

CLEARANCES:	Initial	Date	Date Received in Council Office	Agenda Date	Assigned To
Originator-irg	JRG	6/2/93	RECEIVED JUN 2 1993 WHATCOM COUNTY COUNCIL	6/8/93	Introduction
Division Head- c:\f4\2\0293.Ab				6/22/93	P&D/Council
Department Head-	DWD	6/2/93		7/6/93	P&D/Council
Prosecutor Review-					
Purchasing/Budget Dir.-					
Executive-					

SUBJECT: FILE REF: 0293:ZT AN ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING ORDINANCE, TITLE 20, TO ALLOW THE COMMERCIAL EXTRACTION OF SAND AND GRAVEL KNOLLS AND RIDGES AND ACCESSORY SORTING OF MATERIALS IN THE AGRICULTURE DISTRICT.

ATTACHMENTS: Agency report with attached staff report
 Excerpts from Planning Commission Minutes
 Draft Ordinance

Public Hearing Needed? Yes /__/ No /XX/

SUMMARY STATEMENT: The request would allow small-scale commercial mining in the Agriculture district. Mining practices presently allowed in this zone are either non-commercial mining for farm enhancement purposes or large scale commercial mining within the Mineral Resource Land (MRL) overlay district. The requested language, while allowing some commercial extraction, includes provisions to limit the excavation size, depth, and duration, and requires reclamation in three acre increments or less. The limitation on size will preclude the Department of Natural Resources involvement with the activity, and clearly assign local jurisdiction.

RECOMMENDED ACTION: The Director of Land Use and Economic Planning recommends that Council accept the Planning Commission's recommendation by adopting the proposal.

COMMITTEE ACTION (including dates):

COUNCIL ACTION (including dates):
 6/8/93: Council introduction
 6/22/93: Delayed until 7/6/93
 7/6/93: Adopted with amendments (7-0)

Related File Numbers: _____

Ordinance or Resolution Number: Ord93-038

ORDINANCE NO. 93-038

AN ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING ORDINANCE, TITLE 20, TO ALLOW AS A CONDITIONAL USE THE EXTRACTION, ACCESSORY SORTING AND SALE OF SAND AND GRAVEL EXTRACTED FROM KNOLLS AND RIDGES IN THE AGRICULTURAL DISTRICT.

WHEREAS, The Whatcom County Conservation District/Dairy Federation has applied for a text amendment to amend the Official Whatcom County Zoning Ordinance, Title 20, to allow the commercial extraction of sand and gravel knolls and ridges and accessory sorting of materials in the Agriculture district; and

WHEREAS, pursuant to RCW 36.70.590 legal notice was published in the Bellingham Herald on Thursday, February 25, 1993; and

WHEREAS, a Determination of Nonsignificance was issued by the Deputy SEPA Official on January 29, 1993; and

WHEREAS, the Planning Commission held a public hearing on the amendment on March 10, 1993, and considered all testimony; and

WHEREAS, the Planning Commission held a work session on April 14, 1993 to review final wording developed by staff and after due deliberation made a determination that the application be approved with modifications; and

WHEREAS, the Council reviewed the Planning Commission recommendation at a public meeting on July 6, 1993, and

WHEREAS, the Council has adopted the following findings and conclusions:

FINDINGS

1. The request would allow non-commercial sale by landowners or farmers of mineral resources removed from certain agricultural lands in the Agriculture district. Mining practices presently allowed in this zone are either non-commercial mining for farm enhancement purposes or large scale commercial mining within the Mineral Resource Land (MRL) overlay district.
2. The limitation on size included in the request will preclude the Department of Natural Resources involvement with the activity, and clearly assign local jurisdiction.
3. In total, about 800 acres out of the 80,000 acres zoned Agriculture in the county are currently permitted to surface mine on a commercial level. At least half of the material in these areas has been extracted. Applications for an additional 300 acres are currently

being processed by the County.

- 2 4. Goals and Policies of the Lynden Nooksack Valley Comprehensive Plan require that
3 ancillary land uses in the Agriculture district, including limited sand and gravel
4 extractions, should be subject to public review to ensure maintenance of the agricultural
5 resource and compatibility with agricultural operations.
- 6 5. Due to the considerable overlap between high quality sand and gravel lands and high
7 quality agricultural lands, there will be continued conflict and competition for lands in the
8 future.
- 9 6. Benefits from removal of knolls and hills containing mineral resources include decreased
10 irrigation requirements and more even terrain.
- 11 7. Drawbacks from removal of knolls and hills containing mineral resources include the loss
12 of productive soils, loss of scenic terrain, enforcement constraints, and increased risk
13 of groundwater contamination. The request addresses these problems.
- 14 8. Existing regulations do not allow farmers to sell sand and gravel on a small scale for
15 farm enhancement and/or supplemental income without first applying for a MRL overlay
16 zone designation on their property.
- 17 9. Steps to restoration of agriculture lands after mining include pre-planning; carefully
18 handling soil layers; mining small areas at a time and reclaiming progressively; moving
19 soil materials under dry conditions; contouring the pit floor to manage drainage;
20 eliminating soil compaction; and following a post soil rehabilitation plan.

21 CONCLUSIONS

22 The requested text amendment includes reasonable controls that will ensure the
23 productivity of farmland soils while also allowing greater flexibility in land use options.
24 The standards proposed were based upon an earlier staff recommendation which had
25 been proposed after staff analysis and review by the Surface Mining Citizen Advisory
26 Committee. Certain adjustments, however, have been made that generally reflect the
27 steps on restoring agricultural lands after mining as outlined in this report. More specific
28 criteria on site-planning and soil protection would be ensured on a site by site basis
29 through the use of BMP's and through the required review of the Conservation District.

30 Finally, allowing limited sand and gravel operations in the Agriculture district while
31 requiring sound regulatory controls to ensure the productivity of farmland soils would be
32 in conformance with the goals and policies of the Comprehensive Plan.

NOW THEREFORE BE IT ORDAINED BY THE WHATCOM COUNTY COUNCIL THAT:

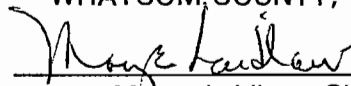
Section 1. Title 20, Agricultural District, Chapter 20.40 of The Official Whatcom County Zoning Ordinance is hereby amended as shown in the attached Exhibit A.

Section 2. The Council finds the public health, safety and general welfare are promoted by this change.

Section 3. Adjudication of invalidity of any of the sections, clauses, or provisions of this Ordinance shall not affect or impair the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

PASSED this 6th day of July, 1993.

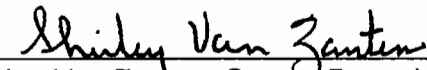
WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


Marge Laidlaw, Chairperson

APPROVED VETOED

ATTEST:


Clerk of the Council


Shirley Van Zanten, County Executive

APPROVED AS TO FORM:


Karen Frakes
Civil Deputy Prosecuting Attorney

Date 8-13-93

EXHIBIT A

(20.40) AGRICULTURE (AG) DISTRICT

20.40.150 **CONDITIONAL USES**

165 Surface mining for farm enhancement purposes and accessory sorting, provided that:

- (1) The activity is not subject to Washington State's Surface Mining Act (RCW 78.44).
- (2) The activity will not result in excavation or equipment within fifty feet of County road rights of way.
- (3) The activity will not result in excavation or equipment within fifty feet of the exterior property lines of the site, except in the case of two contiguous surface mining operations in which case by mutual consent this setback can be zero.
- (4) The activity will only remove sand or gravel knolls or ridges and will not excavate below minimum land elevation levels at the site. In addition, no more than 2/3 of the mine site shall be excavated below pre-existing ground elevations.
- (5) No reclaimed side slopes are steeper than three feet horizontal to one foot vertical.
- (6) Final topography blends in with the natural contours of the land without the requirement of off-site backfill.
- (7) Excavations will not occur within five feet of the seasonal high water table level.
- (8) At minimum, the operations shall adhere to the development and performance standards of WCC 20.73.650 and 20.73.700.
- (9) No soil erosion or sedimentation will occur beyond the exterior property lines of the site.
- (10) Excavation activity will commence and conclude within four years.
- (11) The conditional use permit application includes proposed days-of-the-week operation and hours-of-the-day operations. The Hearing Examiner may limit any operation as to days and hours of operation.
- (12) Owners submit a reclamation plan to the County providing for:
 - (a) Stock piling all top soil for subsequent use during reclamation.
 - (b) Top soil protection by seeding with a cover-crop immediately after it is stockpiled.
 - (c) Time limits on top-soil storage not to exceed four years.
 - (d) Limitations on handling top soil in wet conditions.
 - (e) Sequential reclamation in less than three acre increments per parcel.
 - (f) Measures for restoring soil texture, structure, and organic matter by sub-soiling, fertilization, crop scheduling, and weed control.

- (g) Review and approval by the Whatcom County Conservation District.
- (h) Protection of groundwater during preparation of the soils for post agricultural use.
- (i) Pertinent use of best management practices or guidelines. As a minimum, this should include "Agriculture and the Aggregate Industry," by Mackintosh, E.E. and E.J. Mozurkafus, from the Ontario Ministry of Natural Resources, 1982.
- (13) Performance bonds or other monetary security as approved by the Prosecuting Attorney equal to the costs of completing the proposed reclamation plan, WCC 20.40.165 (12) are submitted to the County, which shall be released within two years after completion of surface mining provided that the project is in accordance with the reclamation plan.
- (14) When mining operations are proposed within or adjacent to the 100 year floodplain, the applicant must also obtain a Flood Permit from the County.

(20.97) DEFINITIONS

- .133 **FARM ENHANCEMENT.** Promoting proposed agricultural production by application of structural, cultural and management practices, including eliminating safety hazards such as excessive grades.
- .193 **KNOLL.** A small, low, rounded hill rising above adjacent landforms.
- .35049
- .350 **RECLAMATION.** The process of reconverting disturbed lands to their former use or other compatible uses.
- .351 **RIDGE.** A hill that is proportionally longer than it is wider, generally with steeply sloping sides.