



SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 08-041

RELATING TO THE GROWTH MANAGEMENT ACT, ADOPTING MAP AMENDMENTS TO THE
SNOHOMISH COUNTY GROWTH MANAGEMENT ACT COMPREHENSIVE PLAN (GMACP)
TO IMPLEMENT CHANGES TO MAP 2, MINERAL RESOURCE MAP,
MINERAL RESOURCE OVERLAY (MRO 2 JLS DEVELOPMENT LLC)

WHEREAS, RCW 36.70A.130 and .470 direct counties planning under the Growth
Management Act (GMA) to adopt procedures for interested persons to propose amendments and
revisions to the GMACP or development regulations; and

WHEREAS, the Snohomish County Council adopted chapter 30.74 SCC,
"Growth Management Act Public Participation Program Docketing," to comply with the
requirements of RCW 36.70A.130 and .470; and

WHEREAS, the Snohomish County Council has determined that the consideration of the
proposed amendments and revisions to the GMACP and development regulations would promote
a county purpose as established under RCW 36.70A.130, RCW 36.70A.470 and chapter 30.74
SCC; and

WHEREAS, on May 21, 2007, and May 29, 2007, the Snohomish County Council held
public hearings to receive public testimony on proposed county and non-county initiated
amendments to the GMACP for consideration on the 2007 Final Docket XII; and

WHEREAS, the Snohomish County Council, on June 25, 2007, approved, by Motion No.
07-182, a list of proposed comprehensive plan amendments for inclusion on Final Docket XII
and authorized the County Executive, through the Department of Planning and Development
Services (PDS), to process Final Docket XII consistent with chapters 30.73 and 30.74 SCC; and

WHEREAS, Final Docket XII, including the proposals to amend the map and text of the
GMACP were presented to the Planning Advisory Committee (PAC) of Snohomish County
Tomorrow (SCT); and

WHEREAS, pursuant to chapter 30.74 SCC, PDS completed final review and evaluation
of Final Docket XII, including the proposals to amend the map and text of the GMACP, and
forwarded recommendations to the Snohomish County Planning Commission; and

WHEREAS, the Snohomish County Planning Commission held a public hearing and
received public testimony on Final Docket XII on January 22, 2008, and January 29, 2008; and

AMENDED ORDINANCE No. 08-041
RELATING TO THE GROWTH MANAGEMENT ACT, ADOPTING AMENDMENTS TO THE SNOHOMISH COUNTY GROWTH
MANAGEMENT ACT COMPREHENSIVE PLAN (GMACP) TO IMPLEMENT CHANGES TO MAP 2, MINERAL RESOURCE MAP,
MINERAL RESOURCE OVERLAY (MRO 2 JLS DEVELOPMENT LLC)

1 WHEREAS, on January 29, 2008, the Snohomish County Planning Commission
2 deliberated on Final Docket XII at the conclusion of the public hearing and voted to recommend
3 adoption of the proposed GMACP and regulatory amendments, with certain modifications as
4 enumerated in its recommendation letter of February 26, 2008; and
5

6 WHEREAS, the Snohomish County Council held a public hearing on April 30, 2008,
7 continued to May 12 and June 3, 2008, to consider the entire record, including the planning
8 commission recommendations on Final Docket XII, and to hear public testimony on this
9 Amended Ordinance No. 08-041.

10
11 NOW, THEREFORE, BE IT ORDAINED:
12

13 **Section 1.** The county council makes the following findings:
14

- 15 A. The county council adopts and incorporates the foregoing recitals as findings as if set forth
16 fully herein.
- 17 B. The proposal by JLS Development LLC (MRO 2) is to amend *Map 2, Mineral Resource*
18 *Overlay (MRO)* of the GMA Comprehensive Plan by removing a total of 5.71 acres from the
19 MRO which overlaps two parcels (320628-002-006-00, north parcel and 320628-001-005-
20 00, south parcel) and is located northeast of Arlington, southeast of State Route 530 and Jim
21 Creek Road intersection.
- 22 C. The MRO covers 5.01 acres of Parcel 320628-002-006-00 (north parcel) which is zoned R-5,
23 with a FLU map designation of Rural Residential-5 Basic.
- 24 D. The MRO covers 0.7 acres of Parcel 320628-001-005-00 (south parcel), which is zoned
25 Resource Conservation (RC) with a FLU map designation of Rural Residential 10-Resource
26 Transition.
- 27 E. The county council includes in its findings and conclusions the final review and evaluation of
28 the proposal completed by PDS in accordance with chapter 30.74 SCC, which is hereby
29 made a part of this ordinance as if set forth herein.
- 30 F. The proposal is consistent with GPP Policy LU 9.A.12, which states that landowner requests
31 for changes in the mineral resource land designations shall be subject to the county's
32 docketing process and be consistent with LU Policies 9.A.1, 9.A.2, and 9.A.3.
- 33 G. Pursuant to GPP Policy LU 9.A.1, the 1998 inventory and classification report was used to
34 find the subject site eligible for inclusion into the MRO.
- 35 H. The north parcel of the proposal meets one of the criteria in GPP Policy LU 9.A.2, for
36 excluding lands from designation as selected resource lands, "Lands which shall be excluded
37 are those: . . . land with 5-acre or smaller underlying land use designation and/or zoning,
38 except in cases in which the landowner requests mineral resource designation and the site
39 otherwise meets the criteria in 9.A.1 and 9.A.2." The north parcel of the proposal is
40 consistent with GPP Policy LU 9.A.2 as the land use designation for the proposal site is
41 Rural Residential-5 and the property owner has requested removal of the MRO designation.

1 Had not the previous owner requested inclusion into the MRO, this site would have been
2 excluded based on its Rural Residential-5 land use designation, pursuant to Policy LU 9.A.2.

3 I. The MRO is present on 0.7 acres of the south parcel and meets the criteria in GPP Policy LU
4 9.A.2, for excluding lands from designation as selected resource lands, "Lands which shall be
5 excluded are those: . . . isolated islands under 10 acres."

6 J. The combined 5.71 acres of MRO covering the north and south parcels constitutes an island
7 under 10 acres in size. The resource is not needed for emergency purposes, is not of
8 exceptional quality or needed for a specific project or includes precious metal. The
9 landowner has requested removal of the MRO designation, therefore the proposal to remove
10 the MRO designation is consistent with Policy LU 9.A.3.

11 K. The proposal is consistent with the criteria in GPP Policy LU 9.A.14 for removal of lands
12 from designated mineral resource lands. Those criteria state that the county can consider
13 removal of the MRO from properties where there is substantial evidence of unique
14 circumstance that mineral excavation is not an appropriate use for the site. Site constraints,
15 including critical areas and associated buffers, which make mineral extraction not an
16 appropriate use for this site are the following:

17 1. The north parcel contains environmentally sensitive areas. A Type 5 stream and a
18 Category 3 wetland are present on the north parcel. The Category 3 wetland coincides
19 with the designated 5.01 acres of Mineral Resource Overlay. This wetland was not
20 previously identified during the designation of the MRO. The wetland and associated
21 setbacks and buffers create a constraint that renders the site unsuitable for mineral
22 extraction.

23 2. The constraints created on both the north and south parcels due to the required setbacks
24 for mining operations from adjacent residential uses combined with the required setbacks
25 and buffers from the stream and wetlands have created a unique circumstance that was
26 not present at the time of the original MRO designation was applied.

27 L. The proposed amendment complies with the requirements of GMA, including RCW
28 36.70A.170(2) which states that the county shall consider the guidelines for classifying
29 resource lands established pursuant to RCW 36.70A.050. Those guidelines for mineral
30 resource lands include a list of factors in WAC 365-190-070(2)(d) to be analyzed to evaluate
31 whether the proposed land has long-term significance for the extraction of minerals. An
32 analysis of those factors demonstrates that the property does not meet the requirements for
33 mineral resource lands of long term commercial significance:

34 (i) General land use patterns in the area: The surrounding land use is primarily
35 residential. The surrounding GPP FLUM designations are: Rural Residential-5 Basic
36 to the north, west, and south and Rural Residential 10-Resource Transition with
37 partial MRO coverage to the east.

38 (ii) Availability of utilities: Electricity is available at Jim Creek Road. There are no
39 other public utilities available to serve the site.

40 (iii) Availability and adequacy of water supply: No public water is available to the site.
41 The site is within an area rated "High" according to the USGS for aquifer sensitivity.

- 1 (iv) Surrounding parcel sizes and surrounding use: 20-acre parcels exist to the north and
2 northeast, 3+ acre parcels exist to the south and northwest, and a 23-acre parcel
3 exists to the southwest. Single family residential uses exist to the west, northwest
4 and south.
- 5 (v) Availability of public roads and other public services: The site is accessible via Jim
6 Creek Road, a rural minor collector. State Route 530 intersects with Jim Creek Road
7 and extends to the Arlington UGA.
- 8 (vi) Subdivision or zoning for urban or small lots: The County requires the use of rural
9 cluster subdivision on lots adjacent to designated mineral resource lands for
10 subdivision of rural residential land. Parcels to the south and northwest are 3+ acres
11 in size.
- 12 (vii) Accessibility and proximity to the point of use or market: The closest point of use or
13 market is the urban growth area of Arlington, which is accessible via Jim Creek Road
14 and State Route 530.
- 15 (viii) Physical and topographic characteristics of the mineral resource site: A Type 5
16 stream and a Category 3 wetland have been identified. The wetland overlaps a
17 significant portion of the 5 acres designated MRO. Some steep slopes are present.
- 18 (ix) Depth of the resource: The 1998 "Prospect Identification and Preliminary
19 Classification" classified this resource as Type C-2 sand and gravel. Type C is the
20 lowest quality considered for designation by the county from a range of A-C. Type 2
21 refers to the quantity of sand and gravel based on a scale of 1-3. According to the
22 identification and classification study, the depth of C-2 sand and gravel is considered
23 to be 50-100 feet thick.
- 24 (x) Depth of the overburden: The 1998 "Prospect Identification and Preliminary
25 Classification" classified this resource as Type C-2 sand and gravel. Type C is the
26 lowest quality considered for designation by the county from a range of A-C. Type 2
27 refers to the quantity of sand and gravel based on a scale of 1-3. According to the
28 identification and classification study, the depth of the overburden for the C-2 sand
29 and gravel is considered to be less than or equal to 15 feet thick.
- 30 (xi) Physical properties of the resource including quality and type: The 1998 "Prospect
31 Identification and Preliminary Classification" classified this resource as Type C-2
32 sand and gravel. Type C is the lowest quality considered for designation by the
33 county from a range of A-C. Type 2 refers to the quantity of sand and gravel based on
34 a scale of 1-3.
- 35 (xii) Life of the resource: The 1998 "Prospect Identification and Preliminary
36 Classification" classified this resource as Type C-2 sand and gravel. Type C is the
37 lowest quality considered for designation by the county from a range of A-C. Type 2
38 refers to the quantity of sand and gravel based on a scale of 1-3. According to the
39 identification and classification study, the life of the sand and gravel classified as
40 Type C-2 is 10-25 years. However, due to a recently identified wetland area on the
41 north parcel and required setbacks on both parcels, the life of the resource contained

1 in the 5.71 acres of MRO is compromised. There is not an adequate excavation area
2 remaining from the original 5.71 acres designated MRO for long-term commercial
3 significance due to environmental conflicts and required setbacks.

4 (xiii) Resource availability in the region: Currently, there are 110,532 acres of bedrock
5 and 19,990 acres of sand and gravel designated within the Mineral Resource Overlay
6 (MRO). Removal of 5 acres from the MRO will not significantly affect the
7 availability of sand and gravel in the region.

8 M. Based on the analysis of the list of factors in WAC 365-190-070(2)(d) the proposal site
9 demonstrates that it does not meet the requirements for mineral resource lands of long-term
10 commercial significance.

11 N. A Determination of Nonsignificance was issued on December 26, 2007, for the proposed
12 amendments. PDS, as the lead agency, determined that these proposals do not have a
13 probable, significant adverse impact on the environment.

14 **Section 2.** The county council makes the following conclusions:

15
16 A. The proposal by JLS Development LLC (MRO 2) to amend *Map 2, Mineral Resource*
17 *Overlay (MRO)* of the GMA Comprehensive Plan by removing 5.71 acres from the MRO
18 located northeast of Arlington, southeast of State Route 530 and Jim Creek Road intersection
19 more closely meets the goals, objectives and policies of the GPP than the existing plan
20 designation.

21 B. The proposed GMACP map amendment is consistent with the following final review and
22 evaluation criteria of chapter 30.74 SCC:

- 23 1. The proposed amendment maintains consistency with other elements of the GMACP.
- 24 2. All applicable elements of the GMACP support the proposed amendment.
- 25 3. The proposed amendment meets the goals, objectives, and policies of the GMACP as
26 discussed in the specific findings.
- 27 4. The proposed amendment is consistent with the Countywide Planning Policies (CPPs).
- 28 5. The proposed amendment complies with the GMA.
- 29 6. New information is available which was not considered at the time the plan or regulation
30 was amended.

31 C. The amendment is consistent with the GMA requirement that the comprehensive plan of a
32 county or city be an internally consistent document (RCW 36.70A.070).

33 D. The amendment to the GMACP satisfies the procedural and substantive requirements of the
34 GMA.

35 E. The amendment maintains the GMACP's consistency with the CPPs for Snohomish County.

36 F. The county has met the state and local requirements for public participation and
37 interjurisdictional coordination.

1 G. The proposed amendment meets the goals, objectives and policies of the GMACP as
2 discussed in the specific findings.

3 H. All SEPA requirements with respect to this non-project action have been satisfied.

4 I. The County complied with state and local public participation requirements under the GMA
5 and chapter 30.73 SCC.

6
7 **Section 3.** The county council bases its findings and conclusions on the entire record of the
8 county council, including all testimony and exhibits. Any finding, which should be deemed a
9 conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.

10
11 **Section 4.** Based on the foregoing findings and conclusions, the Snohomish County GMA
12 Comprehensive Plan – General Policy Plan Map 2. Mineral Resource Overlay - last amended by
13 Ordinance No. 07-139, is amended as indicated in Exhibit A to this ordinance which is attached
14 hereto and incorporated by reference into this ordinance as if set forth in full.

15
16 **Section 5.** The county council directs the Code Reviser to update SCC 30.10.060 pursuant to
17 SCC 1.02.020(3).

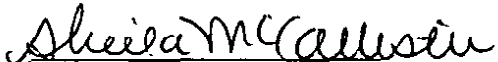
18
19 **Section 6. Severability.** If any section, sentence, clause or phrase of this ordinance shall be held
20 to be invalid or unconstitutional by the Growth Management Hearings Board, or a court of
21 competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or
22 constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided,
23 however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by
24 the Board or court of competent jurisdiction, then the section, sentence, clause or phrase in effect
25 prior to the effective date of this ordinance shall be in full force and effect for that individual
26 section, sentence, clause or phrase as if this ordinance had never been adopted.

1
2 PASSED this 3rd day of June, 2008.
3

4 SNOHOMISH COUNTY COUNCIL
5 Snohomish County, Washington
6


7 
8 _____
9 Council Chair

10 ATTEST:

11 
12 _____
13 Asst. Clerk of the Council

- 14 APPROVED
15 EMERGENCY
16 VETOED

17 DATE: June 2008, 2008
18

19 
20 _____
21 Snohomish County Executive
22 PETER B. CAMP
23 Executive Director

24 ATTEST:

25 
26 _____
27 Approved as to form only:
28

29 _____
Deputy Prosecuting Attorney

D-16

Exhibit A
Amended Ordinance No. 08-041
Final Docket XII, GMACP Map #2 Amendments
MRO 2 JLS Development LLC

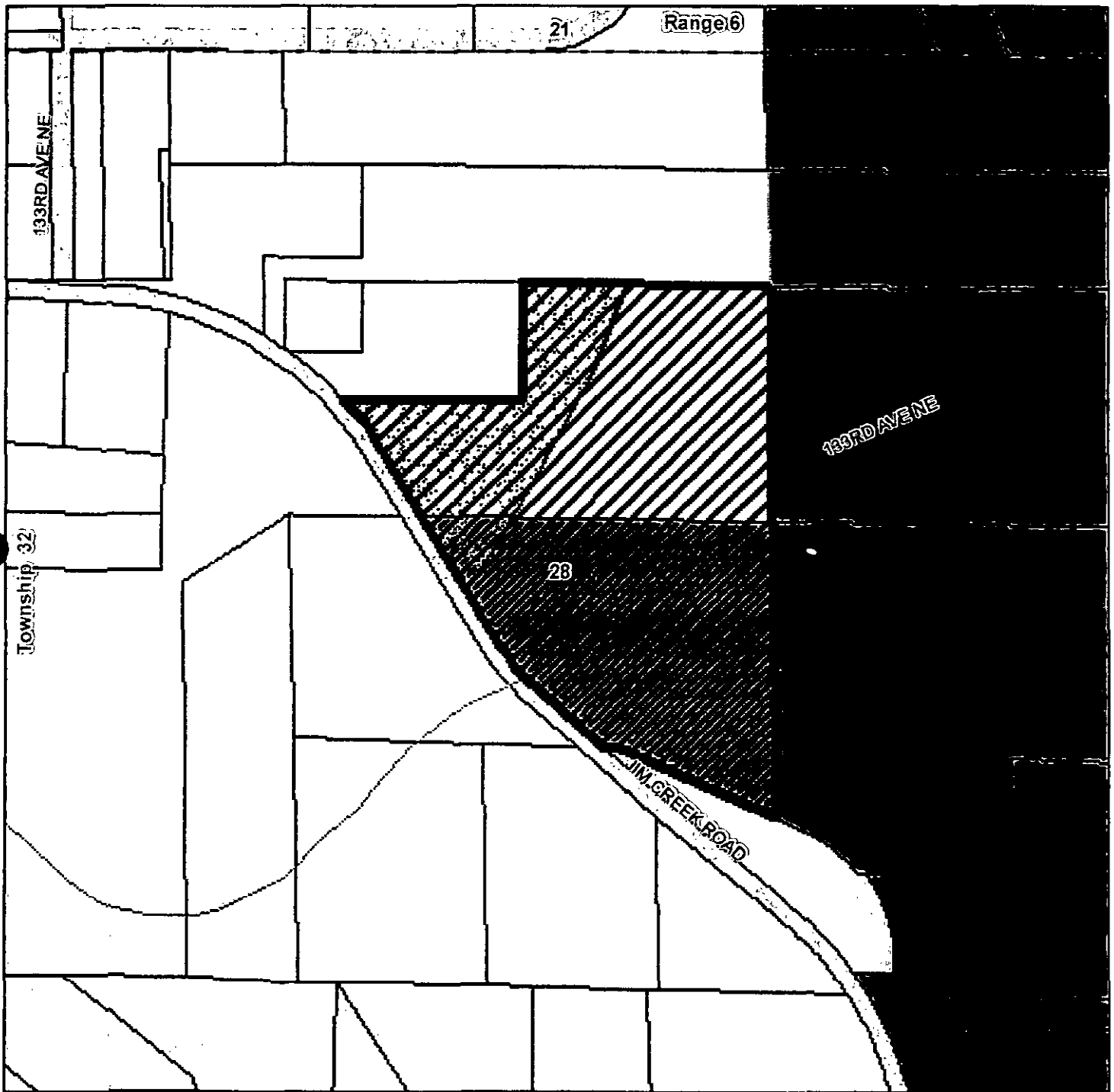
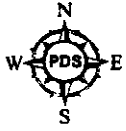
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Docket XII

Final List of Proposed Amendments (Motion No. 07-182)

Proposed Comprehensive Plan Amendment

JLS Development LLC (MRO2)



Proposed Plan Amendment:



JLS Development LLC

Redesignate Rural Residential (1 DU/5 Ac.-Basic) with Mineral Resource Overlay to Rural Residential (1 DU/5 Ac.- Basic) without Mineral Resource Overlay

Produced by Snohomish County Department of Planning and Development Services, Cartography/GIS Team

Existing Plan Designations

- Rural Residential-10 Resource Transition (1 DU/10 Ac.)
- Rural Res. (1 DU/5 Ac.-Basic)
- MRO - Sand/Gravel

- UGA Boundary
- Assessor Parcels
- Cities
- Township-Range Grid
- Section Grid



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Map Document: (W:\p\g\carto\doctet\Docket 2007\Map\lndv\dash\Final_Docket\Resource Land\JLS Development LLC_FLU.mxd) 10/15/2007