



## **FINDINGS OF FACT**

1. Skagit Farmers Supply (applicant) seeks an administrative setback reduction and a Hearing Examiner variance in order to construct building upgrades and site redevelopment over a 10-year period at its present Agronomy Center.

2. The site is at 12939 Avon Allen Road, within a portion of Sec. 2, T34N, R3E, W.M. The parcel number is P21078, located on the east side of Avon Allen Road approximately 200 feet north of its intersection with State Route 20. The zoning is Natural Resource Industrial (NRI).

3. The proposed variations from standards would (1) allow proposed structures to maintain a zero setback off the south property line and to approach the north property line – a maximum reduction of 50 feet; (2) allow a new bucket elevator to extend 112 feet in the air – 62 feet above the 50-foot height limit; allow a total of 32.4% lot coverage –22.4% over the 10% lot coverage standard.

4. The project when completed would result in a gross building footprint coverage of 56,972 square feet.

5. The activities at the Agronomy Center rely on a 44-year agreement with the Burlington Northern Railroad for the offloading of various fertilizer products. These are stored within the Fertilizer Storage and Blending facility and blended to customer specifications. Approximately 17 different types of fertilizer components are used by Skagit Farmers in the productions of mixtures for their clients. None of the material taken into the site is explosive.

6. The facility was built in 1970, directly adjacent to the railroad right-of-way, allowing products to be discharged from the bottom of railcars to an underlying auger system that horizontally transports materials into the storage and blending facility. Fertilizer components are then moved by a bucket elevator to the appropriate elevated storage bin. Specific batches are made using prescribed percentages of components that gravity flow into an underlying elevated mixing bin.

7. Once mixed the products flow by gravity to be loaded into trucks for offsite delivery or are transported to the Center's bagging operation. Bagged fertilizers are stored in covered storage areas until transported to customers.

8. About 90% of the components received at the facility are brought in by rail. The remaining 10% are delivered by truck. After processing, bulk or bagged materials are trucked offsite to customers.

9. Under the proposal, the existing fertilizer storage and blending building (16,230 square feet) and a storage building near the east end of the site (8,660 square feet) would be removed. These facilities would be reconstructed as one building, initially at 22,284 square feet, with an eventual easterly expansion of 4,928 square feet, ultimately encompassing a total 27,512 square feet. In the future the existing 2,450 square foot office/storage building would be

expanded by 6,550 square feet, for a 9,000 square foot total. Also the present 10,660 square foot west storage building would get an addition of 7,460 square feet, providing 18,000 square feet overall when completed.

10. No changes would be made to the tank farm for liquid fertilizer products which is within a 2,460 square foot concrete-walled containment area located northerly of the present office near the west end of the site.

11. The site is presently served with power, telephone, natural gas, domestic water service, fire protection water, septic system and drainage facilities. With the exception of fire protection measures, upgrades to the utility systems are likely to be minor.

12. The site is triangular in shape with the southeast side (865') paralleling the Burlington Northern Railroad track, the southwest side (447') running along Avon Allen Road and the north side bordering open space (958'). The site is 4.04 acres in size.

13. The proposed expansion will not change the basic functions carried on at the site. The project is described as a modernization to provide facility upgrades to serve the customer base for the next half century. The upgrades planned require reduced setbacks to fit facilities on the lot and allow present functions to continue. The need for a zero setback for the auger offloading is self-evident. The similar setback for the enlarged west storage building will merely continue the present configuration. The efficient expansion of the fertilizer and blending structure on the triangularly shaped property will also entail expansion into the northern lot line setback. The functions performed and the size and shape of the lot impact the reasonable development of the property.

14. Pursuant to SCC 14.16.810(4), lot line setbacks may be reduced where lot size and configuration impact reasonable development of the property. The existing placement of structures long predates the current zoning. Under all the circumstances, the Examiner finds that the proposed modernization, building upon the past configuration, constitutes reasonable development of this property. Given the uses to be continued and expanded, the size and shape of the lot provides a basis for reducing the standard setbacks. The Examiner finds further, that the public health, safety and welfare will be maintained.

15. Construction of the new building for storage and blending requires a variance for its proposed height. The current tower structure is 110 feet tall. This structure is to be demolished and replaced by a bucket elevator that is 112 feet tall. The maximum height limit for the zone is 50 feet for the NRI zone.

16. The present installation on site exceeds the 10% building footprint standard for the zone. The overall proposal calls for continuing to exceed this standard, with a total proposed finished lot coverage of 32.4%. Again a variance is required.

17. The variance approval criteria are set forth in SCC 14.10.030(2), as follows:

(a) Special conditions and circumstance exist which are peculiar to the land, structure,

or building involved and which are not applicable to other lands, structures of 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 SCC Titles 14 and 15

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

(d) The granting of the variance required will not confer on the applicant any special privilege that is denied by SCC Titles 14 and 15 to other lands, structures, or buildings in the same district.

(e) An explanation of how the requested variance meets any other specific criteria required for the type of variance requested . . . .

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

18. The Staff Report analyzes the variance requests under the above criteria and finds that, as conditioned, the project will be consistent with them. Except as noted below, the Hearing Examiner concurs in this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

19. The Examiner notes that there are other reasonable uses to which this property could be put. Thus, the last criterion for variance approval is not applicable here. Also, the proposal does not trigger any of the criteria for a special kind of variance.

20. 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 proposed. The granting of the variances will be in harmony with the general purpose and intent of the Unified Development Code and other applicable Code provisions.

21. The proposal was routed to various governmental departments for comment. None have objections. The comments made are reflected as conditions of approval.

22. According to the applicant, internal sprinkler systems are not compatible with the operations carried on and the materials stored at this type of facility. Alternative fire protection measures, such as a network of fire hydrants that will provide the required fire flow, will need to be discussed at the building permit level. Coordination between the applicant, the Building Official and the Fire Marshal will be necessary to provide measures compatible with daily operations that comply with applicable codes.

23. The proposed modernization will not increase stormwater runoff. In connection with building permits, the applicant shall present an analysis of whether there is a need to expand existing onsite detention facilities and to install an oversized detention pipe. Any alterations to onsite drainage containment shall be addressed at the building permit level.

24. The Notice of Development Application was posted on the property, mailed and published as required by law. No public comments were received as a result of the notice.

25. Review was conducted under the State Environmental Policy Act (SEPA). A Mitigated Determination of Non-Significance (MDNS) was issued on May 31, 2016. No appeals were received.

26. The MDNS set forth the following conditions:

- (1) Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works shall be in place prior to the placement of any fill material. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage Ordinance. Said measures remain in place until completion of the project.
- (2) The applicant shall comply with Northwest Clean Air Agency requirements.
- (3) The applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code, the Stormwater Management Ordinance.
- (4) The applicant shall comply with all Fire Code standards.
- (5) An engineered soils compaction report shall be required for all structures placed on fill material.
- (6) The applicant shall comply with all relevant provisions of 14.24 (Skagit County Critical Areas Ordinance) of the Skagit County Code.
- (7) A Construction, or Industrial, Stormwater General Permit (NPDES) may be required by the Department of Ecology (WSDOE) for this project. Contact the WSDOE Bellingham Field Office at (360) 715-5200 to determine if an NPDES permit is required.

27. Critical areas staff noted that critical areas approval was given with #BP96-1637.

28. At the public hearing one member of the public expressed concerns about the effect of the project on water quality in nearby drainage ditches. There should be no effect. Spill prevention will continue to be practiced. No liquid fertilizer is now or will be allowed to reach stormwater detention facilities. Any need to upgrade stormwater storage capabilities will be addressed at the building permit level.

29. Any conclusion here which may be deemed a finding is hereby adopted as such

## **CONCLUSIONS OF LAW**

1. The Hearing Examiner has jurisdiction over this proceeding. SCC 14.06.050(1)(b)(i). The administrative setback reductions sought here have been consolidated with the variance requests for decision by the Hearing Examiner. SCC 14.06.060.

2. The requirements of SEPA have been met.

3. In the Natural Resource Industrial Zone, the standard front, side and rear setbacks are 50 feet. The maximum height is 50 feet. The applicable maximum lot coverage for this case is 10%. SCC 14.16.160(6)(a),(c),(e).

4. The setback reductions and the variances sought here, as conditioned, meet the requirements of SCC 14.16.810(4) and SCC 14.10.030(2).

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

### **CONDITIONS**

1. The proposed modernization shall be constructed and operated as described in the application, except as modified by the conditions herein.

2. The applicant shall obtain all other applicable permits and abide by the conditions of same.

3. The applicant shall abide by the conditions set forth in the MDNS, dated May 31, 2016. (See Finding 26.)

4. The operations on site shall comply with SCC 14.16.840 (parameters for noise, light and vibration) and with Chapter 173-60 WAC (state levels for noise).

5. The applicant shall comply with SCC 14.24.330, as applicable.

6. The applicant shall obtain approved building permits and floodplain permits as required by the Skagit County Building Official.

7. Per County policy, an engineer's review is required for concrete poured without inspections.

8. The installation and operation shall comply with Skagit County Fire Marshal requirements.

9. At the building permit stage, the applicant shall present an analysis of any necessary improvements to stormwater detention and release facilities and, if needed, plans for same. The site and all operations shall comply with applicable stormwater requirements. No waste water shall be allowed to drain off site. Waste water from training events shall be stored onsite in tanks and removed/pumped by the City of Anacortes or another approved recipient.

10. The applicant shall obtain a valid Northwest Clean Air Agency (NWCAA) burn permit and shall maintain compliance with all conditions regarding live fire training.

11. Any change in on-site operations or future additions, not described in the instant application, shall be reviewed by Planning and Development Services (PDS) to determine if a Special Use Modification will be required.

12. Prior to issuance of any building permit, any outstanding planning review fees shall be paid in full.

13. PDS shall be notified within 30 days of any change in ownership of the parcel by a letter submitted to the Planning Director referencing the permit number (PL16-0005).

14. Per SCC 14.16.900(3), the applicant shall comply with the annual certification process, acknowledging in writing compliance with the original permit approval including any conditions.

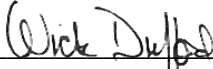
15. Approval for any project feature within the terms of the 10-year phasing plan which is not commenced within 10 years of the issuance of the permit shall automatically become void, unless an approved extension is obtained.

16. Failure to comply with any condition of approval may result in permit revocation.

### **ORDER**

The setback reductions (PL16-0174) sought and the variance requested (PL16-0175) are approved, subject to the conditions set forth above.

**DONE**, this 5<sup>th</sup> day of August, 2016

  
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Wick Dufford, Hearing Examiner

Transmitted to Applicant and interested parties, August 5, 2016

See Notice of Decision, page 1, for appeal information.