

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON



AMENDED ORDINANCE NO. 98-069

AMENDING THE GENERAL POLICY PLAN FUTURE LAND USE MAP OF THE
GROWTH MANAGEMENT ACT
COMPREHENSIVE PLAN - GENERAL POLICY PLAN

WHEREAS, the Snohomish County Council adopted a Growth Management Act (GMA) Comprehensive Plan on June 28, 1995; and

WHEREAS, several appellants filed appeals to various provisions of the plan with the Central Puget Sound Growth Management Hearings Board (*Sky Valley, et al. v. Snohomish County*, Consolidated Case No. 95-3-0068c); and

WHEREAS, the Board issued a Final Decision and Order in *Sky Valley* on March 12, 1996, and an Order on Motions to Reconsider and Correct on April 15, 1996, and directed the county to reconsider and amend, if necessary, some portions of the text and maps of its GMA Comprehensive Plan; and

WHEREAS, in the Final Decision and Order the Board affirmed the county's action removing Spencer Island, Smith Island and Island Crossing from the agricultural designation and placing them within the urban growth area (UGA); and

WHEREAS, the Board's Final Decision and Order was appealed to Superior Court (*Agriculture for Tomorrow, et al. v. Central Puget Sound Growth Management Hearings Board*); and

WHEREAS, Snohomish County Superior Court Judge James Allendoerfer issued a written order finding that the county's removal of the Spencer Island, Smith Island and Island Crossing areas from the agricultural designation and placement within the UGA was not supported by substantial evidence in the record before the Board or Court; and

WHEREAS, the Court remanded these areas to the Board for a detailed explanation of its holding, and at its discretion, entry of findings on GMA criteria with respect to removal of these areas from agricultural designation and inclusion in the UGA; and

WHEREAS, the Board subsequently remanded these areas to the county, ordering the county to conduct public hearings with respect to the GMA designations of these three areas; and

WHEREAS, the Snohomish County Planning Commission held a hearing on June 23, 1998, to consider a range of alternative plan map and UGA amendments in these areas, but did not reach a majority recommendation; and

WHEREAS, the Snohomish County Council held public hearings on August 19 and 26, and on September 2 and 9, 1998, to consider the planning commission's public hearing record; and

WHEREAS, the county council considered the planning commission's and its own hearing record including written and oral testimony submitted during the council hearings.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The Snohomish County Council makes the following findings of fact and conclusions:

1. The GMA defines agricultural land as "land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees . . . , finfish in upland hatcheries, or livestock, that has long-term commercial significance for agricultural production."

2. The Washington Supreme Court recently issued a decision in *City of Redmond v. Central Puget Sound Growth Management Hearings Board*, No. 65863-3 (Slip. Op., August 6, 1998) which clarifies the definition of agricultural lands set forth in the GMA. The court highlighted the significance of agricultural land preservation in the GMA and clarified that with respect to the first prong of the inquiry, land is "devoted to" agricultural use under RCW 36.70A.030 if it is an area where the land is actually used or capable of being used for agricultural production. The court concluded that neither current use nor landowner intent is conclusive, but must be considered along with other factors, including those listed in WAC 365-190-050.

3. The General Policy Plan (GPP) at page H-3 requires consideration of the following criteria when deciding whether a property should be placed in agricultural designation:

Subject land shall be:

- (1) prime farmland as defined by the U. S. Soil Conservation Service (SCS) and other Class III soils in the SCS capability and classification;
- (2) identified as devoted to agriculture by:
 - Snohomish County plan designation,
 - Snohomish County Zoning Code Agriculture-10 acre,

- identification in the 1982 agriculture land inventory, the 1990 aerial photo interpretation, or the 1991 field identification of land devoted to agriculture,
- (3) located outside a UGA,
 - (4) located outside a sewer service boundary, and
 - (5) a parcel of 10 acres or greater in Upland Commercial or Local Commercial Farmland areas.

4. Judge Allendoerfer has indicated that the County should consider the minimum guidelines to classify agricultural lands, adopted by the Washington state Department of Community, Trade, and Economic Development (WAC 365-190-050). The guidelines indicate that aside from SCS classification, consideration should be given to:

- availability of public facilities,
- tax status,
- availability of public services,
- relationship or proximity to urban growth areas,
- land use settlement patterns and compatibility with agricultural practices,
- predominant parcel size,
- intensity of nearby uses,
- history of land development permits issued nearby,
- land values under alternative uses, and
- proximity of markets.

5. Island Crossing Area "A" (as designated on Exhibit A).

A. Island Crossing Area "A" is a 46-acre area surrounding the interchange of Interstate 5 and State Route 530. The land is composed of prime agricultural soils and is located in the designated 100-year floodplain of the Stillaguamish River. The area is partially developed with commercial freeway service businesses.

B. The county council has considered both the GPP and WAC criteria with respect to Island Crossing Area "A" and concludes that the area does not meet the criteria for designation as agricultural land of long-term significance as defined in the General Policy Plan (GPP).

1. SCS classification: The area is covered by prime farmland as defined by the U.S. Soil Conservation Service.
2. Devotion to agriculture: The area is not devoted to agriculture as it was designated Freeway Service in the Arlington Area Comprehensive Plan (pre-GMA) and has been zoned Freeway Service since the 1960's. The record indicates that for the most part, the land is not used for commercial agriculture, nor is it capable for use as agriculture due to the already existing freeway service development.
3. Location in/out of UGA: The area was located outside the interim UGA prior to its agricultural de-designation.
4. Sewer service boundary: The majority of the area is located inside a sewer service boundary.
5. Parcel size: Within this 46-acre area, there are 19 parcels owned by 15 property owners. The average parcel size is 2.4 acres.

C. Consideration of the state's minimum guidelines also indicates that Island Crossing Area "A" should not be classified as agricultural land under the GMA.

1. Availability of public facilities: Urban facilities are available for the vast majority of this area, as it is within a water and sewer district boundary.
2. Tax status: None of the parcels included in the Freeway Service zone is classified as Farm and Agricultural Land by the Snohomish County Assessor.
3. Availability of public services: Urban services are available for the vast majority of this area, as it is within a water and sewer district boundary.
4. Relationship or proximity to urban growth areas: The land is functionally separated from the city of Arlington, and is located within the floodplain of the Stillaguamish River. It is a crossroads development, an isolated commercial node which serves motorists.
5. Land use settlement patterns and compatibility with agricultural practices: The commercial node at the interchange has existed essentially in its present configuration since 1968. Most of the area is included within the water/sewer district boundary.

6. Predominant parcel size: Predominant parcel sizes are small and not of a size typically found in areas designated as commercial farmland.
7. Intensity of nearby uses: The commercial node is surrounded by land designated as agricultural (with the adoption of this ordinance).
8. History of land development permits issued nearby: No urban development permits have been issued in this area except for the substantial shoreline development permit issued for the sewer line which serves the freeway commercial uses.
9. Land values under alternative uses: The land values of Island Crossing Area "A" under alternative uses such as farming would be lower than the commercial uses already existing.
10. Proximity of markets: Markets within the city of Arlington, Stanwood, and Marysville are within close proximity.

D. Rural Commercial Designation.

1. The area should be designated as rural commercial under the GPP as the county council finds it should be outside the urban growth area, but is an area of existing commercial development. This area meets the GMA's requirements as an area of more intensive rural development. The GMA allows rural development consisting of the infill, development, and redevelopment of existing commercial areas which are characterized as crossroads developments. This area is properly characterized as a crossroads development. The proposed designation creates a logical outer boundary delineated predominantly by the parcels which contain the built environment. Entire parcels are included to prevent abnormal and irregular boundaries, and to prevent split designation of single parcels. The boundaries for the most part correspond to the water and sewer district boundary, and will not permit low-density sprawl.
2. The county council has considered the planning goals of the GMA along with the local circumstances associated with this existing area of commercial use. The county council finds and concludes that designating this area rural commercial
 - (a) will not discourage urban growth in urban areas, as it is an isolated node of existing commercial activity beyond which urban growth will not spread.

- (b) will not allow undeveloped land to convert into low-density sprawl, as it is a compact area of existing commercial uses and does not include any residential use.
- (c) provides necessary transportation-related services to motorists on Interstate 5 and State Route 530.
- (d) provides economic opportunity in the area through the commercial businesses located in the node, consistent with the requirements of the GMA.
- (e) preserves property rights of the owners of property in this area who have had commercial zoning on their property for many years.
- (f) does not threaten surrounding agricultural uses, as commercial uses are within a tightly circumscribed area.
- (g) does not lessen open space and recreational opportunities, as the area is confined to existing commercial development.
- (h) does not present a threat to the environment.
- (i) is consistent with the public participation requirements of the GMA.
- (j) is consistent with the GMA's requirement that public facilities and services necessary to serve development be adequate.

6. Island Crossing Area "B" (as designated on Exhibit A).

A. Island Crossing Area "B" is a triangular piece of land immediately south and east of a node of freeway service businesses at the intersection of Interstate 5 and State Route 530. The land is composed of prime agricultural soils and is located in the designated 100-year floodplain of the Stillaguamish River.

B. Island Crossing Area "B" should be designated agricultural land under the GMA.

C. The county council has considered both the GPP and WAC criteria with respect to Island Crossing Area "B" and concludes that the area meets the criteria for designation as agricultural land of long-term significance as defined in the General Policy Plan (GPP).

1. SCS classification: The area is covered by prime farmland as defined by the U.S. Soil Conservation Service.

2. Devotion to agriculture: The area is devoted to agriculture as indicated by its designation as Agriculture on the Arlington Area Comprehensive Plan and by its Agriculture 10-Acre zoning. The record indicates that the land is actually used or is capable of being used as agricultural land.
3. Location in/out of UGA: The area was located outside the interim UGA prior to its agricultural de-designation.
4. Sewer service boundary: The area is located outside a sewer service boundary.
5. Parcel size: Predominant parcel sizes are large and of a size typically found in areas designated as commercial farmland.

D. Consideration of the state's minimum guidelines also indicates that Island Crossing Area "B" should be classified as agricultural lands under the GMA.

1. Availability of public facilities: Urban facilities are not available or are restricted by substantial shoreline development permit conditions of existing water and sewer lines.
2. Tax status: Several large parcels in the area (approximately 32 percent of the area) are classified as Farm and Agricultural Land by the Snohomish County Assessor and are valued at their current use rather than "highest and best use".
3. Availability of public services: Urban services are not available or are restricted by substantial shoreline development permit conditions of existing water and sewer lines.
4. Relationship or proximity to urban growth areas: The land is approximately 0.9 miles from the Arlington city limits. It is functionally separated from the city of Arlington, as it is located within the floodplain of the Stillaguamish River.
5. Land use settlement patterns and compatibility with agricultural practices: Most of the area is in current farm use with interspersed residential and farm buildings.
6. Predominant parcel size: Predominant parcel sizes are large and of a size typically found in areas designated as commercial farmland.
7. Intensity of nearby uses: More intense land uses and urban land development are located within the freeway service commercial node at the interchange that has existed essentially in its present

configuration since 1968. Farmland is located immediately to the east, and, separated by the freeway, to the west.

8. History of land development permits issued nearby: No urban development permits have been issued in this area except for the substantial shoreline development permit issued for the sewer line which serves only the freeway commercial uses.
9. Land values under alternative uses: The Island Crossing area is within the floodplain and floodway fringe area of the Stillaguamish River. Higher uses than farming would be difficult to locate because of floodplain constraints.
10. Proximity of markets: Markets within the city of Arlington, Stanwood, and Marysville are within close proximity.

E. Other findings of facts and conclusions related to Island Crossing Area "B":

1. The area is included in the floodway fringe area of the Stillaguamish River floodplain. Development potential for uses other than agricultural activities is very limited by the county code. Building in this area would displace important flood storage areas.
2. Preservation of this area as agricultural land is also important because of the proposed listing of the Chinook Salmon under the Endangered Species Act. Designating this land agricultural will help preserve significant Chinook habitat in the Stillaguamish River.

7. Public Participation.

A. The range of alternatives and notice of the public hearings before the planning commission and county council was advertised in several local newspapers. Notice of the hearings was also mailed to all property owners within and adjacent to the Island Crossing area.

B. The public notice conducted for the proposed plan amendments exceeded the requirements of the county code and the GMA.

8. Planning Commission Proceedings.

A. The planning commission received, reviewed, and considered documents which were submitted by citizens, interest groups, organizations and municipal entities which provided information on the range of alternatives before the commission. The commission also held a public hearing and received oral testimony from numerous individuals and organizations.

B. The planning commission developed a comprehensive record on the range of alternatives which has been made part of the county council's legislative record.

9. Compliance with the State Environmental Policy Act.

A. Addendum No. 11 to the Final Environmental Impact Statement (FEIS) for the Snohomish County GMA Comprehensive Plan was prepared for the proposal to satisfy SEPA requirements. The addendum describes the proposed comprehensive plan map amendments and analyzes their impacts.

B. The recommended amendments are within the range of alternatives and scope of analysis contained in the FEIS and result in no new significant adverse environmental impacts. The addendum performs the function of keeping the public apprised of the refinement of the original comprehensive plan proposal by adding new information.

C. The requirements of the State Environmental Policy Act with respect to this proposed action has been satisfied by this document.

Section 2. The Snohomish County Council hereby amends the Future Land Use map of the Snohomish County Growth Management Act Comprehensive Plan-General Policy Plan which was adopted as Map 4 of Exhibit A in Section 4 of Amended Ordinance No. 94-125 on June 28, 1995, and last amended by Amended Ordinance No. 98-051 on August 3, 1998, to include the land use designations as shown on Exhibit A which is attached hereto and incorporated herein by this reference.

Section 3. Severability.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Passed this 9th day of September, 1998.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Vielle Stevens
Chair

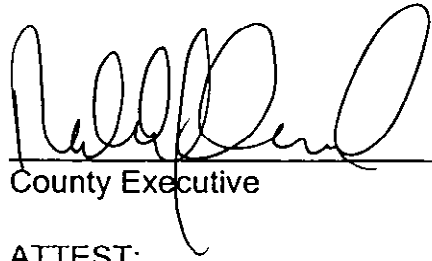
ATTEST:

Raymond L. Bratcher
Clerk of the Council

(L) APPROVED

Date: 9-10-98

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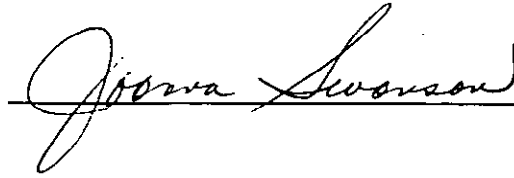
County Executive

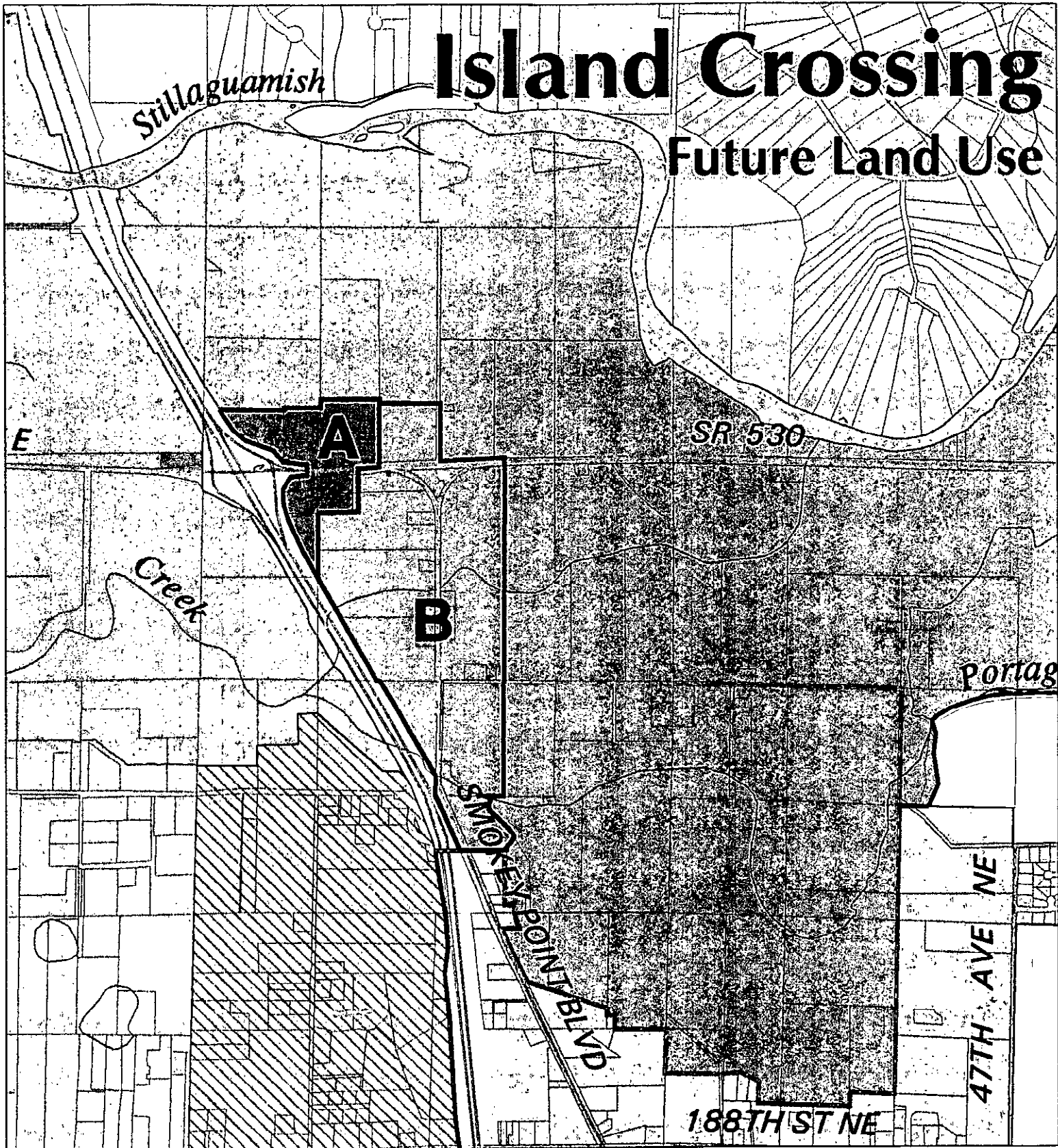
APPROVED AS TO FORM

ATTEST:



Deputy Prosecuting Attorney





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| Riverway Commercial Farmland | Rural Commercial | Urban Growth Area Boundary |
| Rural Residential (1 DU/5 Acres Basic) | Urban Commercial | Incorporated City Boundary |
| Urban Low Density Residential (4 - 6 DU/Acre) | Urban Industrial | Incorporated Cities, Towns, Tribal Lands, & Rights-of-Way |
| Other Land Uses (See Subarea or UGA Comprehensive Plans) | Rural/Urban Transition Area | Rural/Urban Transition Area |

Exhibit A
Ord. No. 98-069

1500 Feet