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Title: AN ORDINANCE authorizing the completion of ten farm pad alterations approved for the demonstration project established in Ordinance 15883; and declaring an emergency.

Sponsors: Kathy Lambert

Indexes: Farmlands

Code sections:

Attachments: 1. 16101.pdf, 2. 2008-0269 Transmittal Letter.doc, 3. 16101 Adoption Notice.doc, 4. 2008-0269 staff report (5-13-08).doc, 5. 2008-0269 staff report Attach 2 (5-13-08).doc, 6. A. Demonstration Project Boundary Map, 7. Hearing Notice for comment period.doc

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7/14/2008	2	Metropolitan King County Council	Hearing Held	
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5/27/2008	1	Metropolitan King County Council	Passed as Amended	Pass
5/13/2008	1	Growth Management and Natural Resources Committee	Recommended Do Pass Consent	Pass
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Clerk 05/27/2008

AN ORDINANCE authorizing the completion of ten farm pad alterations approved for the demonstration project established in Ordinance 15883; and declaring an emergency.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. Ordinance 15883 established a demonstration project that allowed for the emergency repair and reconfiguration of existing livestock flood sanctuaries or converting existing livestock flood sanctuaries to farm flood pads within the Snoqualmie Agricultural Production District, and established that all work including inspections must be completed by December 31, 2007.

B. Using the process established by Ordinance 15883, the agriculture commission identified thirteen proposals to take part in the demonstration project. Of these, eleven projects followed through with the application for a shoreline exemption, and received shoreline exemption letters. One of the shoreline exemptions letters was rescinded after the landowner dropped out, leaving ten approved projects in the demonstration project.

C. The thirteen projects identified by the agriculture commission were modeled for compliance with floodplain management standards. The modeling showed that neither the individual nor the cumulative effects of the thirteen proposed farm pad alterations would result in a measurable rise in flood elevation, as defined in King County Code.

D. The shoreline exemption letters for each of the remaining ten projects specified the location of the farm pad alteration, the amount of fill that could be added, and the conditions under which the farm pad could be constructed.

E. Pursuant to Ordinance 15883, each landowner in the demonstration project signed a nonconversion agreement stating that the farm flood pad or livestock flood sanctuary would not be converted to any other use. The nonconversion agreements were recorded on the title with the King County records, elections and licensing services division.

F. Six of the approved projects had been substantially completed by December 31, 2007. However, the final surfacing of the top of the pad, hydroseeding of the surface, and final elevation reports were not completed for any of the six projects.

G. Due to rainy conditions, wet fields and the unavailability of fill material to reconfigure the farm pads, four projects were unable to be constructed by December 31, 2007.

H. Motion 12559, which was approved by the council on July 30, 2007, directed the King County executive to convene a task force to review and make recommendations in regards to farm protection measures for the Snoqualmie Valley Agricultural Production District. Ordinance 15883 directed the task force to evaluate

the demonstration project as part of their work.

I. The King County executive transmitted the task force report to the King County council on February 1, 2008. Recommendation No. 8 in the report is to extend the demonstration project for those projects that were unable to finish construction before the December 31, 2007, deadline.

J. The task force report also includes an evaluation of each of the development standards that were modified through Ordinance 15883, and recommendations for code changes to put into effect a number of the alternative standards allowed in the demonstration project.

K. A renewal of the demonstration project is necessary so that projects approved in the demonstration project are able to be completed in advance of the adoption of proposed code changes, and without additional analysis or fees.

L. The authorization to complete approved farm pads is consistent with the King County Comprehensive Plan, which has designated the Snoqualmie valley as an Agricultural Production District, and which states that maintaining the viability of farmlands is a high priority for King County.

M. The demonstration project was adopted as an interim official control under RCW 36.70A.390 and the effective period of the ordinance was six months from council action. Ordinance 15883 expired on February 1, 2008.

N. The authorization to complete approved farm pads is adopted as an interim official control under RCW 36.70A.390 and the effective period of the ordinance may not exceed six months from council action.

O. Given the likelihood that future floods will increase in frequency and intensity and in order to expedite and complete the repair, reconstruction and expansion activities authorized by this demonstration project prior to the start of the next flood season in late 2008, a waiver of state and county public notice requirements is necessary and an emergency action by the council is appropriate.

SECTION 2. As allowed under K.C.C. chapter 21A.55, the council hereby authorizes completion of the Livestock Flood Sanctuaries and Farm Flood Pads Demonstration Project, authorized by Ordinance 15883,

which shall comply with the following:

A. The purpose of the livestock flood sanctuaries and farm flood pads demonstration project is:

1. To allow completion of projects approved under Ordinance 15883 through modification to certain development standards and permit requirements to allow emergency repair or reconfiguration of existing livestock flood sanctuaries before the 2008-2009 flood season;
2. To determine if innovative permit processing and limited modifications of flood regulations will result in an impact on flood storage and conveyance within the Snoqualmie river floodplain;
3. To identify information and data to assist in development of new or revised methods of protecting agriculture from flooding; and
4. To research and possibly test alternative flood protection structures that would not require the placement of additional fill in the floodplain, such as elevated or floating structures.

B. The demonstration project shall be implemented within the Snoqualmie Valley Agricultural Production District floodplain, including the Federal Emergency Management Agency ("FEMA") floodway. The specific farms are those identified by the King County agricultural commission for inclusion in this demonstration project under Ordinance 15883. The boundaries of the demonstration project shall be as delineated for the one-hundred-year floodplain on Attachment A to this ordinance.

C. The demonstration project shall be administered jointly by the water and land resources division of the department of natural resources and parks, and the land use services and building services divisions of the department of development and environmental services. These departments are authorized to implement the development standards of K.C.C. Titles 16 and Title 21A, as modified in subsection D. of this section. The roles and responsibilities of each department are as follows:

1. Department of natural resources and parks shall:
 - a. coordinate with the King County agricultural commission and farmers; and
 - b. jointly review with the department of development and environmental services the proposals for

compliance with flood hazard regulations;

2. Department of development and environmental services shall:

a. jointly review with the department of natural resources and parks the proposals for compliance with flood hazard and other applicable development regulations; and

b. conduct site inspections to determine the proposal is in conformance with the agreed design; and

3. The department of development and environmental services shall make the final decision to approve or deny the proposals based on the criteria in subsection F of this section. The department of development and environmental services will consult with the department of natural resources and parks prior to making this decision.

D. For the purposes of this demonstration project, the following development standards are modified as set forth in this subsection and shall be implemented by the water and land resources division of the department of natural resources and parks, and the land use services and building services divisions of the department of development and environmental services:

1. The demonstration project shall not reduce the effective base flood storage volume of the floodplain, however K.C.C. 21A.24.240.A. is modified as follows:

a. compensatory storage may be provided at different elevations to that being displaced if there is no feasible location on site or in the vicinity at the same elevation; and

b. compensatory storage does not need to be hydraulically connected to the source of flooding if that cannot be achieved on site or in the immediate vicinity;

2. K.C.C. 21A.24.240.C. is modified to allow the repair and reconfiguration of existing livestock flood sanctuaries in portions of the floodplain where the base flood depth exceeds three feet or the base flood velocity exceeds three feet per second;

3. The standards for livestock flood sanctuaries in K.C.C. 21A.24.240.K. are modified and replaced with the standards in subsection F. of this section;

4. The prohibition on livestock flood sanctuaries in the FEMA floodway in K.C.C. 21A.24.260 does not preclude repair and reconfiguration to existing livestock flood sanctuaries under this demonstration project;

5. K.C.C. 21A.24.270 is modified except an elevation report shall be required as specified in K.C.C. 21A.24.270.A and provided to the department of development and environmental services no later than October 31, 2008;

6. All other flood hazard area standards in K.C.C. 21A.24.230 through 21A.24.260 apply to this demonstration project; and

7. For purposes of this demonstration project, "repair or reconfiguration" may include a vertical expansion of the existing livestock flood sanctuary if the expansion does not increase the footprint laterally, except as needed for slope stability.

E. The following process shall be used to process requests for modifications of regulations and limitations on permit requirements:

1. The specific livestock flood sanctuaries that will be included in this demonstration project are those identified by the King County agriculture commission under Ordinance 15883;

2. For shoreline exemption letters issued for projects identified under Ordinance 15883, the department of development and environmental services may modify the conditions imposed on the exemptions to extend the deadline for project completion to September 30, 2008, to require that construction not commence before May 1, 2008, and to allow an elevation report to be submitted to the department by October 31, 2008, rather than a FEMA elevation certificate. For purposes of this demonstration project, requirements for clearing or grading permits under K.C.C. 16.82.050 are waived;

3. The department of natural resources and parks and the department of development and environmental services shall rely on the flood hazard analysis conducted under Ordinance 15883, Section 4.E.3., to determine which modifications of the regulations are needed to achieve the desired proposal; and

4. The total fees for permits and review charged by the department of natural resources and parks and

department of development and environmental fees to participants in this demonstration project shall not exceed five hundred dollars per participant.

F. The modification or waiver of standards in subsection D. of this section shall be approved if:

1. The combined impact of all development proposals does not exceed forty thousand square feet of cumulative encroachment, except that proposals that can meet the compensatory storage requirements shall not be included in the forty-thousand-square-foot limitation;

2. The flood hazard analysis demonstrated compliance with K.C.C. 21A.24.240.A, as modified in subsection D. of this section, and the zero-rise requirements of K.C.C. 21A.24.250.B. and 21A.24.260.B;

3. The repair or reconfiguration complies with the Livestock Flood Sanctuaries in Flood Hazard Areas Best Management Practices approved under King County Public Rule, Farm Management Plans, except for:

a. the requirement that the compensatory storage be provided in equivalent volume at equivalent elevation to that being displaced by the pad and that it be hydraulically connected to the source of flooding;

b. the restriction on development where the base flood depth exceeds three feet or the base flood velocity exceeds three feet per second; and

c. the prohibition on livestock flood sanctuaries in the FEMA floodway;

4. The footprint of existing livestock flood sanctuaries is not expanded laterally, except as needed for slope stability; and

5. The property owners sign a nonconversion agreement stating that the farm flood pad or livestock flood sanctuary will not be converted to a nonagricultural use. The nonconversion agreement is recorded on the title with the King County records and licensing services division and runs with the land.

G. The demonstration project shall be run from May 1, 2008, to October 31, 2008. The following deadlines are also established:

1. By September 30, 2008, all work, including inspections, must be completed; and

2. By October 31, 2008, an elevation report must be completed by a Washington state-licensed civil

engineer or land surveyor and returned to the department of development and environmental services, with a copy to the department of natural resources and parks.

H. If the completion of the approved projects results in information in addition to or different from that included in the task force report transmitted to the King County council on February 1, 2008, the King County executive will provide a supplemental evaluation of the demonstration project by December 31, 2008.

I. For purposes of this section, farm flood pad means an artificially created mound of earth or an elevated platform placed within a flood hazard area constructed to an elevation that is above the base flood elevation to provide an area of refuge for livestock or small animals, and for the storage of farm vehicles, agricultural equipment, and shelter for farm products including, but not limited to, feed, seeds, flower bulbs and hay.

J. For the purposes of this section, livestock flood sanctuary means an artificially created mound of earth allowed by the county to be placed within a flood hazard area following the floods of 1990 to provide an area of refuge for livestock.

SECTION 3. Section 4 of this ordinance is adopted as an interim official control under RCW 36.70A.390 and expires six months after the effective date of this ordinance.

SECTION 4. For the reasons set forth in section 1 of this ordinance, the county council finds as a fact and declares that an emergency exists and that this ordinance is

necessary for the immediate preservation of public peace, healthy or safety or for the support of county government and its existing public institutions.