

Countryman, Ryan

From: Tom McCormick <tommccormick@mac.com>
Sent: Monday, July 11, 2016 3:36 PM
To: Countryman, Ryan
Cc: Dobesh, Michael; McCrary, Mike; Mock, Barb; Jerry Patterson; Tom Mailhot; John John; Bill Willard; Eric Faison; Debbie Tarry
Subject: Point Wells: Minimum FAR of 0.50 not 1.0

Ryan,

I believe that under SCC 30.34A.030(1) (2011 version), the minimum FAR for the entire Point Wells project is 0.50, not 1.0. Alternatively, the County could calculate a blended minimum FAR and apply it to the entire Point Wells project as discussed below.

I.

The 10/8/2015 draft of the “Relationship to Plans and Policies” section of the DEIS says that, the “minimum floor area ratio (FAR) for mixed-use development in the UC zone is 1.0.” Reference is made to SCC 30.34A.030 (2011 version). The relevant portion of SCC 30.34A.030(1) is attached to this email.

Darryl Eastin’s 4/13/2013 Review Completion Letter for the proposed Point Wells project says that, "Project contains 47 multistory buildings including approximately 15 multistory buildings with a mix of residential and commercial space. The project meets definition of "mixed use" per SCC 30.34A.030. The maximum Floor Area Ratio (FAR) for mixed use development is 2.0 and minimum FAR is 1.0. A FAR 1.17 is proposed." Darryl’s letter contains no analysis explaining why the entire project is considered "mixed use" for purposes of SCC 30.34A.030.

In your draft 4/25/2016 Supplemental Review Completion Letter, under the heading, “Former SCC 30.34A.030 Floor Area Ratio,” you note that, "The Point Wells proposal is a “mixed-use development” under this section. Mixed-use developments have a minimum FAR of 1.0 and a maximum FAR of 2.0, unless modified by bonuses. The application does not propose to use any FAR bonuses, so the FAR must be within the range of 1.0 and 2.0.” Your draft letter contains no analysis explaining why the entire project is considered "mixed use" for purposes of SCC 30.34A.030.

II.

SCC 30.34A.030(1) (2011 version) states that, "Floor to area ratios (FAR) in the UC zone are established in accordance with SCC Table 30.34A.030(1)." The Table, attached to this email, sets a minimum 0.50 FAR for non-residential, 0.50 FAR for residential, and 1.0 FAR for “Mixed Use.” And it sets a maximum 1.0 FAR for non-residential, 1.0 FAR for residential, and 2.0 FAR for “Mixed Use.” According to SCC 30.91M.135, with my underlining added for emphasis:

“Mixed Use” means residential and non-residential uses located within the same building.

Under this definition, it is clear that most buildings in the Point Wells project fail to qualify as mixed use. The vast majority of buildings in the proposed Point Wells project are either solely residential or solely non-residential.

At the bottom of the Table in SCC 30.34A.030(1), there are Notes which address how a developer of a multi-building project of four or more buildings might qualify for the maximum 2.0 FAR for mixed use, even though all or most of the buildings fail to meet the 30.91M.135 definition of “Mixed Use,” quoted above. Note 3 says that, with my underlining and bolding added for emphasis:

"Mixed-use" means residential and non-residential uses located within the same building unless, for purposes of this section, the development proposal includes more than three buildings. To be eligible for the FAR for "mixed use" in development proposals that consist of three buildings or less the entire first floor of a proposed building must be devoted to retail use; or at least one-half of the first floor must be devoted to retail use and double the non-retail area of the first floor must be assigned to retail use on other floors within the building. In order to be eligible for the FAR for "mixed use" for development proposals that consist of more than three buildings, the proposed development **may** include buildings that are devoted to a single use as long as there is a mixture of uses in the development as a whole (e.g. two residential use buildings and two non-residential buildings).

Note 1 to the Table says that, with my underlining and bolding added for emphasis: "Allowable FAR for non-residential and residential uses **may** be added together within a development for a combined total."

The above Table Notes benefit developers of multi-building developments (\geq four buildings) who want to maximize density, who want to apply the maximum 2.0 mixed-use FAR to all buildings in the development rather than the 1.0 FAR for single-use buildings, despite all or some of the buildings failing to be mixed use buildings as defined under 30.91M.135 (residential and non-residential uses located within the same building).

Stated differently, the above Table Notes tell us that for a development with four or more buildings like the Point Wells project, where some buildings are solely residential and some solely commercial, a developer may take advantage of the maximum 2.0 FAR for mixed use and apply the maximum 2.0 FAR to all buildings in the development, despite all or some of the buildings failing to be mixed use buildings as defined under 30.91M.135. Indeed, without this special rule, the 1.17 FAR for the Point Wells project (see Darryl Eastin's 4/13/2013 Review Completion Letter) would exceed the maximum permitted FAR of 1.0.

While the above Table Notes let a developer take advantage of the higher 2.0 FAR for mixed use even though not all buildings are mixed-use buildings, the Table Notes do not let a developer choose to have a higher minimum FAR apply.

While it makes sense that a developer who wants greater density may elect to apply any available rule to increase the maximum FAR (or even seek a variance to build at greater density than the maximum FAR), and while it makes sense that a developer who wants less density may elect to apply any available rule to decrease the minimum FAR (or even seek a variance to build at less density than the minimum FAR), it is nonsensical to suggest that SCC 30.34A.030(1) or any other rule in Snohomish County's Code lets a developer elect to have a higher minimum FAR apply to its development.

SCC 30.34A.030(1), read in conjunction with SCC 30.91M.135, says that the minimum FAR for buildings that are solely residential is 0.50, the minimum FAR for buildings that are solely non-residential is 0.50, and the minimum FAR for buildings that are mixed use (entire first floor retail) is 1.0. Since most of the buildings in the Point Wells project are single-use buildings, the County should apply a 0.50 minimum FAR to the whole project. Alternatively, the County could calculate a blended FAR to arrive at a single adjusted minimum FAR for the entire Point Wells project. For example, if 20% of the buildings are mixed use (entire first floor retail), and the other 80% are single-use buildings, a project-wide minimum FAR of 0.60 would apply [= (20% X 1.0) + (80% X 0.50)].

III.

I respectfully request that the County confirm that the minimum FAR for the entire Point Wells project is 0.50, not 1.0, and that the DEIS, any Review Completion Letters, and other material be revised to reflect the 0.50 minimum FAR. Alternatively, I request that a blended minimum FAR be calculated and applied to the entire Point Wells project as discussed above.

Thank you.

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30.34A.030 Floor area ratio.

(1) Floor to area ratios (FAR) in the UC zone are established in accordance with SCC Table 30.34A.030(1). Additional FAR is allowed in accordance with the bonuses as set forth in SCC Table 30.34A.030(2) and SCC Table 30.34A.030(3);

**Table 30.34A.030(1)
Floor to Area Ratios**

	Minimum	Maximum	Maximum allowable with bonus (Table 30.34A.030(2))	Maximum allowable with super bonus (Table 30.34A.030(3))
Non-Residential	.5	1.0	1.5	2.5
Residential	.5	1.0	1.5	2.5
Mixed Use	1.0	2.0	3.0	5.0
Ground Floor Retail	.25	2.0	2.25	5.0

Notes:

1. Allowable FAR for non-residential and residential uses may be added together within a development for a combined total.
2. Hotels are considered residential for the purpose of this chart.
3. "Mixed-use" means residential and non-residential uses located within the same building unless, for purposes of this section, the development proposal includes more than three buildings. To be eligible for the FAR for "mixed use" in development proposals that consist of three buildings or less the entire first floor of a proposed building must be devoted to retail use; or at least one-half of the first floor must be devoted to retail use and double the non-retail area of the first floor must be assigned to retail use on other floors within the building. In order to be eligible for the FAR for "mixed use" for development proposals that consist of more than three buildings, the proposed development may include buildings that are devoted to a single use as long as there is a mixture of uses in the development as a whole (e.g. two residential use buildings and two non-residential buildings).

Amended Ordinance No. 09-079
RELATING TO URBAN CENTER DESIGN STANDARDS, ESTABLISHING A NEW ZONE FOR URBAN CENTERS, ESTABLISHING BULK REGULATIONS FOR URBAN CENTERS; AMENDING BULK REGULATIONS FOR THE NEIGHBORHOOD BUSINESS ZONE; AMENDING AND REPEALING DEFINITIONS TO SUBTITLE 30.9 SCC; AMENDING SECTIONS OF AND ADDING SECTIONS TO TITLE 30 SCC.