

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Wilbur Ellis Corporation  
13586 Bayview-Edison Road  
Mount Vernon, WA 98273

**Agent:** Al Taylor  
Taylor Design Architects LLC  
P. O. Box 312  
Clear Lake, WA 98235

**File Nos:** PL06-1135, PL06-1136

**Request:** Gross floor area and setback variances

**Location:** 13586 Bayview-Edison Road, northwest of the intersection of Bayview-Edison Road and SR 20, within Sec. 7, T34N, R3E, W.M.

**Parcel Nos:** P85163, P116989.

**Land Use Designation:** Natural Resource Industrial (NRI)

**Summary of Proposal:** To expand facilities with a 4,932 square foot fertilizer storage building, to relocate the 389 square foot shipping office, and to build a 480 square foot covered equipment area. The gross floor area will equal 21% of the total lot. The setback from the north property line will be 20 feet and the setback from the south property line will be 6 feet.

**Public Hearing:** After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on June 13, 2007.

**Decision:** The application is approved, subject to conditions.

## **FINDINGS OF FACT**

1. Wilbur Ellis Corporation, through Al Taylor of Taylor Design Architects, seek setback reductions and a gross floor area variance for facilities at the corner of Bayview-Edison Road and State Route 20.

2. The property is situated on the northwest corner of the intersection. The address is 13586 Bayview-Edison Road. The site is within a portion of Sec. 7, T34N, R3E, W.M. The Parcel numbers are P85163 and P116989. The zoning is Natural Resource Industrial (NRI).

3. The applicant wishes to expand an existing business site. The major component will be a new 4,932 square foot concrete tilt-up fertilizer storage building with a vinyl covering. The shipping office, comprising just 389 square feet, will be relocated to the north end of this storage building. Also included in the plan is a 480 square-foot covered equipment area on the north side of the existing packaging and shipping building.

4. The property is rectangular in shape and covers approximately 3.2 acres. Existing buildings occupy 15% of the property. The proposed additions would bring the gross floor area up to 21%, The standard maximum gross floor area for all buildings on a lot in the NRI zone is 10% of the total lot area.

5. The expansion project will bring the new building within 20 feet of the north property line and within six feet of the south property line. The setback required for the zone is 50 feet from all property lines.

6. A Notice of Development Application was mailed, posted and published on March 15, 2007. No public comments were received. There was no public testimony on the hearing.

7. Critical areas review was conducted in conjunction with an earlier building permit. There are no critical areas or buffers on the site. The property is located within a designated Zone A7 flood hazard area. Compliance with the Flood Damage Prevention Ordinance will be required.

8. Storage and distribution of animal feeds, fertilizers, pesticides and seed is allowed as a permitted use in the NRI zone. To the north of the subject site is Agricultural-NRI land. To the west the designation is NRI. To the east is another business along the highway. To the south across SR 20 is a large restaurant. The zoning to the east and south is Rural Business (RB).

9. The proposed new building will be located between two existing buildings. To the west is the 7,580 square foot lab and shop building. To the east is the 13,847 square foot packaging and shipping building. The new construction will maintain the present building line on the south along the highway. On the north, the new building and relocated office will intrude somewhat further into the setback than does the existing shop. The intrusion will take up a small portion of a gravel driveway that occupies the entire north side of the property.

10. The applicant is a leading supplier of fertilizer for Skagit County farmlands. A rail spur owned by the applicant comes right to the property line for the purpose of bringing in fertilizer supplies. The applicant currently receives 60-80 railcars of fertilizer annually. The fertilizer conveying systems used for unloading the railcars requires the storage area to be located close to the spur and existing buildings.

11. Two of the main fertilizer ingredients can only be purchased at certain times of the year and the applicant currently lacks the storage capacity required to store these ingredients on site in the amounts needed. Because present storage is so limited business regularly runs out of these ingredients. There is an urgent need for the additional storage building.

12. The shipping office is currently downwind from the fertilizer loading area and dust blows in during the truck loading process. Relocating this office will improve the office work environment. The proposed covered equipment area will be just an extension of the existing storage area roof to cover equipment that is required for the daily mixing and processing of fertilizer.

13. The location and relocation of these added features on the north side of the lot will not interfere with the current truck traffic pattern

14. The application was routed to the applicable County Departments. Their comments can be accommodated as conditions of approval.

15. Setbacks may be reduced pursuant to SCC 14.16.810(4) where topography, critical areas, or lot size and configuration impact the reasonable development of property. Given the need for more storage, the proposed development represents reasonable development. The lot in question is long along the east-west axis, but narrow from north to south. To fit the new construction within the narrow lot, consistent with the 50 setback requirement, is not possible. Accordingly, the Examiner finds that lot configuration impacts the reasonable development of the property.

16. The public health, safety and welfare will be maintained if the setback reductions are allowed. There will be no aesthetic impact. The new construction will simply continue a long-established pattern of use at the site. It will be consistent with a variance (PL03-0907) granted to Wilbur Ellis in 2003 allowing a six-foot setback on the south to permit ongoing off-loading from the rail spur.

17. The applicant states that the lot coverage expansion is necessary for the company to keep the facility open. In fact, the entire lot has been completely graveled and paved since the early 1980's. The increase in gross floor area requested, thus, will not increase the effective impervious area.

18. The criteria for approval of a variance are set forth at SCC 14.10.030(2). That subsection requires a narrative statement included in the application that demonstrates that the requested variance conforms to the following standards:

(a) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.

(b) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the terms SCC Titles 14 and 15.

(c) The special conditions and circumstances do not result from actions of the applicant.

(d) The granting of the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(e) [not applicable]

(f) If applicable, an explanation as to why, if a variance is denied, the applicant would be denied all reasonable use of his or her property.

19. The Staff Report analyzes the applicant's narrative against these criteria and determines that, as conditioned, the project will be consistent with the criteria. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

20. The proposed changes at the Wilbur Ellis site are vital to the continued existence of the business. They will not impact adjoining property owners. They will have no negative environmental effects. The appearance of the property will continue to be compatible with surrounding development.

21. The Examiner finds that the reasons set forth in the application justify the granting of the variances sought. The variances are the minimum that will make possible the reasonable use of the land. The granting of the variances will be in harmony with the general purpose and intent of the Unified Development Code and will not be injurious to the neighborhood or otherwise detrimental to public welfare.

22. Any conclusion herein which may be deemed a finding is hereby adopted as such.

### **CONCLUSIONS OF LAW**

1. The Hearing Examiner has jurisdiction over the persons and the subject matter of this proceeding. The setback reductions, normally decided administratively, were consolidated for hearing with the gross floor area variance pursuant to SCC 14.06.060.

2. The requests are exempt from the procedural requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(6)(b).

3. The standards for reducing setbacks set forth in SCC 14.16.810(4) are met.

4. The general criteria for dimensional variances set forth in SCC 14.10.030(2) are met. The findings required by SCC 14.10.040 have been made.

5. The project, as conditioned, will meet all relevant Code requirements.

6. Any finding herein which may be deemed a conclusion is hereby adopted as such

### **CONDITIONS**

1. The applicant shall obtain all other required permits and approvals from the appropriate jurisdictions.

2. The project shall be constructed and operated as described in the application materials, except as the same may be altered by these conditions.

3. Compliance with the Flood Damage Prevention Ordinance shall be demonstrated at the building permit stage.

4. A title notification shall be recorded with the County Auditor per SCC 14.16.870.

5. This variance decision shall be recorded with the County Auditor per SCC 14.10.050.

6. Sewage disposal for the new office shall be addressed at the building permit stage.
7. The total quantities of fertilizer and other hazardous materials and MSDS sheets for each shall be submitted as part of the building permit application.
8. An onsite fire hydrant shall be installed. The location shall be reviewed and approved in connections with the building permit application.
9. Buildings shall not infringe on the drainfield or reserve area. A site evaluation may be required to show a reserve area at the time of build permit application.
10. The following Health Department requirements shall be met prior to issuance of building permits:
  - a. A current PUD letter with any updating requirement to be met.
  - b. Chapters 173-200 and 173-201A WAC shall be complied with to prevent degradation of surface and groundwater quality by implementation of Best Management Practices. The Department of Ecology shall be contacted to determine if a discharge permit is required for surface runoff and discharges to state waters.
  - c. Chapter 173-60 WAC and SCC 14.16.840 shall be observed in connection with noise, light, vibration and ventilation.
  - d. A hydrogeo (HG) report is required addressing the items specified in SCC 14.24.340(3)(c). If any wells are located with 1000 feet of the parcel, they must be shown on a scaled assessor's map. After review of submitted materials, additional information may be required.
  - e. The existing on-site septic system shall be reviewed by a qualified designer and a submission made for new reserve soils. Soils analyzed prior to 1983 need to meet current standards of Chapter 12.05 SCC.
11. A copy of this decision shall be submitted with the building permit application. The issued building permits shall reflect the approved setback reductions.
12. All review fees shall be paid prior to final approval.
13. Noncompliance with any permit condition may result in permit revocation.

## **DECISION**

The requested variances are approved, subject to the conditions set forth above.



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Wick Dufford, Hearing Examiner

Date of Action: July 23, 2007

Date Transmitted to Applicants: July 23, 2007

## **RECONSIDERATION/APPEAL**

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.