



Snohomish County

PLANNING & DEVELOPMENT SERVICES

M/S #604

October 5, 2010

Mr. John C. McCullough
McCullough Hill, PS
701 Fifth Avenue, Suite 7220
Seattle, WA 98104

Subject: Code Interpretation Decision
PFN: 10 106077 CI
Tax Parcel: Non-specific request

Dear Mr. McCullough:

Thank you for your request for a code interpretation pursuant to chapter 30.83 Snohomish County Code (SCC). Pursuant to SCC 30.83.010(1)(d), Planning & Development Services determined that the definition of floor area ratio (FAR) including its calculation is the building area divided by the gross area of the site. The term site is defined in SCC 30.91S.450. Site includes the entire lot or parcel of land or contiguous combination thereof under the same ownership or control, where a development activity is performed or permitted or on which development is regulated by this title. The use of the phrase "site area" does not include any reduction in the gross area of the site. Site area may be determined based upon the County Assessor's records or a record of survey.

Background

Amended Ordinance No. 09-079 was adopted May 12, 2010, and became effective May 29, 2010. Ordinance section 25 adopted SCC 30.91F.455, the definition of FAR, that is necessary to implement urban centers regulations in SCC Chapter 30.34A. A code interpretation was requested to clarify the meaning of the term "FAR" in SCC 30.91F.455 to eliminate any ambiguity in the meaning of the following phrases in the FAR definition: "site size square footage" and "site area."

Findings

1. This code interpretation is issued pursuant to chapter SCC 30.83.010(1):

30.83.010 Code interpretations.

(1) This chapter is intended to provide a process for administrative interpretation of the provisions of this title. Code interpretations:

- (a) Clarify ambiguous provisions of the code applied to a specific project;
- (b) Determine nonconforming rights;
- (c) Determine whether a use is allowed in a particular zone; and
- (d) Interpret the meaning of terms.

(2) This chapter applies to written interpretations of this title. This chapter does not apply to:

(a) Interpretations relating to the Fire Code, chapter 30.53A, which are made by the fire marshal pursuant to section 101.4 of the Fire Code; and

(b) Interpretations relating to the construction codes, chapters 30.52A – 30.52G SCC, which are made by the building official or fire marshal pursuant to SCC 30.50.020(2).

2. John C. McCullough applied for a code interpretation on August 18, 2010. The request is unrelated to a specific tax parcel.
3. A notice of application was published in The Herald on August 22, 2010. An affidavit of publication was received from The Herald by PDS on September 8, 2010.
4. The applicant requested an interpretation to clarify the meaning of the “FAR” defined in SCC 30.91F.455 to eliminate any ambiguity in the use of the phrases “site size square footage” and “site area.” More specifically, the applicant proposes that the definition of FAR and the denominator in the FAR calculation is based upon a site’s gross square footage, as opposed to a net area.
5. The background information provided in this interpretation is incorporated as a finding.
6. There are no previously issued code interpretations or administrative determinations regarding the FAR definition.
7. Relevant provisions of the Snohomish County Code include the following:

SCC 30.91F 455 – Floor area ratio means the total building square footage (building area), measured to the inside face of exterior walls, excluding areas below finished grade, space dedicated to parking, mechanical spaces, elevator and stair shafts, lobbies and commons spaces including atriums and space used for any bonus features, divided by the site size square footage (site area).

$$\text{Floor Area Ratio} = (\text{Building area})/(\text{Site area})$$

The definition of “site” in chapter 30.91 SCC that applies to the urban center regulations in SCC Chapter 30.34A is:

SCC 30.91S.340 – Site means a lot or parcel of land or contiguous combination thereof under the same ownership or control; where a development activity is performed or permitted or on which development is regulated by this title.

8. The applicant is correct that the definition of “site” in SCC 30. 91S.350 is specific to the application of critical area regulations in Chapters 30.62A, 30.62B and 30.62C SCC and does not apply to the definition of FAR.
9. The applicant correctly indicated that Title 30 SCC does not include definitions for “site size square footage” or “site area.”
10. The definition of FAR in SCC 30.91F.455 includes the equation Floor Area Ratio = (Building area) divided by (Site area):

“Site area” is the area of the “site.” Site is defined in SCC 30.91S.340. By definition, “site area” is the lot or parcel of land or contiguous combination thereof under the same ownership or control; where a development activity is performed or permitted or on which development is regulated by this title.

In the definition of FAR, "site area" is the area of the "site." The definition of site in SCC 30.91.340 means the entire (gross) area of the lot or parcel of land or contiguous combination under the same ownership or control; where a development activity is performed or permitted or on which development is regulated by this title.

11. This interpretation is consistent with the following information provided in a memo to Snohomish County Council from Larry W. Adamson, AICP, Acting PDS Director during the legislative process dated September 25, 2009, (RE: Response to Council Questions on Floor to Area Ratio (FAR)):

Definition

FAR is a measure often used to determine the intensity of land use and provides a measurement of the maximum amount of building that may be developed on a site. The proposed Urban Center code defines FAR in SCC 30.91F.445, as the interior building area square footage divided by the gross site area.

30.91F.445 "Floor Area Ratio" means the total building square footage (building area), measured to the inside face of exterior walls, excluding areas below finished grade, space dedicated to parking, mechanical spaces, elevator and stair shafts, lobbies and commons spaces including atriums and space used for any bonus features, divided by the site size square footage (site area).

Floor Area Ratio = (Building area)/(Site area)

Conclusion

Pursuant to SCC 30.83.010, Planning and Development Services concludes that the definition floor area ratio (FAR) including its calculation is the building area divided by the gross area of the site. The term site is defined in SCC 30.91S.450. Site includes the entire lot or parcel of land or contiguous combination thereof under the same ownership or control; where a development activity is performed or permitted or on which development is regulated by this title. The use of the phrase "site area" does not include a reduction in the gross area of the site. Site area may be determined based on the County Assessor's records or a record of survey.

Effect of this Code Interpretation

Pursuant to SCC 30.83.050, the director shall render only one interpretation per issue. In addition, an interpretation issued pursuant to chapter 30.83 SCC shall have the same effect and be enforceable as a provision of title 30 SCC.

Appeals

This code interpretation may be appealed under the provisions of section SCC 30.71.050. The appeal should be addressed to the County hearing examiner, and filed in writing, in duplicate, and accompanied by a filing fee of \$500 with the Department of Planning & Development Services within 14 calendar days of the date of this decision. An appeal must contain the following items as set forth in SCC 30.71.050(5):

- (a) Facts demonstrating that the person is aggrieved by the decision;
- (b) A concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria. An appeal of a SEPA environmental document shall describe any alleged inadequacy in the threshold determination or environmental impact statement with respect to evaluation of a specific environmental element;
- (c) The specific relief requested; and
- (d) Any other information reasonably necessary to make a decision on appeal.

Please feel free to contact me at (425) 388-3412, if you have any questions regarding this code interpretation.

Sincerely,

Clay White, Director
Planning & Development Services

Attachments:

Code interpretation request from John C. McCullough dated August 12, 2010
Public Notice Payment Agreement
Letter from Linda Kuller to John C. McCullough dated August 23, 2010
Notice of Application
Affidavits of publication (2) (The Herald and PDS)
Memo from Larry W. Adamson, AICP, Acting PDS Director, dated September 25, 2009, (RE: Response to Council Questions on Floor to Area Ratio (FAR))

cc: Linda Kuller, AICP, Chief Planning Officer