 20.73.150 Conditional uses.

**.151** All conditional uses in the underlying zone districts shall remain conditional uses unless expressly prohibited by this chapter.

**.152** Mineral processing facilities including rock crushing, asphalt and concrete batch plants and accessory washing and sorting.

**.153** Surface mining subject to Washington State's Surface Mining Act (Chapter [78.44](#) RCW); provided, that:

(1) The notification requirements of WCC [22.05.070](#)(4)(b)(ii) shall be expanded to all property owners within 2,000 feet of the external boundaries of the subject property.

(2) At minimum, the activity adheres to the development and performance standards of WCC [20.73.650](#) and [20.73.700](#). In addition, no excavation shall occur within the five-year zone of contribution for designated wellhead protection areas. Excavations may occur within the 10-year zone of contribution outside of the five-year zone of contribution if they are not within 10 vertical feet of the seasonal high water table. If a fixed radii method is used to delineate a wellhead protection area, the surface mining applicant may elect to more precisely delineate the wellhead protection boundary using an analytical model; provided, that the delineated boundary proposed by the surface mining applicant is prepared by a professional hydrogeologist; and further provided, that the delineated boundary has been reviewed and approved by the Washington State Department of Health. The hydrogeologist shall be selected by mutual agreement of the county, water purveyor, and applicant; provided, if agreement cannot be reached the applicant shall select a consultant from a list of no less than three qualified consultants supplied by the county and water purveyor.

(3) Buffers are established of sufficient size and with sufficient vegetation or berming to ensure that noise, dust, noxious weeds and other impacts to surrounding property owners are within applicable regulations and performance standards. When completing a reclamation segment, buffers may be reduced for a three-month period to establish the final reclaimed topography.

(4) The applicant provides insurance policies or a similar type of protection as appropriate to cover potential liabilities associated with the proposed activity; renewals of bonds or insurance shall be submitted upon expiration of previous bonds or insurance. The bonding agent shall notify the county on any change of status in the bond.

(5) Application of additional site specific conditions may be required to mitigate potential impacts that are not otherwise regulated through WCC [20.73.650](#) and [20.73.700](#) or through federal, state, or local regulations.

(6) Notice of the decision shall be mailed to all property owners within 2,000 feet of the external boundaries of the subject property within two days of issuance of the decision. The applicant shall provide typed, self-adhering mailing labels with the names and addresses of all property owners within 2,000 feet of the subject property with the application to facilitate the notice.

(7) Where the underlying zoning is Rural Forestry or Commercial Forestry, any mineral extraction permit shall include the condition that no greater than 40 acres can be mined within the permitted area at any one time. Additional acreage may only be added after an equal amount of previously mined land has met reclamation criteria as identified on an approved Department of Natural Resources surface mining reclamation permit, less the area of any roads constructed in previously mined land, to access a newly permitted area.

(8) When mineral extraction is proposed on a parcel that was not designated Mineral Resource Lands prior to January 1, 2015, all existing mines on parcels contiguous to and held by more than one percent common beneficial ownership or beneficial interest with the proposed mine shall be in complete compliance with all operating permits and regulations before extraction of the proposed mine may commence.

(9) When mineral extraction is proposed within 500 feet of a gas or petroleum transmission pipeline, a site specific geotechnical analysis of potential impacts to the pipeline is required. The analysis shall show that mining will not result in an increased likelihood of the pipeline becoming exposed or rupturing during an earthquake, and shall consider various seismic scenarios with a two percent probability of exceedance in 50 years on both proximal crustal faults and at the Cascadia Subduction Zone. (Ord. 2021-040 Exh. A; Ord. 2015-016 Exh. A, 2015; Ord. 97-069, 1997; Ord. 92-079, 1992; Ord. 92-029, 1992).

#### 20.73.200 Prohibited uses.

**.201** All other uses. (Ord. 97-069, 1997; Ord. 92-029, 1992).

#### 20.73.250 Minimum lot size.

**.251** All divisions of land in the Mineral Resource Lands Special District shall be approved in accordance with the local and state subdivision laws. No division which creates any parcel of less area than 20 acres, less roads, shall be permitted except when the underlying zone is agricultural or Commercial Forestry; then it shall be 40 acres, less roads. (Ord. 97-069, 1997; Ord. 92-079, 1992; Ord. 92-029, 1992).

#### 20.73.650 Development criteria.

(Ord. 96-056 Att. A § A1, 1996).

#### 20.73.651 Road access.

For surface mining operations, access on any public right-of-way shall be paved in accordance with the county engineering division or State Department of Transportation Development Standards, as appropriate. (Ord. 2013-057 § 1 (Exh. A), 2013; Ord. 97-069, 1997; Ord. 92-079, 1992).

#### 20.73.652 Road use.

*Repealed by Ord. 97-069.* (Ord. 92-079, 1992).

#### 20.73.700 Performance standards.

##### 20.73.701 Noise.

(1) No development of activity shall exceed the maximum environmental noise levels established by Chapter [173-60 WAC](#).

(2) Noise associated with surface mining may constitute a nuisance or a public health concern, therefore, when surface mining activity is within or adjacent to a Rural or Residential zone, hours of operation for excavating, processing, and loading shall be prohibited on Sundays and the legal holidays of Christmas Day, New Year's Day, Memorial Day, 4th of July, Labor Day, and Thanksgiving, and limited to between 6:30 a.m. and 5:30 p.m. Monday – Saturday; provided, that the surface mining operation may continue beyond the stated time if the noise created is less than the ambient night time noise levels for that area; and further provided, that the following activities are exempt from these requirements:

(a) Excavation and loading during and connected to flooding emergencies, and

(b) Early morning (5:00 a.m.) processing of ready mix concrete as necessary to provide beneficial concrete strength (exempt Monday through Saturday only), and

(c) Early morning (5:00 a.m.) work in preparation for hot mix asphalt production and loading (exempt Monday through Saturday only), and

(d) Activity under public contract when in the public interest. (Ord. 97-069, 1997; Ord. 92-079, 1992).

#### 20.73.702 Surface mining operations within critical aquifer recharge areas.

The purpose of this section is to protect critical aquifer recharge areas as required by RCW [36.70A.060](#)(2).

Any surface mining operation within a critical aquifer recharge area (as defined in the Critical Areas Ordinance and to include any designated wellhead protection area) shall meet the following requirements:

- (1) Surface mining operations may not excavate within 300 horizontal feet from any pre-existing well used as a potable water supply.
- (2) No new mineral processing or mining support activities or facilities to include parking, storage, maintenance, fueling and washing of mobile equipment, fuel storage, and no newly situated stationary and semimobile equipment shall locate or occur within the five-year zone of contribution for designated wellhead protection areas. Wellhead protection boundaries may be adjusted in accordance with WCC [20.73.153](#)(2).
- (3) Fencing, or some comparable deterrent, shall be installed to prevent unauthorized dumping of any materials within surface mining operations.
- (4) Surface mines shall not use any off-site materials for backfill or reclamation without first acquiring either a grade and fill permit or a landfill permit from the county as deemed appropriate by the administrator. Any fill material must be nonnoxious, nontoxic, nonflammable, and noncombustible.
- (5) Parking, storage, maintenance, fueling, and washing of mobile equipment, fuel storage and all newly situated stationary and semimobile equipment shall be located at least 100 feet away from any exposed water table, and
  - (a) At least 20 feet above the seasonal high ground water level, or
  - (b) Located upon unexcavated land, or
  - (c) Located within lines and bermed areas with adequate capacity to accommodate, contain, and allow the removal of chemical spills; provided, that these provisions shall not apply to dredging equipment.
- (6) Fuel tanks and oil drums shall be double containment construction or protected by bermed areas having adequate capacity to accommodate, contain, and allow the removal of chemical spills. Fuel nozzles shall not contain locking open devices. Fuel storage shall be above ground.
- (7) All operations shall maintain a fuels/hazardous waste management plan maintained by the operator and available on the site at all times.
- (8) On-site truck and equipment wash runoff shall be routed to retention facilities equipped with an oil-water separator or equivalent prior to its release to settling ponds.

Noncontaminated process water used for gravel washing shall be routed to settling ponds to minimize off-site discharges.

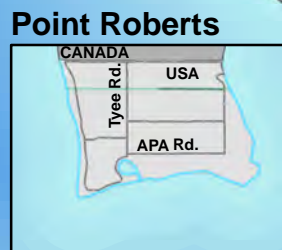
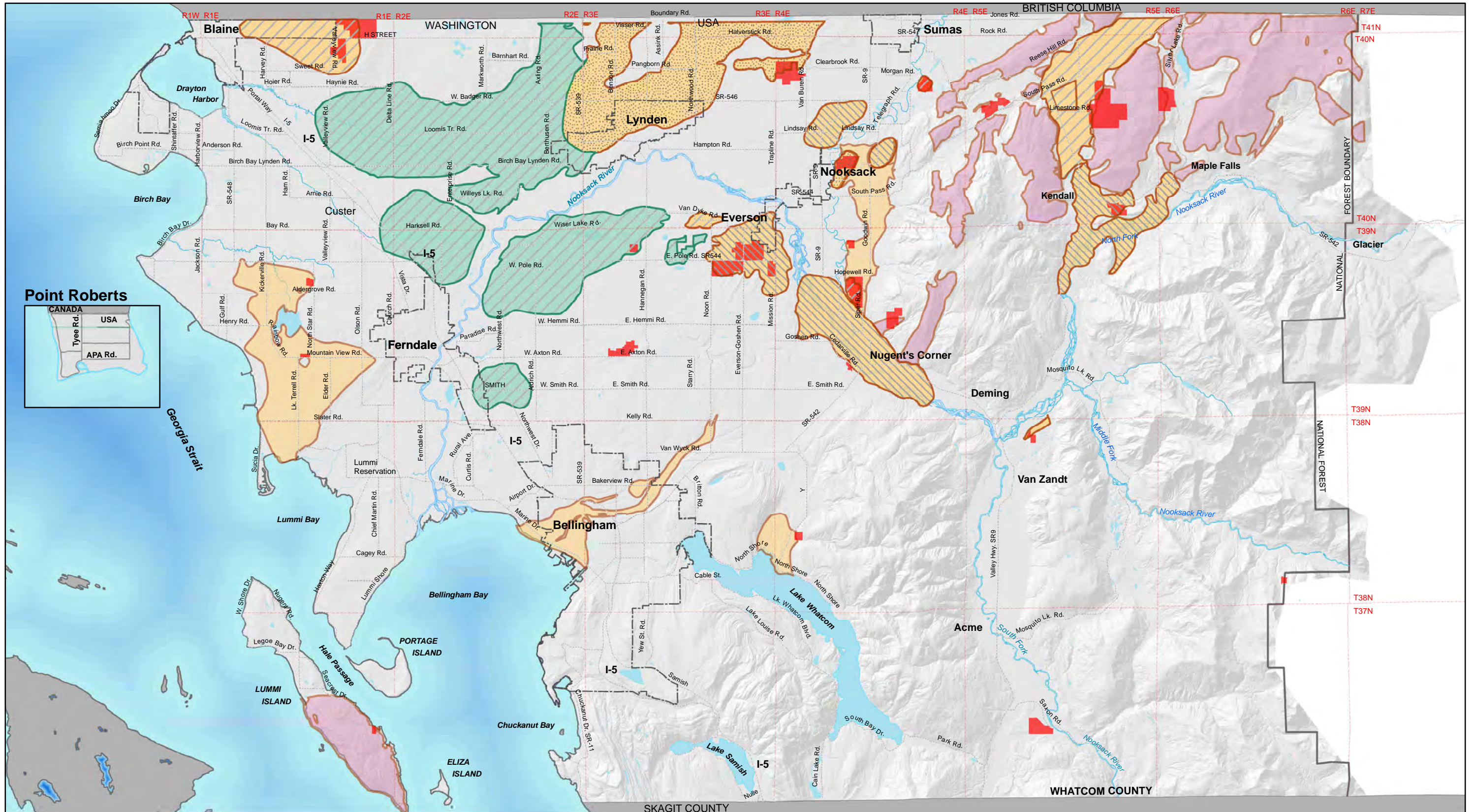
(9) An approved general permit from the Department of Ecology for process and stormwater discharge may substitute for requirements (5) through (8) above, unless it is determined based on site specific review that the provisions of (5) through (8) are necessary to meet the intent of this section. (Ord. 2017-030 § 1 (Exh. F), 2017; Ord. 97-069, 1997; Ord. 92-079, 1992).

#### 20.73.703 Public safety.

Owners of surface mines shall ensure that their operation(s) will not be hazardous to neighboring uses.

Fencing or other access barriers may be required by the county to ensure public safety. (Ord. 97-069, 1997;

Ord. 92-079, 1992).



- Low Probability - Potential Mineral Resource Area
- Medium Probability - Potential Mineral Resource Area
- High Probability - Potential Mineral Resource Area
- Potential Bedrock
- Potential Sand & Gravel Resource
- Potential Sand Recourse
- MRL Comprehensive Plan Designation

USE OF WHATCOM COUNTY'S GIS DATA IMPLIES THE USER'S AGREEMENT WITH THE FOLLOWING STATEMENT:  
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Source:  
 -Whatcom County PDS 2014 (base)  
 -GeoEngineers 2003

0 0.75 1.5 3 4.5 6 Miles