



# WHATCOM COUNTY

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## WASHINGTON

### Planning & Development Services

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### Memorandum

TO: The Whatcom County Council

FROM: Amy Keenan, Special Projects Manager  
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THROUGH: Mark Personius, Director

DATE: December 9th, 2025

SUBJECT: AB2025-810, Amendment #11—Administrative Use (ADM)  
Permit Revisions & Surface Mine Expansions

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We appreciate the opportunity to comment on the proposal by Council Member Stremler delivered yesterday to amend WCC 22.05.028.

PDS proposed to exclude both lateral *and vertical* expansions of a surface mine in the Administrative Use (ADM) Permit Revision code. As discussed below, this decision was based on numerous considerations that Staff felt clearly illustrated that both lateral *and vertical* expansions are not appropriately reviewed under an ADM Permit Revision. If Council wishes to explore Council Member Stremler's proposal further, PDS requests this item be removed from the code scrub and docketed for review at a future date.

PDS added the subject ADM revision language for several reasons:

- Administrative Use permits (ADM's) did not have a revision process until 2018, when PDS updated Title 22. The revision criteria for conditional use permits (CUP's) was adopted for ADM's, but, unlike CUP's, the ADM Revision determination is made by PDS Staff, rather than by the Hearing Examiner.
- Prior to 2018, if an applicant wanted to increase the size of their accessory dwelling unit (ADU), for example, by 100 square feet (by far the most common type of ADM Revision application), a new ADM would have been required, even if the existing ADU was below standard. Staff felt there should be an opportunity for minor alterations to these types of permits to be reviewed as a Revision to the original ADM and not require a new ADM. At the time, surface mine use permit revisions were not contemplated and revision criteria specific to surface mines were not included.
- Most Whatcom County surface mines either predate the Whatcom County Comprehensive Plan and operate without a use permit, or operate under an

Administrative Use (ADM) Permit. However, PDS did not anticipate revisions to surface mine ADM permits through the newly created revision criteria in WCC 22.05.028.

- In 2015, at the recommendation of the Surface Mine Advisory Committee (SMAC), the permit type required for new or expanded (horizontal or vertical) surface mines was updated from an ADM to a CUP. The SMAC recognized that these types of land use decisions justified a more robust public process, including expanded noticing (to within 2,000 feet) and an open public hearing, due to potential environmental impacts, societal costs, and elevated public interest for these proposals. This change also aligned the Whatcom County surface mining zoning ordinance with regional and industry standard permitting requirements. To relegate decisions regarding vertical mine expansions back to an administrative process would circumvent public noticing and deny interested parties the opportunity to participate in a public hearing prior to the Hearing Examiner's decision regarding the proposed land use.
- The Hearing Examiner recently ruled on an application proposing a vertical expansion of an existing surface mine originally permitted as an ADM in 2001. The Hearing Examiner ruled that an ADM Revision was not the appropriate permit path for vertical expansion of an existing surface mine due to the potential for significant adverse environmental impacts and the absence of revision criteria for surface mines.
- ADM Revisions do not have a public comment or neighbor notification component.
- ADM Revisions are intended to be small in scope and exclude proposals that may have environmental impacts.
- The current ADM Revision criteria are tailored specifically to proposals that change lot coverage (building additions or new structures). As surface mines were not originally contemplated for ADM Revisions, there are no criteria for what should be considered "within the scope and intent of the original permit" in the context of a surface mine expansion.
- Vertical expansion of a mine footprint may pose environmental impacts when considering possible hydrogeologic impacts, particularly in consideration of nearby drinking water wells and adjacent critical areas. Even if environmental review were to be conducted under an ADM Revision, neighboring property owners and other impacted parties would not have an ability to review or comment on the proposed expansion.
- The decision to require new Conditional Use Permits (CUPs) for lateral and vertical surface mine expansions is based upon historical determinations made by the County geologist and creates consistency in implementing the code and required permits. In addition, WCC 20.73.153 requires CUP's for surface mine subject to the Washington State's Surface Mining Act. Lateral and vertical expansions are subject to Washington State's Surface Mining Act and would require a new WDNR Reclamation Permit. Allowing vertical expansions as an ADM permit revision would contradict the requirements of WCC 20.73.153.
- ADM Revisions are \$240 which allows less than two hours of staff review time. It is not possible to review a potential vertical expansion of a surface mine in less than two hours.