

bill

ORDINANCE NO. 216-1998

Repealing an Interim Zoning Ordinance and Map and Adopting a new Zoning Ordinance and Map Pursuant to the Growth Management Act

BE IT ORDAINED:

Section 1. The Kitsap County Board of Commissioners makes the following findings:

1. The Growth Management Act, Chapter 36.70A RCW, (hereinafter the "GMA" or the "Act"), requires Kitsap County (hereinafter "County") to adopt a comprehensive land use plan and development regulations, including a Zoning Ordinance, to implement the plan.
2. On December 29, 1994, the Board of County Commissioners (hereinafter "Commissioners") adopted the County's first GMA-based comprehensive plan and a zoning ordinance and map to implement the plan. The plan, and the zoning ordinance and map were all later invalidated by the Central Puget Sound Growth Management Hearings Board (hereinafter "Hearings Board").
3. On January 8, 1996, the County adopted an Interim Zoning Ordinance, Ordinance 182-1996, and Interim Zoning Map, Ordinance 183-1996, to provide appropriate zoning standards for issuing permits on existing building lots and to regulate uses within the County until the County could revise its comprehensive plan and adopt a permanent zoning ordinance to implement the revised plan. Ordinances 182-1996 and 183-1996 have been renewed several times and remain in effect.
4. The County has adopted a substantially revised comprehensive plan (hereinafter the "1998 Plan") and, under an Order from the Hearings Board, must also adopt a zoning ordinance that is consistent with and implements the 1998 Plan, on or before May 1, 1998.
5. Since early 1996, the County has engaged in an extended review of the Interim Zoning Ordinance and modifications proposed to it. The process has involved extensive public involvement, which is documented in the 1998 Plan, Public Participation Appendix.
6. On March 20, 1998, the 1998 Draft Zoning Ordinance (hereinafter "Zoning Ordinance") was released to the public for review and comment.
7. The Planning Commission and the Commissioners received voluminous written testimony from citizens, public officials, municipalities, agencies and interest groups on the proposed revisions to the Zoning Ordinance.

8. The Planning Commission held a public hearing on the Zoning Ordinance on March 31, and April 1, 1998 and submitted a recommendation on the Ordinance to the Commissioners.
9. The Commissioners scheduled a public hearing for April 2, 1998 to consider the Zoning Ordinance and the Planning Commission's recommendation but, due to procedural deficiencies, cancelled the hearing.
10. The Commissioners held a public hearing April 27, 1998, to consider appeals of the County's compliance with SEPA for the Zoning Ordinance. Based upon the written and oral testimony submitted on the appeals, the Commissioners found that the County had complied with the requirements of SEPA and denied the appeals.
11. The Commissioners continued the April 27 hearing to April 28, when they considered the Planning Commission's recommendation, and took public testimony on the Zoning Ordinance. The hearing was again continued to April 30 in order to allow the Commissioners a full day in which to read the written materials submitted at the April 28 hearing, as well as earlier submitted testimony.
12. The Commissioners have considered the hearing record for the Zoning Ordinance, including written testimony, the Planning Commission's recommendation, and oral testimony at the Commissioners' hearing.
13. The Commissioners took action by motion on April 30, 1998, to adopt the Zoning Ordinance and Map, as amended by the Commissioners in their hearing, and directed staff to prepare this ordinance for entry by the Board at their public meeting on May 4. That meeting was then continued to May 7 for entry of this ordinance.
14. Many of the changes to the Zoning Ordinance which were recommended by the Planning Commission and by County staff, as well as changes initiated by the Commissioners themselves, were based on the written and oral testimony presented to both the Planning Commission and the Commissioners.
15. As the Zoning Ordinance was being revised, it was sent to the Washington State Department of Community, Trade and Economic Development (hereinafter "CTED") and thirteen other state agencies comprising the Interagency Work Group for review and comment. The County notified CTED of its intent to adopt a final Zoning Ordinance at least sixty days prior to final adoption, as required by the GMA. The County reviewed comments received from state agencies and responded to them, incorporating most into the final Zoning Ordinance.
16. For the reasons set forth below, the Commissioners have made the following substantive changes to the Zoning Ordinance that was recommended by the Planning Commission:

- A. There may be a conflict between a few remaining procedural provisions in the Zoning Ordinance and the Kitsap County Land Use and Development Procedures Ordinance, which the Commissioners intend to be a comprehensive set of procedures for all land use applications. Therefore, a new Section 100.060 has been added to the Zoning Ordinance, which provides that in the event of a conflict, the Procedures Ordinance is controlling.
- B. The Planning Commission reviewed the changes to the Zoning Ordinance which were requested in state agency comment letters. Although the Planning Commission did not have specific language to review for the changes, they asked that the state-requested changes be made. The Commissioners agree to the state's suggested substantive changes to the Zoning Ordinance. These are shown in boldface type in a memo dated April 20, 1998 from John Vodopich to the Board of Commissioners and are incorporated herein by this reference. A copy of the memo is attached as Attachment A.
- C. In Section 310.040, to provide consistency with height restrictions in other rural zones, the following language is added at the end of the sentence: "except for silos and other uninhabited agricultural buildings".
- D. The Urban Reserve Designation is used in the 1998 Comprehensive Plan for residential property and for certain non-residential property as well. Therefore, in the chapter heading for chapter 315, and in section 315.010, the word "residential" is removed, and the following sentence is added to the end of section 315.010: "This zone may also apply to properties that are being considered for potential non-residential use."
- E. The Zoning Ordinance must be consistent with the County's adopted Comprehensive Plan. To provide this consistency "two (2)" was changed to "five (5)" in Section 325.010, and "1-2du/ac" was changed to "1-5 dwelling units/acre" in Table 345.060. The need for consistency between the Plan and the Zoning Ordinance was also discussed by the Planning Commission, which asked that such changes be made.
- F. The County has had no way under the existing Interim Zoning Ordinance to address applications for espresso stands as anything other than restaurants. They are not restaurants, and there is a need for a separate use category for such stands. Therefore, in the Urban High Residential Zones, in Table 350.020, under B, "Retail Sales, Restaurants, Drinking Places" a new item 2. is added as follows: "Espresso Stands within a residential or office complex --- SPR." A similar change is made in Table 355.020 for Commercial Zones.
- G. In the Urban High Residential Zones, in Table 350.020, under J.2, "Agricultural uses", the language "including accessory buildings related to such uses and

activities" is added in order to treat agricultural uses consistently among the zones in which they allowed. Accessory uses for agricultural activities are allowed in rural zones and should also be allowed in urban zones.

- H. Staff stated that testimony given to the Planning Commission indicated a need for consistency in terms of allowed uses and setbacks in the industrial zones. Uses allowed in the Airport zone should also be allowed in the IND and BP zones, using the same review process. Therefore, Section 370.020 is modified to add the following sentence after the first sentence: "Any use allowed in the Airport (A) zone is also an allowable use in the IND and BP zones, utilizing the same review process as identified in the Airport zone".
- I. During the course of public testimony, it was brought to the attention of the County that certain uses which relate to tourism activities and are associated with industrial uses have been excluded from industrial zones. To correct this, Table 370.020, under Part A, Item 14, "Museums, aquariums, historic, or cultural exhibits" is changed to allow this use, with Site Plan Review, in the Industrial Zones, and the same change is made to Item 15, "Tourism facilities including outfitters, guides, and seaplane and tour-boat terminals".
- J. Public testimony indicated a need to make changes to certain uses allowed in the Industrial zone and to recognize the different levels and impacts of development in those zone. Therefore, in Table 370.020, under Part B, Item 6 is revised to read:

6.a. Manufacture of roofing paper or shingles, asphalt in facilities 10,000 square feet or greater --- SPR (in both BP and IND zone)

6.b. Manufacture of roofing paper or shingles, asphalt in facilities 10,000 square feet or greater --- C (in BP zone) and SPR (in IND zone)

Item 8 is revised to read:

8.a. Forest products manufacturing or shipping facilities which are not located on the waterfront --- SPR (in IND zone)

8.b. Forest products manufacturing or shipping facilities which are located on the waterfront. --- C (in IND zone)

And under Part C, Item 11, "Rolling, drawing, or alloying ferrous and nonferrous metals", and Item 12, "Rubber, treatment or reclaiming plant", are changed to require site plan review in the industrial zone.

- K. The setbacks in the Zoning Ordinance are all identical to those included in previous drafts of the ordinance, with the exception of the setbacks included in Section 370.040, Items F and I, which address setbacks in the Industrial zone. Typographical errors in the March 20 Version of the Zoning Ordinance resulted in errors in these two subsections. Therefore, in Section 370.040, subsection F, “fifty (50)” is changed to “twenty (20)”. In subsection I of the same section, lines 1 and 2, “one hundred (100)” is replaced with “fifty (50)”; in line 5, “one hundred (100)” is replaced with “fifty (50)”; and in the last line, “fifty (50) is replaced with “twenty-five (25)”.
- L. Section 375.030 is deleted in its entirety to provide consistency among zones. In no other zone is a conditional use permit required for building height to exceed 35 feet, and there is no reason for such a requirement in the Airport Zone.
- M. The county has consistently allowed lot coverage of no more than 85%, which has allowed for a 15% requirement for landscaping. The 85% limit on lot coverage has been removed. Therefore, there is a need to add a new landscaping section, 385.025, as follows:

385.025. Landscaping Requirements

In all cases where landscaping is required, a minimum of 15% of the total site area shall be landscaped to the standards set forth in Section 385.

- N. The spacing requirement for small shrubs was inadvertently omitted from the Zoning Ordinance, and is added to Section 385.030D as follows: “5. Small shrubs shall be spaced three (3) feet on center.”
- O. According to staff, the Planning Commission discussed the need for site plan review applications to go to public hearing, and were concerned that this not occur in all cases where the project site was previously undeveloped, but rather, when development of the previously undeveloped land would impact existing residential neighborhoods. The Commissioners concur in this reasoning. Therefore, in Section 410.020A, the following language is added at the end of the second sentence: “which abuts a residential zone”.
- P. In Section 410.040A, which lists the requirements for a site plan review application, the location of critical areas was inadvertently omitted. Therefore, the following requirement is inserted prior to the present number 15: “Location of any critical areas and their associated setback and/or buffer requirements.”
- Q. According to staff, the Planning Commission's discussion of accessory dwelling units and accessory living quarters culminated in their expression of a strong preference that ADUs and ALQs not be permitted on the same lot. The

Commissioners concur that the impacts of locating an ADU and an ALQ on the same lot have not been sufficiently studied for the Commissioners to allow them at the present time. Therefore, the following language is added to Section 430.020N: "12. An ADU is not permitted on the same lot where an Accessory Living Quarter exists."

- R. Accessory dwelling units are intended to provide opportunities for affordable housing without allowing the equivalent of two primary residences on one lot. The Commissioners note that many primary residences are 1200 square feet in size. Therefore, in Section 430.020.N.5, the allowed size for accessory dwelling units is changed from 1200 square feet to 900 square feet.
- S. In Section 455.040, Part B, "Exceptions to Front Yard Requirements", subsections 1 and 2 cover the exceptions. Subsection 3 is redundant and is deleted.
- T. In Section 455.090, Part E, there is no need for subsection 5 "Limited to one per road frontage", and it is deleted. This limitation is out of context and is covered within another section of the Zoning Ordinance.
- U. Staff reports that the Planning Commission asked that the Zoning Ordinance be revised to assure that if a Nonconforming Structure is destroyed for any reason, not just by natural causes, it can be rebuilt. The Commissioners concur in this suggestion and in Section 460.030C, the language in the last sentence, "by natural causes", is deleted.
- V. In the March 20 version of the Zoning Ordinance, the language prohibiting signs on utility poles, and the language regulating yard sale and holiday bazaar signs was inadvertently omitted, although it was included in previous drafts of the zoning ordinance which were reviewed and discussed. The Commissioners find that because these signs are allowed as exceptions to the general requirements for signs, the public health, safety and welfare requires that certain restrictions be placed on them. Therefore, in Section 445.070, "Prohibitions", subsection E is revised to read as follows.
 - E. No sign, including exempt and conditionally exempt signs, shall be placed on a utility pole, any state or county regulatory or informational sign or post, or within a public road right-of-way except for official signs placed by a governmental entity;

Section 445.090, "Conditionally Exempt Signs" is amended as follows:

The following signs are not regulated by this Ordinance provided the following conditions are met:

- A. Signs indicating the location of restrooms, addresses, signs indicating hours of operation, building entrance and exit signs, signs indicating locations of public telephones, building directories and "help wanted", "no hunting" and "no trespassing" signs, provided, no such sign shall exceed four (4) square feet (.36m²);
- B. Signs advertising sales of farm products grown or raised on the premises to which the sign pertains, provided, such signs shall not exceed four (4) in number for each farm and, provided further, such signs shall be dated and shall contain the name and telephone number of the seller and, provided further, such signs shall be removed within ten (10) days after the sale of product ceases;
- C. Signs advertising single or multi-family garage or yard sales, provided, such signs shall not exceed four (4) square feet (.36m), shall bear the date when first displayed and sign shall be placed up to five (5) days prior to and removed within five (5) days after the sale is completed;
- D. Political campaign signs must be removed 10 days following the election;
- E. "A"-Board signs, provided, that they meet the following criteria:
1. Signs shall not exceed 24 inches by 30 inches (.6m x .76m);
 2. Signs shall be placed on and directly in front of premises being advertised;
 3. Signs are placed only during hours the business is open;
 4. Signs shall not be placed within the road right-of-way; and
 5. Signs limited to one per road frontage;
- F. Signs advertising subdivisions placed by real estate companies; provided off-site signs require a sign permit. A letter of consent from the property owner shall be required as part of sign permit approval;
- G. Upon written approval by the Director a temporary sign advertising a special event, sale, the opening of a new business or opening of a business under new management, provided, such signs shall not be unreasonably incompatible with surrounding uses or property and shall not disrupt vehicular or pedestrian traffic and, provided further, no such sign shall be displayed for more than fourteen (14) consecutive days nor may any business use a sign conditionally permitted by this subsection more than twice in a calendar;
- H. Upon written approval by the Director a temporary sign advertising a holiday bazaar, provided, that they meet the following criteria:

1. Letter of intent to the County which include:
 - a) the name of the event;
 - b) dates and times of the event;
 - c) name of the person responsible for the event and the signs;
 - d) letter of consent from property owner, where the sign is placed; and
 - e) a map showing the approximate location where signs are to be placed;
2. No more than twenty (20) total signs may be placed for any one event and no one sign may exceed four (4) square feet in size;
3. Signs may be placed up to twenty (20) days prior to and removed within five (5) days of the event;
4. No sandwich or "A" board signs are allowed off premises for holiday bazaars.

Section 2. Ordinance 182-1996, "Adopting An Interim Zoning Ordinance", adopted January 8, 1996, is repealed.

Section 3. Ordinance 183-1996, "Adopting An Interim Zoning Map", adopted January 8, 1996, is repealed.

Section 4. Pursuant to the Growth Management Act, the Planning Enabling Act, Chapter 36.70 RCW, and Article 11, Section 11 of the Washington Constitution, the Board of Commissioners adopts the Kitsap County Zoning Ordinance which is attached hereto as Attachment B, and incorporated herein by this reference, including the Zoning Map, which is incorporated into the Zoning Ordinance. The original Zoning Map is on file with the Kitsap County Auditor, and a copy is on file with the Department of Community Development.

Section 5. Effective Date. The Commissioners are scheduled to take action on an ordinance designating Interim Urban Growth Areas (IUGAs) on May 18, 1998. If the Commissioners adopt an IUGA Ordinance, this Zoning Ordinance shall take effect as an interim development regulation on the date the IUGA Ordinance takes effect. This Zoning Ordinance shall take effect as a permanent development regulation on the date that the 1998 Comprehensive Plan takes effect, i.e., seven days after the date on which the Growth Management Hearings Board issues an order lifting the order of invalidity imposed on the County's comprehensive plan.

Section 6. Severability. If any provision of this ordinance, or its application to any person, entity or circumstance is for any reason held invalid, the remainder of the ordinance, or the application of the provision to other persons, entities or circumstances is not affected.

