

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON



AMENDED ORDINANCE NO. 98-072

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. The County Council has considered both the GPP and WAC criteria with respect to Spencer Island and Smith Island, and enters the following findings of fact and conclusions with respect to each:

A. Spencer Island

1. Spencer Island meets the criteria for agricultural land of long term significance as defined in the General Policy Plan (GPP).
 - (a) SCS classification: The area is covered by prime farmland as defined by the U.S. Soil Conservation Service.
 - (b) Devotion to agriculture: The area is devoted to agriculture as indicated by its designation as Agriculture on the Snohomish/Lake Stevens Area Comprehensive Plan (with the exception of mid-Spencer Island which is owned by the county and designated Wetlands) and by its Agriculture 10-Acre zoning. The land is actually being used or is capable of being used for commercial agricultural production.
 - (c) Location in/out of UGA: The area was located outside the interim UGA prior to its agricultural de-designation.
 - (d) Sewer service boundary: The area is located outside a sewer service boundary.
 - (e) Parcel size: Spencer Island is owned by the Port of Everett (349 acres) and Snohomish County (87 acres).

2. Consideration of the state's minimum guidelines indicates that Spencer Island should be classified as agricultural land under the GMA.
 - (a) Availability of public facilities: Urban facilities are not available and are not planned.
 - (b) Tax status: The land is owned by Snohomish County and the Port of Everett, governments who do not pay property taxes.
 - (c) Availability of public services: Urban services are not available and are not planned.
 - (d) Relationship or proximity to urban growth areas: The land is adjacent to the Everett city limits but visually and functionally separated by an elevated interstate highway.
 - (e) Land use settlement patterns and compatibility with agricultural practices: The area includes only a few farm buildings and is predominantly vacant or in farm use.

- (f) Predominant parcel size: Predominant parcel sizes are large and of a size typically found in areas designated as commercial farmland.
- (g) Intensity of nearby uses: More intense land uses and urban land development are located only to the west within the city of Everett, but are visually and functionally separated from this area by an elevated interstate highway. Farmlands and wetlands are located adjacent to the north, south and east.
- (h) History of land development permits issued nearby: Interstate 5 has historically been the dividing line between urban developments to the west and rural and agricultural uses and open space on Spencer Island.
- (i) Land values under alternative uses: The entirety of Spencer Island is within the floodplain of the Snohomish River. Higher uses than farming and wetland restoration would be difficult to locate because of floodplain constraints.
- (j) Proximity of markets: Markets within the city of Everett are within close proximity.

3. Other findings of facts and conclusions related to Spencer Island:

- (a) The area is included in the density fringe area of the Snohomish River floodplain. Development potential for uses other than agricultural activities is very limited by the county code.
- (b) Biringner Farm Property (owned by Port of Everett): The current farm use of the property and the agricultural and wetland restoration/mitigation uses proposed by the Port of Everett for the near and long term and the current wetland use of the county's mid-Spencer Island are generally consistent with the proposed agricultural designation.
- (c) Wetland restoration in this area will become increasingly important because of the proposed listing of the Chinook Salmon under the Endangered Species Act. Estuarine habitat is among the most important for Chinook Salmon. Designating Spencer Island as Riverway Commercial Farmland will not preclude the restoration of wetlands or estuarine habitat.

B. Smith Island

1. Smith Island meets the criteria for agricultural land of long-term significance as defined in the General Policy Plan (GPP).
 - (a) SCS classification: The area is covered by prime farmland as defined by the U.S. Soil Conservation Service.
 - (b) Devotion to agriculture: The area is devoted to agriculture as indicated by its designation as Agriculture on the Snohomish/Lake Stevens Area Comprehensive Plan and by its Agriculture 10-Acre zoning. The land is actually used or is capable of being used for agricultural purposes.
 - (c) Location in/out of UGA: The area was located outside the interim UGA prior to its agricultural de-designation.
 - (d) Sewer service boundary: The area is located outside a sewer service boundary.
 - (e) Parcel size: The parcel size pattern consists of primarily large parcels ranging mainly from 20 to 40 acres. Smith Island contains three ownerships of 404 acres (Rhodes), 55 acres (Harnden), and 16 acres (Buse).

2. Consideration of the state's minimum guidelines indicates that Smith Island should be classified as agricultural lands under the Growth Management Act.
 - (a) Availability of public facilities: Urban facilities are not available and are not planned with the exception of the potential future expansion of the city of Everett's wastewater treatment facility on Smith Island.
 - (b) Tax status: 88% of the land in the unincorporated area of Smith Island east of Interstate 5 is classified as Farm and Agricultural Land by the Snohomish County Assessor and is valued accordingly.
 - (c) Availability of public services: Urban services are not available and are not planned.
 - (d) Relationship or proximity to urban growth areas: The land is adjacent to the Everett city limits but visually and functionally separated by an elevated interstate highway.

- (e) Land use settlement patterns and compatibility with agricultural practices: The area is isolated from the urban uses to the west of the freeway. It contains only a few farm and residential buildings and a portion is used as a nursery.
- (f) Predominant parcel size: Predominant parcel sizes are large and of a size typically found in areas designated as commercial farmland.
- (g) Intensity of nearby uses: More intense land uses and urban land development are located only to the west within the city of Everett, but are visually and functionally separated from this area by an elevated interstate highway. Farmlands and wetlands are located adjacent to the north and east. The wastewater treatment facility to the south is compatible with agricultural uses on this site.
- (h) History of land development permits issued nearby: Interstate 5 has historically been the dividing line between urban developments to the west and rural and agricultural uses and open space on Smith Island.
- (i) Land values under alternative uses: The entirety of Smith Island is within the floodplain of the Snohomish River. Higher uses than farming, wetland restoration and recreational uses would be difficult to locate because of floodplain constraints.
- (j) Proximity of markets: Markets within the city of Everett are within close proximity.

3. Other findings of facts and conclusions related to Smith Island:

- (a) The area is included in the density fringe area of the Snohomish River floodplain. Development potential for uses other than agricultural activities is very limited by the county code.
- (b) 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 Snohomish River.

6. 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 Spencer Island and Smith Island areas.

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

7. 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.

8. 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

Kurt Lewin

Chair

ATTEST:

Matthew J. Bratcher

Clerk of the Council

- APPROVED
- VETOED
- EMERGENCY

Date: 9-10-98

[Signature]

County Executive

APPROVED AS TO FORM

ATTEST:

Bonnie Dukes 9/10/98
Deputy Prosecuting Attorney

[Signature]

Smith/Spencer Islands Future Land Use
















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

Exhibit A
Ord. No. 98-072

2500 Feet