

SNOHOMISH COUNTY COUNCIL  
SNOHOMISH COUNTY, WASHINGTON



CO00003478

AMENDED ORDINANCE NO. 04-130

AN ORDINANCE RELATING TO AGRICULTURAL RESOURCE LANDS AND NONCOMMERCIAL PLAYFIELDS; REPEALING POLICY LU 7.B.3 OF THE SNOHOMISH COUNTY GENERAL POLICY PLAN (GPP) AND AMENDING GPP POLICY LU 7.B.7 OF THE COMPREHENSIVE PLAN IN RESPONSE TO THE SEVEN-YEAR COMPLIANCE REVIEW REQUIRED BY RCW 36.70A.130

WHEREAS, RCW 36.70A.130 directs counties planning under the Growth Management Act (GMA) to take legislative action to review and, if needed revise its comprehensive plan and development regulations to ensure the plan and regulations comply with the requirements in chapter 36.70A RCW; and

WHEREAS, Snohomish County adopted the Snohomish County Growth Management Act Comprehensive Plan ("GMACP") on June 28, 1995; and

WHEREAS, in 2002 the Legislature amended RCW 36.70A.130 to extend the deadline for the initial compliance review to December 1, 2004 for several jurisdictions, including Snohomish County; and

WHEREAS, in the spring of 2003 the County provided general notice it was, pursuant to RCW 36.70A.130, undertaking "the seven-year review process" (hereinafter referred to as the "seven-year compliance review"), along with the separate 10-year update process, through its widely disseminated *Focus on Tomorrow Newsletter* and through updates to the county website; and

WHEREAS, public open houses concerning the seven-year compliance review, as well as the 10-year update, were held in Everett on February 4, 2003, in Lynnwood on February 6, 2003, Monroe on February 10, 2003, and Arlington on February 19, 2003; and

WHEREAS, on November 8, 2003, an all-day event referred to as "Planners in the Library" was held in Lynnwood, Marysville, and Monroe, for the purpose of discussing the seven-year compliance review and 10-year update with the public; and

WHEREAS, in April 2004, the County updated the public on the seven-year compliance review and 10-year update process through its widely disseminated *Focus on the Future Newsletter* and placed on the county website and through updates to the county website; and

WHEREAS, the County held public hearings concerning the seven-year compliance review and 10-year update in Arlington on June 1, 2004, and June 8, 2004, as well as in Everett on June 3, 2004; and

WHEREAS, on May 15, 2004, an all-day event known as "Planners in the Library" was held in Lynnwood, Marysville, and Monroe, for the purpose of discussing the seven-year compliance review update and 10-year update with the public; and

WHEREAS, Snohomish County Department of Planning and Development Services ("PDS") staff hosted public workshops on the seven-year compliance review and 10-year update in Lynnwood on June 14, 2004, in Monroe on June 16, 2004, and in Arlington on June 17, 2004; and

WHEREAS, on June 29, 2004, a joint public hearing before the County Council and Planning Commission hearing was held in Everett concerning the seven-year compliance review and 10-year update; and

WHEREAS, on July 27, 2004, PDS presented overviews of the seven-year compliance review and 10-year update to the Planning Commission and the County Council Planning Committee; and

WHEREAS, based on the information and comment gained during the public process and on extensive internal review of the County's GMACP and GMA development regulations, PDS prepared a list of tasks to be taken in response to the seven-year compliance review required by RCW 36.70A.130, and forwarded the same to the County Council for consideration on July 27, 2004; and

WHEREAS, on July 28, 2004, the County Council scheduled a public hearing for August 11, 2004 to consider the scope of the seven-year compliance review based upon the recommended task list provided by PDS, which was advertised to the public; and

WHEREAS, at the public hearing on August 11, 2004, the County Council heard public testimony on the scope of review for the seven-year compliance review recommended by PDS and responded to written comments from the public; and

WHEREAS, following public testimony at the hearing on August 11, 2004, the County Council passed Amended Motion 04-329, which adopted the task list recommended by PDS as Exhibit A, with minor corrections to improve the accuracy of information contained in PDS list and attached exhibits; and

WHEREAS, among the action items included in the list adopted by Amended Motion 04-329 are updates to the Land Use chapter of the County's GMACP General Policy Plan (GPP) relating to designated agricultural resource lands; and

WHEREAS, this ordinance repeals GPP LU Policy 7.B.3 of the GMACP that previously allowed noncommercial playfields without permanent improvements to be operated on designated agricultural land because such uses are no longer authorized as a result of the Washington State Supreme Court's decision in *King County v. Central Puget Sound Growth Management Hearings Board*, 142 Wash.2d 543, 14 P.3d 133 (2000) (hereafter "*Green Valley*"); and

WHEREAS, this ordinance amends GPP Policy LU 7.B.7 of the GMACP which previously conditionally allowed recreational uses on designated agricultural land though the implementation of development regulations where compatible with surrounding agricultural uses, and where the loss of prime agricultural soils is limited, in order to be consistent with the Court's decision in the *Green Valley* case. The amendment provides for the encouragement of recreational uses on designated agricultural land to the extent allowed by GMA as now existing or hereafter amended; and

WHEREAS, pursuant to chapter 30.73 SCC, a properly noticed public hearing was held before the Planning Commission on September 21, 2004, to consider the GMA Plan amendments adopted by this ordinance and recommendations provided by PDS; and

WHEREAS, pursuant to chapter 30.73 SCC, a properly noticed public hearing was held before the County Council on November 17, 2004 to consider the entire record and to hear public testimony concerning the GMA Plan amendments adopted by this ordinance.

NOW, THEREFORE BE IT ORDAINED:

Section 1. The county council bases its findings of fact and conclusions on the entire record of the planning commission and the county council, including all testimony and exhibits.

Section 2. The County Council adopts and incorporates the foregoing recitals as findings and conclusions as if set forth fully herein.

Section 3. The County Council makes the following additional findings and conclusions regarding proposals to amend the comprehensive plan to ensure that the GMACP and implementing development regulations are internally consistent and that they comply with the GMA:

- A. The GMA requires local governments to balance its various goals, including Goal 8 relating to the conservation of natural resource lands (See, RCW 36.70A.020(8)), and Goal 9 relating to the provision of recreational opportunities (See, RCW 36.70A.020(9)).
- B. The Washington State Supreme Court held in *King County v. Central Puget Sound Growth Management Hearings Board*, 142 Wash.2d 543, 14 P.3d 133 (2000) (hereafter "*Green Valley*") that the King County comprehensive plan and zoning code amendments adopted in 1997, allowing active recreational uses on land designated as agricultural lands of long-term commercial significance, violated the GMA.
- C. In its *Green Valley* decision, the Supreme Court held that the Legislature intended local governments to place a higher priority on Goal 8 relating to the protection of agricultural lands, than on Goal 9 relating to the provision of recreational activities, because the conservation of GMA-designated agricultural lands is mandatory in the Act, and the Act simply encourages recreational uses.

- D. In its *Green Valley* decision, the Supreme Court held that King County's adopted policies and development regulations violated GMA because the policies and regulations did not properly conserve agricultural lands of long-term commercial significance and, that the land, once used for active recreation, would not be converted back into commercial agricultural use.
- E. The Council finds that it is necessary to repeal GPP Land Use Policy 7.B.3 of the GMACP in order to be consistent with the Supreme Court's decision in the *Green Valley* decision. The Council further finds that it is necessary to amend GPP Land Use Policy 7.B.7 of the GMACP in order to encourage recreational uses on agricultural resource lands insofar as such uses are consistent with the *Green Valley* decision or any later-enacted amendments to GMA.
- F. Review of this ordinance under the State Environmental Policy Act (SEPA) Ch. 43.21C RCW has been performed. Addendum No. 40 to the Final Environmental Impact Statement (EIS) for the GMACP was issued on August 11, 2004. This addendum describes the amendments adopted by this ordinance and adds information and analysis of the significant impacts identified for the alternatives analyzed in the Draft EIS dated April 11, 1994 and Final EIS issued on June 21, 1995. The information and analysis in Addendum No. 40 expanded on previously identified alternatives but did not substantially change the analysis of significant impacts and alternatives analyzed in the county's adopted environmental documents. No additional significant impacts beyond those identified in the original EIS are expected to occur.
- G. The amendments adopted by this ordinance are within the scope of SEPA analysis contained in the FEIS for the GMACP, June 21, 1995, and related environmental documents adopted by the County. Addendum No. 40, which was issued on August 11, 2004, performs the function of keeping the public apprised of the refinements adopted by this ordinance by adding new information, but it does not substantially change the analysis of significant impacts and alternatives analyzed in the existing adopted environmental documents.
- H. The State Environmental Policy Act requirements with respect to this proposed action have been satisfied by Addendum No. 40.
- I. There has been early and continuous public participation in the review of the proposed amendments as required by chapter 30.73 SCC and 30.74 SCC.
- J. The county council held public hearings on November 17, 2004 to consider the planning commission's recommendation.

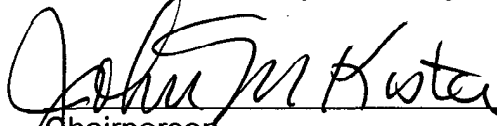
- K. The public was notified of the public hearings held by the planning commission and the county council by means of published legal notices in The Everett Herald and local newspapers.
- L. The proposal has been broadly disseminated and opportunities have been provided for written comments and public hearing after effective notice.

Section 4. Based on the foregoing findings and conclusions, the Land Use chapter of the Snohomish County GMA Comprehensive Plan – General Policy Plan adopted as Exhibit A in Section 4 of Amended Ordinance 94-125 on June 28, 1995, and last amended by Ordinance No. 04-057 on May 24, 2004, is amended as set forth in Exhibit A, which is incorporated herein by this reference as if set forth in full.

Section 5. Severability. If any provision of this ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remainder of this ordinance.

PASSED this 17th day of November, 2004

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington


  
Chairperson

ATTEST:

  
Clerk of the Council, *asst.*

- APPROVED
- EMERGENCY
- VETO

DATE: 11/28/24

  
Snohomish County Executive

ATTEST: Cynthia A. Ringstad

Approved as to form only:

\_\_\_\_\_  
Deputy Prosecuting Attorney

## EXHIBIT A

### General Policy Plan Text Amendments

The Land Use Chapter, Objective LU 7.B, set forth at pages LU-43 and LU-44 of the *Snohomish County GMA Comprehensive Plan General Policy Plan*, dated August, 2004, is amended to read as follows:

#### **GOAL LU 7**

**Conserve agriculture and agricultural land through a variety of planning techniques, regulations, incentive and acquisition methods.**

#### **Objective LU 7.A**

**Classify and designate agricultural land of long-term commercial significance.**

**LU Policies**            7.A.1

Farmlands shall be classified and designated in three classes: Riverway Commercial Farmland, Upland Commercial Farmland, and Local Commercial Farmland as shown on the Future Land Use map (Map 4 of map portfolio attached to this plan) and shown in greater detail on a set of assessor's maps which will be part of the implementation ordinances

7.A.2

Landowners may request in writing a review of the farmland designations as part of the county's annual GMA comprehensive plan amendment process.

#### **Objective LU 7.B**

**Conserve designated farmland through the adoption of development regulations.**

**LU Policies**            7.B.1

Areas designated Local Commercial farmland and not zoned Agriculture-10 acre shall not be subdivided into lots less than 10 acres except for agricultural, forestry, utility, gift, or homestead parcel purposes. A rural cluster subdivision on lands designated Local Commercial Farmland may be approved at a basic lot yield of 1 lot per 200,000 square feet, provided no new lots of less than one acre are created.

7.B.2

Conversion of Riverway Commercial and Upland Commercial farmland to ultra-light fields, churches, or new government facilities shall not be allowed.

7.B.3

~~((Noncommercial playfields without permanent improvements shall be allowed within designated farmlands.))~~ **[Reserved]**.

7.B.4

New dwellings proposed on designated farmlands or adjacent to designated farmlands shall be set back a minimum of 50 feet from the boundaries of designated farmlands except as follows:

- (a) if the size, shape, and/or physical site constraints of an existing legal lot do not allow for a 50 foot setback, the new dwelling shall maintain the maximum setback possible and may be reduced only if the owner of the land proposed for development and the owner of the adjacent designated farmland each legally record and file signed covenants running with the land and a document

establishing an alternative setback for one or both of the properties.

7.B.5 The Agricultural Advisory Board established by Title 2 SCC shall monitor and evaluate implementation of agricultural regulations, incentives, and policies.

7.B.6 The Agricultural Advisory Board shall monitor subdivision activity in designated farmland and provide an annual report to the planning commission and the county council.

7.B.7 Recreational uses, including golf courses and model hobby parks, (~~may be allowed~~) shall be encouraged in order to promote the economic viability of the commercial agriculture industry within designated farmlands agricultural land to the extent allowed by the Growth Management Act as now existing or hereafter amended through implementing development regulations which incorporate conditions ensuring compatibility with surrounding agricultural uses and limiting loss of prime agricultural soils.

Athletic fields and playfields for active recreation shall be allowed on designated agricultural land only to the extent allowed by the GMA as presently interpreted by Washington courts, including but not limited to the Washington State Supreme Court decision in *King County v. Central Puget Sound Growth Management Hearings Board*, 142 Wash. 2d 543, 14 P.3d 133 (2000), and as the GMA may be hereafter amended by the state legislature or reinterpreted by the Washington courts.