



CO00045554

1 Approved: October 17, 2012

2 Effective: Nov 10, 2012

3
4 SNOHOMISH COUNTY COUNCIL
5 SNOHOMISH COUNTY, WASHINGTON

6
7 AMENDED ORDINANCE NO. 12-069

8
9 ACTING TO COMPLY WITH THE FINAL DECISION AND ORDER ISSUED BY THE
10 GROWTH MANAGEMENT HEARINGS BOARD CENTRAL PUGET SOUND REGION IN
11 COMBINED CASE NOS. 09-3-0013c AND 10-3-0011c, AMENDING SNOHOMISH
12 COUNTY CODE SECTIONS 30.31A.100 AND 30.31A.110, ADOPTING A NEW SECTION
13 IN CHAPTER 30.31A SCC AND REPEALING SCC 30.34A.085
14

15 WHEREAS, on August 12, 2009, the Snohomish County Council (County Council)
16 adopted Amended Ordinance No. 09-038 as part of its 2009 docket process authorized by the
17 Growth Management Act (GMA) concerning amendments to the Snohomish County GMA
18 Comprehensive Plan Future Land Use Map (FLUM) and zoning map relating to the Point Wells
19 property which amended the FLUM designation of the Point Wells property from Urban
20 Industrial to Urban Center and amended the zoning map from Heavy Industrial to Planned
21 Community Business (PCB); and
22

23 WHEREAS, on August 12, 2009, the County Council adopted Amended Ordinance No.
24 09-051, which adopted amendments to the Land Use (LU) chapter of the Snohomish County
25 Growth Management Act Comprehensive Plan (GMACP) – General Policy Plan (GPP) for
26 Urban Centers; and
27

28 WHEREAS, on May 12, 2010, the County Council adopted Amended Ordinance No. 09-
29 079, which adopted Urban Center design standards, established a new zone for Urban Centers,
30 amended bulk regulations for the Neighborhood Business zone, amended and repealed
31 definitions to Subtitle 30.9 SCC and amended sections in Title 30 SCC; and
32

33 WHEREAS, on May 12, 2010, the County Council adopted Amended Ordinance No. 09-
34 080, which amended the zoning map from PCB to Urban Center (UC) for the Point Wells
35 property; and
36

37 WHEREAS, the City of Shoreline, Town of Woodway and resident organizations and
38 individuals from the Richmond Beach neighborhood (referred to as Save Richmond Beach)
39 separately appealed the adoption of Amended Ordinance Nos. 09-038 and 09-051 related to
40 the Point Wells property to the Growth Management Hearings Board (Board), Central Puget
41 Sound Region, which appeals were consolidated in the combined case of City of Shoreline,
42 Town of Woodway and Save Richmond Beach, et al. v. Snohomish County, et al., under Case
43 No. 09-3-0013c (*Shoreline III*); and
44

45 WHEREAS, the same parties also separately appealed Amended Ordinance Nos. 09-
46 079 and 09-080 related to the Point Wells property to the Board, which appeals were
47 consolidated in the combined case of City of Shoreline, Town of Woodway and Save Richmond
48 Beach, et al. v. Snohomish County, Case No. 10-3-0011c (*Shoreline IV*); and
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1 WHEREAS, the *Shoreline III* and *Shoreline IV* cases were coordinated for briefing and
2 hearing, and a hearing on the merits was held before the Board on March 2, 2011; and
3

4 WHEREAS, on April 25, 2011, the Board issued a Final Decision and Order (FDO) in
5 the *Shoreline III* and *Shoreline IV* cases finding the County's adoption of Amended Ordinance
6 Nos. 09-038 and 09-051 to be out of compliance with the GMA and the State Environmental
7 Policy Act (SEPA), and entering a determination of invalidity with respect to these two
8 ordinances, finding the County's adoption of Amended Ordinance Nos. 09-079 and 09-080 was
9 out of compliance with SEPA, and remanding Amended Ordinance Nos. 09-038, 09-051, 09-
10 079 and 09-080 to Snohomish County with direction to take legislative action to come into
11 compliance with the requirements of the GMA and SEPA with respect to the Point Wells
12 property; and
13

14 WHEREAS, the County Council desires by this legislative action to bring the County into
15 compliance with the GMA and SEPA as ordered in the Board's FDO.
16

17 NOW, THEREFORE, BE IT ORDAINED:
18

19 Section 1. The County Council makes the following findings:
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- 21 A. The County Council adopts and incorporates the foregoing recitals as findings as if set forth
22 fully herein.
23
- 24 B. Adoption of this ordinance is necessary to resolve the findings of noncompliance in the FDO
25 issued by the Board in the *Shoreline III* and *IV* cases and bring the County into compliance
26 with the GMA and SEPA.
27
- 28 C. The proposal to add a new section to chapter 30.31A SCC is necessary to establish an
29 optional set of development regulations for properties designated Urban Village that: 1)
30 encourage higher density and intensity development that more fully implements the Urban
31 Village policies contained in the comprehensive plan, 2) support existing or encourage new
32 transit service, and 3) allow flexibility for locations with unique characteristics (e.g.,
33 environmental constraints and proximity to shorelines) such as Point Wells.
34
- 35 D. The proposal to amend chapter 30.31A SCC is necessary to modify existing regulations as
36 a result of the re-designation of Point Wells to an Urban Village and areawide rezone to
37 PCB and remove language pertaining to the now expired Urban Center Demonstration
38 Program regulations
39
- 40 E. This matter is exempt from planning commission review pursuant to SCC 30.73.040(2)(d)
41 and (e) and RCW 36.70A.130(2)(b).
42
- 43 F. The County issued a SEPA addendum on August 27, 2012, for the purpose of disclosing
44 any additional environmental impacts from the adoption of amendments to title 30 SCC.
45
- 46 G. The County Council held a public hearing on September 19, 2012, continued to October 10
47 and October 17, 2012.
48
49

- 1 H. The grounds for these proposed amendments and new provisions are analyzed in the PDS
2 Staff Report dated August 3, 2012.
3
4 I. The Washington State Attorney General is directed under RCW 36.70A.370 to advise state
5 agencies and local governments on an orderly, consistent process that better enables
6 government to evaluate proposed regulatory actions to assure that the actions do not result
7 in the unconstitutional taking of private property or violate substantive due process
8 guarantees.
9
10 J. The Washington State Attorney General issued an advisory memorandum in December of
11 2006 entitled Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property
12 to help local governments avoid the unconstitutional taking of private property.
13
14 K. The 2006 Advisory Memorandum was used by the County in objectively evaluating the
15 changes proposed by this ordinance.
16
17 L. The County Council has considered and assessed potential constitutional issues related to
18 the amendments proposed by this ordinance including, but not limited to: whether the
19 proposed amendments will result in a permanent or temporary physical occupation of
20 private property; whether the proposed amendments will deprive affected property owners
21 of all economically viable uses of their properties; whether the proposed amendments will
22 deny or substantially diminish a fundamental attribute of property ownership; whether the
23 proposed amendments require a property owner to dedicate a portion of property or to grant
24 an easement; and whether the proposed amendments will have a severe impact on the
25 property owners' economic interests.
26

27 Section 2. The County Council makes the following conclusions regarding the
28 amendments adopted by this ordinance:
29

- 30 A. The amendments adopted by this ordinance are consistent with the GMACP.
31 B. The amendments adopted by this ordinance comply with the GMA.
32 C. All SEPA requirements with respect to this non-project action have been satisfied.
33 D. The County complied with state and local public participation requirements under the GMA
34 and chapter 30.73 SCC.
35 E. The County Council considered the entire hearing record, written testimony received during
36 the public comment period and oral testimony given during a public hearing before the
37 County Council.
38

39 Section 3. The County Council bases its findings and conclusions on the entire record,
40 including all testimony and exhibits. Any finding which should be deemed a conclusion, and
41 any conclusion which should be deemed a finding, is hereby adopted as such.
42

1
2 Section 4. Snohomish County Code Section 30.31A.100, last amended by Amended
3 Ordinance No. 09-079 on May 12, 2010, is amended to read:
4

5 **30.31A.100 General performance standards.**
6

7 Each planned zone and uses located in the BP, PCB, NB and IP zones shall comply with the
8 following requirements unless more specific requirements are provided in code:

9 (1) Processes and Equipment. Processes and equipment employed and goods processed or
10 sold shall be limited to those which are not objectionable beyond the boundaries of the lot upon
11 which the use is located by reason of offensive odors, dust, smoke, gas, or electronic
12 interference;

13 (2) Development Phases. Where the proposal contains more than one phase, all
14 development shall occur in a sequence consistent with the phasing plan which shall be
15 presented as an element of the preliminary plan unless revisions are approved by the
16 department;

17 (3) Building Design. Buildings shall be designed to be compatible with their surroundings,
18 both within and adjacent to the zone;

19 (4) Restrictive Covenants. Restrictive covenants shall be provided which shall ensure the
20 long-term maintenance and upkeep of landscaping, storm drainage facilities, other private
21 property improvements, and open space areas and facilities. Further, the covenants shall
22 reference the official or binding site plan(s) and indicate their availability at the department, and
23 shall provide that Snohomish County is an additional beneficiary with standing to enforce, and
24 shall preclude the avoidance of performance obligations through lease agreements;

25 (5) Off-street Parking. Permanent off-street parking shall be in accordance with terms of
26 chapter 30.26 SCC; except ~~((in the NB zone where the land is designated Urban Village on the
27 future land use map.))~~ that parking shall be in accordance with SCC 30.34A.050 when the
28 property is designated Urban Village on the future land use map.

29 (6) Signing. Signs for business identification or advertising of products shall conform to the
30 approved sign design scheme submitted with the final plan, and must comply with chapter ~~((s
31 30.54B and))~~ 30.27 SCC;

32 (7) Noise. Noise levels generated within the development shall not exceed those established
33 in chapter 10.01 SCC - noise control, or violate other law or regulation relating to noise. Noise
34 of machines and operations shall be muffled so as to not become objectionable due to
35 intermittence or beat frequency, or shrillness; and

36 (8) Landscaping. General landscaping and open space requirements shall be in accordance
37 with chapter 30.25 SCC.
38

39 Section 5. Snohomish County Code Section 30.31A.110, last amended by Amended
40 Ordinance No. 12-018 on May 2, 2012, is amended to read:
41

42 **30.31A.110 PCB and NB zone performance standards.**
43

44 ~~((The PCB and NB zones may also include areas designated on the future land use map as
45 urban center or urban village, respectively, with specific performance requirements for
46 applications submitted under chapter 30.34A SCC.))~~ In addition to the minimum zoning criteria
47 and general performance standards set forth above, the following are specific performance
48 requirements in the PCB and NB zones:

49 (1) All uses permitted in these zones shall be entirely contained within an enclosed structure
50 except the following:

- 1 (a) Public utility transmission facilities;
2 (b) Eating establishments where the space for outdoor public service is adjacent to the
3 closed structure and does not disrupt vehicular traffic within or adjacent to the zone;
4 (c) Permitted signing;
5 (d) Parking and loading facilities;
6 (e) Plant nurseries;
7 (f) Outdoor storage areas, when in conjunction with an enclosed principal use; and
8 (g) Public realm.
9 (2) No outside loading and unloading of goods and materials shall occur between the hours
10 of 11:00 p.m. and 7:00 a.m. unless approved in writing by the director based upon a showing
11 that any resulting impact to adjoining properties is minor.
12

13 Section 6. A new section is added to chapter 30.31A of the Snohomish County Code to
14 read:

15
16 **30.31A.115 Optional performance standards for properties designated Urban Village.**
17

18 Properties designated Urban Village on the future land use map may develop under the
19 underlying zoning or pursuant to the following performance standards. In choosing to submit a
20 development application under this section, all of the requirements of this section shall be met
21 including the requirements in SCC 30.31A.100 and SCC 30.31A.110.

22 (1) The following uses shall not be allowed :

- 23 (a) Accessory apartment;
24 (b) Dwelling attached, single family;
25 (c) Dwelling, duplex;
26 (d) Dwelling, single family;
27 (e) Family daycare home;
28 (f) Foster home;
29 (g) Garage, detached; private accessory;
30 (h) Garage, detached; private non-accessory;
31 (i) Greenhouse, Lath House, & Nurseries' retail;
32 (j) Greenhouse, lath house, nurseries: wholesale;
33 (k) Guesthouse;
34 (l) Hazardous waste storage & treatment facilities, onsite;
35 (m) Kennel;
36 (n) Mini-self storage;
37 (o) Stables; and
38 (p) Wholesale establishment.

39 (2) The maximum building height shall be 75 feet. Additional building height shall be allowed
40 pursuant to SCC 30.23.050(3). The director may recommend a height increase in appropriate
41 locations within the Urban Village of up to an additional 50 feet beyond that otherwise allowed
42 when the applicant prepares an environmental impact statement pursuant to chapter 30.61
43 SCC and where such increased height in designated locations does not unreasonably interfere
44 with the views from nearby residential structures.

45 (3) Front setbacks may be reduced to zero only if such reduction will not have a likely impact
46 upon future right-of-way needs and/or right-of-way improvements as determined by the county
47 engineer.

48 (4) Residential development shall maintain a minimum density of 12 dwelling units per acre
49 and a maximum density of 44 dwelling units per acre.

50 (5) Open space shall comply with SCC 30.34A.070.

1 (6) Design standards shall comply with SCC 30.34A.100 through 30.34A.160.

2 (7) Development applications shall comply with the submittal checklist established by the
3 department pursuant to SCC 30.70.030.

4 (8) A neighborhood meeting shall be held pursuant to SCC 30.34A.165.

5 (9) Development applications shall be reviewed and approved pursuant to SCC
6 30.34A.180(2). In addition, because the Urban Village at Point Wells is singularly unique due to
7 its location, geography, access points, and historical uses, the applicant for any Urban Village
8 development at Point Wells shall be subject to the following provisions:

9 (a) The applicant shall successfully negotiate binding agreements for public services,
10 utilities or infrastructure that are to be provided by entities other than the County prior to the
11 County approving a development permit that necessitates the provisions of public services,
12 utilities or infrastructure;

13 (b) development applications may be planned and programmed in phases; and

14 (c) the intensity of development shall be consistent with the level of service standards
15 adopted by the entity identified as providing the public service, utility or infrastructure.

16
17 Section 7. Snohomish County Code Section 30.34A.085 is repealed.

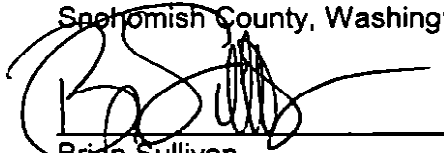
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19 Section 8. If any section, sentence, clause or phrase of this ordinance shall be held to
20 be invalid by the Growth Management Hearings Board, or unconstitutional by a court of
21 competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or
22 constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided,
23 however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid
24 by the Board or court of competent jurisdiction, then the section, sentence, clause or phrase in
25 effect prior to the effective date of this ordinance shall be in full force and effect for that
26 individual section, sentence, clause or phrase as if this ordinance had never been adopted.

27
28 Section 9. Applicability. The provisions of this ordinance shall apply to all applicable
29 development applications submitted on or after the effective date of this ordinance. The
30 provisions of this ordinance shall not apply to any development application determined to be
31 complete prior to the effective date of this ordinance, EXCEPT that an applicant for a
32 development application that is complete prior to the effective date of this ordinance may
33 request in writing that all the provisions of this ordinance be applied to his/her pending
34 development application. If an applicant so chooses to waive vesting to prior development
35 regulations to take advantage of the provisions of this ordinance, the pending development
36 application must also comply with any other development regulations that become effective
37 before the effective date of this ordinance.

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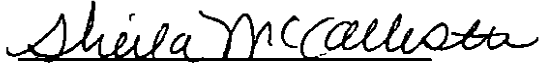
PASSED this 17th day of October, 2012.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



Brian Sullivan
Council Chair

ATTEST:



Sheila McCallister
Asst. Clerk of the Council

- APPROVED
- EMERGENCY
- VETOED

DATE: Oct. 31, 2012



Executive

ATTEST:



Approved as to form only:

Deputy Prosecuting Attorney

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