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Skagit County Auditor

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AFTER RECORDING RETURN TO:
SKAGIT COUNTY HEARING EXAMINER
302 SOUTH FIRST STREET
MOUNT VERNON, WA 98273

DOCUMENT TITLE: Order on Special Use Variance Permit Application SU 01 0778

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: SKAGIT COUNTY FIRE DISTRICT #13

ASSESSOR PARCEL NO: P111978

ABBREVIATED LEGAL DESCRIPTION: The proposed project is located at 12154 Chilberg Road, La Conner, WA; a portion of Section 31, Township 34 North, Range 03 East, W.M., Skagit County, Washington.

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS CONCLUSIONS AND DECISION

Applicant: Skagit County Fire District #13
c/o John Church
P. O. Box 532
La Conner, WA 98257

Agent: Raynik and Associates
P. O. Box 361
Burlington, WA 98233

File No: PL01-0778

Requests: Special Use Permit and Variance

Location: 12154 Chilberg Road, near La Conner, within a portion of
Sec. 31, T34N, R3E, WM.

Summary of Proposal: To build a new 6,400 square foot fire station with
associated driveways, parking area and walks. The
application seeks a front yard setback of 11 feet from
the Chilberg Road right-of-way.

Land Use Designation: Agricultural Natural Resource Land

Public Hearing: After reviewing the report of the Planning and Permit
Center, the Hearing Examiner conducted a public hearing
on January 9, 2002. Due notice was given.

Decision: The application is approved, subject to conditions.



FINDINGS OF FACT

1. Skagit County First District #13 seeks a Special Use Permit and a Variance in order to build a new fire station at 12154 Chilberg Road, just east of the limits of the Town of LaConner. The building will replace the present fire hall located on Morris Street within LaConner.

2. The *Comprehensive Plan* and zoning designation for the property is Agricultural Natural Resource Lands. The proposed fire station is a major public use related to providing emergency services. The Unified Development Code at SCC 14.16.400(4)(e) classifies such a use as a Hearing Examiner Special Use, allowable pursuant to the special use criteria "when there is no other viable parcel of non-resource designated land to serve the affected area."

3. The standard front yard setback for development in the zone is 35 feet from public road. SCC 14.16.400(5)(a)(ii). Because of the size and configuration of the lot, the proposal is to locate the building just 11 feet back from the Chilberg Road right-of-way. The reduced setback is the subject of the variance request.

4. The project site is a rectangle, approximately 20,735 square feet in size (slightly less than a half acre), situated on the south side of Chilberg Road, just east of the intersection with the La Conner-Whitney Road. The east and west boundaries measure 91 feet. The north and south boundaries are 228 feet long.

5. The site is the northwest corner of a larger 32 acre parcel owned by the Port of Skagit County. The subject site and the land immediately south of it are leased by the Town of LaConner. On the land immediately to the south is the Town's sewage treatment plant.

6. The Sullivan Slough lies to the east of the site, but the project will be more than 200 feet from the slough and associated wetlands. To the north, across Chilberg Road, and to the west is land used for agricultural production.

7. The specific site, however, is a small fragment of property between the treatment plant and the road and is not a viable area for agricultural use. It is crossed by a several utility easements. It is currently covered with gravel and grass. There are at present no structures on the site except for a utility pole, two sewer manholes and a six-foot high cyclone fence located about 100 feet south of the Chilberg Road centerline.

8. The proposed fire hall will be a square building measuring 80 by 80 feet. Access will be from the Chilberg Road and two points. The first, to the west of the proposed fire hall, will be used for emergency vehicle access. An associated crushed



rock parking area will serve emergency personnel. The second access will be located east of the fire hall and will lead to non-emergency parking for personnel and visitors. Driveways, parking and walkways will create approximately 9,384 square feet of impervious surface.

9. The new facility will be serviced with water and sewer from the Town of LaConner public water and sewer system. Stormwater runoff will connect to LaConner's stormwater system.

10. The application was routed to various County and Town departments for review. In general, the reviewing agencies asked for compliance with applicable codes and regulations. None expressed objections. Nothing in the record suggests that the applicable code provisions cannot be met. The agency comments are reflected in conditions of approval.

11. The application was reviewed under the State Environmental Policy Act (SEPA). A Mitigated Determination of Non-Significance (MDNS) was issued on November 8, 2001. The MDNS was not appealed. The conditions contained in the MDNS are as follows:

- a. Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works, shall be in place prior to the placement of any fill material. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage/Erosion/Sedimentation Control Ordinance. Said measures shall remain in effect until completion of the project.
- b. The applicant shall comply with Northwest Air Pollution Authority requirements.
- c. The applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code, the Skagit County Drainage, Water, Sedimentation Control Ordinance, as it relates to increased runoff resulting from increased impervious surfaces.
- d. The applicant shall comply with Fire Code Standards.
- e. An engineered soils compaction report shall be required for all structures placed on fill material.
- f. The applicant shall comply with all relevant provisions of 14.24 (Skagit County Critical Areas Ordinance).

12. The subject site is not within a critical area or a shoreline area. To insure compliance with critical areas requirements, the Staff recommended a condition requiring



that the project maintain greater than a 200-foot setback from the ordinary high water mark of Sullivan Slough, as shown in the application.

13. There was no adverse public comment on this application. The only public testimony was to the effect that the site is covered with dredge fill from the Swinomish Slough and is not suitable for agricultural use.

14. There is a clear line of sight in both directions along Chilberg Road from the proposed access points and no traffic conflicts are anticipated.

15. With the exception of sirens which are exempt from the noise standards, the facility is not expected to generate significant noise.

16. The old station is considered inadequate for modern needs. The new structure will provide adequate space for contemporary emergency equipment. The location of the new station will provide rapid emergency response access both to the Town and to the nearby rural areas. At present, responding to rural emergencies requires transit of some municipal areas.

17. Under all the circumstances, the Examiner finds that there is no other viable parcel of non-resource land to serve affected area. The site itself is not likely to be used for agricultural production and allowing it to be occupied by this public use will not interfere with or reduce the amount of land devoted to agriculture. The availability of existing infrastructure, ease of access, and lack of land acquisition expense is nowhere duplicated.

18. The general criteria for Special Use Permit Approval are set forth in SCC 14.16.900(2)(b)(v).

- (a) The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.
- (b) The proposed use complies with the Skagit County Code.
- (c) The proposed use will not create undue noise, odor, heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standard of SCC 14.16.840.
- (d) The proposed use will not generate intrusions on privacy or surrounding uses.
- (e) Potential effects regarding the general public health, safety, and general welfare.
- (f) For special uses in Industrial Forest-NRL, Secondary Forest-NRL, Agricultural-NRL, and Rural Resource-NRL, the impacts on long-term natural resources management and production will be minimized.
- (g) The proposed use is not in conflict with the health and safety of the community.
- (h) The proposed use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding



areas, or conditions can be established to mitigate adverse impacts on such facilities.

19. The Staff Report (pp. 5-8) analyzes the proposal for consistency with these criteria and determines that, as conditioned, it will meet them. The Examiner concurs in this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

20. Under SCC 14.10.020, variances are authorized in specific cases where departure from the requirements of the zoning code "will not be contrary to the public interest" and "where, due to special conditions, a literal enforcement of the provision of this Code would result in unnecessary hardship." The explicit criteria for approval of a variance are set forth at SCC 14.10.030(2), as follows:

- a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district. Topics to be addressed include topographic or critical area constraints that make use of the particular site infeasible without the proposed variance.
- b. Literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of SCC Titles 14 and 15.
- c. The special conditions and circumstances do not result from the actions of the applicant.
- d. The granting of the variance requested will not confer on the applicant any special privilege that is denied by SCC Titles 14 and 15 to other lands, structures or buildings in the same district.
- e. An explanation of how the request variance meets any other specific criteria for the type of variance request, where applicable including . . .
(iv) explanation of compliance with the criteria for variance from the agricultural siting criteria found in SCC 14.16.400(6).
- f. If applicable, an explanation from the Applicant as to why, if a variance is denied, the Applicant would be denied all reasonable use of his or her property.

21. The Staff Report (pp. 8-13) analyzes the application for compliance with the above variance criteria and concludes that, with appropriate conditions, the criteria will be met. The Examiner concurs in this analysis and adopts the same.



22. The Examiner accepts the designer's testimony that the square building is the most efficient use of the available space for the use proposed. A reasonable use of the property for this purpose cannot be made without encroaching into the front yard setback. The variance requested is the minimum variance that will make possible the reasonable use of the land.

23. The granting of the variance will be in harmony with the general purpose and intent of the Unified Development Code and other applicable code provisions, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

24. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the persons and the subject matter of this proceeding. SCC 14.06.050(1)(b)

2. The requirements of SEPA have been met.

3. The Special Use Permit applied is required under SCC 14.16.400(4)(e). At the site in question, the proposed fire station meets the prerequisites of that subsection for siting of a public use that provides emergency services.

4. As conditioned, the fire station meets the criteria for issuance of a Special Use Permit. SCC 14.16.900(2)(b)(v). There will be no long-term impacts on agricultural production.

5. As conditioned, the placement of the fire station meets criteria for approval of the front setback requested. See SCC 14.10.030(2). This includes conformity with the agricultural siting criteria of SCC 14.16.400(6).

6. The following conditions of approval should be imposed.

(1) The permittee shall adhere to the plans and other project information submitted. The building shall not be closer than 11 feet from the Chilberg Road right-of-way.

(2) The permittee shall obtain all other necessary approvals.

(3) The permittee shall comply with the condition set forth in the MDNS (see Finding 11).

(4) SCC 14.16.080 shall be complied with as it refers to noise and light.



(5) In the construction and operation of the building the permittee shall comply with Chapters 173-201A (surface water quality), 173-200 (ground water quality) and 173-60 (maximum environmental noise levels). The operation of the fire station shall not contribute to any surface or ground water degradation and the operation of the building shall not exceed the applicable noise standards.

(6) Review by the Skagit County Health Department is required for the public restrooms and kitchen facilities.

(7) Prior to building permit issuance, the permittee shall submit a landscape plan for review and approval in accordance with SCC 14.16.830.

(8) The project shall maintain greater than a 200 foot setback from the ordinary high water mark of Sullivan Slough and associated wetlands.

(9) Access permits shall be obtained from the Department of Public Works as required.

(10) The permittee shall obtain a fill and grade permit and comply with the conditions thereof.

(11) The permittee shall submit a copy of this decision with the building permit application.

(12) The permittee shall submit a storm drainage report with the building permit application.

(13) The permit shall be commenced within two years of permit approval, and shall be completed within three years.

(14) Failure to comply with the terms of this permit may result in its revocation.

7. Any finding herein which may be deemed a conclusion is hereby adopted as such.



DECISION

The requested Special Use Permit and Variance are approved, subject to the conditions set forth in Conclusion 6 above.

Wick Dufford

Wick Dufford, Hearing Examiner

Date of Action: January 24, 2002

Copy Transmitted to Applicant: January 24, 2002

Attachment: Staff Report

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with the Planning and Permit Center within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with the Planning and Permit Center within 14 days after the date of the decision, or decision on reconsideration, if applicable.

**SKAGIT COUNTY PLANNING AND PERMIT CENTER
FINDINGS OF FACT**

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER

HEARING DATE: JANUARY 9, 2002

APPLICATION NUMBER: SPECIAL USE PERMIT APPLICATION
And VARIANCE REQUEST #PL01-0778

APPLICANT: SKAGIT COUNTY FIRE DISTRICT #13
C/O JOHN CHURCH

ADDRESS: SKAGIT COUNTY FIRE DISTRICT #13
C/O JOHN CHURCH
P.O. BOX 532
LACONNER, WA. 98257

CONTACT PERSON: RAVNIK AND ASSOCIATES
C/O JOHN RAVNIK
P.O. BOX 361
BURLINGTON, WA. 98233

PROJECT LOCATION: Located at 12154 Chilberg Road, LaConner, within a portion of Section 31, Township 34N, Range 3 East W.M. Skagit County, Washington.

PROJECT DESCRIPTION: Variance request and Special Use permit application #PL01-0778 for the construction of a new 80-foot x 80-foot (6,400) square foot fire station along with approximately 9,384 square feet of proposed impervious surfaces for driveways, parking and walks on approximately 0.5 acres. The proposed fire hall is to replace the current fire hall on Morris Street in LaConner. The proposal fire hall will not be able to meet the required front yard setback of 35 feet. The request is to reduce the front setback to 11 feet off of the right-of-way/property line.

ASSESSOR'S ACCOUNT NUMBER: 340331-0-023-0000, P111978

ZONING/ COMPREHENSIVE PLAN: The property is located within a Agricultural Natural Resource Land zoning/comprehensive plan designated area as indicated in the Skagit County Comprehensive Plan and associated maps as adopted July 24, 2000.

RECOMMENDATION: The Planning and Permit Center recommends approval of the requests with conditions.



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EXHIBITS:

1. Staff Findings 1-14
2. Application submitted September 26, 2001.
3. Site Plan
4. Letter of Completeness issued October 15, 2001.
5. Notice of Development published October 18, 2001
6. Determination of Nonsignificance (DNS) issued November 8, 2001
7. Assessor's section map

STAFF FINDINGS:

1. The subject property is designated Agricultural-Natural Resource Land as indicated within the Comprehensive Plan and associated maps as adopted July 24, 2000. The application was determined to be complete on October 15, 2001 and the Special Use permit is vested under the Comprehensive Plan and zoning regulations in effect at that time.
2. Per Section 14.06.100 of the Skagit County Code, a letter of completeness was issued and a Notice of Development Application was posted on the subject property and published in a newspaper of general circulation on October 18, 2001 as required by Section 14.06.150 of Skagit County Code.
3. The application has been reviewed in accordance with the State Environmental Policy Act guidelines (WAC 197-11 and RCW 43.21C). A Mitigated Determination of Nonsignificance (DNS) was issued on November 8, 2001, and became effective following the fifteen-day comment period that ended on November 23, 2001 and a fourteen-day appeal period that ended on December 7, 2001. The following conditions were placed on the threshold determination:
 - a. Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works, shall be in place prior to the placement of any fill material. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage/Erosion/Sedimentation Control Ordinance. Said measures shall remain in place until completion of the project.
 - b. The applicant shall comply with Northwest Air Pollution Authority requirements.
 - c. The applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code, the Skagit County Drainage, Water, Sedimentation Control Ordinance, as it relates to increased runoff resulting from additional impervious surfaces.
 - d. The applicant shall comply with Fire Code Standards.



- e. An engineered soils compaction report shall be required for all structures placed on fill material.
 - f. The applicant shall comply with all relevant provisions of 14.24 (Skagit County Critical Areas Ordinance).
4. The subject parcel was reviewed with the respect to the Skagit County Critical Areas Ordinance, 14.06 of the Skagit County Code. Staff reviewed the project and stated that "Sullivan Slough and associated wetlands will be greater than 200 feet from the project site according to the applicants narrative statement. No further critical areas review is required provided the project maintains greater than a 200 foot setback from the ordinary high water mark of Sullivan Slough as stated in their application". Critical area staff recommended approval of the project with the noted setback condition.
5. The subject property is located within a designated A7 flood hazard area as identified by FEMA on Flood Insurance Rate Map (FIRM) #530151 0425C with the effective date of January 3, 1985.
6. The project area is approximately 20,735 square feet in size, measuring approximately 91 feet in depth along the east and west boundaries of the proposed site, and approximately 228 feet in width along the north and south boundaries of the site. The entire parcel size is approximately 32 acres. The existing project area consists of a gravel parking area and a semi-maintained grass area. There are no existing structures on the proposed fire hall site with the exception of a utility pole near the northwest corner of the site, two sanitary sewer manhole structures located on the westerly portion of the site and an exiting six (6) foot high cyclone fence located approximately 100 feet to the south of the Chilberg Road centerline. The fence will be relocated approximately 25 feet to the south of its existing location. The access to the site will be off of Chilberg Road. There are two accesses proposed. The first access proposed will be to the west of the proposed fire hall which will be used for emergency vehicle access along with a crushed rock parking lot for emergency personnel staff parking. The second access will be located to the east of the proposed fire hall for personnel parking only. The property will be serviced with water and sewer from the Town of LaConner public water system and public sewer.
7. The surrounding area is designated as agricultural. Chillberg Road fronts this parcel to the north and Sullivan Slough makes up the eastern property line. The surrounding uses to the north, east, and west, are all currently used for agricultural production. The existing use to the south is the LaConner wastewater treatment site, which contains various buildings, structures, and equipment used for the operation of the plant.
8. The applicant is requesting a Special Use permit application for the construction of a new 80-foot x 80-foot (6,400 square foot) fire hall to accommodate the current and future fire department needs. The applicant is also requesting a



variance from Skagit County Code Section 14.16.400 (5)(a)(ii) to reduce the required setback off of the front property line to eleven (11') feet. Skagit County Code Section 14.16.400 (5)(a)(ii) states that the required setbacks for Non – Residential structures within the Agricultural-Natural Resource Land designated area are 35 feet off of the front property line, 15 feet off of the side property lines, and 35 feet off of the rear property line. Skagit County Code Section 14.16.400 (4)(e) states that a Hearing Examiner Special Use permit is required for “Major public uses related to the provision of emergency services where there is no other viable parcel of non-resource designated land to serve the affected area.

Applicant shall demonstrate the need to locate the use in the Natural Resource Land. Analysis of alternatives to the development of the use within the Natural Resource Land must be provided.

9. The application was routed to the Skagit County Planning and Permit Center Health Unit for review. Environmental Health had no concerns with the proposal. Water Resources comments are as follows: a) “At time of building permit application, a letter of water availability from the public water supplier, or proof of current connection (i.e. water bill receipt, or copy of legal building of record may also substitute) will be required per Skagit County Code 12.48.020”. b) “Skagit County Code 14.16.840 shall be complied with as it refers to noise and light for the operation of a public building used for a fire department”. c) “Surface Water WAC 173—201A and Ground Water WAC 173-200 shall be complied with, as shall WAC 173-60 for noise and light. The operation of this building and use of this building shall not contribute to any surface or ground water degradation and the operation of the building shall remain within the limits listed in the WAC’s and Skagit County Code”. d) “ Please refer to the Skagit County Health Department for any requirements that concern the public restrooms and kitchen facilities (hot and cold running water)”.
10. The application was routed to The Public Works Department for review. The Public Works Department submitted the following comments: a) “An access permit from Public Works is required for the proposed second access”. b) “A fill and grade permit is required”. c) “The applicant must submit written confirmation from the town of LaConner that they are willing to accept the project’s stormwater runoff as proposed in Ravnik & Associates September 21, 2001 Storm Water Drainage Summary”. d) “A storm drainage report shall be submitted with the building permit application”.
11. The application was routed to the Skagit County Fire Marshal with the SEPA threshold determination for review. The Fire Marshals comments are as follows: “Fire Flow will be a requirement for obtaining a building permit for this project. The Fire Marshal has no other comments on this MDNS except to note that we feel that this project will be a great benefit to the safety of the citizens of LaConner and Rural Fire Protection District #13”.



12. The application was routed to the Skagit County Building Official for review. The Building Official indicated that the Fire Station shall comply with the Uniform Building Code (UBC) prior to building permit approval.
13. Section 14.16.900 Special Uses of the Skagit County Code indicates that certain items will be reviewed when approving or denying Special Use permits. Those items are as follows:
 - A. The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.

The parcel is designated as Agricultural-Natural Resource Land and the Skagit County Comprehensive Plan does not specifically provide policies that either support or oppose the proposed project. However, the Comprehensive Plan adopted July 24, 2000 indicates in the Land Use Element on Page 4-85, Goal C which states to "address public land uses as site specific related developments not requiring comprehensive plan amendments". Further, Policy 4C-1.1 states that "Within each comprehensive plan land use designation,.... public uses should be considered as "special uses" under Skagit County 14.16, the zoning ordinance. Public uses should be reviewed as site specific projects so that public benefits and land use impacts can be analyzed and, if necessary, appropriate mitigation applied."

- B. The proposed use complies with Skagit County Code.

The subject parcel is designated Agricultural-Natural Resource Land. Staff notes that the Comprehensive Plan adopted July 24, 2000 indicates in the Land Use Element on Page 4-86, Policy 4C-1.1 which states in part that "public uses should be considered as "special uses" under Skagit County 14.16, the zoning ordinance."

Staff also notes that Skagit County Code section 14.16.400 (4)(e), uses requiring a Hearing Examiner Special Use permit, states that "Major Public Uses related to the provision of emergency services where there is no other viable parcel of non-resource designated land to serve the affected area. Applicants shall demonstrate the need to locate the use in the Natural Resource Land. Analysis of alternatives to the development of the use within the Natural Resource Land must be provided."

The applicant has stated within the application that the use and development will conform to all Skagit County development and building codes. The applicant further supplied the following response to address the analysis of alternatives to the development of the use within the Natural Resource Land:

"The subject property is owned by the Port of Skagit County. At the north end of this property, an area is leased to the Town of LaConner for the Wastewater



Treatment facility. In between the Wastewater Treatment facility and Chilberg Road, land is intended to be leased by the Port of Skagit County, to Fire District #13 and the Town of LaConner for this new fire hall facility. That portion of the subject property, where the proposed fire hall is to be developed, is zoned Agricultural-Natural Resource Land however, this particular project area does not support any agricultural activities. This particular project area has been surfaced with gravel, and appears to be used as an overflow vehicle parking area. Within the boundary of this project area, there are many existing underground utilities that serve the adjacent wastewater treatment facility. These utilities restrict, if not prevent, agricultural activities."

"In order for prompt response to the Town of LaConner, surrounding communities, and surrounding population, the proposed location is situated for immediate response to the north and east, and immediate response to the west via Morris Street. There are no available parcels of land that currently have adequate utility service and are not capable of agricultural activities. The purpose of this "alternate site analysis" is to determine if the decrease in agricultural activities caused by the proposed project can be reduced or eliminated by siting the proposed project at a different location. With this project, the subject property is designated as an Agricultural-Natural Resource Land; however, is not used for any agricultural activities nor could be used."

- C. The proposed use will not create undue noise, odor heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standards of SCC 14.16.840.

The applicant indicated that as with the existing fire hall facility on Morris Street, that is to be replaced with the proposed fire hall, a siren will emit noise during emergency events. This does not propose a new noise to the community, however it will lessen the severity of the noise on the residential and commercial areas of LaConner where the current fire hall is by moving the source of the noise out of the City Limits. No odors or heat will be generated from the use of this facility other than volunteer's vehicles accessing this site for meetings and emergency fire calls. The new fire hall facility will be heated with a residential-type heating system, which will be providing the only emissions from this site. The applicant further indicated that there will be no vibration impacts from the proposed project and no storage of chemicals, waste oils, solvents, fuel or other products will be kept at this site that may potentially contaminate ground water if spilled. Vehicle fuel is obtained off site at a commercial facility as well as the vehicle maintenance.

In regards to the methods proposed to prevent water pollution: The applicant has indicated that the storm drainage system will be equipped with water quality vaults containing oil-absorbing pads to ensure storm water runoff is "cleaned" prior to being discharged from the site into the effluent pipe from the treatment plant. Also, occasionally the fire district will hold meetings where they test the



fire fighting equipment on the trucks, which includes the use of a special foam for use on certain fires where electricity is involved or chemical fires. When the foam is discharged on the site, the main storm runoff "catch" structures will be blocked and a special "catch structure will be opened to receive runoff containing the foam. This alternate system will flow the foam, which has a non-toxic chemical makeup similar to dish soap, into the wastewater treatment plant's influent system to be treated and discharged as with all wastewater entering the treatment plant. For typical rainfall events, the oil/water separator vaults will retain petroleum products and receive settled sediments and debris. All vaults will have a contracted maintenance program to clean the vaults and replace pads, at least one time per year. The use of "fire protective foam" has been coordinated with the treatment plant, and will be processed with the influent wastes entering the plant.

Staff notes that the proposed new location is east of the town limits for LaConner and will be a reduction in noise impacts due to the increased distance from the residential areas. The new location will be surrounded by agricultural land, the waste water treatment plant to the south, Sullivan Slough to the east and Chilberg Road to the north with existing fields and wetlands to the north of Chilberg Road. The proposed project will not create increased impacts on the performance standards to the surrounding area.

- D. The proposed use will not generate intrusions on privacy of surrounding uses.

The applicant indicated that the adjacent properties to the east and west of this site are currently agricultural areas that will remain. Property to the north is public right of way. The property to the south is the LaConner Wastewater Treatment Plant owned and operated by the Town of LaConner. The development of this new fire hall will not cause individuals to trespass onto adjacent properties. The applicant further indicated that posted parking lot signs of "Parking Only for Fire District Volunteers" and "No Skate Boarding", will be the only proposed method to prevent trespassing on the site.

- E. Potential effects regarding the general public health, safety, and general welfare.

The applicant indicated that the Town of LaConner and surrounding community have experienced a population and business growth over the recent years. With this increase in the need for fire protection together with new technological advances in fire protection, the existing fire hall on Morris Street is barely able to keep up with the public demands. The new fire hall facility provides better accommodations for the general community, provides future accommodations for a manned fire station, accommodates the current fire hall vehicles and anticipated future vehicles and is now located where it has a less congested access to emergency events. Without the proposal herein, there will be a negative effect to the general public safety.



- F. For special uses in Industrial Forest – Natural Resource Lands, Secondary Forest – Natural Resource Lands, and Rural Resource – Natural Resource Lands, the impacts on long-term natural resource management and production will be minimized.

The applicant has stated that simply placing the building in the proposed location minimizes the impacts on long-term natural resource management and production. The proposed building is to be located on a narrow strip of land between the existing LaConner wastewater treatment plant and the Chilberg Road R.O.W. The existing use of a portion of this property area is an overflow parking lot for the treatment plant. This area, being the size and in the location that it is, probably would always be an overflow parking lot. Placing the building here will enhance the appearance of the area, and most importantly it will not take up more usable land somewhere else.

- G. The proposed use is not in conflict with the health and safety of the community.

The proposed use is not in conflict with the health and safety of the community.

- H. The proposed use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

Staff notes that the use will be supported by adequate public facilities and services with no adverse affects on the services or surrounding areas.

The applicant has indicated that the proposed fire hall will be supported by adequate public facilities, and will increase public services to the surrounding areas by way of increased fire protection and emergency medical care.

14. Section 14.10.030, Variances of the Skagit County Code states that certain items will be reviewed when approving or denying Variances. Staff comments as they relate to the Variance criteria are as follows:

- a. *Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district. Topics to be addressed include topographic or critical area constraints that make use of the particular site infeasible without the proposed variance.*

Staff recognizes that special conditions and circumstances generally apply to topographic hardships, i.e., a large ditch or creek or other physical feature peculiar to a particular parcel of property that has a detrimental impact on a proposed development. This proposed site is approximately 0.5 acres in size located between the LaConner wastewater treatment plant and Chilberg Road. The



subject site is a small graveled area that is owned by the Port of Skagit County. There are some existing utilities on site and existing structures to the south, which dictate where the proposed fire station will need to be situated to maximize its usefulness and minimize the impact on the surrounding infrastructure. The site has been used for parking in the past and is not suitable for agricultural production due to the location, configuration and the gravel base that currently exists.

The applicant has indicated that the subject property is owned by the Port of Skagit County; however, a portion of it's north end is currently leased to the Town of LaConner for their waste water treatment facility. The proposed fire hall herein, is to be located at the northernmost end of the subject property, in between the south side of Chilberg Road and the north side of the treatment plant facility. The buildings, utilities, and drive surfaces comprising the LaConner Wastewater Treatment Plant are located approximately 90 feet south from the Chilberg Road right-of-way, and continue southerly into the subject property. Many of the existing utilities that currently serve the wastewater treatment facility have adequate capacity to also serve the proposed fire hall. All references herein to Chilberg Road, shall apply to the existing 60-foot-wide Chilberg Road right-of-way as it currently exists with a two-lane road. The northern 90 feet of the subject property does not have any permanent structures, has excellent access to existing utilities, and has immediate access to the adjoining public right-of-way; however, is restricted in its north-south dimension due to the adjoining buildings which serve the wastewater treatment facility. It is the limited, north-south dimension of developable area that warrants this request for a variance to the front setback dimension. Skagit County Code Section 14.16.400(5)(a)(ii) designates the front setback as being 35 feet. The variance request herein is for Skagit County's approval of an 11-foot, front-yard, setback. The subject property is being leased by the Town of LaConner and together with available infrastructures, makes this property a very wise economic decision. The availability of existing infrastructure, access, and land-acquisition expenses does not occur at any other location. Failure to support this variance request will restrict the Fire District's availability to construct a building necessary for current and future needs. A smaller building could be constructed on the subject property; however, without this variance the building would not be a wise economical development because it would not be sized to meet the future demands of surrounding communities and population.

- b. *Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of Skagit County Code Titles 14 and 15.*

Staff notes that the literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter. The proposed site is located approximately 450 feet east of the town limits for LaConner. The parcel is zoned



for agricultural use, however there are no agricultural activities taking place on this parcel due to the parcel's topography and location. The parcel is somewhat isolated due to the location of Sullivan Slough to the east, wetlands to the south of the existing Wastewater Treatment Facility, the Wastewater Facility itself, Chilberg Road and the proposed location for the new fire station which is currently graveled and unsuitable for agricultural practices in such a confined area. Aside from the parcel itself, the majority of the structures in the surrounding area do not maintain a 35-foot setback, although those structures are within the town limits. A new fire station is needed to meet the current and future demands of the Town of LaConner, and the proposed site would be ideal in location, without disturbing agricultural uses or impacting the surrounding area. The literal interpretation of the code would prevent the reasonable development of this site and could reduce the adequacy of the emergency facilities, both current and future, for the greater LaConner area.

The applicant has indicated that the proposed fire hall is to replace the existing fire hall located approximately three-quarters of a mile northwest, within the Town of LaConner. The existing fire hall provides for only four vehicle bays and has limited space available for administrative and training activities. In order to meet the current demands of LaConner and the surrounding community, together with having a facility that can grow with future demands in the area, a larger fire hall must replace the existing fire station. Literal interpretation of Skagit County's zoning code, specifically the front yard setback requirement, will prevent the construction of this fire hall at its proposed location along Chilberg Road.

- c. *The special conditions and circumstances do not result from the actions of the applicant.*

Staff notes that the circumstances do not result from the actions of the applicant. The LaConner Wastewater Treatment Plant is existing, as well as the location of Sullivan Slough and the Chilberg Road right-of-way. This site is ideal for the location of a fire station, however the existing structures to the south and critical areas to the east limit the area available to locate the proposed structure and maintain the required setback off of the Chilberg Road right-of-way. It is currently only 99 feet from the exterior north wall of the existing wastewater treatment plant office building to the south right-of-way line of Chilberg Road. In order to construct a fire station with the capacity to house an adequate amount of vehicles and equipment needed by today's standards, a structure of this size is needed. The circumstances existing with the size of the area available are not related to the actions of the applicant.

The applicant has indicated that this new fire hall is being made possible because of the existing utility infrastructure, the availability of this land under lease-contract from the Port of Skagit County, and this location, which provides immediate response time to the Town of LaConner and surrounding communities.



The restriction with this site is its limited, north-south dimension for development. All of these factors are important to the location for this new fire hall; however, have not been caused nor generated by the applicant.

- d. *The granting of the variance will not confer on the applicant any special privilege that is denied by Skagit County Code Titles 14 and 15 to other lands, structures, buildings in the same district.*

The applicant has indicated that the granting of this variance, to allow a reduced front yard setback for the proposed fire hall, will not allow the fire district to conduct an activity that is not already available and regulated under the current land zoning. The granting of this variance merely allows the fire district to take best advantage of existing utility infrastructure, land, and accessibility in order to provide this public service to LaConner and the surrounding community.

Staff notes that the granting of the requested variance will not confer any special privileges on the applicant. The site is small and isolated from the agricultural uses in the greater surrounding area. The granting of the variance request will allow the fire district to utilize the parcel to its fullest extent and provide an appropriate facility for emergency response to the Town of LaConner and the surrounding area.

- e. *An explanation of how the requested variance meets any other specific criteria required for the type of variance requested, where applicable, including, but not limited, to the following:*
- (i) Explanation of compliance with the criteria for a Critical Area Ordinance variance under SCC 14.24.140.
 - (ii) Explanation of compliance with the criteria for a shoreline variance under Skagit County Shoreline Management Master Program.
 - (iii) Explanation of compliance with the criteria for a public works alternative under the Skagit County Public Works Standards adopted pursuant to SCC 14.36.
 - (iv) Explanation of compliance with the criteria for variance from the agricultural siting criteria found in SCC 14.16.400(6).
 - (v) Explanation of compliance with the criteria for a Flood Hazard Ordinance variance found in SCC 14.34.130.

The application has been reviewed for compliance with the Critical Areas Ordinance, The Shoreline Management Master Program, Public Works Standards, agricultural siting criteria and the Flood Hazard Ordinance.

Within the area of development, which comprises the building footprint, fire truck access areas, and utility improvements, there are no existing critical areas. This project does not require a variance as identified in SCC 14.24.100.



The proposed development for this fire hall is not located within 200 feet of the adjacent shoreline for Sullivan Slough. The existing shoreline has been field-identified by Skagit County staff, surveyed by the applicant, and was used as a design setback element in the site design for this facility. No variance is being requested to Skagit County's Shoreline Management Master Program.

No variance is being requested relative to Skagit County's requirements for roads, stormwater, sanitary sewer, and water system. Skagit County's requirements pertaining to these four topics will be incorporated into development of the subject property.

The proposed fire hall is intended to be located at the northernmost portion of the subject property, owned by the Port of Skagit County. It appears the intent of this siting criteria is to limit a project's encroachment into agricultural activities. With this project, the proposed fire hall and all of its associated site development will not eliminate any agricultural activities. Staff notes that there will be no impacts on the agricultural siting criteria outlined within SCC 14.16.400(6).

Development of the subject property is not requesting a variance to Skagit County's Flood Hazard Ordinance particularly, SCC 14.34.130. The subject property is located within Flood Plain Zone A7, having a base flood elevation of 8.0, thereby requiring a lowest finished floor elevation of not less than 9.0. To accommodate the existing site elevations, the proposed building will have a finish floor elevation of approximately 9.4.

- f. *If applicable, an explanation from the applicant as to why, if a variance is denied, the applicant would be denied all reasonable use of his or her property.*

The project is to construct a fire hall along the south side of Chilberg Road. This fire hall is necessary because the current fire hall is too small to house all the vehicles necessary, and does not contain the necessary administrative and training facilities. There are more local and community needs than what can be provided from the current fire hall facility. The proposed facility is being designed to accommodate not only current demands but also growing future expectations for this major public use. The proposed fire hall has been designed to balance the current needs, future needs, and budgetary constraints. The structure has been designed to be square, measuring 80 feet on each side. This provides for the most efficient use of space in comparison to the size of this building. Failure to approve this variance, will prevent the district from residing on this property, and will likely prevent any future users to best utilize this area. If this variance is denied, virtually any other location will require dollars spent on infrastructure improvements, monies spent to raise the site's required elevation, and tax dollars utilized for the purchase of raw



land. With this project, these financial savings can be passed on to the local taxpayers.

The requested variance is for approval of an 11-foot front-yard setback as compared to Skagit County Code requiring a 35-foot front-yard setback. The adjoining 60-foot wide Chilberg right-of-way contains underground utilities and an asphalt surface approximately 32-feet-wide. This right-of-way is not fully developed. It is very unlikely that this right-of-way would ever be widened; however if so, it would not be in excess of an 80-foot total width. Since the requested setback is for 11 feet; even a highly-unlikely right-of-way expansion to 80 feet would not be encumbered by this variance approval

RECOMMENDATION

Based on the above findings the Planning and Permit Center would recommend **approval** of the requested Special Use Permit (pursuant to SCC14.16.400(4)(e)) for the construction of a new 80 x 80 square foot fire station facility and would recommend **approval** of the requested variance (pursuant to SCC 14.16.400(5)(a)(ii)) to reduce the required setback from 35 feet to 11 feet with the following conditions:

1. The applicant shall obtain all necessary land use approvals.
2. The applicant shall comply with the conditions outlined within the SEPA threshold determination (MDNS).
3. Skagit County Code 14.16.840 shall be complied with as it refers to noise and light for the operation of a public building used for a fire department.
4. Surface Water WAC 173—201A and Ground Water WAC 173-200 shall be complied with, as shall WAC 173-60 "Maximum Environmental Noise Levels" for noise and light. The operation of this building and use of this building shall not contribute to any surface or ground water degradation and the operation of the building shall remain within the limits listed in the WAC's and Skagit County Code.
5. At time of building permit application, a letter of water availability from the public water supplier, or proof of current connection (i.e. water bill receipt, or copy of legal building of record may also substitute) will be required per Skagit County Code 12.48.020.
6. Review by the Skagit County Health Department is required for any requirements that concern the public restrooms and kitchen facilities (hot and cold running water).



7. The applicant shall submit a landscape plan for review and approval in accordance with Skagit County Code 14.16.830 prior to building permit issuance.
8. If this request is approved, the applicant shall submit a copy of the written order with the building permit application.
9. The project shall maintain greater than a 200 foot setback from the ordinary high water mark of Sullivan Slough and associated wetlands.
10. An access permit from Public Works is required for the proposed second access.
11. A fill and grade permit is required.
12. The applicant must submit written confirmation from the town of LaConner that they are willing to accept the project's stormwater runoff as proposed in Ravnik & Associates September 21, 2001 Storm Water Drainage Summary.
13. A storm drainage report shall be submitted with the building permit application.
14. Fire Flow will be a requirement for obtaining a building permit for this project.

Prepared By: BB
Approved By:
Dated: 12-28-01



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Skagit County Auditor

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