

Ordinance No. 275-H



200804100099

Skagit County Auditor

4/10/2008 Page 1 of 24 11:38AM

After Filing Return To:

**DEVELOPMENT AGREEMENT BETWEEN  
CENTENNIAL RESOURCES, LLC AND TOWN OF HAMILTON**

**Grantor(s):** Centennial Resources, LLC, and Town of Hamilton

**Grantee(s):** CPM Centennial Resources, LLC, and Town of Hamilton

**Abbreviated Legal Description: Additional Legal Description:** Attachment A

**Assessor's Property Tax Parcel Account Number(s):** Attachment A 512-T35N-  
P41083, P41096, P41097, P41098, P49316 R6E

**1.0 PARTIES**

1.1 THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into this 12 day of FEB, 2008, between the TOWN OF HAMILTON, a Washington Municipal Corporation ("Town"), and CENTENNIAL RESOURCES, LLC, a Washington Limited Liability Company ("Centennial").

**2.0 RECITALS**

2.1 Centennial (through its members) owns approximately Two Hundred Sixty-four (264) acres located in Town of Hamilton, Skagit County, Washington, as legally described on Attachment A ("Property") and shown on the map attached as Attachment B. The Town has approved comprehensive plan and zoning designations for the Property, including the Mineral Resource Overlay Zone, as set forth in Town Council Ordinance No. 245.

2.2 The Property is located within a portion of the Town that is zoned for urban level development and is in a mixture of residential, commercial and open space zoning.

2.3 The extraction of mineral resources from the Property is necessary to enhance urban level development on the Property.

2.4 To implement the comprehensive plan and zoning designations, the parties wish to enter into a development agreement authorized by state law under RCW 36.70B.170, et seq. ("**Development Agreement Statute**") to set forth the development standards and other provisions that shall apply to and govern and vest the development, use and mitigation of the development of the Property.

2.5 The Town has determined the Project (defined below) is appropriate and meets the goals of the Development Agreement Statute and Ordinance No. 245 providing for the Natural Resource Overlay Zone and the conditions of approval for the Conditional Use Permit to mine gravel on the Property (the "**CUP**") as set forth in Resolution No. 2-05, including the Findings, Conclusions and Decision by the Town Council passed and approved on April 12, 2005 (a true copy of which permit is attached hereto as Attachment C and has been recorded with the Skagit County Auditor under #200504200017). By setting forth in detail the conditions and requirements applicable to the Project, the Town and Centennial further agree that this Development Agreement establishes certain rights of Centennial to develop the Property for the time period and in accordance with the conditions specified herein and the approvals granted by the Town with respect to the Project. The Town and the developer further agree that this Development Agreement is consistent with the Town's Comprehensive Plan dated November 8, 2005 (the "**Comprehensive Plan**") and the mitigated determination of non-significance (the "**MDNS**") issued for the Conditional Use Permit on March 16, 2005, under the State Environmental Policy Act ("**SEPA**"). The Town and Centennial further agree that the implementation of the Project encourages an employment base, meets certain goals and objectives of the Growth Management Act ("**GMA**") and the Project will not adversely impact the citizens of the Town or the general public.

2.6 The Town has an existing program to provide housing and economic development out of the flood plain of the Skagit River north of SR-20. The development of the Property as provided in this Development Agreement is consistent with the Town's goals in that regard.

2.7 In approving this Agreement, the Town after a duly noticed public hearing made appropriate findings, including that the execution of this Development Agreement will further the public health, safety and general welfare of the Town and that CUP and the development of the Project pursuant to this Development Agreement is consistent with the Town's Comprehensive Plan.

2.8 The Town and Centennial agree that each has entered into this Development Agreement knowingly and voluntarily, and agree to be bound by the terms and conditions of this Development Agreement.



2.9 The Town and Centennial agree the foregoing terms and recitals are material to this Development Agreement and that each party has relied on the material nature of such terms and recitals in entering into this Development Agreement.

2.10 This Development Agreement implements a condition of the CUP.

2.11 After a public hearing, by Ordinance No. \_\_\_\_\_ (herein called the "Adopting Ordinance") the Town Council authorized the Mayor to sign this Development Agreement with Centennial.

## AGREEMENT

THEREFORE, in consideration of the mutual benefits of this Development Agreement and the actions and promises set forth herein, including without limitation the approval of the Conditional Use Permit, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

### 3.0 PROPERTY DESCRIPTION

3.1 Property. The Property, which is the subject of this Development Agreement, is fully described in Attachment A, attached and incorporated by this reference as though fully set forth herein.

3.2 Zone Designations. The zoning designations for the Property shall be unchanged for the duration of this Development Agreement. The Property is vested to the Natural Resource Overlay Zone. The underlying zoning may change following the end of the term of this Development Agreement as plans for the Town and plans for reclaimed gravel mine site are developed.

### 4.0 PROJECT DESCRIPTION

Centennial will develop and operate the Property for gravel mining activities, related processing activities, and the creation of a residential development after mining is complete (collectively "Project").

### 5.0 PERMIT AND REVIEW PROCESS.

5.1 Vested Rights of Centennial. During the term of this Development Agreement, in developing the Property consistent with the Project described herein, Centennial is assured, and the Town agrees, that the development rights, obligations, terms and conditions specified in this Development Agreement are fully vested in Centennial and may not be changed or modified by the Town, except as may be expressly consented thereto by Centennial.



200804100099

Skagit County Auditor

5.2 Permits. The parties agree that permits for individual development activities (such as fill and grade, water discharge and quality, noise, subdivisions and other matters necessary to implement the Project) which are not addressed in the CUP will be applied for as required over the Term of the Project. The Town shall process its permits consistent with the CUP, previous SEPA and then applicable ordinances, regulations and statutes. The Town will use the MDNS information to the fullest extent possible as the information to be included in each permit application. To minimize the delay resulting from multiple requests for information, the Town and Centennial shall undertake pre-application meetings to determine if there is any information needed for an implementing permit and associated environmental review beyond the MDNS and the items set forth in the application form. Centennial and the Town shall endeavor to obtain participation from other agencies in pre-application meetings and permit reviews. Centennial will comply with the current effective edition of the International Building Code, International Fire Code, and any other similar construction codes in effect at the time of each permit application. Also, Centennial will pay the application fee schedule in effect at the time of each permit application. Centennial also will comply with any new regulations that are required to prevent a serious threat to public health and safety.

## 6.0 **TERM.**

The term of this Agreement shall continue until the completion of mining, processing, and reclamation within the Property, but not to exceed 50 years from the date of the Adopting Ordinance. Upon expiration of the term, the Town will recognize zoning designations that reflect appropriate uses of the land after completion of reclamation and with reference to current zoning.

## 7.0 **DEVELOPMENT STANDARDS**

Development standards pursuant to Ordinance No. 245, Section 10.44.080 (Town of Hamilton Zoning Code) apply to the natural resource extraction and reclamation. Redevelopment after reclamation shall comply with the standards in place at the time of permit application for said redevelopment.

## 8.0 **SEPA CONDITIONS**

8.1 Authority. The environmental impacts of this proposal are documented in the Environmental and Supplemental checklists dated February, 2005, and other information on file with the Town. The mitigation measures imposed in response to the Town's review of this information are set forth in the MDNS issued on March 16, 2005 and included in the CUP (attached hereto as Attachment C).

8.2 MDNS. Centennial agrees to comply with the MDNS conditions and, without limiting the generality of the foregoing, will implement the following with respect to critical areas pursuant to the Town Critical Area Ordinance:

A. A critical area has been designated near the northwest corner of the Property, as shown on the sketch attached. Centennial agrees to not disturb this critical area.

B. A detailed plan for buffer restoration and enhancement along Carey's Lake to mitigate the impacts of construction of the new access to the gravel mining site shall be submitted and completed on an agreed schedule with the Town.

8.3 Other permits. The Town has required Centennial to obtain applicable state and federal permits as a condition of the MDNS.

8.4. Enforcement. If Centennial operates outside the scope or fails to comply with the permits, it shall be in noncompliance with the MDNS and/or the CUP as the case may be and the Town may take enforcement action as provided by SEPA and other State law.

## 9.0 IMPACT FEES AND MITIGATION

9.1 Gravel Mitigation Fees. The Town and Centennial have agreed on the method that Centennial shall contribute a fair share during the Term of this Development Agreement towards the development of community infrastructure to ensure that systems will be designed with adequate capacity to accommodate the ultimate residential development of the reclaimed gravel mine site in the future. Centennial will pay the Town a gravel mitigation fee of two percent (2%) of the gross sale price of the gravel removed from the pit based on the market price of gravel (without loading) in effect at the pit from time to time, but no less than five cents (5¢) per 2,000 lb ton. The amount of gravel removed will be determined by a certified scale provided by Centennial and a report ("Report") showing the quantity of gravel removed will be forwarded to the Town on a quarterly basis. Payments will be made on the 20th day of the month following the end of the preceding quarter and calculated based on the Report of gravel removed in the preceding quarter.

9.2 Use of Gravel Mitigation Fee. The Gravel Mitigation fee will be used to create infrastructure to directly and/or indirectly benefit the Project. Without limiting the generality of the foregoing, the Gravel Mitigation Fee will be used exclusively for utility extensions to serve the gravel mine use and future reclamation development, including but not limited to transportation, water, storm and sanitary sewer, on-site surface water management and to help pay for the design and development of such capital improvements as will provide adequate capacity to serve the future reclamation development as may be adopted pursuant to the Town's Capital Improvement Plan. The parties agree that these funds will be used, together with other funding, to design and build municipal infrastructure that benefits both the future residential development of the Project as well as nearby property used to relocate the town of Hamilton out of the Skagit River floodway.

9.3 Water Line for Fire Suppression. The Town has agreed to make water available to the Project. When required by the Town (or earlier at Centennial's



discretion) Centennial will install an eight inch (8") water line from Hamilton Cemetery Road to the Project site sufficient for fire flow and fire hydrants (as required by the Fire Department).

9.4 Fire Protection Mitigation. The Town acknowledges that on April 2, 2007, Centennial paid the Town the sum of \$9,960.00 for application towards the purchase of a new fire truck.

9.5 Skate Park. By letter dated March 17, 2007, Town Mayor Tim Bates confirmed that Centennial had also donated blocks and concrete for the Town's skate board park

9.6 Town Inspection. Centennial has paid fees to the Town for plan review.

## 10.0 NON-SEPA TRANSPORTATION IMPROVEMENTS AND MITIGATION

10.1 Road Dedication. Upon completion of the work described in section 10.2 below, Centennial shall deed to the Town for a public right-of-way and the Town will accept the access road to the site from SR-20 as more particularly described in Attachment D (herein called the "**Road**").

10.2 Road Improvements. All required improvements to the Road as may be required by Town Code Section 10.44.030 and the Town engineer and Washington State Department of Transportation recommendations and such work shall be completed according to a schedule negotiated with the Town.

10.3 Mitigation for Operations. A plan for mitigating the impacts of the gravel mining operation prepared in accordance with applicable regulations and statutes, (including dust, noise, buffering, traffic, protection of critical areas and other elements of the environment) shall be submitted to the Town for review and approval prior to commencing gravel operations.

10.4 Use of Road. During the gravel operation, Centennial shall have the exclusive right to use the Road and Centennial will maintain the Road because of the heavy impact of ongoing trucking.

## 11. RECLAMATION PROVISIONS

11.1 Reclamation. Once mining operations have been completed, Centennial shall be responsible for design, engineering and development of the reclaimed site consistent with the then current comprehensive plan and zoning code, and shall dedicate a percentage of the site to the Town in addition to roads and utilities.

11.2 Water Rights. The Water Rights application filed for the site shall be transferred to the Town so that there will be an adequate reserve available for the future use of the site (residential and commercial).

11.3 Provision of Infrastructure. Centennial is required by Town of Hamilton Resolution 2-05 recorded in Auditor's File Number 200504200017 to provide the infrastructure and other elements for redevelopment after reclamation, paid for in whole or in part by the Gravel Mitigation Fee and other mitigation provided for herein. The Gravel Mitigation Fee is not intended to cover all on-site infrastructure and the full mitigation will be based on the approved plans for the future residential development. The initial review of plans shall be made by the Town Planner and the Town Engineer and the Town Council shall provide final review of plans.

## **12.0 CONDITIONS ARISING FROM NON-TOWN AGENCIES WITH JURISDICTION**

Centennial will apply to such non-town agencies for permits as may be applicable to the Project, including the following agencies:

- 12.1 Department of Labor – mine safety – MSHA
- 12.2 Department of Natural Resources – reclamation
- 12.3 Department of Ecology – water quality
- 12.4 Department of Transportation – traffic safety
- 12.5 NW Air Pollution – air quality
- 12.6 Department of Archaeology & Historic Preservation – cultural resources
- 12.7 Skagit County Health department – Septic system

## **13.0 MODIFICATION OF AGREEMENT**

In order to effectively respond to changing circumstances, Centennial will submit a status report to the Town Planner every two (2) years consistent with the process identified in Town Code Section 10.44.100. The Town acknowledges and agrees that this Project is intended to be developed over approximately 40 years or more and that Centennial has already contributed to mitigation as provided herein and will, over the life of the Project, further contribute to the Town a significant amount of time and money in developing this Project and in reclaiming and developing the site after gravel operations are completed. Without limiting the generality of the foregoing, the Town agrees that any determination under Code Section 10.44.100 as to the viability of the Project will be construed liberally, and in doing so, the Town will have regard to market impacts on gravel resources from time to time. Further, the Town will use its best efforts to give effect to, rather than hinder, the intent of this Development Agreement and all of its terms. Centennial is entitled to rely upon the Town's aforesaid assurances as it develops the Project, performs the mitigation and pays the fees provided for herein.



#### 14.0 DISPUTE RESOLUTION

In the event of a dispute between the parties about the application or interpretation of this Development Agreement, Centennial shall meet with the department head with jurisdiction within 10 days after request from any party for the purpose of attempting, in good faith, to resolve the dispute. In the event that a dispute is not resolved through party consultations, the matter may thereafter be appealed to the Town Council pursuant to any Town appeal Ordinance then in effect. Appeals of the Town's decision shall be taken to the Superior Court for Skagit County as may be allowed by law and court rules.

#### 15.0 AUTHORITY TO APPROVE AGREEMENT

15.1 By Centennial. By executing this Development Agreement, Centennial represents and warrants that it has taken all necessary steps under its corporate authorities to authorize such act, and that its execution of this Development Agreement is valid and binding for all purposes.

15.2 By Town. By executing this Development Agreement, the Town represents and warrants that it has taken all necessary steps under its corporate authorities to authorize such act, and that its execution of this Development Agreement is valid and binding for all purposes, subject only to subsequent appeals filed in accordance with RCW 36.70B.200.

#### 16.0 GENERAL PROVISIONS

16.1 Governing Law. This Agreement is governed by the laws of the State of Washington. Each party represents and warrants it has the respective power and authority, and is duly authorized to execute and perform its obligations under this Agreement. This Agreement is to be interpreted to the full extent authorized by law as an exercise of the Town's authority to enter into such agreements. If any provisions of this Agreement are determined to be unenforceable or invalid by a court, then this Agreement thereafter shall be modified to implement the intent of the parties to the maximum extent allowable under law.

16.2 Integration; Amendment. This Agreement represents the entire agreement of the parties regarding the Property. Any amendment to this Agreement must be approved by the Town and Centennial (or the successor owner of the Property).

16.5 Assignment. Centennial shall have the right to assign or transfer all or a partial interest in the Project, and the corresponding rights and obligations under this Agreement, without the consent of the Town being required so long as the transferee agrees to be bound by this Agreement as to the portion of the Property assigned.

16.6 Recording. Pursuant to RCW 36.70B.190, this Agreement or a memorandum thereof shall be recorded with the Skagit County Auditor and during the



term of this Agreement shall be binding on the parties and the successors in interest to the Property.

16.7 Headings; Attachments. The headings in this Agreement are for reference only and shall not expand, limit or modify the terms and conditions stated in the Agreement. The recitals and Attachments A through E are incorporated into this Agreement by reference as if fully set forth herein.

16.8 Time. Time is of the essence of this Agreement and every provision hereof.

16.9 No Third Party Beneficiary. This Agreement is for the sole protection and benefit of the Town and Centennial and their successors in interest. No other person or party shall have any right of action or interest based upon any provision of this Agreement, and only the Town and Centennial shall have enforcement rights under this Agreement.

16.10 Notice. All communications, notices and demands of any kind under this Agreement shall be in writing and either (a) delivered personally, (b) sent by facsimile transmission with an additional copy mailed first class, or (c) deposited in the U.S. mail, certified mail postage prepaid, return receipt requested, and addressed as follows:

If to Town:                      Town of Hamilton  
    PO Box 528  
    Hamilton, WA 98255  
    Attn: Mayor  
Phone:                              (360)  
Facsimile:                        (360)

If to Centennial:                Centennial Resources, LLC  
  
    Attn: Mike Crawford  
Phone:                              (360)  
Facsimile:                        (360)

Notice by hand delivery or by facsimile shall be effective upon receipt. If deposited in the mail, notice shall be deemed delivered 48 hours after deposited. Any party at any time by notice to the other party may designate a different person or address to which such notice or communication is to be given.

16.11 Covenant Running with Land. This Development Agreement and its component parts shall be covenants running with the land, and shall be binding on the parties and their successors and assigns, and on all subsequent purchasers, lessees or lessors, and transferors of every nature as set forth herein.

16.12 Attorneys' Fees. If litigation is initiated to enforce the terms of this Development Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees, expenses and costs from the non-prevailing party.

16.13 Severability. If any section, sentence, clause or portion of this Development Agreement is declared unlawful or unconstitutional for any reason, the remainder of this Development Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, this Agreement has been entered into between the Town and Centennial as of Feb 12, 2008.

**TOWN OF HAMILTON,**  
a Washington Municipal Corporation

Emil G. Solt

By:

Its:

**CENTENNIAL RESOURCES, LLC,**  
a Washington Limited Liability Company

Mark Crawford

By: Mark Crawford

Its: Shareholder



**ATTACHMENT "A"**

**Legal Description of Property**

PARCEL "A" (Property ID #s P41083, P41096, P41097, P41098)

THE SOUTH  $\frac{1}{2}$  OF THE NORTHEAST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 12,  
TOWNSHIP 35 NORTH, RANGE 6 EAST, W.M.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

PARCEL "B" (Property ID #P99316)

THE EAST  $\frac{1}{2}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF SECTION 12,  
TOWNSHIP 35 NORTH, RANGE 6 EAST, W.M.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.



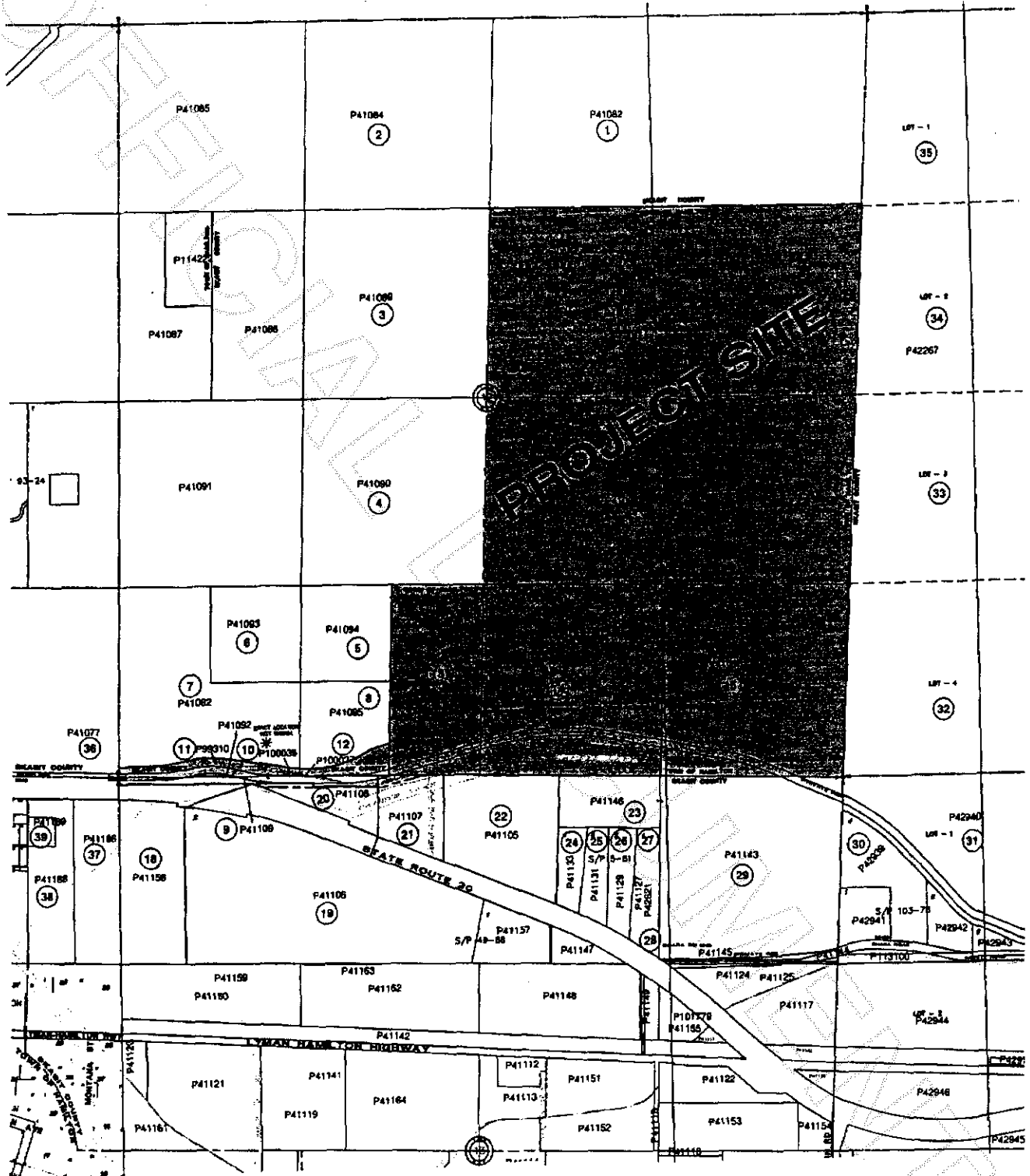
200804100099

Skagit County Auditor

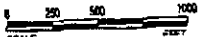
4/10/2008 Page 11 of 24 11:38AM

# ATTACHMENT "B"

## Map of Property



NORTH



200804100099

Skagit County Auditor

71587  
71586  
71584  
122572  
71583  
71582  
71580  
71581  
71553  
71554  
71545  
71546  
71547  
71548  
71592  
71591  
71590  
71589  
71599  
71549  
71550



200804100099

Skagit County Auditor

ATTACHMENT "C"      CONDITIONAL USE PERMIT (including mdns and  
RESOLUTION)

TOWN OF HAMILTON  
CERTIFICATE FOR RESOLUTION

I, Delilah Sutton, the undersigned Town Clerk of the Town of Hamilton, Washington,  
(the 'City'), DO HEREBY CERTIFY:

1. That the attached Resolution numbered 2-05 ("Resolution") is a true and correct copy of a resolution of the Town, as finally passed at a Public Meeting of the Town Council held on April 12, 2005, and duly recorded in my office.
2. That said meeting was dully convened and held in all respects in accordance with the law and, to the extent required by law, due and proper notice of such meeting was given, that a legal quorum was present throughout the meeting and a legally sufficient number of the members of the Town Council voted in the proper manner for adoption of said Resolution; that all other requirements and proceedings incident to the proper adoption of said Resolution have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town this 18 day of April, 2005.

Delilah Sutton  
Town Clerk

*Delilah Sutton*



200804100099  
Skagit County Auditor

4/10/2008 Page 14 of 24 11:38AM



200504200017  
Skagit County Auditor

4/20/2005 Page 2 of 24 9:54AM

- ATTACHMENT A -       LEGAL DESCRIPTION OF PROPERTY (264 acres)**
- ATTACHMENT B -       MAP OF PROPERTY**
- ATTACHMENT C -       CONDITIONAL USE PERMIT (including MDNS and  
resolution)**
- ATTACHMENT D -       LEGAL DESCRIPTION FOR ROAD TO BE  
TRANSFERRED TO TOWN**



200804100099  
Skagit County Auditor

4/10/2008 Page 15 of 24 11:38AM

RESOLUTION No. 2-05

**A RESOLUTION APPROVING THE CONDITIONAL USE PERMIT FOR A  
GRAVEL MINE FOR CENTENNIAL RESOURCES, LLC**

WHEREAS, Centennial Resources LLC has applied for a Conditional Use Permit to mine gravel under Ordinance No. 245, and

WHEREAS, the Town of Hamilton Town Council has held a public hearing, heard testimony, and considered the presentations of the applicant and staff, and

WHEREAS, the Town Council finds that the approval of this permit is adequately mitigated by the conditions in the staff report, MDNS, and an agreement to be entered into between the applicant and the Town, and

WHEREAS, the Town Council finds the Town has an interest in the Project from two perspectives. The Town has interest as a regulator in ensuring that appropriate limitations are placed on the Project to make it compatible with nearby land uses, and to ensure that required mitigation is completed. The Town also has interest as a participant in the larger effort to provide housing and economic development out of the floodplain, moving these activities from the area along the Skagit River south of SR-20.

WHEREAS, the Town Council finds will further the public health, safety and general welfare and that the development of the Project pursuant to this Resolution is consistent with the Town's comprehensive plan and ordinances, now therefore

**THE TOWN COUNCIL OF THE TOWN OF HAMILTON HEREBY  
RESOLVES AS FOLLOWS:**

**Section 1.** The Town Council hereby adopts the Findings of Fact set forth in the attached staff report.

**Section 2.** The Conditional Use Permit of the applicant is hereby approved, subject to the following conditions:

- A. The applicant shall comply with the conditions 1 through 21 set forth in the attached staff report;
- B. The applicant shall comply with the conditions set forth in the MDNS attached hereto.



200804100099  
Skagit County Auditor



200504200017  
Skagit County Auditor

COPY



C. The applicant shall enter into to a Development Agreement to further implement the conditions of Town Ordinance No. 245, this approval, and the MDNS.

Passed and approved this 12 day of April, 2005.

Timothy A Bates  
Mayor Timothy Bates

Attest:

Deborah Sutton  
Town Clerk

Approved as to Form:

[Signature]  
Town Attorney



200804100099  
Skagit County Auditor

4/10/2008 Page 17 of 24 11:38AM

4/20/2008

## TOWN OF HAMILTON

### STAFF REPORT

#### CONDITIONAL USE PERMIT

**DATE:** April 12, 2005  
**PROJECT:** Proposed Conditional Use Permit for a Gravel Mine at the 260 acre Centennial Annexation site.  
**LOCATION:** North of SR 20 and east of Hamilton Cemetery Road  
**APPLICANT:** Centennial Resources, LLC  
**STAFF:** Margaret Fleek, Planner

**REQUEST:** A Conditional Use Permit application has been filed by Centennial Resources, LLC to develop a commercial sand and gravel mine of approximately 260-acres in the northwest portion of the Town of Hamilton that is connected to the remainder of the Town by a relatively narrow strip of land intended to accommodate road access to the site.

Gravel resources will be mined, screened, washed and crushed on the site. The project will include construction of a gated office/shop complex including truck scales, equipment maintenance and a storage building, a caretaker's quarters, employee parking, a truck parking area and a wholly contained diesel fuel tank. Trucks, loaders and related mine equipment will be stored and fueled on the site. Facilities for telephone, electric and propane service will be installed. An on-site septic system will also be constructed. Potable water will be purchased from the Town of Hamilton and will be brought to the site.

During the early stages of development the mine will primarily excavate and load out pit run sand and gravel. Depending on demand for the products, processing equipment will be brought on site to screen, wash and crush the sand and gravel. Equipment will be portable unless market demands increase. In addition to screening, washing and crushing equipment, the mine will have rubber tired loaders, track dozer and a track excavator as required for the mining operation.

In order to access the site with minimal impact on the valuable habitat area in and around Carey's Lake, a portion of the access route is located in Skagit County and for that reason environmental review was completed through the Co-Lead Agency process. The proposed mine traffic is designed to enter State Route 20 at mile post 17.8, which is approximately 1800 lineal feet west of the mine site on a private road.

**BACKGROUND:** Extensive on-site studies have been completed by the applicant over a period of several years, including a Drainage Analysis, Critical Areas Reconnaissance and Buffer Averaging Plan, Hydrogeologic Investigations and Reports, Cultural Resources Investigations and a Traffic Impact Analysis.

A Mitigated Determination of Nonsignificance was issued for the overall site development and the appeal period ended on March 31, 2005. The next phase for the gravel mining project is to



200804100099

Skagit County Auditor

4/10/2008 Page 18 of 24 11:38AM

4/20/2005 Page

.M

obtain all the required permits and approvals summarized in the following list of conditions of the Mitigated Determination of Nonsignificance:

1. Permits are required as necessary from Skagit County for road construction and related work outside the Town Limits including Critical Area review and Fill and Grade permits for the portion of the access road within their jurisdiction.
2. Comply with Town of Hamilton Critical Areas Ordinance and obtain all required permits.
3. Complete a detailed agreement with the Town of Hamilton with respect to fair share contribution to future infrastructure planning and related issues including but not limited to right-of-way, future zoning and reclamation plans, and utility extensions.
4. A National Pollution Discharge Elimination System (NPDES) Permit is required for construction activities from the Department of Ecology.
5. A Sand and Gravel General Permit is required from the Department of Ecology.
6. A Highway Access Permit is required from the Washington State Department of Transportation.
7. A Notice of Construction is required from the Northwest Air Pollution Authority.
8. A Forest Practices Conversion is required from the Department of Natural Resources.
9. A Reclamation Permit is required from the Department of Natural Resources.
10. A permit is required from the Washington State Office of Archeology and Historic Preservation for testing and mitigation as well as further consultation with the state and affected tribes.

The Conditional Use Permit requires a formal agreement between the applicant and the Town in order to accommodate planning for future infrastructure that will be required to reclaim the site for development as part of the Town in residential, commercial and other uses, following completion of the mining phase, from 20-40 years out depending on market factors. The Conditional Use Permit approval will provide the land use authorization necessary to allow the applicant to obtain the related permits needed for the operation of the sand and gravel mine.

**CONDITIONAL USE ANALYSIS:** The Planning Commission and City Council must be assured of compliance with the following criteria:

- 1. The use will have no more adverse effect on the health, safety or comfort of persons living or working in the area, and will be no more injurious, economically or otherwise to property or improvements in the surrounding area, than would any use generally permitted in the district. Among matters to be considered are traffic flow and control, access to and circulation within the property, off-street parking and loading, refuse and service areas, utilities, screening and buffering, signs, yards and other open spaces, height, bulk and location of structures, location of proposed open spaces, hours and manner of operation, and noise, lights, dust, odor, fumes and vibration.*

Today, this is a very rural location with easy access to SR 20. The underlying zoning of the site is a mixture of Open Space, Residential and Commercial as it was originally planned as the site for relocation of the Town of Hamilton. Based on a mutually agreed on schedule, the Town of Hamilton will work with the property owner to develop a long range concept plan that will come



200804100099

Skagit County Auditor

into place once the site begins the reclamation process, over the next 20-40 years. This will include future zoning and infrastructure planning.

*2. The proposal is in accordance with the goals, policies and objectives of the Comprehensive Plan.*

The proposal is consistent with the comprehensive plan. The site will generate some increased revenue and employment for the Town, and provide a long term future location for Town expansion with site reclamation.

*3. The proposal complies with all the requirements of this Title.*

The project will comply with this code if a decision is made to issue a conditional use permit. An Interim Ordinance #245 was adopted on February 8, 2005 establishing the Natural Resource Overlay Zone.

It is required that this permit establish the criteria for installation, funding and ownership of utilities and other facilities, and establish the responsibilities of the developer for mitigation of the impacts of development. Recommendations to facilitate compliance with this section include the conditions listed in this staff report.

*4. The proposal can be constructed and maintained so as to be harmonious and appropriate in design, character, and appearance with the existing or intended character of the general vicinity and provides a high quality of development.*

The gravel mining phase design will provide extensive buffers and impact mitigation, including enhancing the Carey's Lake buffer with a restoration planting and maintenance plan, keeping a mound of material at the edge of the mining area to minimize noise from transmitting throughout the area during mining, processing and trucking, maintain clean air and other elements of the environment. The reclaimed site shall comply with Town design guidelines and development standards and provide urban infrastructure and open space per an approved plan.

*5. The proposal will not adversely affect the public infrastructure.*

The applicant will contribute their fair share to required infrastructure and complete construction consistent with the long range plans of Hamilton.

**CONDITIONAL USE RECOMMENDATION:** Grant the conditional use permit subject to the following conditions:

1. All required improvements and amenities as may be required by Hamilton Code Section 10.44.030 shall be completed according to a schedule negotiated with the Town. A bond may be required of the developer by the Town to assure completion of improvements.
2. Access road to the site and SR 20 shall be deeded to the Town for public right-of-way.
3. Applicant shall maintain the road because of the heavy impact of on-going trucking.



200804100099

Skagit County Auditor

4. Applicant shall contribute a fair share towards the development of Community Infrastructure to ensure that systems will be designed with adequate capacity to accommodate the reclamation of the gravel mine site in the future, identified as 2% of the gross sale price of the gravel, but not less than 5 Cents per ton.
5. Applicant shall be responsible for design, engineering, development of the reclaimed site and shall dedicate a percentage of the site to the Town in addition to roads and utilities.
6. Utility extensions to serve the gravel mine use and future reclamation development shall be funded by the developer, including but not limited to water, storm and sanitary sewer, and on-site surface water management and they shall be sized to implement the Capital Facilities Plan or reasonable estimates of buildout of the reclaimed gravel mine site, if the Capital Facilities Plan is not sufficiently detailed at the time of construction.
7. An 8" water line shall be provided to the site, sufficient for fire flow and fire hydrants shall be installed as required by the Fire Department.
8. The Water Rights application filed for the site shall be transferred to the Town so that there will be an adequate reserve available for the future reclamation of the site.
9. A plan for mitigating the impacts of the gravel mining operation including dust, noise, buffering, traffic, protection of critical areas and other elements of the environment shall be submitted to the Town Council for approval prior to commencing operations.
10. A detailed plan for buffer restoration and enhancement along Carey's Lake to mitigate the impacts of construction of the new access to the gravel mining site shall be submitted and completed on an agreed schedule with the Town.
11. In order to effectively respond to changing circumstances the applicant will submit a status report to the Town Planner every two years consistent with the process identified in Hamilton Code Section 10.44.100.
12. Permits are required as necessary from Skagit County for road construction and related work outside the Town Limits including Critical Area review and Fill and Grade permits for the portion of the access road within their jurisdiction.
13. Comply with Town of Hamilton Critical Areas Ordinance and obtain all required permits.
14. Complete a detailed agreement with the Town of Hamilton with respect to fair share contribution to future infrastructure planning and related issues including but not limited to right-of-way, future zoning and reclamation plans, and utility extensions.
15. A National Pollution Discharge Elimination System (NPDES) Permit is required for construction activities from the Department of Ecology.
16. A Sand and Gravel General Permit is required from the Department of Ecology.
17. A Highway Access Permit is required from the Washington State Department of Transportation.
18. A Notice of Construction is required from the Northwest Air Pollution Authority.
19. A Forest Practices Conversion is required from the Department of Natural Resources.
20. A Reclamation Permit is required from the Department of Natural Resources.
21. A permit is required from the Washington State Office of Archeology and Historic Preservation for testing and mitigation as well as further consultation with the state and affected tribes.

22. Provisions for adequate fire protection shall be identified in the detailed agreement



200804100099

Skagit County Auditor

4/10/2008 Page

21 of

24 11:38AM

**TOWN OF HAMILTON AND SKAGIT COUNTY  
MITIGATED DETERMINATION OF NONSIGNIFICANCE**

**Description of Proposal:** Conditional Use Permit application for the Hamilton Sand and Gravel Mine  
**Proponent:** Centennial Resources, LLC  
**Location of Proposal:** Town of Hamilton and Skagit County  
**Co-Lead Agencies:** Skagit County and the Town of Hamilton

**Background:** A Conditional Use Permit application has been filed by Centennial Resources, LLC to develop a commercial sand and gravel mine of approximately 260-acres in the northwest portion of the Town of Hamilton that is connected to the remainder of the Town by a relatively narrow strip of land intended to accommodate road access to the site. In order to access the site with minimal impact on the valuable habitat area in and around Carey's Lake, a portion of the access route is located in Skagit County and for that reason environmental review is being accomplished through the Co-Lead Agency process. The Conditional Use Permit requires a formal agreement between the applicant and the Town in order to accommodate planning for future infrastructure that will be required to reclaim the site for development as part of the Town in residential, commercial and other uses, following completion of the mining phase, from 20-40 years out depending on market factors. The Conditional Use Permit approval will provide the land use authorization necessary to allow the applicant to obtain the related permits needed for the operation of the sand and gravel mine.

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request. This determination is subject to the following conditions:

1. Permits are required as necessary from Skagit County for road construction and related work outside the Town Limits including Critical Area review and Fill and Grade permits for the portion of the access road within their jurisdiction.
2. Comply with Town of Hamilton Critical Areas Ordinance and obtain all required permits.
3. Complete a detailed agreement with the Town of Hamilton with respect to fair share contribution to future infrastructure planning and related issues including but not limited to right-of-way, future zoning and reclamation plans, and utility extensions.
4. A National Pollution Discharge Elimination System (NPDES) Permit is required for construction activities from the Department of Ecology.
5. A Sand and Gravel General Permit is required from the Department of Ecology.
6. A Highway Access Permit is required from the Washington State Department of Transportation.
7. A Notice of Construction is required from the Northwest Air Pollution Authority.
8. A Forest Practices Conversion is required from the Department of Natural Resources.
9. A Reclamation Permit is required from the Department of Natural Resources.
10. A permit is required from the Washington State Office of Archeology and Historic Preservation for testing and mitigation as well as further consultation with the state and affected tribes.

This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below.


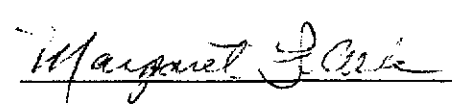
**Responsible Officials:** Brandon Black, Skagit County and Margaret Fleek Town of Hamilton

**Position/Title:** Associate Planner and Town Planner

**Address:** 901 E. Fairhaven Ave., Burlington, Washington 98233

**Date:** March 16, 2005

**Signatures:**

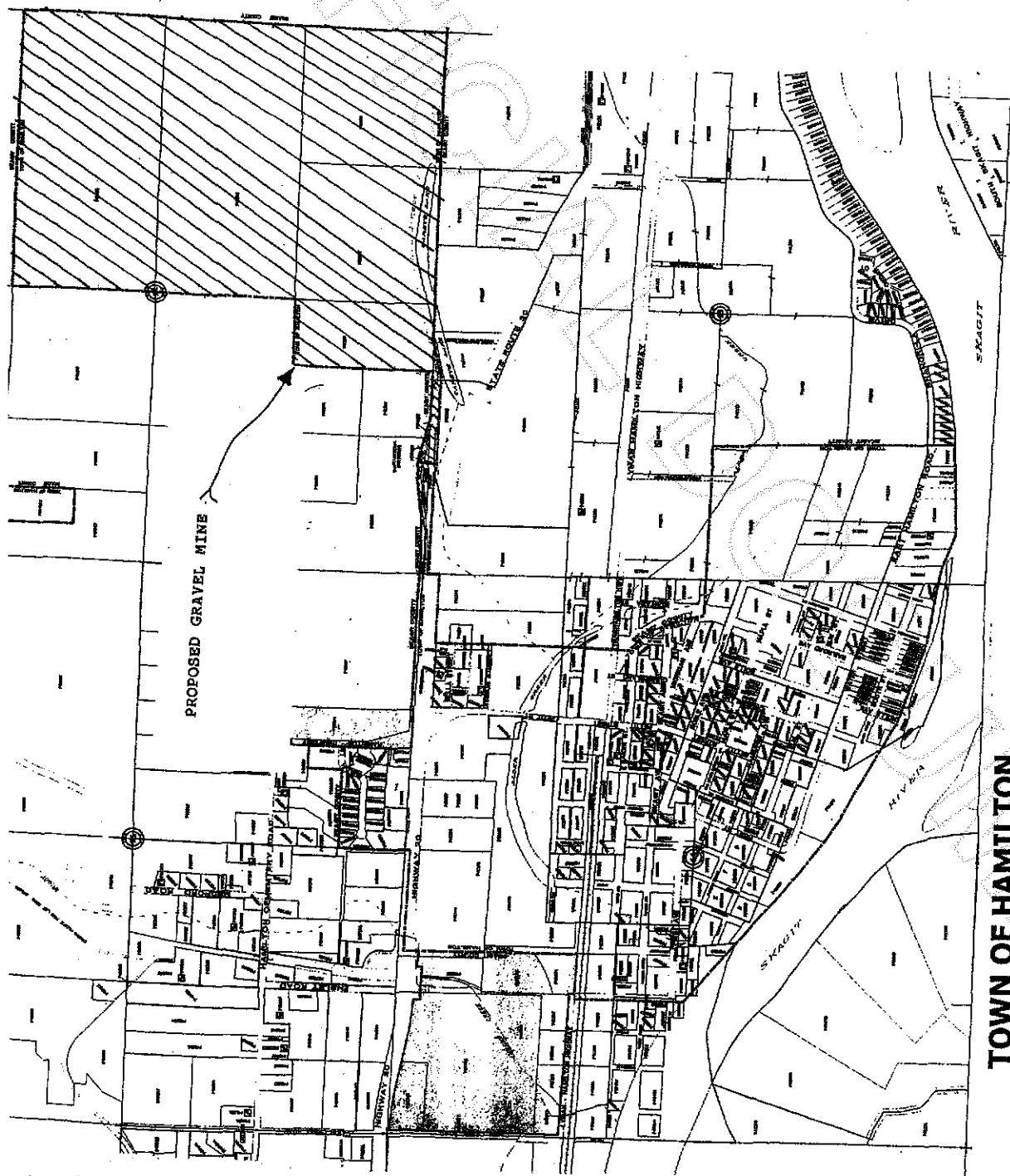
 

You may appeal this determination to the Planning Department at 901 WA 98233. Appeals must be in writing and filed no later than March 3 make specific factual objections. Contact the Planning Department to SEPA appeals.



200804100099

Skagit County Auditor



**TOWN OF HAMILTON**



200804100099  
Skagit County Auditor

**ATTACHMENT "D"**

**Legal Description for Road  
to be Transferred to Town of Hamilton**

PARCEL "C" (Property ID #s P99310, P10039, P10037)

THAT PORTION OF THE SOUTHWEST  $\frac{1}{4}$  OF SECTION 12, TOWNSHIP 35 NORTH, RANGE 6 EAST, W.M., LYING SOUTH OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 12; THENCE NORTH  $1^{\circ}40'14''$  EAST, ALONG THE WEST LINE OF SAID SECTION 12, A DISTANCE OF 40.71 FEET TO THE TRUE POINT OF BEGINNING OF THIS LINE DESCRIPTION; THENCE SOUTH  $82^{\circ}41'43''$  EAST, A DISTANCE OF 43.65 FEET; THENCE NORTH  $87^{\circ}57'24''$  EAST, A DISTANCE OF 82.67 FEET; THENCE SOUTH  $89^{\circ}48'44''$  EAST, A DISTANCE OF 226.30 FEET; THENCE NORTH  $81^{\circ}15'48''$  EAST, A DISTANCE OF 246.72 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 750.00 FEET; THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF  $18^{\circ}21'26''$  AN ARC DISTANCE OF 240.30 FEET;

THENCE SOUTH  $80^{\circ}22'46''$  EAST, A DISTANCE OF 461.47 FEET;  
THENCE SOUTH  $84^{\circ}22'57''$  EAST, A DISTANCE OF 78.69 FEET;  
THENCE SOUTH  $88^{\circ}14'59''$  EAST, A DISTANCE OF 85.10 FEET;  
THENCE NORTH  $87^{\circ}43'14''$  EAST, A DISTANCE OF 85.94 FEET;  
THENCE NORTH  $79^{\circ}59'22''$  EAST, A DISTANCE OF 113.30 FEET;  
THENCE NORTH  $68^{\circ}31'35''$  EAST, A DISTANCE OF 111.78 FEET;  
THENCE NORTH  $61^{\circ}37'47''$  EAST, A DISTANCE OF 122.13 FEET;  
THENCE NORTH  $72^{\circ}18'15''$  EAST, A DISTANCE OF 121.00 FEET

TO A POINT ON THE WEST LINE OF THE EAST  $\frac{1}{2}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF SAID SECTION 12, AND THE TERMINUS OF THIS LINE DESCRIPTION AND SAID TERMINUS POINT BEARS NORTH  $1^{\circ}53'13''$  EAST, A DISTANCE OF 204.78 FEET FROM THE SOUTHWEST CORNER OF SAID EAST  $\frac{1}{2}$ ,

EXCEPT THAT PORTION CONVEYED TO THE PUGET SOUND AND BAKER RIVER RAILROAD COMPANY.

SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.



200804100099

Skagit County Auditor