



PLANNING & DEVELOPMENT SERVICES

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MEMORANDUM

To: Planning & Development Services Staff and Interested Parties
From: Gary R. Christensen, AICP, Director
Date: March 16, 2010 *REVISED* May 14, 2010
Re: Administrative Official Interpretation pertaining to implementation procedures for Skagit County Code (SCC) 14.16.400(6) Siting Criteria in the Agricultural-NRL zoning district

I. Introduction.

This Administrative Official Interpretation provides discussion and analysis to facilitate administration and implementation of SCC 14.16.400(6), the siting criteria for non-agricultural structures in the Agricultural-Natural Resource Lands (Ag-NRL) zoning district.

The Skagit County Comprehensive Plan, Natural Resources Element, Agricultural Resource Lands section establishes policies that ensure the long-term stability and productivity of the county's agricultural lands and industries. These policies are intended to provide clear guidelines for land use planning and implementation in agricultural areas.

The Land Use Policies of the Comprehensive Plan are implemented in Skagit County Code (SCC) Title 14, Unified Development Code. SCC 14.16.400 provides the purpose of the Agricultural—Natural Resource Lands zone as follows:

The purpose of the Agricultural—Natural Resource Lands district is to provide land for continued farming activities, conserve agricultural land, and reaffirm agricultural use, activities and operations as the primary use of the district. Non-agricultural uses are allowed only as accessory uses to the primary use of the land for agricultural purposes....

Several sections of SCC 14.16.400 protect and conserve agricultural land and activities in specific ways:

- SCC 14.16.400 (2)(o) provides that a “single-family detached residential dwelling unit and residential accessory uses” are permitted only “when accessory to an agricultural use; and provided, that no conversion of agricultural land is allowed for accessory uses.”
- SCC 14.16.400(5)(a)(i)(A), Dimensional Standards, preserves farmland by limiting the distance a residential structure may be from a public road or front lot line to 200 feet.

- SCC 14.16.400 (6), Siting Criteria, protects farmland by limiting developed areas and requiring clustered development, thereby conserving land for agriculture:

(6) *Siting Criteria. In addition to the dimensional standards described in Subsection (5) of this Section, new, non-agricultural structures shall be required to comply with the following provisions:*

- (a) *Siting of all structures in the Agricultural—Natural Resource Lands district shall minimize potential impacts on agricultural activities.*
- (b) *When no structures or no compatible structures exist on the subject property or adjacent properties, new structures shall be located in a corner of the property and all development including but not limited to structures, parking areas, driveways, septic systems and landscaping shall be contained within an area of no more than 1 acre.*
- (c) *When compatible structures exist on the subject property or adjacent properties, siting of new structures shall comply with the following prioritized techniques:*
 - (i) *Locate new structure(s) within the existing, developed area of any compatible structure(s) in the same ownership, and utilize the existing access road.*
 - (ii) *When the provisions of Subsection (6)(c)(i) of this Section are not possible, locate new structure(s) within the existing, developed area of any compatible structure in the same ownership.*
 - (iii) *When the provisions of Subsection (6)(c)(i) or (6)(c)(ii) of this Section are not possible, site new structure(s) to achieve minimum distance from any existing compatible structure on either the subject property or an adjacent property. All development, including but not limited to: structures, parking areas, driveways, septic systems, wells, and landscaping, shall be contained within an area of no more than one (1) acre.*

II. Discussion, Analysis and Conclusions.

When interpreting ordinances and seeking to give them procedural effect, there is an obligation to follow a series of basic interpretive rules established by Washington law. Some of the most applicable rules are cited below to provide a starting point in the analysis. In the process of interpreting SCC 14.16.400(2)(o) and establishing procedures for its implementation, one must be ever mindful of these well-established legal principles.

- When *interpreting* municipal ordinances, the same rules of construction apply as those to state statutes. *Sadona v. City of Cle Elum*, 37 Wn.2d 831, 836-37 (1951).
- Zoning ordinances are construed as a whole, and any unreasonable construction is rejected. *Bartz v. Bd. of Adjustment*, 80 Wn.2d 209, 218 (1972).
- The primary purpose when interpreting a zoning ordinance is to ascertain the legislative intent, and give that intent effect. See, *East v. King County*, 22 Wn. App. 247, 253 (1978).

- If the language of the ordinance is unambiguous, the plain language of the ordinance is relied upon to discern legislative intent. *State v. Roggenkamp*, 153 Wash.2d 614, 621 (2005).
- One must remain wary of “unlikely, absurd or strained results” when interpreting an ordinance on its face. *Berrocal v. Fernandez*, 155 Wn.2d 585, 590 (2005).
- Laws “on the same subject matter must be read together to give each effect and to harmonize with each other.” *U.S. West Communications, Inc. v. Washington UTC*, 134 Wn.2d 74, 118 (1997).

III. Implementation Procedures.

As mentioned above, the intent of Ag-NRL zoning is to minimize the loss of productive farmland through conversion to non-agricultural uses including buildings, septic systems, parking areas, driveways, landscaping, and wells. It is further the intent of the siting criteria that in order to minimize adverse effects on agricultural operations and to avoid potential land use nuisance conflicts, all non-agricultural development should be clustered or contained in one area. Therefore, the Planning and Development Services Department shall use the following procedures in implementing the siting criteria of SCC 14.16.400(6) for non-agricultural structures.

SCC 14.16.400(6) applies only to the siting of *non-agricultural* structures in the Ag-NRL zone. Agricultural buildings are exempt. The definitions in SCC 14.04 provide guidance on what is considered an agricultural use, agricultural accessory use, agricultural activity and agricultural processing facility. Any proposed development that is not an agricultural building or use is subject to the siting criteria. Use of the terms “building,” “development,” “existing building,” or “existing development” assumes that the building or development under discussion is non-agricultural.

Nothing in this Administration Official Interpretation shall be construed to supersede any regulations in SCC 14.16.400 that may prohibit or restrict the placement of structures or uses regardless of siting.

1. Lots with Existing Development

[Section 1 revised 5/14/2010 to clarify requirements for lots with existing developed area]

When the subject parcel has existing, non-agricultural building(s), all new development must be sited in the existing developed area, except as outlined below, to retain agricultural land in production to the greatest extent possible. Developed areas may include areas covered with lawn, gravel, concrete, asphalt, etc. but do not include fields, farmed areas, or areas available to be farmed.

When the existing developed area is less than one acre and there is insufficient developed area for the proposed building, the undeveloped area used must be kept to a minimum by locating any proposed buildings as close to each other and the existing buildings as possible. In no case shall the total developed area be allowed to exceed a maximum of one-acre in size.

When the existing developed area is larger than one acre, new buildings must be sited to achieve minimum distance with existing, compatible buildings as outlined below and in no case shall the developed area be enlarged. Whether the existing developed area is less than, equal to, or greater than one acre, new buildings must be clustered and located no more than 35 feet from existing, compatible buildings.

If a driveway is needed between buildings for access, the distance between buildings could be increased to a maximum of 50 feet to allow for the driveway. Driveways whether existing or new must be shared whenever possible.

2. Lots without Existing Development

When the subject parcel is vacant, all development (including structures, parking areas, driveways, septic systems, wells, and landscaping, etc.) must be clustered within a one-acre area located at a corner of the parcel. Agricultural buildings shall not be considered “existing development” for purposes of determining whether a parcel is vacant. If all adjacent parcels are also vacant and zoned Ag-NRL, the owner may select the corner of his/her choice on which to cluster the new development.

When the subject parcel is vacant, but there is existing development on adjacent parcels, new development must be clustered into a one-acre area on the corner of the property nearest the adjacent development. When there is existing development on more than one adjacent property, the one-acre cluster must be at the corner where the adjacent development will be closest.

If any adjacent parcel has a more intensive zoning designation, i.e. allows greater residential development potential, the one-acre cluster area must be located at the corner of the property adjacent to the parcel with more intensive zoning designation, even if there is existing development on adjacent Ag-NRL zoned parcels and the higher-zoned parcel is vacant.

In all instances where new development will occur on a vacant parcel, all proposed buildings must share a common access.

3. Site Plan Requirements

Site plans for any development applications in the Ag-NRL zone must include adjacent parcels and must show the location of existing structures on the subject and adjacent parcels, including the current use of existing structures (dwelling, shop/garage, dairy barn, etc.) so that compatibility with proposed structures can be determined. Aerial maps and other information can be used to assist in this review.

4. Variances

[Section 4 revised 5/14/2010 to remove incorrect reference to SCC 14.10.020(2)]

Relief from, or exceptions to, non-agricultural building setbacks in the Ag-NRL zone may be granted by the Administrative Official.

SCC 14.10.020(1)(b) Variances to the agricultural siting criteria of SCC 14.16.400 and 14.16.860 shall be decided administratively by Planning and Development Services.

IV. Notice, Issuance, Publication and Appeal Period.

This Policy is issued and published in order to formalize the Department's basis for its interpretation, and to transparently set forth the analysis, discussion and rational basis underpinning the Department's implementation of Skagit County Code 14.16.400(6). The Department consulted with the Agricultural Advisory Board and other agricultural industry and advocacy groups before issuing this interpretation.

Notice of this Policy will be published in the newspaper of record and will be posted on Skagit County's public website. This Administration Official Interpretation may be appealed within 14 days of its publication in the newspaper of record. See SCC 14.06.040 and .110 for further information.

ADMINISTRATIVE OFFICIAL

Gary R. Christensen, AICP