



King County

KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

July 31, 2007

Ordinance 15883

Proposed No. 2007-0393.3

Sponsors Lambert, Constantine and Gossett

1 AN ORDINANCE establishing a demonstration project, as
 2 authorized under K.C.C. chapter 21A.55, for the emergency
 3 repair or reconfiguration of existing livestock flood
 4 sanctuaries or converting existing livestock flood
 5 sanctuaries to farm flood pads within the Snoqualmie
 6 Agricultural Production District; adding new sections to
 7 K.C.C. chapter 21A.06 ; and declaring an emergency.

8
 9 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

10 SECTION 1. Findings.

11 A. The Growth Management Act ("GMA"), Countywide Planning
 12 Policies ("CPPs") and King County Comprehensive Plan ("KCCP") require the
 13 delineation and protection of valuable and increasingly limited agricultural
 14 resource lands and supports regulations that serve to encourage the continuation
 15 of agriculture land uses.

16 B. King County has identified and designated a number of Agricultural
17 Production Districts totaling forty-two thousand acres and has implemented
18 protections through the Agriculture zoning designation.

19 C. King County has enacted land use policies and regulations that focus
20 much of the agriculture within the county towards the agricultural production
21 districts and financially supports agriculture through:

22 1. Agricultural programs, such as the Farmland Preservation Program,
23 Puget Sound Fresh and farm ditch maintenance; and

24 2. Funding of the King Conservation District for development of farm
25 management plans.

26 D. The Snoqualmie Valley Agricultural Production District, at 14,581
27 acres, is the single, largest agricultural production district in King County and
28 historically has had a very productive agricultural industry.

29 E. The Snoqualmie Valley Agricultural Production District is regularly
30 inundated by flood waters and has experienced six of the eight largest flood
31 events on record in the last twenty-one years, with the likelihood of more-frequent
32 occurrences in the future.

33 F. These flood water levels are often increased by a number and variety of
34 factors, such as storm water from development on the uplands that drain into the
35 Snoqualmie valley.

36 G. The Snoqualmie Valley Agricultural Production District is distinct from the
37 other designated agricultural production districts of King County in that a significant

38 majority of the Snoqualmie Valley Agricultural Production District is located within the
39 one-hundred-year floodplain.

40 H. The regular occurrence of flooding has greatly impacted agriculture within the
41 Snoqualmie Valley Agricultural Production District due to the lack of elevated farm pads
42 that provide safe havens for farm animals and on which farm products, such as seeds,
43 flower bulbs, hay and similar products and farm equipment could be placed during a
44 flooding event.

45 I. The county code currently which limit the ability to expand existing livestock
46 sanctuaries within the United States Federal Emergency Management Agency ("FEMA")
47 floodway. In addition, covenants are recorded on deeds of properties with livestock
48 sanctuaries that preclude use of the livestock sanctuaries for the protection of farm
49 equipment and products.

50 J. The United States Food and Drug Administration considers flood
51 inundated food items, including produce in the ground, to be contaminated, which
52 is known as "adulterated," and the food items must be destroyed.

53 K. The flood occurrences of November and December 2006 resulted in
54 the death of one horse, two sheep and several chickens, in addition to hundreds of
55 thousands of dollars of feed, hay, produce, and flowers and damage to farm
56 equipment and a significant impact on the Hmong farming community.

57 L. It is consistent with the GMA, CPPs and KCCP for the county to
58 support not only the continuation, but also the future growth, of agriculture in the
59 Snoqualmie Valley Agricultural Production District.

60 M. King County participates in the National Flood Insurance Program,
61 which requires minimum floodplain regulations in order to qualify for federally-
62 backed flood insurance, federal loans, such as those by the Veterans
63 Administration, Federal Housing Administration and Rural Housing Services and
64 federal assistance following a president-declared flood disaster.

65 N. King County participates in the Community Rating System, which is a
66 voluntary program to reduce the cost of flood insurance in return for requiring a
67 higher level of flood protection than the minimum standards required under the
68 National Flood Insurance Program.

69 O. King County is currently a class 3 community under the Community
70 Rating System and is the highest rated county in the United States, resulting in an
71 average saving of three hundred forty-seven dollars per flood insurance policy
72 countywide.

73 P. King County will be reclassified as a class 2 community on October 1,
74 2007, which is estimated to provide an additional seventy-eight thousand nine
75 hundred ninety-seven dollars savings in flood insurance in unincorporated King
76 County.

77 Q. A small, controlled expansion of the size and use of a limited number of
78 existing livestock sanctuaries within the floodways of the Snoqualmie Valley
79 Agricultural Production District would have little or no effect upon the intensity of
80 flooding occurrences on upstream and downstream properties, if appropriate measures
81 are implemented.

82 R. The appropriate measures, such as the scope of modifications to development
83 standards, location of development proposals, duration and process, would be
84 implemented through a demonstration project, authorized under and consistent with
85 K.C.C. chapter 21A.55.

86 S. The demonstration project is adopted as an interim official control under RCW
87 36.70A.390 and the effective period of the ordinance may not exceed six months from
88 council action.

89 T. Given the likelihood that future floods will increase in frequency and intensity
90 and in order to expedite the repair, reconstruction and expansion activities authorized by
91 this demonstration project prior to the start of the next flood season in late 2007, a waiver
92 of state and county public notice requirements is necessary and an emergency action by
93 the council is appropriate.

94 NEW SECTION. SECTION 2. There is hereby added to K.C.C. chapter 21A.06 a
95 new section to read as follows:

96 Farm flood pad: an artificially created mound of earth or an elevated platform
97 placed within a flood hazard area constructed to an elevation that is above the base flood
98 elevation to provide an area of refuge for livestock or small animals, and for the storage of
99 farm vehicles, agricultural equipment, and shelter for farm products including, but not
100 limited to, feed, seeds, flower bulbs and hay.

101 NEW SECTION. SECTION 3. There is hereby added to K.C.C. chapter 21A.06 a
102 new section to read as follows:

103 Livestock flood sanctuary: an artificially created mound of earth allowed by the
104 county to be placed within a flood hazard area following the floods of 1990 to provide an
105 area of refuge for livestock.

106 SECTION 4. As allowed under K.C.C. chapter 21A.55, the council hereby
107 authorizes the Livestock Flood Sanctuaries and Farm Flood Pads Demonstration Project,
108 which shall comply with the following:

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

111 1. To provide modifications from certain development standards and permit
112 requirements to allow emergency repair or reconfiguration of existing livestock flood
113 sanctuaries before the 2007-2008 flood season for a limited number of agricultural
114 landowners in the Snoqualmie Valley Agricultural Production District,

115 2. To determine if innovative permit processing and limited modifications of
116 flood regulations will result in an impact on flood storage and conveyance within the
117 Snoqualmie river floodplain;

118 3. To identify information and data to assist in development of new or revised
119 methods of protecting agriculture from flooding; and

120 4. To research and possibly test alternative flood protection structures that
121 would not require the placement of additional fill in the floodplain, such as elevated or
122 floating structures.

123 B. The demonstration project shall be implemented within the Snoqualmie Valley
124 Agricultural Production District floodplain, including the FEMA floodway. Specific
125 farms shall be identified by the King County agricultural commission for inclusion in this

126 demonstration project. The boundaries of the demonstration project shall be as
127 delineated for the one-hundred-year floodplain on Attachment A to this ordinance.

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

134 1. Department of natural resources and parks:

135 a. coordinate with the King County agricultural commission and farmers;

136 b. complete hydraulic modeling and jointly review with the department of
137 development and environmental services the proposals for compliance with flood hazard
138 regulations; and

139 c. prepare the report to council as required in subsection H. of this section;

140 2. Department of development and environmental services:

141 a. jointly review with the department of natural resources and parks the

142 proposals for compliance with flood hazard and other applicable development

143 regulations; and

144 b. conduct site inspections to determine the proposal is in conformance with

145 the agreed design; and

146 3. The department of development and environmental services shall make the

147 final decision to approve or deny the proposals based on the criteria in subsection F. of

148 this section. The department of development and environmental services will consult
149 with the department of natural resources and parks prior to making this decision.

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

155 1. K.C.C. 16.82.095 is modified to allow clearing and grading between October
156 1 and April 30, provided that the substantive standards of this section and Appendix D to
157 the King County Surface Water Design Manual are met;

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

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

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

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

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

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

173 6. K.C.C. 21A.24.270 is modified except a FEMA elevation certificate shall be
174 required as specified in K.C.C. 21A.24.270.A and provided to the department of
175 development and environmental services no later than December 31, 2007;

176 7. All other flood hazard area standards in K.C.C. 21A.24.230 through
177 21A.24.260 apply to this demonstration project; and

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

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

183 1. The King County agricultural commission shall identify the specific livestock
184 flood sanctuaries that will be included in this demonstration project.

185 a. The agricultural commission must specify the exact request for each
186 proposal including:

187 (1) the parcel number of each livestock flood sanctuary that is requested to be
188 repaired or reconstructed;

189 (2) a description of the intended future use of the pad;

190 (3) the square footage needed above the base flood elevation; and

191 (4) the amount and location of compensatory storage provided; and

192 b. The agricultural commission shall use the following criteria when selecting
193 farms to be included in the demonstration project, in order of importance:

194 (1) those that can meet the compensatory storage requirements in K.C.C.
195 21A.24.240.A;

196 (2) those that can use existing fill on site but cannot meet the compensatory
197 storage requirements of K.C.C. 21A.24.240.A.1. and 21A.24.240A.2. and do not require
198 additional fill;

199 (3) those that require additional fill to raise the livestock flood sanctuary to at
200 least one foot above the base flood elevation;

201 c. additional consideration should include:

202 (1) there is no feasible alternative, such as an elevated structure built with post
203 and piling construction or flow-through foundation or floating structure, that will meet the
204 same objective;

205 (2) it is determined that the landowner cannot wait another year without
206 sustaining significant loss in order to evaluate the potential alternatives to fill;

207 d. Farms that do not need structural changes to their existing livestock flood
208 sanctuaries and that can find protection through operational practices shall not be
209 included in this demonstration project;

210 e. Legal nonconforming farms that are not in violation of K.C.C. chapter 16.82
211 through the placement of illegal fill in the floodplain may be included in this
212 demonstration project; and

213 f. A King County agricultural commissioner who requests a repair,
214 reconfiguration or conversion under this section shall not participate in the identification
215 process under this subsection E.1;

216 2. The applicant submits an application for a shoreline exemption approval to
217 demonstrate compliance with WAC 173-27-040 and pays applicable fees, except as
218 limited under subsection E.4. of this section. For purposes of this demonstration project,
219 requirements for clearing or grading permits under K.C.C. 16.82.050 are waived;

220 3. The department of natural resources and parks and the department of
221 development and environmental services shall complete a flood hazard analysis for each
222 livestock flood sanctuary to demonstrate compliance with the compensatory storage
223 requirements of K.C.C. 21A.24.240.A, as modified in subsection D. of this section, and
224 the zero-rise requirements of K.C.C. 21A.24.250.B. and 21A.24.260.B. and determine
225 which modifications of the regulations are needed to achieve the desired proposal; and

226 4. The total fees for permits and review charged by the department of natural
227 resources and parks and department of development and environmental fees to
228 participants in this demonstration project shall not exceed five hundred dollars per
229 participant. When the demonstration project is complete, if either department finds that
230 the fee limitation caused a financial hardship, the department shall report the hardship to
231 the task force described in subsection H. of this section and shall include such
232 information in the review and recommendations required under subsection H.

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

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

239 2. The flood hazard analysis demonstrated compliance with K.C.C.
240 21A.24.240.A, as modified in subsection D. of this section, and the zero-rise
241 requirements of K.C.C. 21A.24.250.B. and 21A.24.260.B;

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

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

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

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

251 d. the limitation on construction during the wet season provided the
252 substantive standards of K.C.C. 16.82.095 and Appendix D to the King County Surface
253 Water Design Manual are met;

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

256 5. The property owners sign a nonconversion agreement stating that the farm
257 flood pad or livestock flood sanctuary will not be converted to a nonagricultural use. The

258 nonconversion agreement is recorded on the title with the King County records, elections
259 and licensing services division and runs with the land.

260 G. The demonstration project shall be run from July 30, 2007, to December 31,
261 2007. The following deadlines are also established:

262 1. By August 13, 2007, the agricultural commission must identify the farms or
263 specific livestock flood sanctuaries that will be included in the demonstration project and
264 the exact proposal for repairing or reconfiguring each livestock flood sanctuary;

265 2. By August 20, 2007, the department of natural resources and parks, river and
266 floodplain management unit shall complete hydraulic modeling to determine compliance
267 with the flood hazard regulations as modified by this demonstration project;

268 3. By August 27, 2007, the applicants submit applications for shoreline
269 exemptions and provide the flood hazard analysis. All proposals will be batched for
270 review of the impacts on the floodplain;

271 4. By September 10, 2007, the department of natural resources and parks, river
272 and floodplain management unit, and the department of development and environmental
273 services, building services division, shall complete the flood hazard analysis and the
274 department of development and environmental services shall complete the review and
275 renders a decision on the request for a the shoreline exemption;

276 5. By December 31, 2007, all work, including inspections, must be completed;
277 and

278 6. By December 31, 2007, a FEMA elevation certificate must be completed by a
279 Washington state-licensed civil engineer or land surveyor and returned to the department

280 of development and environmental services, with a copy to the department of natural
281 resources and parks.

282 H. Motion 12559 (Proposed Motion 2007-0337), which was approved by the
283 council on July 30, 2007, directs the executive to convene a task force to review and
284 make recommendations in regards to farm protection measures for the Snoqualmie
285 Valley Agricultural Production District. The task force is directed to complete the review
286 and forward recommendations to the council no later than February 1, 2008. If this
287 demonstration project or the task force, or both, identify any specific alternative standards
288 that require legislation, the executive shall prepare legislation and transmit the legislation
289 to the council on a date determined by the task force.

290 I. The task force shall evaluate this demonstration project to include a
291 comprehensive inventory of existing livestock flood sanctuaries and their current ability
292 to provide flood protection under existing conditions. This information shall be in a
293 quantifiable form that could be used for assessing the impacts from flooding at various
294 flood levels and the impact any changes in code might have on the storage and
295 conveyance of floodwaters during flood events. In addition, the evaluation should
296 determine the agricultural needs in the Snoqualmie valley, such as how much agriculture
297 is engaged in livestock production, other small animal production, such as chickens, how
298 many acres in horticulture, the type of horticulture, and the need for processing
299 agricultural products: At a minimum, the evaluation must include:

300 1. A complete inventory of all existing livestock flood sanctuaries in the
301 Snoqualmie Agricultural Production District and the parcel number of where they are
302 located;

- 303 2. The size and base flood elevation of each livestock flood sanctuary;
- 304 3. An assessment of the need for new livestock flood sanctuaries and an
- 305 assessment for the need for farm flood pads. This assessment must include an evaluation
- 306 of alternative to fill for the storage of farm vehicles, agricultural equipment, and shelter
- 307 for farm products including, but not limited to feed, seeds, flower bulbs and hay;
- 308 4. A determination of the impact on the available compensatory storage,
- 309 backwater effects and base flood elevation as a result of this demonstration project; and
- 310 5. An identification of possible funding assistance in the form of grants or loans
- 311 for farmers that could be used for alternative flood protection solutions that would not
- 312 require placing additional fill in the floodplain.

313 SECTION 5. For the reasons set forth in section 1 of this ordinance, the county

314 council finds as a fact and declares that an emergency exists and that this ordinance is

315 necessary for the immediate preservation of public peace, healthy or safety or for the

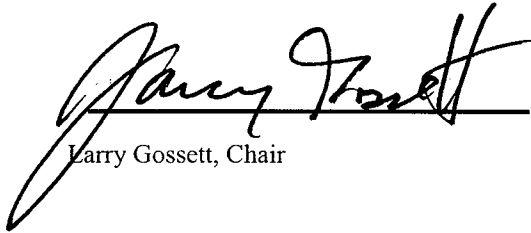
316 support of county government and its existing public institutions.

317 SECTION 6. This ordinance is adopted as an interim official control under RCW
318 36.70A.390 and expires February 1, 2008.
319

Ordinance 15883 was introduced on 7/16/2007 and passed as amended by the
Metropolitan King County Council on 7/30/2007, by the following vote:

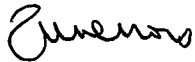
Yes: 8 - Mr. Gossett, Ms. Patterson, Ms. Lambert, Mr. von Reichbauer, Mr.
Ferguson, Mr. Phillips, Ms. Hague and Mr. Constantine
No: 0
Excused: 1 - Mr. Dunn

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Larry Gossett, Chair



ATTEST:



Anne Noris, Clerk of the Council

Attachments A. Snoqualmie Agricultural Production District

Attachment A

-  Snoqualmie Valley Agricultural Production District
-  100-Year Floodplain



1 0 1 Miles

