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Skagit County Auditor

9/17/2003 Page

1 of

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

DOCUMENT TITLE: ORDER ON VARIANCE VA 03 0343

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: SEMINIS VEGETABLE SEEDS, INC.

ASSESSOR PARCEL NO: P22940, P22941

LEGAL DESCRIPTION: Located at 16613 LaConner-Whitney Road, LaConner, WA; a portion of Section 30, Township 34N, Range 3 East W.M., Skagit County, Washington.

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Seminis Vegetable Seeds Inc.
2700 Camino Del Sol
Oxnard, CA 93030

Agent: Paul Klein
16613 LaConner-Whitney Road
LaConner, WA 98257

File No: PL03-0343

Request: Variance

Location: 16613 LaConner-Whitney Road, within a portion of
Sec. 30, T34N, R3E, W.M.

Land Use Designation: Natural Resource Industrial (NRI)

Summary of Proposal: To expand an existing plant by 9,288 square feet to
increase space for seed drying, storage and packaging.
The addition will be built approximately 45 feet from the
west property line and will result in overall lot coverage of
23.5%.

Public Hearing: After reviewing the report of the Planning and Permit
Center, the Hearing Examiner conducted a public hearing
on August 13, 2003.

Decision: The application is approved, subject to conditions.



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FINDINGS OF FACT

1. Seminis Vegetable Seeds, Inc. (applicant) seeks a variance in order to construct a new building at an existing plant in a Natural Resource Industrial (NRI) zone. The expansion will intrude into the prescribed setback and will exceed the maximum lot coverage limitation for the zone.

2. The site is at 16613 LaConner-Whitney Road, within a portion of Sec.30, T34N, R3E, W.M.

3. The zone's standard setback from all lot lines is 50 feet. The maximum lot coverage is 10%. SCC 14.16.160(6). The proposed expansion will be within 45 feet of the west property line and will result in overall lot coverage of 23.5%.

4. A letter of completeness for the application was issued on May 12, 2003. Notice of the application was published and posted on May 15, 2003. No public comments were received during the comment period.

5. Critical area review was previously conducted on this site and no further review on this topic is needed.

6. The subject property is approximately 2.36 acres in size and is located to the east of the LaConner-Whitney Road. Access to the property is from Hulbert Road.

7. The existing Seminis Vegetable Seed plant is located along the north side of the parcel and is situated approximately 47 feet from the north (side) property line, 19 feet from the west (rear) property line, approximately 80 feet from the east (front) property line and approximately 338 feet from the south (side) property line

8. The existing structure encompasses about 14,886 square feet. Exterior areas include approximately 10,723 square feet of concrete and approximately 12,642 square feet of gravel. Some processing equipment is placed on the exterior impervious surface.

9. The facility uses an existing water supply from the Town of LaConner and has an on-site septic system. However, the new building will require no water or sewer service at this time.

10. The surrounding area is agricultural in nature consisting of fields that are actively productive. The neighboring land owners and other area farmers use the services provided by the Seminis facility.

11. The existing facility is non-conforming as to both the west setback and lot coverage. The requested new building would intrude five feet into the west setback, but would be significantly farther from that property line than is the present structure. The variance would increase the total lot coverage by 9%.



12. The new building will be built about 43 feet to the south of the existing building. In addition to the 45 foot setback on the west, it will be set back 53 feet on the east and 188 feet on the south. It will cover 9,288 square feet of ground.

13. The application was routed to various County departments. None had concerns that could not readily be addressed through conditions of approval. The Conservation Futures Advisory Committee made no comments.

14. The parcel was initially developed in the late 1970's by Asgrow Seed Company. Asgrow provided seed drying and packaging facilities for local farmers. Seminis Vegetable Seed, Inc. purchased the facility on January 31, 1997, and continued to provide the same services to the local agricultural community.

15. With changes in markets and the closing of some processing plants, many crops that were processed in the past have been replaced by seed crops. This has created an increased need for the services provided by Seminis. In the past, the subject plant handled approximately 600,000 lbs. of seed annually. The expectation is that there will be a local need to service 1,200,000 lbs. of seed there in the near future. The proposed expansion is to handle this increase by adding additional warehouse space and processing capabilities.

16. When the plant was first built, the area was zoned Agriculture. In the year 2000 the property was re-designated as NRI. The proposal at hand would not require a variance on Agricultural-Natural Resource (AG-NRL) lands. The applicant has noted:

The farms adjacent to this property are all zoned Agricultural and are not subject to the same regulations as this piece of property. If they wanted to expand or add a barn they would not have any problem whereas, because this property is zoned NRI they cannot expand without a variance.

17. The proposed plant expansion will not replace any productive crop land. The placement of the new building will be aesthetically consistent with what is already present on the site. The expanded facility will fill a need for the agricultural community.

18. The proposed new building will not result in any appreciable increase in noise or in lighting impacts. It will fit into the agricultural setting. It will not impose significant new demands on infrastructure.

19. 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 provisions 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 requested variance meets any other specific criteria for the type of variance request, where applicable.
- 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.

20. The Staff Report analyzes the application in light of the applicable variance criteria and finds that, as conditioned, the proposal will be consistent with 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.

21. The reasons set forth in the application justify the granting of the variance. The variance is the minimum that will make possible the reasonable use of the land. The granting of the variance will be in harmony with the general purpose and intent of the Comprehensive Plan and the Unified Development Code. It will not be injurious to the neighborhood. It will be beneficial to the public welfare.

22. There was no public correspondence on this application. There was no public testimony at the hearing.

23. 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 14.10.020(3).

2. The proposal is exempt from the procedural requirements of the State Environmental Policy Act (SEPA). WAC 197-11-800(6)(b).

3. The proposal is for "agricultural processing facilities" a use permitted outright in the NRI zone. SCC 14.16.160(2)(a)(ii).

4. The findings support a conclusion that the proposal, as conditioned, will be consistent with the criteria for granting a variance. SCC 14.10.030(2).

5. The following conditions shall be imposed:

(a) The applicant shall obtain all permits and approvals from the appropriate jurisdiction.

(b) The new building shall be constructed as proposed in the application materials, except as the proposal may be modified by these conditions.

(c) If and when plumbing and water use is desired for the new building, approval shall be obtained from the appropriate authorities.

(d) The applicant shall submit a landscaping plan that complies with the purpose and intent of SCC 14.16.830.

(e) Operation of equipment, construction, and daily operations shall comply with the maximum environmental noise levels specified in Chapter 173-60 WAC.

(f) SCC 14.16.840 and all applicable performance standards for vibration, heat, glare, steam, light, noise, electrical disturbance, and ventilation shall be met.

(g) Best management practices shall be used to prevent any degradation of water quality and the provisions of Chapters 173-201A and 173-200 shall be met.

(h) There will be no maintenance of vehicles or equipment on the property.

(i) Failure to comply with any of the conditions of approval may result in permit revocation.

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



DECISION

The requested variance is approved, subject to the conditions set forth in Conclusion 5 above.



Wick Dufford, Hearing Examiner

Date of Action: September 8, 2003

Copy Transmitted to Applicant: September 8, 2003

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.

