

**SKAGIT COUNTY PLANNING & DEVELOPMENT SERVICES
BEFORE THE ADMINISTRATIVE OFFICIAL**

**ADMINISTRATIVE DECISION
AOI 2023-04**

Findings, Conclusion and Decision

Hearing Authority: Skagit County Planning Director

Application Number: #PL23-0076

Applicant: Miles Sand and Gravel Company
C/O Dan Cox
PO Box 280
Mount Vernon, WA 98273

1. SUMMARY

Miles Sand & Gravel Company (“MSG”) requests an Administrative Official Interpretation from the Skagit County Planning and Development Services (“County” or “Department”) to consider allowing uses that are similar to the uses detailed within the Natural Resource Industrial (NRI) zone, listed in SCC 14.16.160(2)–(5). The applicant believes that the uses proposed on site are similar to the uses listed within the zone, although are more closely related to mineral resource activities. The NRI zone specifically allows for processing facilities, limited direct resource sales and limited natural resource support services for Agricultural, Aquatic, and Forestry related activities, however, mineral resource related uses are not mentioned. When a use is not specifically listed in this Chapter, it shall be understood that the use may be allowed if it is determined by the Administrative Official that the use is similar to other uses listed. SCC 14.16.020(3). As set forth below, the Administrative Official agrees that the proposed uses are similar to the uses allowed in the NRI zone.

2. AUTHORITY

Administrative Official Interpretations are authorized by SCC 14.06.040(3), which grants the administrative official the authority to issue decisions “as to the meaning, application, or intent of any of the provisions of SCC Title 14.” SCC 14.06.040(3)(a); *see also* SCC 14.16.020(2) (“it shall be the responsibility of the Administrative Official, or designated representative, to interpret and apply the provisions of this Chapter pursuant to SCC 14.06.040.”); SCC 14.06.040(1) (“The Administrative Official is responsible for administering the provision of SCC Title 14”). An Administrative Official Interpretation is a Level I decision under SCC 14.06.050(1)(a)(xii).

3. PROPOSED PROJECT

The project is proposed on an 11.42-acre site located at 18912 Kelleher Road, Burlington, which is identified as Parcel Number P36849. The site is centrally located between three active mine sites operated by MSG. The proposed development is intended to support uses associated with mineral agricultural, and forestry. No mineral extraction or processing will occur on-site. MSG is proposing the following uses on the site:

1. Wood waste recycling (Permitted Use – SCC 14.16.160(1)(b)(viii)).
2. Storage of material for fish and wildlife habitat restoration projects (i.e., large woody debris, logs, root wads, etc.) (Accessory Use – SCC 14.16.160(3)(e) or Administrative Special Use – SCC 14.16.160(4)(d)).
3. Construction of a shop building for the maintenance and repair of equipment (Accessory Use – SCC 14.16.160(3)(b)).
4. A business/professional office related to natural resource industries (Permitted Use – SCC 14.16.160(2)(v)).
5. Industrial vehicle storage area which serves the natural resource industries (Accessory Use – SCC 14.16.160(3)(b)).
6. Storage of sand and gravel, recycled concrete aggregate, soil and topsoil, and forest wood waste recycled material in quantities greater than 500 cubic yards (Administrative Special Use – SCC 14.16.160(4)(d)).
7. Wholesale and retail sales of sand and gravel, recycled concrete aggregate, soil and topsoil, and forest wood waste recycled material (not listed in zone).
8. A truck weigh scale to support the natural resource-based materials sold by the ton (not listed in zone).

4. DEPARTMENTAL FINDINGS AND ANALYSIS

This AOI concerns multiple uses proposed on a site in the NRI zone that are not specifically listed as allowed uses. SCC 14.16.020(3) states that in no instance shall a use specifically identified in any zoning district be allowed in another zoning district where that use is not specifically listed. When a use is not specifically listed as an allowed use in the zone, it shall be understood that the use may be allowed if it is determined by the Administrative Official that the use is similar to other uses listed. In determining similarity, the Administrative Official shall make all of the following findings pursuant to SCC 14.16.020(3):

- (a) The proposed use shall substantially meet the intent of and be consistent with the goals, objectives and policies of the Comprehensive Plan;
- (b) The proposed use shall meet the stated purpose and general intent of the zone in which the use is proposed to be located;
- (c) The proposed use shall not adversely impact the public health, safety and general welfare of the residents of the County; and
- (d) The proposed use shall share characteristics common with and not be of greater intensity, density or generate more environmental impact than those uses listed in the land use zone in which it is to be located.

Proposed uses one through six are Permitted Uses, Accessory Uses, or Administrative Special Uses listed in SCC 14.16.160(2)–(4). However, proposed use seven (wholesale and retail sales of sand and gravel, etc.) and proposed use eight (truck weigh scale) are not explicitly stated as allowed uses in the NRL zone and are the uses in question in this AOI.

Within the NRI zone “permitted uses include natural resource processing facilities; wholesaling and storage of products associated with natural resources; limited direct resource sales; and limited natural resource support services”. Skagit County Comprehensive Plan Policy 3C-5.2. Furthermore, “the NRI designation applies to agricultural, forestry, and aquatic industries and products. Mineral processing activities are generally guided by separate policies”. Policy 3C-5.1. MSG is not requesting mineral processing and is only requesting storage and sales of mineral resources and a truck weigh scale to support the natural resource-based materials sold by the ton. Since MSG is not proposing mineral processing and as the requested uses are included in the uses listed in Policy 3C-5.2, the Comprehensive Plan appears to support the proposed uses.

The purpose of the NRI zone is to support “natural resource-related industrial uses that are commonly accepted in the rural area which facilitate the production of agricultural, forest, and aquatic products” per SCC 14.16.160(1). While mineral resource related uses are not specifically listed in the purpose statement or the list of allowed uses, the uses proposed by the applicant are very similar in nature to the allowed uses and meet the general intent of the zone.

The NRI zone allows for retail sales of finished timber products as an Accessory Use, SCC 14.16.160(3)(i), and allows for storage of processed and unprocessed natural materials in quantities greater than 500 cubic yards that do not have a potential health hazard as an Administrative Special Use, SCC 14.16.160(4)(d). MSG is proposing wholesale and retail sales and storage of sand and gravel, recycled concrete aggregate, soil and topsoil, and forest wood waste recycled material. As the Applicant is proposing to store processed and unprocessed natural materials in quantities greater than 500 cubic yards, the storage and retail sales of natural materials would be appropriate to be allowed with an Administrative Special Use Permit.

Furthermore, log scaling stations are allowed as a Permitted Use under SCC 14.16.160(2)(b), which is similar to the requested truck weigh scale to support sales of natural-resource materials. Thus this would be appropriate as a Permitted Use.


Therefore, the proposed uses share characteristics common with and will not be of greater intensity, density or generate more environmental impact than those uses listed in the NRI zone and would not adversely impact the public health, safety, and general welfare of the residents of the County.


5. CONCLUSIONS


1. Wholesale and retail sales of natural resource-based materials, including mineral resource materials, and a truck weigh scale to support the sale of the natural resource-based materials will be allowed in the Natural Resource Industrial zone as they are similar in nature to the uses already allowed in the zone.
2. After reviewing the Applicant’s proposal and associated “use” request, the Skagit County Comprehensive Plan, and Skagit County Code Title 14, the Administrative Official concludes that the storage and retail sales of natural materials is allowed with an Administrative Special Use Permit and the truck weigh scale be allowed as a Permitted Use.
3. This AOI should not be interpreted as a determination that every mineral resource use is allowed in the Natural Resource Industrial zone.
4. Concerns, such as safety, environmental, siting, and other aspects of the proposed project have not been considered. These concerns will be addressed as part of the permit process.

6. DECISION

The Director, as Administrative Official, hereby **APPROVES** the request to allow wholesale and retail sales of natural resource materials, and a truck weigh scale to support the sale of the natural resource-based materials in the Natural Resource Industrial zone.

Prepared By: 
Robby Eckroth
Senior Planner

Reviewed By: 
Brandon Black
Current Planning Manager

Approved By: 
Jack Moore
Planning Director

Date of decision: June 09, 2023

Notice of this decision will be published in the newspaper of record and will be posted on the Skagit County’s website. The applicant or a party of record may appeal the decision of the Administrative Official to the Skagit County Hearing Examiner pursuant to the provisions of SCC 14.06.040(3)(d) and SCC 14.06.110(7). An appeal must submit the

appeal form and appeal fees to Planning and Development Services within 14 calendar days of the date the Notice of Decision was issued.

Appeals must be submitted by: June 23, 2023