



WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES
STAFF REPORT AND DETERMINATION

December 15, 2015

The application of Stremler Gravel, Inc. , for Administrative Approval of the Stremler Mine	ADM 2014-00020 FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS
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I. SUMMARY OF APPLICATION AND DETERMINATIONS

Summary: Administrative approval is sought to expand an existing, non-conforming gravel pit in operation at the project site since approximately 1978. The permit request will expand the gravel operation beyond its current lateral extent onto an adjacent parcel to the west, but will not result in additional vertical extraction of sand and gravel. Reclamation will occur concurrently in phased segments in accordance with a DNR-approved reclamation plan.

Determination: The Technical Review Committee approves the proposed administrative approval (ADM) application subject to the conditions in this document.

II. PRELIMINARY INFORMATION

A. BACKGROUND INFORMATION

Applicant: Stremler Gravel, Inc.
P.O Box 527
Lynden, WA 98264

Site Location/Address: 2629 Pangborn Road,
Lynden, WA 98264

Legal Description (Abbr.): The following contiguous parcels are associated with the administrative approval request and are situated in the South Half of the Southwest Quarter of Section 6 Township 40 North, Range 4 East of W.M., Whatcom County, WA.

APN No. 400406-182068: The EAST one-half of the West 30 acres of the Southeast quarter of the Southwest quarter of Section 6, Township 40North, Range 4 East of W.M., except County Road No. 206 (Pangborn Road).
Situate in Whatcom County, Washington.

Subject to and together with all easements, restrictions and reservations of record.

APN No. 400406-133070: The West 15 Acres of the Southeast Quarter of the Southwest Quarter Less Roads, located in Section 6, Township 40 North, Range 4 East of W.M.
Situate in Whatcom County, Washington

Assessor's Parcel Number(s): 400406-182068 and 400406-133070

Zoning: Residential – 10 Acres (R10A)

Comprehensive Plan: Mineral Resource Lands (MRL)

Subarea: Lynden-Nooksack

Total Acreage: Proposed sand and gravel extraction operations will cover 18.13 acres on the south half of the subject parcels. The existing operation has disturbed approximately 8 acres. The combined acreage of both parcels associated with the permit application is 29.32 acres.

Roads: Pangborn Road (East-West, adjacent to north of subject parcels) – Trapline Road (North-South, to west of subject parcels.)

Water Supply: Meadowbrook Water Association
PWS ID#7H01-03

Sewage Disposal: Onsite Septic System

Fire Protection: Whatcom County Fire District No. 14, Station 91
(most proximal)

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Lynden School District

Topography:

The site is situated on gently rolling and hummocky topography of glacial origin that generally faces south to southwest. Mineral extraction at the west parcel has resulted in an approximately 30-foot depression at the west parcel, with sidewall slope gradients as great as 70 percent, with limited areas approaching near vertical. Adjacent extraction operations to the east and south have also lowered the land surface to a similar elevation as that observed at the existing and proposed pit floor.

Vegetation:

The south-half of the east parcel has been largely stripped of vegetation as a result of historic mineral extraction. Grasslands are observed to the north of the existing mine footprint, and cover the majority of the west parcel. A few, well-established evergreen and deciduous trees are present in the north-half of the subject parcels paralleling the north-south property line.

Adjacent Land Uses:

North: Rural/AG
East: Mineral Extraction
South: Mineral Extraction
West: Rural/AG

Easements:

Access and Utility Easement, Whatcom County
Auditor File No.: 2080100968

Application Date:

November 15, 2013

NOAR Date:

December 9, 2014

Approval Date:

December 15, 2015

Appeal Deadline:

December 29, 2015

Exhibits:

a. Pangborn Pit Site Drawings, August 2002, prepared by Anderson Forestry Consultants, drawn by BEK Engineering & Environmental, Inc.

Professional Reports:

Associated Earth Sciences, Inc. (AESI), Critical Aquifer Recharge Area Assessment Report; Pangborn Road Mine, August 4, 2015.

III. AUTHORIZING CODES, POLICIES, PLANS, AND PROGRAMS:

1. Whatcom County Comprehensive Plan
2. State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11, Whatcom County Environmental Policy Administration Chapter 16.08
3. Whatcom County Code Chapter 16.16, Critical Areas
4. Whatcom County Code Title 20, Section 20.73, Official Whatcom County Zoning Ordinance
5. Washington Administrative Code (WAC) 173-60, Maximum Environmental Noise Levels

IV. APPLICATION PROPOSAL

According to County records sand and gravel extraction operations have taken place at the project site since approximately 1978. As such the original mining activity pre-dates Whatcom County's adoption of the 1997 Comprehensive Plan and Mineral Resource Land Special District Overlay and the mine is presently operating under a non-conforming status. However, the site has never obtained a Washington State Department of Natural Resources (DNR) Reclamation Permit, despite meeting State surface mine and reclamation thresholds.

Development of new or expanded surface mining operations within Mineral Resource Lands required a Whatcom County Administrative Approval Use permit at the time of application. The permit request constitutes an expansion of the existing, non-conforming operation from approximately 8.5 acres to 18.3 acres. The pit floor elevation will remain the same but will be extended across the adjacent parcel to the west. In addition, a reclamation permit will be obtained from the Washington State Department of Natural Resources.

Sand and gravel extraction will proceed in accordance with established methodologies currently employed onsite, which consist of dry mining methods above the ground water table. Approximate annual extraction volumes of 20,000 cubic yards are anticipated, although the actual rate of extraction will fluctuate based on market pressures.

Access to the site will continue at the 80-foot wide asphalt-paved apron accessing Pangborn Road. The applicant estimates an average of eight truck trips per day (four round trip), with the majority of truck traffic consisting of truck and trailer. Less than two average daily trips (one round trip) are anticipated for site operators, deliveries and other non-transport site activities. No road improvements are necessary to meet current Whatcom County Road standards.

Site reclamation plans prepared by BEK Engineering & Environmental, Inc., dated August 2002, indicate that final pit wall configurations will be ranged between 3H:1 to 2H:1V (Horizontal to Vertical). Reclamation will be to rural pasture land, which is consistent with the underlying R10A zoning as well as being pursuant to the local land use character immediately surrounding the subject parcels. Final grade has been designed to meet adjacent site topography, and includes considerations to match reclamation contours proposed for the adjacent gravel pits to the west, east and south.

The operation and reclamation to rural pasture shall be completed in accordance with submitted plans reviewed and approved by the DNR as necessary to secure a Reclamation Permit. No other expansions or modifications are proposed.

The mine footprint is located in a regulated Critical Aquifer Recharge Area (CARA) pursuant to Whatcom County Code (WCC), Chapter 16.16, Article 5, and has been designed to satisfy performance standards for surface mines located in CARA's

pursuant to WCC 20.70.702. The mine perimeter is laid out to avoid encroaching closer than 300 foot away from a proximal potable water supply serving the western subject parcel in accordance with WCC 20.73.702(1) as well as an irrigation well located near the east property border at the adjacent parcel to the west.

Front-end loaders, trucks, trailers, aggregate crusher, and other earth moving machinery are proposed to operate during hours of operation authorized by the Whatcom County Code for surface mining. The applicant is required to meet noise standards set forth in the development and performance standards of the Whatcom County Zoning Code, WCC 20.73.701.

Stremler Gravel, Inc., maintains a Materials Disposal Program and Procedures Plan (MDPPP) for the site and a Spill Prevention, Control, and Countermeasure Plan (SPCC), as well as a current Washington State Department of Ecology National Pollutant Discharge Elimination System (DOE NPDES) Sand and Gravel General Permit, all of which was reviewed by Whatcom County Planning and Development Services staff. All stormwater generated at the subject parcels is directed toward a surface depression/pond that has been created as a result of mining activities and releases to groundwater. As extraction and site reclamation proceeds any and all storm water drainage leaving the site shall remain in compliance with Chapter 2 of the Whatcom County Development Standards, under the jurisdiction of the Whatcom County Public Works Department, Engineering Division, and requirements of the most current version of the sites DOE NPDES Sand and Gravel General Permit. As necessary the applicant shall revise the MDPPP and SPCC to reflect revised site configurations and ensure that the site maintains compliance with local and state stormwater regulations.

V. SITE DESCRIPTION

The subject parcels abut Pangborn Road to the north, and are located approximately 1,000 feet east of Trapline Road. An existing 80-foot wide, asphalt-paved apron provides access to/from Pangborn road and a gravel-drive descends to the pit floor, approximately 750 feet to the south. An existing single-family residence is located at the eastern subject parcel, north of the non-conforming and proposed mine perimeter. The proposed mine expansion will extend extraction activities on to the adjacent parcel to the east. Aside from existing agricultural activities no development is presently located at the eastern subject parcel. A mix of rural residential and agricultural uses surround the subject parcels to the north and west, where as existing, non-associated, surface mining operations are located to the south and east.

The site address of the parcel through which access to the surface mine has been established and contains the existing non-conforming operation is 2629 Pangborn Road (Tax Parcel No.: 400406182068). The proposed expansion would extend mining to the west on to Tax Parcel Number 400406133070. The subject parcels are located approximately 3.5 miles west of Sumas, Washington, and 3.5 miles east of Lynden, Washington, and 3.5 miles north of Everson, Washington, and are situated

in the South Half of the Southwest Quarter of Section 6 Township 40 North, Range 4 East of W.M., Whatcom County, Washington.

Ingress/egress to the surface mine has been in place as a non-conforming use, presumably since conception. The newly proposed mine configuration requests continued ingress/egress at 2629 Pangborn Road.

The surface mine is situated on moderately hummocky topography that generally faces south at a minimal slope. The project site is located within the Sumas River Watershed. All stormwater generated at the project site is designed to discharge to groundwater, however surface water in the immediate surrounding area flows south and east, and meets with the Johnson Creek, a tributary to the Sumas River, less than 1 mile to the east.

VI. PUBLIC NOTICE AND COMMENT

Requirements for public notice are contained in Chapter 2.33 WCC.

Notice of Application: On May 23, 2014, the Notice of Application was posted on-site pursuant to WCC 20.84.235(2). Notices were also mailed to all property owners whose boundaries lie within 1,000 feet of the subject property.

Public Comments:

During the public comment period for the Notice of Application, the County received one verbal comment. A summary and a response to the comment is presented below:

- Ms. Jolyn Leslie with the Washington State Department of Health expressed concern that the proposed activity could detrimentally impact the quality and quantity of the nearby Meadowbrook Water Association wellhead.

The project site is located in a Critical Aquifer Recharge Area (CARA) of High Susceptibility as defined by Article 5, Chapter 16.16 of the Whatcom County Critical Areas Ordinance (WC-CAO). As such the applicant was request to provide a professional assessment of potential groundwater impacts due to the proposed surface mining activities conducted by Washington State-licensed Hydrogeologist in accordance with the WC-CAO, Chapter 16.16.535. In addition, the applicant provided proof of coverage under the Washington State Department of Ecology Sand and Gravel General Permit, as well as copies of the sites Materials Disposal Program and Procedures Plan (MDPPP) and Spill Prevention, Control, and Countermeasure Plan (SPCC).

The results of the hydrogeologic investigation were presented in a professional report titled *Critical Aquifer Recharge Area Assessment Report*, completed by Associated Earth Sciences, Inc., dated August 4, 2015. The report included a description of proposed site activities, literature review of regional and site hydrogeologic investigations, interpretation of surface and subsurface geologic and hydrogeologic conditions, and groundwater elevation measurements from wellheads at nearby parcels and published research. The report concludes that, as designed, the proposed site activities meets the intent of WCC 20.73.702 for surface mining operations located in a regulated CARA.

Prevention of aquifer contamination as a result of the proposed surface mining activities is addressed by performance standards outlined in WCC 20.73.702, as well as measures implemented through the NPDES Sand and Gravel General Permit and the Stremler Gravel's Materials Disposal Program and Procedures Plan (MDPPP) for the site and a Spill Prevention, Control, and Countermeasure Plan (SPCC). From a technical standpoint, implementation of adequate performance standards is contingent upon first establishing the seasonal-high ground water table elevation. Groundwater elevation measurements reported by AESI indicate a water table elevation that may range between 120 to 110 feet AMSL beneath the proposed

project footprint. Based on this finding and the maximum proposed mine floor elevation of 120 feet AMSL, separation to groundwater will be less than 20 feet. For this reason performance standards in accordance with WCC 20.73.702(5) for parking, storage, maintenance, fueling, and washing of mobile equipment, fuel storage and all newly situated stationary and semi-mobile equipment shall be required for groundwater protection. For the subject parcel the implications of this conditions requires that all of the aforementioned activities must occur on un-excavated ground located north of the existing mine footprint.

The following site design and performance standards have been proposed in consideration of CARA regulations and the prevention of groundwater contamination due to the proposed surface mining activities. Many of the below-stated design considerations are presently in-place pursuant to an existing conditional use permit (cup1998-00028), which established office, shop, scales, and equipment storage in support of the surface mine on the adjacent 10-acre parcel located north of the permit mine boundary:

- *The mine footprint has been designed to maintain a 300 horizontal foot buffer from all proximal wellheads.*
- *All parking, vehicle maintenance activities, and fueling facilities are required to be located a minimum of 20 feet above the groundwater surface in accordance with WCC 20.73.702(5). Additionally, stationary and semimobile equipment will continue to be located at least 100 feet from any exposed water table at the WB's shop parcel. For the subject parcel all of the aforementioned activities must occur on un-excavated ground located north of the existing and proposed mine footprint.*
- *A locked entrance gate shall be installed to prevent unauthorized dumping of any materials within the surface mine operations in accordance with WCC 20.73.702(3). The gate shall remain closed and locked at all times when the mine site is not in operation.*
- *Onsite fuel and oil shall be stored in double containment vessels or located in lined and bermed impervious contaminate catchment areas in accordance with WCC 20.73.702(6). While not presently located at the project site, if future needs require any future fuel storage shall be located on un-excavated ground north of the existing and proposed mine footprint.*
- *The applicant has prepared a Materials Disposal Program and Procedures Plan (MDPPP) for the site and a Spill Prevention, Control, and Countermeasure Plan (SPCC) in accordance with WCC 20.73.702(7), which has been reviewed and approved by WC PDS, and is required to be updated as necessary to address modified pit operation and configuration.*
- *An oil-water separator shall be installed at any vehicle or wheel wash station. While not presently located at the project site, if future needs require any future fuel storage shall be located on un-excavated ground north of the existing and proposed mine footprint.*
- *The reclamation plan proposes minimal grade fill and does not propose import of off-site soils to establish final site grades. In the event that import soils are required a land disturbance permit shall be obtained in accordance*

with WCC 20.73.702(4).

VII. STATE ENVIRONMENTAL POLICY ACT (SEPA)

The State Environmental Policy Act (SEPA) requires applicants to disclose potential impacts to the environment unless the proposal is categorically exempt from SEPA threshold review. The project was determined to be subject to SEPA, and applicant submitted a project-specific SEPA Checklist as part of the projects application documents. The SEPA case number is SEP2014-00081. The following describes the SEPA review process and the justification to issue a Determination of Non-significance.

- *The Whatcom County SEPA Official reviewed the materials for the proposal.*
- *No mitigating conditions beyond those incorporated in adherence to local and state regulations were deemed necessary.*
- *A Determination of Non-significance was issued on April 7, 2014, and published in the Bellingham Herald.*
- *No public comments were received during the 14-day comment period.*

VIII. FINDINGS OF FACT AND CONSISTENCY WITH REGULATIONS

A. WCC 12.08 – Roads and Bridges, WCC 16.40 NPDES, WCC 20.80.521 Drainage and WCC 20.78 - Transportation Concurrency

WCC Chapter 12.08 adopts and gives authorization for development standards for development within Whatcom County. Whatcom County shall establish uniform, comprehensive and distinct requirements which shall be applied to all developments. These requirements shall be established as “Whatcom County development standards” and shall exist to provide clear development guidelines for all construction activity within the county. These standards shall establish administrative and technical requirements for the implementation of land use regulations and shall provide the basis by which developments are evaluated to ensure compliance with county regulations.

The Whatcom County Public Works, Division of Engineering, reviewed the proposal. The following summarize their review:

There will be no change in traffic and vehicles will continue to access the site through the existing ingress/egress. No additional truck traffic will be generated, as per applicant's statement.

Stormwater runoff is collected in existing infiltration pond and infiltrates to the ground as per applicant's statement. The site currently operates under DOE issued NPDES Sand and Gravel Permit that is addressing water quality.

Engineering Services recommended the following conditions for approval:

A Notice of Application describing the request for administrative approval, dated September 24, 2014, was routed to Roland Storme with the Washington State Department of Transportation (WSDOT) for comment. No comment was received.

The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Chapter 12.08.

B. WCC 20.78 - Transportation Concurrency:

WCC Chapter 20.78 gives authority to ensure adequate transportation facilities are available or provided concurrent with development.

The Whatcom County Public Works, Division of Engineering, determined the proposed development is exempt from Concurrency Evaluation (WCC 20.78.030) because no increased traffic will result.

C. Title 24 – Health Code

The Whatcom County Health Department reviewed the project and provided the following comments in a memorandum dated October 7, 2014:

Water Supply

If potable water is provided, commercial water availability approval will be required.

Sewage Disposal

If plumbing is provided to any building, an on-site sewage system (OSS) permit that demonstrates adequate sewage treatment capacity will be required.

Solid Waste

Solid waste management (burial, storage, landfilling) is not permitted at the site. If the applicant proposes inert waste (as defined in Chapter 173-350 WAC, Solid Waste Handling Standards) reclamation, a solid waste handling permit from WCHD and a conditional use permit from WCPDS may be required.

Notification to WCHD is required prior to acceptance and storage of any wood or inert wastes onto the site. Piles used for storage of wood and inert waste must be in compliance with Chapter 173-350 WAC, Solid Waste Handling Standards.

The Health Department also reviewed the sites Materials Disposal Program and Procedures Plan (MDPPP) and provided recommendations for updated acceptance criteria for reclamation fills soils. Some incidental, temporary stockpiling of excavated construction soils and topsoil is anticipated at the project site. Temporary

import of these types of materials is also subject to the updated materials acceptance policy.

D. WCC Title 16.16 – Critical Areas

WCC Chapter 16.16 of the Whatcom County Code contains standards, guidelines, criteria and requirements intended to identify, analyze, preserve and mitigate potential impacts to the County's critical areas and to enhance and restore degraded resources such as wetlands, riparian stream corridors or habitat, where possible.

i. WCC 16.16 – Articles 6 & 7, Wetlands and Habitat Conservation Areas

Whatcom County Planning and Development Services, Natural Resources, reviewed the proposal and submitted their comments to staff in a memo dated September 30, 2014. Their comments are as follows:

The above Administrative Permit application has been routed to critical areas for review. The applicant proposes to conduct surface mining on parcel numbers 400406182068 and 400406133070.

Office review of the subject parcels determined that there are no critical areas or buffers on or within 300 feet of the subject property. There have been no previous wetland or HCA reviews by Whatcom County. Whatcom County GIS mapping has no wetland or HCA layers present. Aerial photo analysis indicated the surface mining has been ongoing for over a decade, and no wetland or HCA features were identified in the photos.

As a result, the currently proposed application for surface mining has been preliminarily approved for critical areas.

Any further work that involves land disturbance outside of the subject parcels may require further critical areas review.

ii. WCC 16.16 – Articles 5, WCC 20.73.702 - Critical Aquifer Recharge Areas

The project site is located in a Critical Aquifer Recharge Area (CARA) of High Susceptibility as defined by Article 5, Chapter 16.16 of the Whatcom County Critical Areas Ordinance (WC-CAO). As such the applicant was request to provide a professional assessment of potential groundwater impacts due to the proposed surface mining activities conducted by Washington State-licensed Hydrogeologist in accordance with the WC-CAO, Chapter 16.16.535. In addition, the applicant provided proof of coverage under the Washington State Department of Ecology Sand and Gravel General Permit, as well as copies of the sites Materials Disposal Program and Procedures Plan (MDPPP) and Spill Prevention, Control, and Countermeasure Plan (SPCC).

The results of the hydrogeologic investigation were presented in a professional report titled Critical Aquifer Recharge Area Assessment Report, completed by

Associated Earth Sciences, Inc., dated August 4, 2015. The report included a description of proposed site activities, literature review of regional and site hydrogeologic investigations, interpretation of surface and subsurface geologic and hydrogeologic conditions, and groundwater elevation measurements from wellheads at nearby parcels and published research. The report concludes that, as designed, the proposed site activities meets the intent of WCC 20.73.702 for surface mining operations located in a regulated CARA.

Prevention of aquifer contamination as a result of the proposed surface mining activities is addressed by performance standards outlined in WCC 20.73.702, as well as measures implemented through the NPDES Sand and Gravel General Permit and the Stremler Gravel's Materials Disposal Program and Procedures Plan (MDPPP) for the site and a Spill Prevention, Control, and Countermeasure Plan (SPCC). From a technical standpoint, implementation of adequate performance standards is contingent upon first establishing the seasonal-high ground water table elevation. Groundwater elevation measurements reported by AESI indicate a water table elevation that may range between 120 to 110 feet AMSL beneath the proposed project footprint. Based on this finding and the maximum proposed mine floor elevation of 120 feet AMSL, separation to groundwater will be less than 20 feet. For this reason performance standards in accordance with WCC 20.73.702(5) for parking, storage, maintenance, fueling, and washing of mobile equipment, fuel storage and all newly situated stationary and semi-mobile equipment shall be required for groundwater protection. For the subject parcel the implications of this conditions requires that all of the aforementioned activities must occur on un-excavated ground located north of the existing mine footprint.

The following site design and performance standards have been proposed in consideration of CARA regulations and the prevention of groundwater contamination due to the proposed surface mining activities. Many of the below-stated design considerations are presently in-place pursuant to an existing conditional use permit (cup1998-00028), which established office, shop, scales, and equipment storage in support of the surface mine on the adjacent 10-acre parcel located north of the permit mine boundary:

- The mine footprint has been designed to maintain a 300 horizontal foot buffer from all proximal wellheads.
- All parking, vehicle maintenance activities, and fueling facilities are required to be located a minimum of 20 feet above the groundwater surface in accordance with WCC 20.73.702(5). Additionally, stationary and semimobile equipment will continue to be located at least 100 feet from any exposed water table at the WB's shop parcel. For the subject parcel all of the aforementioned activities must occur on un-excavated ground located north of the existing and proposed mine footprint.
- A locked entrance gate shall be installed to prevent unauthorized dumping of any materials within the surface mine operations in accordance with WCC

20.73.702(3). The gate shall remain closed and locked at all times when the mine site is not in operation.

- Onsite fuel and oil shall be stored in double containment vessels or located in lined and bermed impervious contaminate catchment areas in accordance with WCC 20.73.702(6). While not presently located at the project site, if future needs require any future fuel storage shall be located on un-excavated ground north of the existing and proposed mine footprint.
- The applicant has prepared a Materials Disposal Program and Procedures Plan (MDPPP) for the site and a Spill Prevention, Control, and Countermeasure Plan (SPCC) in accordance with WCC 20.73.702(7), which has been reviewed and approved by WC PDS, and is required to be updated as necessary to address modified pit operation and configuration.
- An oil-water separator shall be installed at any vehicle or wheel wash station. While not presently located at the project site, if future needs require any future fuel storage shall be located on un-excavated ground north of the existing and proposed mine footprint.
- The reclamation plan proposes minimal grade fill and does not propose import of off-site soils to establish final site grades. In the event that import soils are required a land disturbance permit shall be obtained in accordance with WCC 20.73.702(4).

The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Chapters 16.16 and 20.73.702.

E. WCC Title 20 – Zoning Ordinance

WCC Title 20.73 – Mineral Resource Lands Special District

At the time of application surface mining, as defined by WCC 20.97.434, and subject to Washington State's Surface Mining Act (Chapter 78.44 RCW), was an Administrative Approval Use in an MRL overlay zone, as set forth in WCC 20.73.131. The use must also be consistent with the criteria of WCC 20.84.220 and WCC 20.84.235. This proposal is entitled to a zoning Administrative Approval Use permit if, subject to conditions, the proposal is consistent with the above.

i. WCC Title 20.73.131 – MRL Administrative Approval Uses

The proposed development has been reviewed for conformity to the requirements of WCC 20.73.131(1-5). In addition, the project has been reviewed for conformity to WCC 20.73.650, 20.73.700, and 20.73.702, as described above. Within two days of issuance a Notice of Determination shall mailed to all property owners within 1,000 feet of the external boundaries of the subject property, and associated appeal rights shall be granted pursuant to WCC 20.73.131(6-7).

The Technical Review Committee has determined that, as conditioned, the project meets the zoning requirements of an administrative approval use, as codified at the

time of application, in accordance with WCC Chapter 20.73.131 for a Mineral Resource Lands Special District.

ii. WCC Title 20.36.133 – Rural District Administrative Approval Uses

The sites underlying zoning is Rural – 10 acre. At the time of application surface mining was an allowed administrative approval use in the rural district when subject to the Washington State's Surface Mining Act (Chapter 78.44 RCW) and the requirements of WCC Chapter 20.73.

The Technical Review Committee has determined that, as conditioned, the project meets the zoning requirements of an administrative approval use, as codified at the time of application, in accordance with WCC Chapter 20.36.133 for Rural District.

F. WCC 20.84.200 & WCC 20.84.220 Administrative Use Criteria

Before approving an application for administrative approval, the zoning administrator shall ensure that any specific standards of the use district defining the administrative approval are fulfilled, and shall find adequate evidence showing that the proposed administrative approval at the proposed location:

(1) Will be harmonious and in accordance with the general and specific objectives of Whatcom County's Comprehensive Plan and zoning regulations.

The Whatcom County Comprehensive Plan (Plan) adopted in May of 1997 provided for the establishment of a Mineral Resource Land District. The purpose of this district was to comply with the Washington State Growth Management Act's mandate regarding the protection and use of mineral resources.

Whatcom County is subject to the Washington State Growth Management Act (Act). The Act provides guidance to Counties in planning for their future supply of mineral resources. RCW 36.70A.170 indicates that:

"On or before September 1, 1991, each county [required to plan under the Act] shall designate where appropriate: ... mineral resource lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals".

Through the goals and policies of the Plan, Whatcom County established the parameters by which they would comply with the GMA. Goal 8P of the Plan's chapter relating to mineral resource land indicates:

Designate Mineral Resource Lands (MRL's) containing commercially significant deposits throughout the county in proximity to markets in order to avoid construction aggregate shortages, higher transport costs, future land use conflicts and

environmental degradation. Balance MRL designations with other competing land uses and resources.

The Comprehensive Plan then goes on to provide designation criteria by which to establish the MRL. Based on the criteria provided in the Plan, the property that is the subject of this request is placed within in the MRL.

The Comprehensive Plan also contains goals and policies relating to the interplay between mineral resource areas and rural areas. As this site is located within an area that is generally rural in nature the goals and policies for mineral resources within rural areas' should also be reviewed. The specific goal and the supporting policies for the rural areas are as follows:

GOAL 8L: Achieve a balance between the conservation of productive mineral lands and the quality of life expected by residents within or near the rural and urban zones of Whatcom County.

Policy 8L-1: Discourage new residential uses from locating near designated mineral deposit sites until mineral extraction is completed unless adequate buffering is provided by the residential developer.

Policy 8L-2: Protect areas where existing residential uses predominate against intrusion by mineral extraction and processing operations.

Policy 8L-3: Allow accessory uses to locate near or on the site of the mineral extraction source when appropriate. Authorize crushing equipment to locate near the mineral extraction source as a conditional use provided that all pertinent regulatory standards are maintained. Site asphalt and concrete batch plants as a conditional use, addressing potential impacts for the site.

Policy 8L-4: Buffer mineral resource areas adjacent to existing residential areas. Buffers preferably should consist of berms and vegetation to minimize impacts to adjacent property owners. Buffers should be reduced for a limited period of time during reclamation if quality minerals are contained therein.

The most relevant policies supporting the goal as they relate to this proposal are Policy 8L-2 and Policy 8L-4. In this case the rural area is sparsely developed with residential uses, and historical surface mine activities have not negatively impacted this use. Further, existing surface mines are located to the south and east of the subject site. The proposed activity will continue to be buffered to the north mine activities are offset from Pangborn Road by more than 300 feet. Sparse residential development is located in the project vicinity. The closest homes are located to the east and west and are offset by at least 250 feet.

Whatcom County applied the Plan's policies and the designation criteria through the implementation of the County Zoning Code. The property is also included within the

MRL for zoning purposes. The purpose of the MRL District as stated in the WCC 20.73.010 is:

The primary purpose of this district is to allow the type of activity that encourages and supports the opportunity of the extraction of minerals in an area 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.

Based on the stated goals and policies of the Comprehensive Plan as well as the stated purpose of the MRL zoning district it is clear that the proposal to extract mineral resources is consistent with Whatcom County's land use objectives.

The subject property possesses an MRL overlay district designation and satisfies the standards of WCC 20.84.220(1).

(2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.

Under both the Comprehensive Plan designation and the zoning in place for the site the intended character of the area is for mineral extraction. Indeed, the current area is largely influenced by mineral extraction operations. Active mineral extraction operations exist immediately south, southwest and east of the subject property. Therefore, the development is appropriate for the existing and intended character of the area.

The project design proposes to expand the non-conforming use in operation at the site for more than 37 years, and as such is keeping with current character of the area. The reclamation plan for the proposed project has been designed to blend in with the final topography of the adjacent mineral extraction site thereby enhancing the overall land use plan for the area. Due to the large buffers between the permit mine boundaries and surrounding residential uses noise impacts were not reported during public comments following the notice of application. The project will also be conditioned to adhere to Environmental Noise Standards established by WAC 173-60 and operational hours established by WCC Chapter 20.73.701(2).

The site will be accessed via the existing access point that has been used for the non-conforming operation and will not pose an increased impact on the surrounding community.

The project will be operated in accordance with the standards set by the State Department of Natural Resources, the Department of Ecology, and the Whatcom County Development and Performance standards for surface mining activity. The site and all surrounding properties are zoned Rural with 10 units/acre. Final reclamation

and uses will be consistent with that zone. Reclamation will be segmental to minimize the visual impact to adjacent properties.

The Comprehensive Plan designation and the in-place zoning intend the character of this area to also be used for mineral extraction. The phased reclamation, as determined by the Washington State Reclamation Permit, is designed to return the site to rural use. The proposal satisfies the standards of WCC 20.84.220(2).

(3) Will be consistent with rural land use policies as designated in the rural land elements of the Comprehensive Plan.

The Comprehensive Plan designation and the in-place zoning intend the character of this area to be used for mineral extraction, where as the underlying zoning is for rural, ten-acre lots. However, mineral extraction is a historic activity in the project vicinity and is therefore not out of character for the area and the surrounding rural land uses. In addition, the phased reclamation plan, issued by the Washington State Department of Natural Resources, is designed to return segments of the mine site to rural use as mineral extraction is completed, thus returning the mine site to its intended final use as rural land as quickly as possible.

The proposal satisfies the standards of WCC 20.84.220(3).

(4) Will not be hazardous or disturbing to existing or future neighboring uses.

The impact from the project can generally be defined in four categories. These are: noise, dust, traffic and water quality.

Noise:

The project must comply with the noise standards established by Whatcom County under WCC 20.73.700 and the Washington State noise rules. Noise generated by the site during the day would be limited by Washington State noise rules to 60 dBA, plus the short-term noise increases when the site operates prior to 7 a.m., the nighttime 50 dBA limit would apply to this site.

The noise will be similar to that already generated by the subject and surrounding mine sites. The noise will not be out of character with the noise that currently exists within the general area. The proposal does not introduce any new type of noise-generating equipment. The hours and days of operation will be limited to those adopted by the Whatcom County Council under WCC 20.73.701.

Most of the equipment noise from the excavation activity will be mitigated by the depth of the gravel pit itself.

Dust:

The generation of dust is governed by the Northwest Clean Air Agency. The applicant will comply with the regulations of this agency. The paved access area will enhance dust suppression. Watering of the site and the use of dust suppressants will take place as necessary.

Traffic:

No addition of truck traffic is anticipated in relation to the average historic site use due to the proposed site activities.

Water Quality:

This project is designed to stay above the ground water table. The site will implement water quality protections through the Washington State Department of Ecology NPDES Sand and Gravel Permit as well as through the Development and Performance standards adopted by Whatcom County.

The impacts that are generally associated and discussed with regard to mineral extraction will not be increased as a result of this request since the activity is already occurring on subject and adjacent parcels to the south, southwest and east, and a 300+ foot buffer is proposed to the north. Mineral extraction is anticipated in the area as a result of the MRL overlay. Furthermore the impact is already occurring as a result of the existing, non-conforming activities.

The proposed excavation site is located within a Critical Aquifer Recharge Area (CARA) of high susceptibility, as defined by the WCC 16.16.510(C.1), and as indicated on Whatcom County Critical Aquifer Recharge Area maps. Pursuant to WCC 16.16.525(F), new sand and gravel mining subject to the review procedures of WCC 20.73 are subject to Critical Areas review, but prohibited if within the 10-year travel time zone of wellhead protection areas. The southeast corner of the mine site is offset by approximately 3,400 feet from the nearest Group A Public Water Systems, Meadowbrook Water Association, and approximately 2,300 feet outside of the County-defined, 10-year travel time zone for this regulated wellhead.

The professional groundwater assessment completed by Associated Earth Sciences, Inc., dated August 4, 2015, has defined the groundwater table and aquifer recharge characteristics beneath and surrounding the subject parcel. The project is designed for dry mining only. The maximum excavation depth is planned for 120 feet AMSL in order to keep the pit floor above the regional groundwater surface.

Off-site reclamation back fill is not planned at the project site. In the event that off-site fill materials are required in the future all imported fill shall be non-noxious, non-toxic, non-flammable, and non-combustible, and shall only be placed by the applicant after first obtaining a land disturbance permit, at which time the fill source can be reviewed and approved. In addition, the site is conditioned to require the installation

of a locked gate at the mine entrance to prevent unauthorized dumping into the gravel pit. As a result, the potential for contamination from offsite reclamation back fill is minimal.

The project is located within an aquifer recharge area and therefore subject to the operating standards of WCC 20.73 .702, subsections 1 through 9. Subsection 9 indicates that an approved general permit from the Washington Department of Ecology (WA DOE) for process and storm water discharge may substitute for the requirements of subsections 5 through 8. However, given the minimal separation between the pit floor and the seasonal high groundwater table the project has been conditioned to require the adoption of all requirements of WCC 20.73.702, as well as requiring a WA DOE NPDES Sand and Gravel General Permit, for groundwater protection.

The applicant has demonstrated in the application materials that the proposal satisfies the standards of WCC 20.84.220(4).

(5) Will be serviced adequately by necessary public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

The site is adequately serviced for the use proposed and no additional services will be required as a result of this request to continue extraction of material from this deposit.

The main public facility that will be utilized by this project is the roadway. No changes to the roadway network are proposed with the current proposal. No addition of traffic volume is proposed.

The Applicant's proposal demonstrates that the site is adequately served and no additional services will be required as a result of this proposal. The proposal satisfies the standards of WCC 20.84.220(5).

(6) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.

No additional public costs will result from this proposal. On the contrary, the proposal will benefit the economic welfare of the community by allowing continued mineral extraction for products necessary for our community from an area that has been designated for that use.

The proposal utilizes the resource better as provided for under the Comprehensive

Plan thereby minimizing aggregate costs. The applicant has demonstrated that no additional public costs will be incurred nor will it be detrimental to the economic welfare of the community.

The proposal satisfies the standards of WCC 20.84.220(6).

(7) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare or odors.

Discussion of the specific impacts is noted in Section 4 above. The impact from fumes will be limited to the exhaust generated by excavation and trucking equipment. Smoke, glare and odor problems will not be encountered.

In conjunction with the Applicant's proposal, Northwest Clean Air Agency regulations, and the operating and development standards set forth in WCC 20.73.700, any potential hazards, and impacts should be adequately regulated and mitigated.

The proposal satisfies the standards of WCC 20.84.220(7).

(8) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.

The traffic pattern and vehicular approach for the project already exists and is currently used for the transport of sand and gravel to and from the site. The proposal demonstrates that traffic patterns shall not be altered from the existing, non-conforming use, and must comply with access standards as set forth by the Whatcom County Public Works Department, Division of Engineering, which have been reviewed and approved.

The proposal satisfies the standards of WCC 20.84.220(8).

(9) Will not result in the destruction, loss or damage of any natural, scenic or historic feature of major importance.

No features are known to County Staff or have been reported by the applicant or during receipt of public comments. The proposed use will not result in the destruction, loss or damage of natural, scenic or historic feature of major importance.

The proposal satisfies the standards of WCC 20.84.220(9).

X. WHATCOM COUNTY COUNTY-WIDE PLANNING POLICIES:

Goal I-8 – Economic development should be encouraged that: a) does not adversely impact the environment; b) is consistent with community values; c) encourages development that provides jobs to county residents d) addresses industries for a more diversified economic base; e) promotes reinvestment in the local economy; and f) supports retention and expansion of existing businesses.

Goal I-9 – The County and the cities recognize the need for the protection and utilization of natural resources and resource lands including agricultural, mineral, forestry and fishing. As part of a broad based economy, productive timber, agriculture and fisheries industries should be supported in a sustainable manner.

Goal 8J - Sustain and enhance, when appropriate, Whatcom County's mineral resource industries, support the conservation of productive mineral lands, and discourage incompatible uses upon or adjacent to these lands.

Policy 8J-1: Conserve for mineral extraction designated mineral resource lands of long-term commercial significance. The use of adjacent lands should not interfere with the continued use of designated mining sites that are being operated in accordance with applicable best management practices and other laws and regulations.

Goal 8-Q - Designate Mineral Resource Lands (MRLs) containing commercially significant deposits throughout the county in proximity to markets in order to avoid construction aggregate shortages, higher transport costs, future land use conflicts and environmental degradation. Balance MRL designations with other competing land uses and resources.

Policy 8Q-1: Seek to designate a 50 year supply of commercially significant construction aggregate supply to the extent compatible with protection of water resources, agricultural lands, and forest lands.

Policy 8Q-2: Ensure that at least 50% of the total areas designated for construction aggregate are within ten miles from cities and urban growth areas where feasible.

Finding: *The Technical Review Committee finds that the application by Stremler Gravel to continue sand and gravel extraction at the site of the existing gravel mine is consistent with the relevant Whatcom County Comprehensive Plan goals and policies listed above for the Mineral Resource Land Special Districts. The support and protection of resource lands will not be adversely affected by approval of this proposal, but rather will ensure the continued abundance of aggregate resources to aid economic development in Whatcom County.*

XIII. DETERMINATION

As conditioned, the Technical Review Committee has determined that the proposed administrative approval for a sand and gravel mining operation at the subject parcels complies with applicable Whatcom County regulations, including WCC 20.80.200, WCC 20.84.220, and WCC 20.97.434. As conditioned, the Technical Review Committee approves the proposed project subject to the following conditions.

XIV. CONDITIONS OF APPROVAL

1. Permit Changes or Modifications: The use and location on the site shall not be modified or changed in any way without further approval of a Whatcom County Zoning Code Administrator. The project is approved for mineral extraction activity limited to 18.3 acres on parcels identified as APN 4004406-182068 and 4004406-133070, as illustrated by the Stremler Gravel - Pangborn Pit Reclamation Plan Set prepared by BEK Engineering & Environmental, Inc., dated August, 2002.
2. Maximum Depth of Extraction: The maximum depth of extraction shall not exceed 120 feet AMSL.
3. Permit Boundary Setbacks: All wellhead setbacks, as indicated on Sheet 1 of the Stremler Gravel - Pangborn Pit Reclamation Plan Set prepared by BEK Engineering & Environmental, Inc., dated August, 2002, shall be adhered to throughout the life of the gravel operation.
4. Maximum Mine Slopes: Reclaimed mine slopes shall not exceed a maximum gradient of 2 (Horizontal):1 (Vertical). Temporary mine slopes shall adhere to Washington State Department of Natural Resource standards.
5. Reclamation Fill Placement – Land Disturbance Permit: Per WCC 20.73.702(4), pertaining to surface mines located in a Critical Aquifer Recharge Areas, a Whatcom County-issued land disturbance permit shall be required prior to the placement of off-site soils intended for use as reclamation backfill. The applicant shall obtain and adhere to the conditions of a Washington State Department of Natural Resources Reclamation Plan prior to expanding mining operations.
6. Topsoil Berms: Soil berms shall be constructed to conserve topsoil for reclamation and to mitigate for noise and visual impacts. Berms shall be constructed to the maximum height that can be accommodated within the setback and the amount of material collected. The berms shall be vegetated with fast rooting grasses within the nearest favorable growing season. All bare berm soils shall be appropriately mulched for erosion control until planted grasses are established. To the extent feasible due to the quantity of topsoil stripped in order to expand gravel extraction operations, berms shall be located along the west and north boundary line.
7. Fuel Storage and Vehicle/Equipment Maintenance: Fuel storage is prohibited within the project area, and equipment refueling shall be performed by specialized professional mobile services or conducted off-site a minimum of 100 horizontal feet from the extraction footprint and a minimum of 20 feet above the seasonal high groundwater table.

8. Gated Entrance: The property owner shall control unauthorized access each day with a locked gate, perimeter fencing, and posted signs. No unauthorized access to the project area is permitted.
9. Traffic Concurrency: The proposal shall not increase the annual average truck traffic in or out of the site, without further review by the Whatcom County Public Works Department, Engineering Division.
10. DNR Reclamation Requirements: The operation and reclamation to the subsequent use as rural pasture shall be completed in accordance with the submitted plans and reviewed by the Washington State Department of Natural Resources to secure a State Reclamation Permit.
11. Future Development Requirements: Any proposed development activity subsequent to site reclamation to rural pasture shall require geotechnical evaluation in order to determine the suitability, or required engineered mitigation, if any, of site reclamation fill soils for support of structural foundations and road sections.
12. Zoning Requirements: The proposal shall comply with any applicable requirements of the Whatcom County zoning code.
13. Surface and Groundwater Protection: The proposal shall comply with any surface and groundwater protection requirements of the Department of Ecology unless modified by that Department or as appealed by that Department. Unless already in effect, a General Permit shall be obtained before beginning work authorized by this permit. Additional protective ground water measures may be required by Whatcom County on an as needed basis and shall be reviewed separately.
14. Air Quality Requirements: The proposal shall comply with any air quality requirements of the Northwest Clean Air Agency, unless modified by them or as appealed by them. Additional dust suppression requirements may be required on an as needed basis and shall be reviewed separately.
15. Whatcom County Development Standards: The proposal shall comply with any requirements of Chapter 2 of the Whatcom County Development Standards administered by the Whatcom County Public Works Department, Engineering Division, unless modified by that Department or as appealed by that Department.
16. Whatcom County Health Department Standards: The proposal shall comply with all Whatcom County Health Department requirements, and shall maintain or update site operational plans as necessary to ensure adherence to current health standards and conditions throughout the life of mine operations.
17. Solid Waste Handling: Solid waste management (burial, storage, landfilling) is not permitted at the site. If the applicant proposes inert waste (as defined in Chapter 173-350 WAC, Solid Waste Handling Standards) reclamation, a solid waste handling permit from WCHD and a conditional use permit from WCPDS may be required.
18. Wood and Inert Waste Storage: Notification to WCHD is required prior to acceptance and storage of any wood or inert wastes onto the site. Piles used for storage of wood and inert waste must be in compliance with Chapter 173-350 WAC, Solid Waste Handling Standards.

19. Environmental Noise Levels: The proposal shall comply with the noise standards of WAC 173-60, of the Washington Administrative Code. The proposal shall not exceed the maximum environmental noise levels established by Chapter 173-60 WAC.
 20. Amendments: The use and location on the site as approved by this permit shall not be amended or changed in any way without further approval of Whatcom County Planning and Development Services.
 21. Business Hours: Hours of operation shall be limited to 6:30 a.m. and 5:30 p.m., Monday to Saturday; with the exception of those conditions outlined by WCC 20.73.701(2a-2d).
 22. ADM Nontransferable: Approval of this use is for the referenced lots/parcels only and is not transferable to any other person or site.
 23. ADM Permit Expiration: This permit is good for as long as the business continues to operate at this site and under the conditions outlined in this permit (Administrative Approval). If the business ceases to operate for a period of one-year, the County may revoke ADM approval unless a Whatcom County Zoning Administrator approves the continued use. If the use becomes no longer permitted in this zone district, the use may be subject to Nonconforming Use criteria. Please refer to WCC 20.83.
 24. Annual Surface Mining Registration Fee: The mine shall maintain an active Whatcom County Surface Mine Registration. Failure to do so may revoke permitted site activities.
 25. Monitoring Inspection: The mine operator shall assist and facilitate Whatcom County Planning Staff in performing site inspections. Failure to do so, or attempts to hinder or obstruct site inspections, may revoke permitted site activities.
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Determination:

Administrative Approval is hereby granted to Stremler Gravel, Inc., to operate an aggregate mine at the referenced parcels subject to the content and conditions in this staff report and corresponding memos.

Appeal Rights:

Pursuant to WCC 20.84.240, you may appeal this determination to the Whatcom County Hearing Examiner within 14 calendar days from issuance of determination, along with a completed form from this office, applicable fees, and a statement including tangible evidence substantiating the appeal.

A handwritten signature in blue ink that reads "X Andy Wiser". The signature is written over a horizontal line.

Andy Wiser, L.E.G.
Planner III – Current Planning

Enclosures:

Stremler Gravel – Pangborn Pit Reclamation Plan, BEK Engineering & Environmental, Inc., August, 2002

NOTICE

This approval is subject to all of the above-stated conditions. Failure to comply with them may be cause for its revocation. Complaints regarding a violation of the conditions of this permit should be filed with Whatcom County Planning and Development Services. Whatcom County Planning and Development Services may not act to revoke this approval without further review by the Department.

NOTICE OF ADMINISTRATIVE APPEAL PROCEDURES
FROM FINAL DECISIONS OF
THE WHATCOM COUNTY SURFACE MINING ADMINISTRATOR

This action of the Whatcom County Surface Mining Administrator is final. The following review procedure is available from this decision and may be taken by the applicant, any party of record, or any County department.

Appeal to the Hearing Examiner: Within 14 calendar days from the date of the decision a written notice of appeal may be filed with, and all required filing fees paid to, the Whatcom County Hearing Examiner, c/o Whatcom County Planning and Development Services, 5280 Northwest Drive, Bellingham WA, 98226 (WCC 20.84.240), . The appeal notice must state either:

1. The specific error of law which is alleged, or
2. How the decision is clearly erroneous on the entire record.

More detailed information about appeal procedures is contained in the Official Zoning Ordinance at Section 20.92.600-.830. A copy of this document is available for review at the County Council Office.

After an appeal has been filed and the Hearing Examiner has received the administrative record, the parties will be notified of the time and date to file written arguments.

DATED this 15 day of December 2015



Andy Wiser, L.E.G.
Geohazard Specialist/Planner
Surface Mining Administrator

Exhibit A.

**Stremler Gravel – Pangborn Pit Reclamation Plan, BEK Engineering &
Environmental, Inc., August, 2002**