2009-2010 Development Code Docket A-7: Amend Development Code to allow retail sales of agricultural products in most zoning districts (Title 20).

Date: February 2, 2010

Public Hearing Date: Tentative Date: , 2010

Prepared by: Scott Longanecker, Associate Planner

Proponent/Applicant: Thurston County

Action Requested: Amend Development Code to allow retail sales of agricultural products. (Title 20).

☐ Map Changes ☒ Text Changes ☐ Both ☐ Affects Comprehensive Plans/documents
☐ Affected Jurisdictions

ISSUE:
Thurston County Resource Stewardship’s policy is to allow farm stands selling items grown on-site. Washington State law defines farm stands as a standard agricultural activity pursuant to RCW 7.48.310. Allowing agricultural sales operations and limited sales of products that were not raised on the property, or to sell products at non-farm locations could assist with the economic viability of local farms. The proposed amendment would allow retail sales of agricultural products raised on-site and allow similar sales in other locations deemed appropriate. The allowance should also include ancillary products and services.

Notes: Per Chris Edmark - bldg code allows a tent or membranous structure up to 400 s.f. for 180 days w/out a permit, so 400 s.f. is a good threshold. (existing regs.). need access permit (existing reg.) follow health codes (existing) zoning?

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RCW 7.48.310 - Agricultural activities and forest practices — Definitions.

For the purposes of RCW 7.48.305 only:

(1) "Agricultural activity" means a condition or activity which occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; movement, including, but not limited to, use of current county road ditches, streams, rivers, canals, and drains, and use of water for agricultural activities; ground and aerial application of seed, fertilizers...
BACKGROUND:
Local farms provide many benefits to the County and its residents. These benefits include preserving open space, creating employment, reducing urban sprawl and producing goods and services like fresh produce, eggs, dairy products and maintaining an agricultural land base. Currently there are a limited number of zones that specifically allow farm stands. To clarify, a farm stand is generally a temporary structure or location at or near the point of production where farmers are allowed to sell their fresh produce and eggs directly to consumers, exempt from packaging, sizing and labeling regulations.

Farm stands differ from farmers market, and would typically consist of a single producer displaying and selling their own produce. It is common for small scale farm stands to operate on the honor system (unmanned) in order to lower labor and time costs. In this case, the customers simply pick up their produce and leave the payment at the stand in a secured box to minimize theft.

Some zoning districts in Thurston County already allow farm stands, but most zoning codes are silent regarding farm stands as a land use. The reasons for the proposed code amendment are simple. Farm stands selling locally produced agricultural goods and services benefits local citizens and the local agriculture industry. Thurston County has been approached at various times by individuals proposing farm stands. However, the review process and standards for farm stands have not been clear. This is a proposal to amend Thurston County Code, Titles 20. The intention of this amendment is to provide some clear standards for farm stands, reduce barriers to allowing them by creating a specific exemption for them while mitigating likely conflicts with other land uses. Many jurisdictions have instituted similar regulations which clarify and simplify land use and environmental regulations affecting small scale farm stands.

DEPARTMENT ANALYSIS:
Amending Thurston County Code as described herein would provide standards for the review and approval of farm stands in Thurston County. The proposed regulations would help to guide future proponents of farm stands and help to minimize potential traffic, safety, zoning and health issues that could arise from farm stands.

This ordinance should be amended because providing some clear and understandable standards for small scale farm stands will allow for a streamlined review process for applicants. Small scale farm stands provide many benefits including promoting local small scale and organic farms, as well as emphasizing our rural character and supporting the local economy. As long as reasonable standards and size limits are followed and safe vehicular access and parking is provided, there should be few if any negative impacts associated with additional roadside farm stands in the community.

ALTERNATIVES:

Option 1) Amend Title 20, including Chapter 20.54.070, and 20.54 - Table 1 to permit farm stands in most zoning districts and provide uniform standards for their placement and operation.

Option 2) Make no change to Title 20 TCC with regard to farm stands.

SEPA:
A SEPA determination has not been made at this time.

NOTIFICATION:

Written notice of the public hearing will be published in The Olympian at least twenty (20) days prior to the public hearing.

DEPARTMENT RECOMMENDATIONS:

Amending TCC 20.54.070, and 20.54 - Table 1 as suggested would be consistent with other Thurston County Development Codes, including Title 21 (Lacey UGA), Title 22 (Tumwater UGA), and Title 23 (Olympia UGA) and the Thurston County Comprehensive Plan.

The Resource Stewardship Department recommends the Planning Commission forward Development Code Docket item A-7, Retail Agricultural Products (farm stands) (Title 20 TCC) with a recommendation of approval to the Board of County Commissioners as follows:

Title 20 Zoning would be amended as follows:

Deleted Text: Strike-through Proposed Changes: Underlined
Staff Comments: italics Unaffected Omitted Text: (...)  

Possible language for Title 20:

Long Term Ag. District (LTA)

20.08A.020 – Primary uses.

Subject to the provisions of this title, the following uses are permitted within this district:

1. Agriculture, including forest practices;
2. Single-family dwellings with lots conforming to provisions of Section 20.08A.035(3);
3. Greenhouses—wholesale;
4. Accessory uses and structures including, but not limited to, a farm residence, barns, garages, storage buildings for crops, feed and equipment sheds, nurseries, shipping, receiving and handling facilities, and retail facilities for the sale of agricultural products primarily produced on the premises and related products;
4.5 Seasonal farm stands for retail sale of agricultural products are permitted as a matter of right, i.e. no land use approval is required, provided the farm stand does not exceed 400-square feet and meets the standards contained in section 20.54.070 11.7(a.), and the stand is in place for no more than six (6) months out of the year. Advertising signage meeting the standards of section 20.40.035 TCC is exempt from Thurston County review and approval.

Note: Legal thinks need more clarification on signage, as far as what is and isn’t allowed.

...
20.08C - Nisqually Agricultural District (NA)

... 

20.08C.020 – Primary uses.

Subject to the provisions of this title, the following uses are permitted within this district:

1. Agriculture, including forest practices (refer to the definition in Section 20.03.040; does not include wholesale greenhouses);
2. Accessory uses and structures including but not limited to farm residences, barns, garages, storage buildings for crops, feed and equipment sheds, shipping, receiving and handling facilities;
3. Farm stands which sell agricultural products, provided the majority of these products are raised on or near the premises, the stand does not exceed five hundred square feet, and customer parking is provided on the site.

... 

3.5 Seasonal farm stands for retail sale of agricultural products are permitted as a matter of right, i.e. no land use approval is required, provided the farm stand does not exceed 400-square feet and meets the standards contained in section 20.54.070 11.7(a.), and the stand is in place for no more than six (6) months out of the year. Advertising signage meeting the standards of section 20.40.035 TCC is exempt from Thurston County review and approval.

... 

20.54.070 – Use Specific Standards.
Subsection 11.7 - Farm stands.

a. Seasonal farm stands for retail sale of agricultural products are permitted as a matter of right, i.e. no land use approval is required, provided the farm stands meet the following standards:

Note: Added the word ‘seasonal’ to just this section because a tent is a temporary structure in order to exempt from a building permit / fire code permit per Chris Edmark, Plans Examiner. Could change to temporary and define more clearly if necessary.

i. The roofed area or associated structure does not exceed 400 square feet and the structure is a tent or similar membranous structure, or licensed as a vehicle.
(Note: Please see Attachment B: regarding farm stand size limits. Is 400 square feet too small for the permit exempt stand? Even and Admin. SUP can be cost prohibitive for such a small operation.)

ii. Product display area does not exceed 800 square feet.

iii. Safe vehicular access and customer parking is provided on site, such that vehicles are not required to back onto County roads.

iv. Farm stand and associated parking shall be located outside of public right-of-ways. Structures and canopies associated with a farm stands must be set back a minimum of 10-feet from public right of ways.

v. The majority of products sold are grown or produced on or near the site.
vi. Ancillary products and services are permitted, however they shall not exceed 25% of gross sales related to the farm stand.

or

Ancillary products and services are permitted, however they shall not exceed 50 (fifty) square feet of product display area.

Notes: Staff initially proposed 50%, but BoCC initially indicated a preference for 25% gross sales limit on ancillary items. May need to explore this further and identify issues. Fifty (50)% or less is a common limit on ancillary items based upon staff’s review of other zoning codes around the country. Since a percentage of gross sales would be extremely difficult to measure or prove, staff suggests using a different standard common in other jurisdictions farm stand ordinances. Could use 50 or 100 square feet. This would be a much easier standard to understand, explain and enforce.
The state of California passed Bill no. AB 2168 in 2008 which allows jams and pickles produced on or near the site to be sold at farm stands (value added products). Check w/ EH food safety on this. Probably don’t need to get into this level of detail and leave it up the Environmental Health to address food safety.

vii. Farm stands operated by separately owned farms are encouraged to be collocated, using shared vehicular access and parking, or they shall be separated by a minimum of 1,000 feet between access points. The Director of Resource Stewardship may consider exceptions to this separation standard on a case by case basis. Note: New farm stands will need an access permit. If this standard cannot be met, the access permit may be denied or revoked depending on circumstances.

viii. All other applicable state and local regulations related to public health, safety, including food safety and general welfare shall be met.

ix. Unless a twenty (20) foot wide, existing, legal vehicular access is used, a new farm stand requires a Thurston County Public Works encroachment permit to provide access, or to improve an existing access from a County road.

x. Advertising signage meeting the standards of section 20.40.035 TCC is exempt from Thurston County review and approval.

Notes: Concerning 11.7 a.v. and a.vi. (above), do we want to specify what “on or near the site” means or leave it open to interpretation? It could mean next door or the entire County. Could specify grown or produced in Washington State instead to make more liberal. Small seasonal roadside stands selling fruit from Eastern Washington are not an uncommon site during summer months.

b. Farm stands for retail sale of agricultural products shall be reviewed through an administrative special use permit if the following standards are met:
i. The roofed area or associated structure does not exceed 1,000 square feet.

ii. Product display area does not exceed 2,000 square feet.

iii. Safe vehicular access and customer parking is provided on site, such that vehicles are not required to back onto County roads.

iv. Farm stand and associated parking shall be located outside of public right-of-ways.

v. Ancillary products and services are permitted, however they shall not exceed 100 square feet of product display area.

vi. Farm stands operated by separately owned farms are encouraged to be collocated, using shared vehicular access and parking, or they shall be separated by a minimum of 1,000 feet between access points. The Director of Resource Stewardship may consider exceptions to this separation standard on a case by case basis. Note: This requirement could potentially be dropped because the project will go through a thorough review (Admin. SUP) which will address access, traffic, parking etc.

vii. All applicable state and local regulations related to public health, safety, including food safety and general welfare shall be met.

viii. Unless a twenty (20) foot wide, existing, legal vehicular access is used, a new farm stand requires a Thurston County Public Works encroachment permit to provide access, or to improve an existing access from a County road.

c. Farm stands for retail sale of agricultural products meeting the following standards shall be reviewed and approved by the Thurston County Hearings Examiner through a special use permit when the roofed area or associated structure is greater than 1,000 square feet, and/or the product display area exceeds 2,000 square feet in size. Such farm stands shall meet the following standards:

i. Safe vehicular access and customer parking shall be provided on site, such that vehicles are not required to back onto County roads.

ii. Farm stand and associated parking shall be located outside of public right-of-ways.

iii. Ancillary products and services are permitted, however they shall not exceed 200 square feet of product display area.

iv. Farm stands operated by separately owned farms are encouraged to be collocated, using shared vehicular access and parking, or they shall be separated by a minimum of 1,000 feet between access points. The Director of Resource Stewardship may consider exceptions to this separation standard on a case by case basis. Note: As above in section b., this requirement could possibly be dropped because the project will go through a thorough review which will address access, traffic, parking etc.

v. All applicable state and local regulations related to public health, safety, including food safety and general welfare shall be met.

vi. Unless a twenty (20) foot wide, existing, legal vehicular access is used, a new farm stand requires a Thurston County Public Works encroachment permit to provide access, or to improve an existing access from a County road.
### Proposed changes to TCC 20.54, Table 1 (see use no. 11.7)

#### Table 1

**Special Uses—Distribution in County Zoning Districts**

Uses listed below are prohibited unless specifically identified as allowable through special use review, or unless listed as a permitted or primary use within an individual zoning district chapter.

| USE                                                                 | R1/10 | R1/5 | U1/5 | R1/2 | R1/1 | L1/1 | L1/2 | L1/3 | L1/4 | P1 | N1 | C1 | C1 | A1 | H1 | S1 | M1 | G1 | A2 | L1 | T1 | N1 | L1 | T1 | P1 | M1 |
|---------------------------------------------------------------------|-------|------|------|------|------|------|------|------|------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| 1. Academic schools*                                                | X     | X    | X    | X    | X    | X    | X    | X    | X    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| 2. Airfields and landing strips*                                    | A/   | X    | A/   | X    | A/   | X    | A/   | A/   | X    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| 3. Animal/bone black, rendering, bone distillations                |       | X    |       |       |       | X    |       |       |       |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| 3.5 Athletic facilities                                            | X     | X    | X    | X    | X    | X    | X    | X    | X    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| 4. Boat launch                                                     | X     | X    | X    | X    | X    | X    | X    | X    | X    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| 5. Camp or recreation ground                                      | X     | X    | X    |       |       | X    |       |       |       |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| 6. Cemeteries                                                      | X     | X    | X    | X    | X    | X    | X    | X    | X    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| 7. Churches                                                       | X     | X    | X    | X    | X    | X    | X    | X    | X    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| 8. Community center/community club                                | X     | X    | X    | X    | X    | X    | X    | X    | X    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| 9.3 Composting facilities                                          | X     | X    | X    |     | X    |     | X    |     | X    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| 9.5 Country inns                                                   | X     | X    | X    | X    | X    |     |     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| 10. Day-care center                                                | X     | X    | X    | X    | X    | X    | X    | X    | X    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| 11. Drive-in theaters                                              |       | X    |       |       |       |       |       |       |       |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| 11.4 Family day care provider                                      | A     | A    | A    | A    | A    | A    | A    | A    | A    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| 11.5 Farm housing (five or more units)                             | X     | X    | X    |       |       |       |       |       |       |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| 11.7 Farm stands (retail)                                          | A     | A    | A    | A    | A    | A    | A    | A    | A    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |

**Notes:** The **highlighted** portion is new.

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ATTACHMENT A:  Photos of small vs. larger scale farm stands:

Honor System: A buyer gets her own change at a 1948 vegetable stand run by H.A. Schonle near Huntington Beach. (UCLA Library)

Small, unmanned farm stand today
Modern day unmanned farm stands. Not much has changed with the exception of land use and zoning regulations.
Farm stand design can vary greatly.

Road side stands sell a variety of home made products. To date, the proposed amendment only addresses farm stands, however sale of other ‘home made’ products could conceivably be addressed as well.
Examples of larger scale farm stands that would trigger a Special Use Permit under the proposed amendment.
ATTACHMENT B:

Seattle Times article, 2004

Area farmers hope to harvest more 'agritourism' benefits. They say county regulations on the size of farm stands and other rules hinder their ability to market themselves to the public.

Byline: Jane Hodges; Times Snohomish County bureau

Keith Stocker's Snohomish-area farm has sold corn, pumpkins and beef cattle on a wholesale level for four generations, but during the past decade, the farm has worked more directly with consumers, selling at farmers markets and a farm stand, and hosting corn mazes, pumpkin patches and other attractions.

Though Stocker and many other county farmers have moved increasingly toward "agritourism" to bolster revenue, they say county regulations over their use of farm property have not changed to reflect those new realities.

Stocker pointed to county codes that restrict farm stands to a maximum of 400 square feet. He said he knows of only one farm stand among a dozen that conforms to those standards, noting that many farmers operate larger stands in order to draw customers.

Stocker and other members of the Snohomish County Agricultural Advisory Board recently presented the County Council with a list of suggestions for how the county could amend its code governing the use of farmland. The council will review these recommendations, three years in the making, in the spring.

The farmers' activism comes at a time when agricultural interests have gained more prominence on the county's agenda.

Snohomish County Executive Aaron Reardon announced yesterday that John Roney, formerly a special-projects coordinator in the planning department, had been appointed the county's agriculture coordinator. Roney will be a liaison between farmers and the county.

Reardon has also named two farm representatives to his transition team, and Washington State University also recently assigned Michael Hackett, a professor and liaison to the school's agricultural extension program, to work with Snohomish County farmers.

Reardon also is scheduled to join King County Executive Ron Sims on Monday to petition grocery representatives on behalf of Puget Sound Fresh, a marketing program for local growers, about buying more locally farmed products. Some grocers have abandoned the practice because of corporate consolidation.

Even as Reardon and Sims appeal to grocers on behalf of local growers, the producers acknowledge that they will have to take a more direct role selling to consumers. Some who attended the agricultural advisory-board meeting last week in Everett said a county-appointed agriculture advocate could help them sell through different channels, including institutional buyers such as hospitals, schools and prisons.

In the meantime, they've asked the county to consider amending codes to allow:

Farmers markets on farm property.

Larger farm stands and other accessory buildings.
More food processing on farm property so farmers can create "value-added" food products from crops.

Some types of light food processing without requiring that agricultural land be rezoned to commercial or manufacturing use.

Farms to provide more parking, event space or the ability to add overnight stays, such as at bed-and-breakfast inns, in conjunction with agritourism.

Stocker said that, thus far, the county hasn't penalized farms whose agritourism activities violate its codes. But as more farms plan ways to sell direct to consumers, he and others want to make sure county codes allow them to operate ancillary businesses, especially as the county's population spreads farther into once-rural areas.

"As you have population density filling in (the land), some rural farming starts to become suburban or even urban farming," Stocker said. "While urban growth restricts some of the things that farms can do, agritourism is still viable."

Tristan Klesick said he is not planning to introduce on-farm activities at the 23-acre Klesick Family Farm near Stanwood but said his farm would still benefit by code changes.

He, for one, would like to handle more food processing. That way, he said, he and his family could make soap from his goats' milk or honey from bees and add it to the organic-food baskets they sell to subscribers.

"These are farmer-friendly codes," Klesick said. "This will allow us to meet the needs of our customers."

Jane Hodges: 425-745-7813 or jhodges@seattletimes.com

CAPTION(S):

Mark Harrison / The Seattle Times : Keith Stocker is pushing for the Snohomish County Council to amend its code governing the use of farmland. (0393969658)
ATTACHMENT C:

Staff Comments on Draft Staff Report:

This draft looks very good to me. I have to agree with the comment late in the report about other home made products and would highly recommend that these be included rather than just produce. I'm not sure about the use of the phrase "safe parking". It seems a bit broad and subject to interpretation (but then I don't usually review these types of things so maybe that's how they are generally written). I like the clarification of it being off the public right of way which may be adequate.

If two farms that are close are collocated would they need to have ONE stand of 400 s.f. or can there be two. Or an even broader question: Is the farm limited to one structure or could they potentially have several at the same location to get around the concern of having adequate square footage. Just a few thoughts...

Katie Henry,

Scott,

Looks fine. The only comment I want to make is not about what you wrote but is about what I read from the Snohomish comments. They stated that the 400 square feet was too small. The fire code will allow multiple tents provided that they are spaced 20 feet apart. They can come in and get a tent permit for a tent at a reasonable cost that would allow larger temporary structures.

Would it be possible to base the size on the acreage? Someone who has twenty acres may have more produce, but a person who only has five acres would not need a huge structure. Smaller farms maybe looking to bring in produce from other farms to supplement their income.

400 square feet for the first five acres and 200 square feet for every additional five acres if the structure is temporary. A twenty acre parcel would have 1000 square feet.

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Re: Request for review: Farm stand ordinance update - Dev Code Docket item A-7
Hey Scott,

Here are our comments:

- 20.54.070 (a)(ix) should read "Unless a 20' wide existing, legal vehicular access..."

- 20.54.070 (a)(iii) should read "...provided on site so that no vehicles shall be permitted to back out onto County roads."

- 20.54.070 (b)(viii) should read "Unless a 20' wide existing, legal vehicular access..."
- 20.54.070 (b)(iii) should read "...provided on site so that no vehicles shall be permitted to back out onto County roads."

- 20.54.070 (c)(vi) should read "Unless a 20' wide existing, legal vehicular access..."
- 20.54.070 (c)(i) should read "...provided on site so that no vehicles shall be permitted to back out onto County roads."

- You'll need to add a condition that talks about grading/clearing and drainage requirements. Grading over 50 cubic yards, clearing more than 7,000 sf or either within critical areas or buffers requires a permit. And the new drainage standards require a drainage plan review if the total new impervious (building/driveway/parking) exceeds 2,000 sf.

Kevin Hughes, PE
Development Review Manager
Thurston County Public Works
Phone: (360) 867-2042