

KING COUNTY AGRICULTURE COMMISSION

MEETING NOTICE

THURSDAY APRIL 11, 2024

6:00-8:00 P.M.

ZOOM VIDEO CALL

CALL IN:

One tap mobile: +12532050468,,85055935414#,,,,*445033#

Land line: +1 253 215 8782, Meeting ID: 850 5593 5414

OR

LOG IN FROM A COMPUTER OR SMARTPHONE:

<https://us06web.zoom.us/j/85055935414?pwd=Q2ku4HRH4UiaX4saxQb1iFIi3shkHQ.1>

MEETING AGENDA

6:00	Call to Order <ul style="list-style-type: none">For the public record, please sign in via the chat feature or announce yourself by name and whether you are a commissioner, staff or member of the publicApproval of AgendaApproval of Meeting Minutes	Darron Marzolf, Vice Chair
6:05	Public Comment related to a specific agenda item <i>3 minutes/person</i>	Darron Marzolf
6:10	Updates (approx. 3 min each) <ul style="list-style-type: none">Commission Details, Policy, Ag Education & EventsKing County Ag ProgramKing Conservation DistrictKing-Pierce Farm BureauFarm Fish Flood	<ul style="list-style-type: none">Patrice BarrentineRichard MartinMatt MegaLeann KrainickRichard Martin
6:30	New Business FSA Registration and Programs Presentation <ul style="list-style-type: none">Input from Commissioners on how to improve servicesQ&A	Kaitlin Davies, State Outreach Coordinator, USDA Farm Service Agency
6:45	Old Business Large events on farmland in APDs <ul style="list-style-type: none">Committee updateMotion/Vote to approve Policy Letter to DLS Permitting	Stacey, Henna, Jessi, Andrew, and Patrice
7:15	Proposed Ordinance 2023-0310 <ul style="list-style-type: none">Update on letter to Council re: proposals to include as amendments to support agriculture sector	Patrice Barrentine, Commissioners
7:20	Battery Energy Storage Systems (BESS) legislation <ul style="list-style-type: none">2 acre maximum removed in A and F zonesDiscussion	Patrice Barrentine, Commissioners
7:45	Officer Elections <ul style="list-style-type: none">Nomination slateMotion/Vote	Darron Marzolf
7:50	General Public Comment <i>3 minutes/person</i>	Darron Marzolf
7:55	Concerns of Commissioners	Darron Marzolf
8:00	Adjourn	Darron Marzolf

Next Meeting: May 9, 2024



King County
Water and Land Resources Division
 Department of Natural Resources and Parks
 King Street Center
 201 South Jackson Street, Suite 5600
 Seattle, WA 98104-3855
206-477-4800 Fax 206-296-0192
 TTY Relay: 711

King County Agriculture Commission
DRAFT Meeting Minutes
Thursday, March 14, 2023 – 6:00 pm to 8:00 pm
Zoom Video Conference Call

Commissioners Present (Y/N)					
Kevin Scott-Vandenberg, Chair	Y	Andrew Ely	Y	Leann Krainick	Y
Darron Marzolf, Vice-Chair	Y	Janet Keller	Y	Shelley Pasco	N
Jessi Bloom	Y	Henna Khan	Y	Stacey Smith	Y
Ex Officio Members Present (Y/N)					
Jordan Jobe, WSU	Y	Matt Mega, KCD	N		
County Staff/Representatives Present					
Patrice Barrentine, DNRP		Richard Martin, DNRP		Jim Chan, DLS	
Guests Present					
Maren Van Nostrand		Simone Oliver		Jules Hughes	
Mike Birdsall		Serena Glover		Liz Whitefield, WSDA	
Ken Konigsmark		Fred Koontz		Janna Treisman	
Nathan Sherfey		Laura Casey		David Casey	

Meeting Summary

- **Actions: Approval of Agenda; Motion passed to draft advisory letter to send to DLS Permitting regarding non-agricultural events in APDs; Motion passed to send letter to Council re: 2023-0310 (minimum wage increase); Motion passed to read bullets of this letter at the next Council committee meeting; Officer Elections were tabled**

Meeting called to order by Chair Kevin Scott-Vandenberg at 6:02 pm

Roll Call/Announcement of Staff & Public (Kevin Scott-Vandenberg)

Roll call of Commissioners and announcement of staff and public guests was completed via Zoom’s chat function.

ACTION: Approval of Meeting Agenda (Kevin Scott-Vandenberg)

Moved by Andrew Ely, seconded, and passed unanimously.

No new Meeting Minutes were available (Kevin Scott-Vandenberg)

Patrice Barrentine, staff liaison, conveyed several sets of minutes are now pending and due the Commission and will work to rectify this as soon as possible.

Public Comment – Specific Agenda Item (Kevin Scott-Vandenberg)

Public Comment was given by Maren Van Nostrand, Simone Oliver, Jules Hughes, Mike Birdsall, and Serena Glover. Please see the March 14 and April 11 meeting packets for written comments submitted.

ACTION/New Business: Non-agricultural events in APDs (Jim Chan, Director, Permitting Division, DLS)

Following the presentation and extensive Q&A with Commissioners, Stacey Smith moved a motion to form an ad hoc committee of Stacey, Jessi, Henna, and Andrew to work with staff liaison to draft an advisory letter to send to DLS

Permitting regarding non-agricultural events in APDs to be shared with the Commission at their April 11 meeting for approval. Henna Khan seconded the motion and it was passed unanimously.

ACTION/Old Business: Proposed Ordinance 2023-0310 (Kevin Scott, Patrice Barrentine, Commissioners)

After discussion and some edits, Darron Marzolf motioned to approve the letter and transmit it to Council. Henna Khan seconded the motion, which passed unanimously. Barrentine will provide the updated version of the letter to Commissioners.

After some discussion in continuity with previous actions by the Commission regarding making public comment before Council on this issue, a motion was made by Leann Krainick, seconded by Janet Keller, and passed unanimously for Janet to read bullet points from this letter at the next TrEE Committee meeting (April 16).

ACTION/Old Business: Officer Elections (Kevin Scott)

This item was tabled by the Chair due to timing.

Other Updates (Richard Martin, Patrice Barrentine)

- Available upon request via the video or transcript.

Public Comment – General (Kevin Scott-Vandenberg)

There was no public comment during this period.

Concerns of Commissioners (Kevin Scott-Vandenberg)

Leann Krainick voiced some concerns regarding the Local Food Initiative and requested an update as soon as possible.

Meeting adjourned at 7:58 pm

Next Meeting(s)

April 11, 2024, 6:00 pm to 8:00 pm (Zoom Video Conference Call)



Commission Admin, Policy & Legislation, Events & Funding Opportunities

REGARDING KING COUNTY
AGRICULTURE

APRIL 2024

This Month's Staff Liaison Update



FINANCIAL
DISCLOSURE FORMS



POLICY UPDATES



EVENTS AND FUNDING
OPPORTUNITIES

Annual Financial Disclosure Forms

Disclosure forms were due March 31

- Thank you everybody!
- Just need one more.



King County Council

Local Services and Land Use Committee

April 17 Meeting on the 2024 Comprehensive Plan and Change to Schedule

Committee Briefing – Wednesday, April 17

The Council's [Local Services and Land Use Committee](#) will hold a briefing on the Executive's transmitted 2024 Comprehensive Plan on **Wednesday, April 17, beginning at 9:00 a.m.** The meeting will be in a hybrid format; public comments may be submitted in writing, in person in the Council Chambers on the 10th Floor of the King County Courthouse, at 516 3rd Ave, Seattle, WA, or through the Zoom webinar. Information on how to participate in Committee meetings is available on the Committee website.

The 2024 Comprehensive Plan is items 5, 6, and 7 on the [Committee agenda](#), and will include a discussion of:

- Chapter 9: Services, Facilities, and Utilities
- Capital Facilities and Utilities Appendix
- Chapter 10: Economic Development
- Chapter 12: Implementation, Amendments, and Evaluation
- Four-to-One Program
- Development Regulations

A written staff report will be provided and will be posted to the [website](#) when it is available.

Schedule Update

The Council's review and adoption schedule has been updated. **The critical area regulations, which were transmitted to the Council by the Executive earlier this year, will be deferred until a 2025 ordinance, to be transmitted by the Executive in early 2025.** The Council anticipates incorporating some of the proposed policies into the 2024 Comprehensive Plan update, while the Executive continues to further develop the code language, in coordination with Indian tribal and other partners and the community.

NOXIOUS WEEDS

Into the Weeds – King County Weed Management Webinar Series

FREE // PUBLIC // ONLINE

Join the King County Noxious Weed Control Program for our annual online weedy workshop series. Each day has its own agenda with 7 new topics & speakers.

***WA and OR licensed pesticide applicators can earn up to 8
WSDA/ODA continuing education credits!***

PDF agendas: [2024-Into-the-Weeds_Agendas.pdf](#)

REGISTER NOW!

Day 1 (AM): [Weds. May 8th
from 8am – 12 - Eventbrite](#)

Day 2 (PM): [Weds. May 15th
from 12 – 4pm - Eventbrite](#)



LOCAL FOOD SYSTEM INFRASTRUCTURE GRANTS

Next grant round opening March 18, 2024

Purpose

To support local food supply chains and market access for farms, ranches, food processors, and food distributors. This includes planning, equipment, and facilities that support on-farm post-harvest handling, aggregation, processing, manufacturing, storing, distribution, and sale of Washington grown, caught, and raised foods.

ABOUT THE SPRING 2024 GRANT ROUND

In the Spring 2024 round, WSDA anticipates awarding approximately \$2 million in grants. The next application round is anticipated in the summer/fall of 2025.

THE SPRING 2024 GRANT ROUND HAS ONE PROJECT CATEGORY:

Rapid and Ready: \$10,000 up to \$75,000

Rapid & Ready grants are for straightforward projects and equipment purchases that can be completed on a relatively short timeline. Proposed projects that involve construction or building improvements should have current quotes from contractors and clear plans for all necessary building permits. Applicants should have up-front funds in place to start and finish a *reimbursement style* grant within a short timeline.

There is no requirement for matching funds.



Washington
State Department of
Agriculture

HIGHLY PATHOGENIC AVIAN INFLUENZA (HPAI)

Discovered in dairy herds in some other states



STATE OF WASHINGTON
DEPARTMENT OF AGRICULTURE
P.O. Box 42560 • Olympia, Washington 98501 • (360) 902-1800

Dear Washington Dairy Producers,

As you may have heard, Highly Pathogenic Avian Influenza (HPAI) has recently been discovered in dairy herds in several states across the nation, including in Texas, Kansas, Michigan, New Mexico and Idaho. USDA reported presumptive positive test results for additional herds in Kansas, New Mexico, Ohio, and Texas.

Federal and state agencies are moving quickly to conduct additional testing for HPAI (H5N1) virus, as well as viral genome sequencing, so that we can better understand the situation, including characterization of the HPAI (H5N1) virus strain or strains associated with these detections as well as any other multi-factorial components of the disease event in dairy cattle.

It is important to practice good biosecurity on dairy farms. General information on biosecurity on dairies is available at <https://securemilksupply.org/training-materials/biosecurity/>. See additional information on biosecurity on pages 3-5 below from the WA State Veterinarian.

Dairy farmers should continue to closely monitor their animals for illness, including decline in milk production, and immediately separate sick animals. Milk from these animals should be discarded. If this milk is intended to be used to feed calves, FDA strongly encourages that it be pasteurized or otherwise heat treated to kill harmful bacteria or viruses, including influenza before it is fed.

- FDA recommends that industry does not manufacture or sell raw milk or raw/unpasteurized cheese products made with milk from animals showing symptoms of illness, including those infected with avian influenza or exposed to those infected with avian influenza.
 - Retail raw milk producers need to be especially vigilant in their biosecurity practices. This should include practices such as limiting herd exposure to wild birds or other farm animals, including chickens or ducks.
-
- Pasteurization has continually proven to inactivate bacteria and viruses.
 - There is no concern about HPAI transmission in pasteurized milk or that this circumstance poses a risk to consumer health.
 - At this time, there continues to be no concern about the safety of the interstate commercial milk supply because products are pasteurized before entering the market.



King County

Agriculture Commission

201 South Jackson Street, Suite 5600

Seattle, WA 98104-3855

206.477.4800

April XX, 2024

Director Jim Chan
DLS Permitting Division
919 SW Grady Way, Suite 300
Renton, WA 98057

Dear Director Chan:

I am writing on behalf of the King County Agriculture Commission (Commission) regarding non-agricultural events in APDs requiring a Temporary Use Permit (TUP) or Conditional Use Permit (CUP). The Agricultural Commission provides the agriculture sector with the opportunity to take an active role in the development and evaluation of policies, regulations, and programs that affect commercial agriculture in King County. The Commission is made up of representatives within the agricultural sector, including commercial producers, agricultural real estate, food and feed processing, wholesale and retail marketing, produce buying, direct marketing, supply and finance.

We thank you for briefing the Commission in February 2023 and in March 2024 regarding TUP proposals for large non-agricultural events in the Snoqualmie APD and other APDs and requesting the Commission's input.

After reviewing the facts and weighing the problems that non-agricultural events in APDs cause in terms of competition with, disruption or damage to the agricultural economy, the Commission advises a moratorium on non-ag activities proposed in TUPs and CUPs in the APDs and A-zoned properties until DLS Permitting's code updates for enforcement are adopted by Council. Proposed TUP/CUP events within close proximity to the APDs should also be limited (rural area, UGA, etc.) so as not to impact the agricultural economy.

The Agriculture Production District, and A-zoned properties are designated for farming and agriculture. A-zoned properties encompass areas of prime agricultural soils, while limiting other uses that are not compatible to agriculture. Non-agricultural events are not allowed uses in A zoned properties without a TUP or CUP.

There are three overarching categories of harm that these non-agricultural events cause through competition with, disruption or damage to the agricultural sector.

1. Competition with and long-term damage to the agricultural sector from land value escalation

- Any non-agricultural activity that brings in revenues higher than food, feed, and fiber revenues competes with agricultural activities and escalates the agricultural land value, making it higher for new farmers to purchase and/or rent land, and continuing farmers to pay taxes.
- King County's farmland costs are already some of the highest in the nation.
- Additional land escalation of protected agricultural lands harms King County's decades long commitment to preserving ag lands through the Farmland Preservation Program, Transfer of Development Programs, and in the last decade its further commitment through the Land Conservation Initiative and the Local Food Initiative.

2. Disruption to agricultural transportation from traffic

- Traffic congestion delays farm activities such as pick-ups and deliveries, i.e., feed for livestock, emergency and routine veterinarian visits, employees to field locations, produce to market, milk to processors.
- Traffic congestion limits other APD on-farm operations such as u-pick and farm stands from business as usual and traffic may decrease u-pick customers, many of whom come from quite a distance within King County or prevent them from reaching the farm destination and thereby decreasing farm revenue.
- In addition to lost revenue, a single day of unpicked produce and flowers attract insects and become less palatable to a picker for market. Resulting in not just one but multiple days of reduced production and sales revenue, and also increasing food waste.
- Farms conducting business on roadways with hauling and harvest equipment are endangered by inexperienced and dangerous drivers passing their vehicles, following too closely or pulling out in front of heavy and/or slow farm vehicles causing accidents and in some cases death, especially in summer months; and causing additional danger through threatening behavior to the farm equipment driver such as road rage.
- King County's two-lane roads already suffer high traffic volumes that disrupt agricultural corridors.
- In addition to regular, high-volume traffic, summer brings routine road and maintenance work to repair roads from flood damage, Ames Lake Road will be closed for bridge replacement, and WSDOT fish passage and culvert replacement on Hwy 203 will create further traffic and safety concerns all the way to I-90 and 520.

3. Damage to the agricultural land resource and agricultural economy

- Parking on farm fields damages soils and limits agricultural production.
- 30 acres proposed for parking of up to 3,200 cars on prime soils at Carnation Farms for 4-8 hours for a non-agricultural event does not equate to the allowed use of an

- agricultural event of one acre of u-pick parking for 200 cars parking for 30-60 minutes.
- Parking on farmland that is certified organic may also jeopardize that certification, reducing the value of agricultural product.
 - Increased noise and damage along roadways from people unfamiliar with rural areas.
 - Trash, trespassing, etc.
 - Drugs and Alcohol impaired people and possible DUIs.
 - An open gate or fence broken into that allows cattle out, puts the farmer at risk and liable for any damage including car accidents.
 - May exacerbate wildlife damage on farms by driving animals such as elk into new farm areas.


In the last three years, multiple business pressures have challenged King County farms to remain competitive and viable. Elimination of the WA State overtime pay exemption for agriculture in 2021, a highly competitive labor market, Covid recovery, high inflation for inputs, high land prices, and regional/national/global pressures on supply chain demand and pricing have been devastating for many farms in King County.

The United States Department of Agriculture (USDA) National Agricultural Statistics Service (NASS) 2022 Census of Agriculture was released in February 2024 and shows that between 2017-2022, King County lost 192 farms. 174 of those were farms of 1 to 9 acres in size, often viewed as the new and beginning farmer demographic, the “next generation” of farmers who will likely scale up in the next 5-10 years to larger acreage farms, generating more food, more land conservation and valuable productive open space. This segment of farmers is the canary in the coal mine, so to speak.

King County’s Comprehensive Plan includes many valuable policies that recognize the importance of maintaining a productive and viable local food system and these protections are embodied in King County Code. Collaboration among Council, Executive departments, and the private sector is required if those policies are to be effective.

Please take action to continue support and protection of agricultural operations in APDs by adopting a moratorium on non-agricultural events in APDs until DLS Permitting Division’s updated code enforcement ordinance is adopted by Council.

Thank you for your consideration,



Kevin Scott-Vandenberge, Chair
King County Agriculture Commission

cc: King County Agriculture Commission Members

John Taylor, Director, King County Department of Natural Resources and Parks
(DNRP)

Josh Baldi, Division Director, Water and Land Resources Division (WLRD),
DNRP

Ashley Evans, Policy Director, WLRD, DNRP

Joan Lee, Manager, Rural and Regional Services (RRS), WLRD, DNRP

Richard Martin, Manager, AFI, RRS, WLRD, DNRP

Patrice Barrentine, Staff Liaison, Agriculture Commission, AFI, RRS, WLRD, DNRP

DRAFT



King County

Permitting Division

Department of Local Services
919 SW Grady Way, Suite 300
Renton, WA 98057
206.296.6600 TTY Relay: 711
www.kingcounty.gov/permits

March 21, 2024

Dear Simone, Jules, Marc, and Steve:

Thank you for reaching out and sharing your concerns about Remlinger Farm's partnership with the Seattle Theatre Group (STG). We greatly appreciate your attention to the impacts on the eco-system of the Snoqualmie Valley that may result from STG events at Remlinger.

With the exception of three parcels, Remlinger Farm LLC operates primarily within the City of Carnation jurisdiction. Mayor Jim Ribail contacted Permitting and voiced support for Remlinger Farm's proposal. He shared that he has been engaged with Remlinger Farm, the community, and the Snoqualmie Tribe on this matter and it has garnered wide support.

The County regulates allowed land uses under King County Code (KCC) 21A (Zoning), which include Conditional or Special Use Permits. Uses not allowed under Zoning may be proposed under Temporary Use per KCC 21A.32. Uses that were established in conformance with King County's rules and regulations in effect at the time, but are no longer compliant with current codes, may be proposed under Nonconformance (KCC 21A.06.800).

King County Permitting received a Code Interpretation request (CINT23-0003) from Remlinger Farm LLC on June 16, 2023, concerning whether holding live events on the unincorporated parcels of the farm would be considered a Nonconforming use under King County Code. On September 1, 2023, Permitting issued a decision (attached) in support of the request after confirming the use conformed with King County's rules and regulations in effect at the time it was established, consistent with the definition of Nonconformance.

On February 2, 2024, John Taylor and I met with a community group concerned with the code interpretation decision. Group members included Simone Oliver, Jules Hughes, Marc McGinnis, Steve Foster, and three representatives of the Snoqualmie Tribe (Matt Baerwalde, Jaime Martin, and Kelsey Payne). On February 9, 2024, the group sent a letter summarizing their concerns (attached). Specifically, the letter challenged the accuracy of the historical events data provided by Remlinger Farm, the accuracy of enforcement cases related to subject parcels, the compatibility of music venues with rural character/shoreline conservancy, and the need for permits.

Remlinger Farm provided records dating back to 1991 documenting that events have been hosted on the site annually, including dates, names, and the approximate size of the events. Permitting has not received any evidence to dispute the accuracy of Remlinger Farm's records. At the time of the code interpretation decision, Permitting had no records of code enforcement cases related to Remlinger Farm. Since the decision, Permitting has confirmed violations involving the unauthorized expansion of the

Remlinger Farms

March 21, 2024


Page 2

existing stage and placement of an amusement ride. A code enforcement case has been opened and compliance is being pursued per KCC Title 23.

The code interpretation decision was specific to the vesting of historic land use of the property. Continued use is allowed within the historic limits of venue size, location, frequency, and mitigated impacts. Within these limits, no land use permits are required. Outside of these limits, uses may trigger modification/expansion standards, or other land use permit/approvals. In addition, the decision does not apply to, or exempt Remlinger Farm from other non-land use regulatory requirements (i.e. Building Codes, Fire Codes, Noise Ordinance, etc.). The King County Fire Marshal will require event permits for all events with more than 1,000 people in attendance to assess safe exits and accessibility for first responders. Permits may also be required for temporary structures such as tents and canopies. Remlinger Farm is obligated to manage and monitor traffic and noise as it has done so historically. Remlinger Farm is also required to remedy the code violations.

King County expects Remlinger Farm LLC to continue its historic support of agriculture, environmental stewardship, and partnership with the surrounding communities as they have demonstrated in the past.

DocuSigned by:


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Jim Chan

Director, Permitting Division

King County Department of Local Services

Attachments (2): CINT23-0003 Final Code Interpretation
Carnation Residents Response to CINT23-0003

cc: Penny Lipsou
File CINT23-0003



King County

Permitting Division

Department of Local Services
919 SW Grady Way, Suite 300
Renton, WA 98057
206.296.6600 TTY Relay: 711
www.kingcounty.gov/permits

SEPTEMBER 1, 2023

FINAL CODE INTERPRETATION CINT23-0003 (Nonconformance)

Background

The Department of Local Services, Permitting Division, received a code interpretation application dated June 16, 2023 from Cheryl Paquette representing Remlinger Farm, LLC, concerning whether holding live events at Remlinger Farm would be considered a nonconforming use under King County Code.

Remlinger Farm is located on multiple parcels near the City of Carnation, and events have taken place on parcel 2225079025 (which is located in the City of Carnation) and parcels 2225079012, 2225079027, and 2225079013 (which are located in unincorporated King County and are in the RA-10 zone) every year since at least 1991. Parcel 2225079012 has been used for the events themselves, while Parcels 2225079027 and 2225079013 have been used for parking. There have been 6-34 events per year, with 20 or more events held most years. The events have included private live music events, public live music events, private corporate events, public corporate sponsored events, concerts, and theater and in 29 of the past 32 years, there have been at least 20 events per year. Events have had 100 to 6,000 attendees per event.

Event management provided by Remlinger Farm has typically included: access to restrooms, staff attendants, and setup and clean up services. There is no record of code enforcement complaints having been received by King County.

Code Sections Subject to Interpretation:

KCC 21A.06.800 Nonconformance: a use, improvement or structure established in conformance with King County's rules and regulations and other applicable local and state rules and regulations in effect at the time the use, improvement or structure was established that no longer conforms to King County's rules and regulations or other applicable local and state rules and regulations due to changes in the rules and regulations or their application to the subject property.

Discussion & Analysis

The applicant is seeking a code interpretation to determine whether the events that have been held since at least 1991 are a nonconforming land use. The applicable code standards for determining whether a land use is a nonconformance would be those adopted at the time the use began. The zoning code in place prior to 1993 was adopted by Resolution 25789¹, which is therefore understood to be the applicable code.

According to Article 11 of Resolution 25789, permitted uses at the time included "Unclassified Uses as provided in Article 22". Among the uses in this list are "Commercial establishments or enterprises involving large assemblages of people or automobiles as follows... open-air theatres". The use "open-air theatres" fits the live events use Remlinger Farm has been holding.

To be considered a nonconformance, a land use must have been established in conformance with King County's rules and regulations in effect at the time the use was established. Under the zoning code adopted by Resolution 25789, uses such as open-air theatres would not have been permissible if the "intended use would create an incompatible or hazardous condition".

¹ <https://kingcounty.gov/~media/depts/records-licensing/archives/researchguides/environmental/RES25789-opt.ashx?la=en>

Final Code Interpretation – CINT23-0003

September 1, 2023

Page 2

Remlinger Farm has provided services through its event management to mitigate impacts and avoid creating an incompatible or hazardous condition. Mitigation has been effective enough to have garnered no code enforcement complaints throughout Remlinger Farm’s history of holding events. Therefore, the use appears to have conformed with King County’s rules and regulations in effect at the time the use was established, consistent with the definition of Nonconformance.


Decision

The demonstrated unique historical use that has occurred is consistent with “open-air theatre” involving large assemblages of people or automobiles and qualifies as a nonconforming use on Remlinger Farm on parcels 2225079012, 2225079027, and 2225079013 and this use may continue, provided that:

- Events are of a similar size (i.e., up to 6,000 people);
- Events take place only on Parcel 2225079012, and Parcels 2225079027 and 2225079013 are used to support the use only by providing temporary associated event parking;
- Events take place at a similar frequency as they have historically (i.e., up to 34 per year);
- Impacts continue to be mitigated to a level consistent with past use;
- Any modification or expansion of the use complies with nonconformance standards in K.C.C. 21A.32; and
- Larger or more frequent events must be authorized through a Temporary Use Permit.

Finality of Code Interpretation

Pursuant to K.C.C. 2.100.050.A, the director’s decision is the county’s final decision, and there is no administrative appeal.

DocuSigned by:

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9/1/2023

Jim Chan
Director, Permitting Division
Department of Local Services

Date

February 9, 2024

John Taylor, Director, Department of Local Services
 Jim Chan, Division Director for Permitting
 King County Department of Local Services
 Sent via email: john-dir.taylor@kingcounty.gov and jim.chan@kingcounty.gov

REFERENCE: Remlinger/STG Music Venue – CINT23-0003 – Parcels 222507-9012, 9013, 9027
 SUBJECT: Summary of Teams Meeting on 2-2-2024 and Non-conformance Code Interpretation

Dear John and Jim,

Thank you both for meeting with us (Simone Oliver, Jules Hughes, Marc McGinnis along with Steve Foster, who was not present at the meeting, but has been following this process thoroughly), and three representatives of the Snoqualmie Tribe (Matt Baerwalde, Jaime Martin and Kelsey Payne) last Friday (2-2-2024) regarding the final code interpretation dated 9-1-2023 for CINT23-0003. You requested we provide a summary of that meeting along with any additional information related to this code interpretation and the music venue change of use. Our issues are summarized in Table 1, below. This is not an exhaustive list, but we believe it adequately supports our request that you revoke the code interpretation referenced above and require a permit for this proposed concert venue. Each item is addressed following the table.

Table 1. Summary of issues.

Code section	Issue	Comment
21A.32.100	Temporary uses requiring permits	This activity appears to require a permit, as it is not an allowed use in the zone.
21A.50.040	Revoking permits	This activity appears to meet the requirement for revoking the land use certification as it was based on inaccurate information and conflicts with existing laws and regulations, an error of procedure occurred which prevented consideration of the interests of persons directly affected and may be detrimental to public health and safety.
16.82.130	Violations - corrective work required	Allowing these large concerts to proceed on a site with a recent unresolved code enforcement case is inconsistent with how King County treats every other permit applicant.
21A.25	Shoreline Code	Commercial uses are not allowed in the Conservancy or Resource Shoreline, nor is building of new non-residential structures.
21A.24	Critical Areas Code	Inconsistent with channel migration, flood, and potentially aquatic and wetland sections.

KCC 21A.50.040 Permit suspension, revocation, or modification.

A. Permit suspension, revocation, or modification shall be carried out through the procedures set forth in King County Code (KCC) Title 23. Any permit, variance, or other land use approval issued by King County pursuant to this title may be suspended, revoked, or modified on one or more of the following grounds:

1. The approval was obtained by fraud;
2. The approval was based on inadequate or inaccurate information;

John Taylor and Jim Chan

February 9, 2024

Page 2 of 6

*Based on our long-term residency in Carnation, we know that the information provided on the application was inaccurate. It did not provide a count of attendees on a per event basis, but rather on an annual basis. Many of the events put on at Remlinger Farms are on land within the City of Carnation, not in unincorporated King County. Only events held on the subject parcel should be considered. Additionally, while Remlinger may have had events, for example, a harvest festival during the month of October, which have a high total attendance, these occur over a longer duration, and none have had anything close to the concentration of people in such a brief time span. We can all testify that they have **not** held public events of up to 6,000 people up to 34 times per year since 1991 and the data they provided in no way confirms this. There are no events to our knowledge that had 6,000 people in the course of a few hours in the three decades we have lived in the valley. We request you require Remlinger to provide more accurate data (i.e., proof of ticket sales) on the number of people at specific events with duration of said events.*

Additionally, the non-conformance code interpretation states 'there is no record of code enforcement complaints having been received by King County.' Per a records request, we discovered an active code enforcement case (ENFR23-1289) regarding construction of a permanent concrete stage in the floodplain of the Tolt River that was constructed in the fall of 2023. Additionally, according to King County public records, there have been several enforcement cases on Parcel 22250079016 also part of Remlinger Farm, that have all been closed. You both stated in the meeting that upon a site review for the current active enforcement case, unpermitted buildings, rides, and grading have occurred in addition to construction of the permanent stage foundation. Remlinger has a history of conducting unpermitted work (grading, dredging) and building unpermitted structures. The lack of permits for the single larger outdoor concert held last June is another example. Since this statement in the vesting interpretation is inaccurate, the vesting document should be revoked.

King County policy has been to not allow permits to be issued with an unresolved enforcement action on the parcel per 16.82.130, "If clearing or grading inconsistent with the purposes and requirements of this chapter in effect at the time of the action has occurred on a site the department shall not accept or grant any development permit or approval for the site, except any permit or approval necessary for the correction of code violations, until the applicant:

1. Completes restoration of the site or the appropriate corrective actions to bring the site into compliance; or
2. Obtains department approval of a permit for the appropriate restoration or corrective action and posts any required financial guarantee.

This would therefore require the enforcement case to be resolved prior to acceptance of any new permits, including a wetlands review, a building permit or a TUP or CUP. STG is already selling tickets online for concerts this summer season starting in May. We request you uphold the current standards and require issuance and final inspection of building permits for new structures prior to any concerts. Allowing an unreviewed structure to be used for a large commercial enterprise may compromise public safety.

3. *The approval that has been given conflicts with existing laws or regulations applicable thereto; Parcel -9012 is located entirely within Conservancy Shoreline and is therefore subject to the provisions of 21A.25, the Shoreline Code, which significantly limits allowed uses, especially structures (definition from 21A.06.1255 - anything permanently constructed in or on the ground, or over the water; excluding fences six feet or less in height, decks less than 18 inches above grade, paved areas, and structural or non-structural fill), which the new stage would be considered (see*

John Taylor and Jim Chan

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photo of June 2023 concert stage, below). The structure is over 6' tall and would require a building permit to construct regardless of the vesting of the activity.

A massive crowd traveling on small rural roads to hear amplified music is incompatible with rural character. However, per the Shoreline Code, commercial development is not allowed in a conservancy shoreline. The only allowed recreation is parks and trails are allowed and must meet the standards in KCC 21A.25.140.



4. The activity would most likely fall under the category of "commercial development", per 21A.08.040. (amusement/entertainment use). Commercial development is not an allowable use in either the Conservancy or Resource Shoreline per KCC 21A.25.100.
 5. The site is entirely within the 100-year flood plain of the Tolt River. Placement of structures and associated fill should be reviewed for consistency with 21A.24 and federal flood regulations.
 6. The entire parcel is within the channel migration hazard area, including both severe and moderate. Activity in this area is severely restricted per KCC 21A.24, and the structure has not been reviewed for compliance.
 7. Parcel -9012 has also benefited from reduced taxes by participating in the Open Space Taxation Program. This was approved by King County Council as it presumably met the criteria in WAC:
To be classified as farm and agricultural conservation land, the land shall be:
(a) Previously classified as farm and agricultural land under RCW 84.34.020(2), that no longer meets the criteria for classification under RCW 84.34.020(2), and that shall be reclassified as open space land under RCW 84.34.020(1); or
(b) Traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably dedicated to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agricultural purposes.
- We request that the proposed conversion of this property to high use commercial activity be reviewed by the King County WLRD staff for consistency with the open space taxation program.
8. An error of procedure occurred that prevented consideration of the interests of persons directly affected by the approval;

John Taylor and Jim Chan

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Without any public review, people directly affected by this determination were not allowed to comment, and most are not aware of this determination. We request you revoke the vesting and require the applicant to go through the standard TUP or CUP process. Because this project will have an enormous impact on surrounding neighbors, including traffic, noise, potentially compromised police, fire, and ambulance access, a public comment period should be held so that impacts to neighbors can be identified and addressed.

9. The approval or permit granted is being exercised contrary to the terms or conditions of such approval or in violation of any statute, law, or regulation;
*Per KCC 21A.32.065 **Nonconformance - expansions of nonconforming uses, structures, or site improvements.** A nonconforming use, structure, or site improvement may be expanded as follows:*
- A. The department may review and approve, pursuant to the code compliance process of K.C.C. 21A.42.030, an expansion of a nonconformance only if:*
- 1. The expansion conforms to all other provisions of this title, except that the extent of the project-wide nonconformance in each of the following may be increased up to **ten percent**:*
 - a. building square footage,*
 - b. impervious surface,*
 - c. parking, or*
 - d. building height; and*
 - 2. **No subsequent expansion of the same nonconformance shall be approved under this subsection if the cumulative amount of such expansion exceeds the percentage prescribed in subsection A.1;***
- B. A special use permit shall be required for expansions of a nonconformance within a development authorized by an existing special use or unclassified use permit if the expansions are not consistent with subsection A. of this section;*
- C. **A conditional use permit shall be required for expansions of a nonconformance:***
- 1. Within a development authorized by an existing planned unit development approval; or*
 - 2. **Not consistent with the provisions of subsections A. and B. of this section; and***
- D. **No expansion shall be approved that would allow for urban growth outside the urban growth area, in conflict with King County Comprehensive Plan rural and natural resource policies and constitute impermissible urban growth outside an urban growth area. (Ord. 15606 § 23, 2006; Ord. 13130 § 5, 1998).***

This music venue has not been regularly used for large outdoor concerts, and therefore does not meet the criteria for either non-conformance or an expansion of the non-conformance, so we request the vesting be revoked.

10. The use for which the approval was granted is being exercised in a manner detrimental to the public health or safety;
Since the proposal is not going through a conditional or temporary use permit process, as would normally be required, public health and safety concerns have not been addressed at all. These include noise, traffic, emergency access, stormwater pollution and runoff, associated environmental impacts to water quality, wildlife, light pollution. Per the King County noise code, in the rural residential zone, a decibel limit of 52 is required, which is compared to moderate rainfall. Outdoor concerts typically range between 90-120 dB(A) with over 85 dB(A) being harmful to human hearing.

John Taylor and Jim Chan

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We consulted with land-use attorney, Alan Wallace, who informed us that the vesting does not immunize Remlinger or STG from these public safety issues and codes and from nuisance law pertaining to public health and safety. He also represented wineries in Woodinville related to abiding by the noise codes in which the maximum noise range cannot leave the property line. This is impossible with the use of an amplifier. During the unpermitted June 2023 concerts held at Remlinger, there were many complaints regarding noise, traffic, lack of camping facilities that even resulted in illegal camping at Tolt McDonald Park and the alleys within Carnation. We request that you contact the King County Sheriff's office for a list of complaints made during last June's concerts relating to public health, safety, and noise.

Ingress and egress on a rural two-lane road (NE 32nd Street) with 6,000 concert goers will affect the ability of Carnation and unincorporated King County residents to travel on SR 203 and will increase emergency response times. The intersection of SR-203 and NE 32nd Street is notorious for accidents and discussions are ongoing regarding construction of a roundabout to assuage safety concerns at that intersection. At a minimum, a comprehensive traffic study should be required, and potential mitigation measures implemented prior to these events.

In 1995, Remlinger applied for a permit to have music on their City parcel, 3-4 events with 3,000 people max. per event. During SEPA review, 5 groups appealed the project including the Girl Scouts of Western Washington, Tolt Community Club, Swiftwater HOA, Indian Creek HOA, and local residents. Due to the appeals, Remlinger withdrew their application. Once the vesting decision on the current proposal becomes mainstream public knowledge, opposition will be significant.

The Girl Scout Camp located next door utilizes NE 32nd Street for emergency vehicle access during their summer camp session. They have not been notified of this new concert series. These concerts will impact their access and have the potential to cause many safety concerns for the girls at the camp.

B. Authority to revoke or modify a permit or land use approval shall be exercised by the issuer.

Jim, you have the authority, based on the above information, to revoke this decision or at minimum request more information on the historical use, to ensure that the proposed use is not an illegal expansion of a nonconforming use.

Project Background

We are Carnation residents who have lived in the area for decades. We heard about the attempt to utilize Remlinger property as a music venue from a Seattle Times article dated 11-6-2023. We were also very aware of the negative effects of the concerts that occurred without permits on Parcel 222507-9012 on June 16-18, 2023. Due to concerns related to this new use, we started investigating the likelihood of permitting within unincorporated King County. In our research, we came across the above-referenced code interpretation by Jim Chan. Needless to say, with our history of living in the Carnation area, we were incredibly surprised by this interpretation of Remlinger's historical use. So, we contacted King County Councilmember Sarah Perry's office who put us in touch with you to set up this meeting.

Thank you again for meeting with us and reviewing our concerns and providing your understanding of the background of this interpretation. You both told us how Remlinger applied for a permit for the June 2023 shows, but was not granted the permit in time, therefore hosted the show with STG with no permits in place. You said they then followed up with a meeting to discuss how to permit shows such as these (up to 6,000 people) in rural zoned parcels they own. Jim, you said you directed them to the

John Taylor and Jim Chan

February 9, 2024

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Conditional Use Permit. Carnation Farms is currently under review for a Temporary Use Permit for similar concert events. This process is the legal way to permit change of use and allows for full public review and evaluation under the State Environmental Policy Act (SEPA) to occur to fully evaluate and address the impact of the proposal.

You both said that Remlinger's attorneys then produced the idea of permitting this use through a non-conformance interpretation, which would allow them to hold these concerts with no further permitting required for this new use. In the documentation, they provided total attendees to the farm on an annual basis from 1991-present, rather than on a by event basis. Jim, you gave us the example of 44,000 people on the farm in one year. Remlinger has historically utilized Parcel -9012 primarily for company picnics and small private events, outside of the Carnation 4th of July event and the unpermitted June 2023 concert. There have never been regular concerts of 6,000 people within the whole of Snoqualmie Valley. Those are reserved for venues like Marymoor Park and Chateau Ste. Michelle Winery that have capacity, permits, parking, police support, and street infrastructure to manage those crowds. This proposal for the Remlinger property even exceeds the capacity of those two other venues by 1,000 and 2,000 people, respectively.

The vesting you certified allows for an unlawful expansion of the existing non-conformance on the parcel and violation of numerous code sections as defined above and should be revoked or at minimum modified to realistic vested use in terms of type of use and quantity of attendees. We have a meeting with Councilmember Sarah Perry on 2-22-24 and would like to receive your response to these requests by then. Thank you for your willingness to re-review this important project.

Sincerely,

Simone Oliver, Jules Hughes, Marc McGinnis, and Steve Foster

Attachment: Non-conformance Code Interpretation dated 9-1-23

cc:

Matt Baerwalde – Environmental Policy Analyst – Snoqualmie Tribe mattb@snoqualmietribe.us

Patrice Barrentine, Ag Policy Project/Program Manager, King County Agricultural Commission, patrice.barrentine@kingcounty.gov

Joe Burcar – Section Manager, WA State Dept. of Ecology, joe.burcar@ecy.wa.gov

Thomas Buroker – Shoreline Director, WA State Dept. of Ecology, thomas.buroker@ecy.wa.gov

Danielle de Clercq, Deputy Director, King County Department of Local Services, danielle.declercq@kingcounty.gov

Kayla Eicholtz - WA State Dept. of Ecology, KEIC461@ECY.WA.GOV

Nichole Franko, Chief Operations Officer – Girl Scouts of W. WA nfranko@girlscoutswa.org

Doug Gresham, WA State Dept. of Ecology, DGRE461@ECY.WA.GOV

Jaime Martin, GASP Executive Director – Snoqualmie Tribe jaime.martin@snoqualmietribe.us

Neil Molstad, WA State Dept. of Ecology, NEMO461@ECY.WA.GOV

Kelsey Payne, Water Quality Manager – Snoqualmie Tribe kelsey.payne@snoqualmietribe.us

Councilmember Sarah Perry – King County District 3 sarah.perry@kingcounty.gov

Ted Sullivan, King County Farmland Preservation Program Manager, ted.sullivan@kingcounty.gov



King County

Permitting Division

Department of Local Services
919 SW Grady Way, Suite 300
Renton, WA 98057
206.296.6600 TTY Relay: 711
www.kingcounty.gov/permits

SEPTEMBER 1, 2023

FINAL CODE INTERPRETATION CINT23-0003 (Nonconformance)

Background

The Department of Local Services, Permitting Division, received a code interpretation application dated June 16, 2023 from Cheryl Paquette representing Remlinger Farm, LLC, concerning whether holding live events at Remlinger Farm would be considered a nonconforming use under King County Code.

Remlinger Farm is located on multiple parcels near the City of Carnation, and events have taken place on parcel 2225079025 (which is located in the City of Carnation) and parcels 2225079012, 2225079027, and 2225079013 (which are located in unincorporated King County and are in the RA-10 zone) every year since at least 1991. Parcel 2225079012 has been used for the events themselves, while Parcels 2225079027 and 2225079013 have been used for parking. There have been 6-34 events per year, with 20 or more events held most years. The events have included private live music events, public live music events, private corporate events, public corporate sponsored events, concerts, and theater and in 29 of the past 32 years, there have been at least 20 events per year. Events have had 100 to 6,000 attendees per event.

Event management provided by Remlinger Farm has typically included: access to restrooms, staff attendants, and setup and clean up services. There is no record of code enforcement complaints having been received by King County.

Code Sections Subject to Interpretation:

KCC 21A.06.800 Nonconformance: a use, improvement or structure established in conformance with King County's rules and regulations and other applicable local and state rules and regulations in effect at the time the use, improvement or structure was established that no longer conforms to King County's rules and regulations or other applicable local and state rules and regulations due to changes in the rules and regulations or their application to the subject property.

Discussion & Analysis

The applicant is seeking a code interpretation to determine whether the events that have been held since at least 1991 are a nonconforming land use. The applicable code standards for determining whether a land use is a nonconformance would be those adopted at the time the use began. The zoning code in place prior to 1993 was adopted by Resolution 25789¹, which is therefore understood to be the applicable code.

According to Article 11 of Resolution 25789, permitted uses at the time included "Unclassified Uses as provided in Article 22". Among the uses in this list are "Commercial establishments or enterprises involving large assemblages of people or automobiles as follows... open-air theatres". The use "open-air theatres" fits the live events use Remlinger Farm has been holding.

To be considered a nonconformance, a land use must have been established in conformance with King County's rules and regulations in effect at the time the use was established. Under the zoning code adopted by Resolution 25789, uses such as open-air theatres would not have been permissible if the "intended use would create an incompatible or hazardous condition".

¹ <https://kingcounty.gov/~media/depts/records-licensing/archives/researchguides/environmental/RES25789-opt.ashx?la=en>

Final Code Interpretation – CINT23-0003

September 1, 2023

Page 2

Remlinger Farm has provided services through its event management to mitigate impacts and avoid creating an incompatible or hazardous condition. Mitigation has been effective enough to have garnered no code enforcement complaints throughout Remlinger Farm’s history of holding events. Therefore, the use appears to have conformed with King County’s rules and regulations in effect at the time the use was established, consistent with the definition of Nonconformance.


Decision

The demonstrated unique historical use that has occurred is consistent with “open-air theatre” involving large assemblages of people or automobiles and qualifies as a nonconforming use on Remlinger Farm on parcels 2225079012, 2225079027, and 2225079013 and this use may continue, provided that:

- Events are of a similar size (i.e., up to 6,000 people);
- Events take place only on Parcel 2225079012, and Parcels 2225079027 and 2225079013 are used to support the use only by providing temporary associated event parking;
- Events take place at a similar frequency as they have historically (i.e., up to 34 per year);
- Impacts continue to be mitigated to a level consistent with past use;
- Any modification or expansion of the use complies with nonconformance standards in K.C.C. 21A.32; and
- Larger or more frequent events must be authorized through a Temporary Use Permit.

Finality of Code Interpretation

Pursuant to K.C.C. 2.100.050.A, the director’s decision is the county’s final decision, and there is no administrative appeal.

DocuSigned by:

0F647B74B5354F8...

9/1/2023

Jim Chan
Director, Permitting Division
Department of Local Services

Date

Proposed Ordinance 2023-0310

Commission's Second Advisory Letter sent to Council
4/11/23

Included in Meeting packet

EO understands the importance of the advisory
recommendations to the Ag Commission

EO will separately convey that housing in KC
campgrounds is not a DNRP/Exec recommendation.

The latest amendment includes a study of impacts to
the agriculture sector to be completed by Q4

Is on TrEE Committee's Tuesday April 16th agenda
under Discussion and Possible Action

King County Council TrEE Committee



King County Council CLERK OF THE COUNCIL

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Details Reports

File #: 2023-0310 Version: 1

Type: Ordinance

Status: In Committee

File created: 9/12/2023

In control: [Transportation, Economy, and Environment Committee](#)

On agenda:

Final action:

Enactment date:

Enactment #:

Title: AN ORDINANCE establishing an hourly minimum wage for employees of employers in unincorporated King County, employees of certain county contractors, and county employees; amending Ordinance 17909, Section 4, as amended, and K.C.C. 3.18.010, Ordinance 17909, Section 5, as amended, and K.C.C. 3.18.020, and Ordinance 17909, Section 6, as amended, and K.C.C. 3.18.030, adding a new chapter to K.C.C. Title 12, and repealing Ordinance 17909, Section 8, and K.C.C. 3.18.050, Ordinance 17909, Section 9, and K.C.C. 3.18.060, and Ordinance 17909, Section 11, as amended, and K.C.C. 3.18.080, and establishing an effective date.

Sponsors: [Girmay Zahilay](#), [Rod Dembowski](#), [Jeanne Kohl-Welles](#), [Joe McDermott](#), [Jorge Barón](#)

Indexes: minimum wage

Attachments: [1. 2023-0310.1_AMDS1_Striking_Amendment_Zahilay](#), [2. 2023-0310.1_AMDT1_Title_Amendment_Zahilay](#), [3. 2023-0310.1_AMDS1_Striking_Amendment_Zahilay_TRACK_CHANGES](#), [4. 2023-0310_SR_Minimum_Wage_10-17-23](#), [5. 2023-0310_SR_Minimum_Wage_11.16.2023](#), [6. 2023-0310_SR_Minimum_Wage_02.20.2024](#), [7. 2023-0310.1_AMDS2_Striking_Amendment_Zahilay_bar_TRACK_CHANGES_02.09.24](#), [8. 2023-0310_SR_Minimum_Wage_03.19.2024](#), [9. ATT2. 2023-0310.1_AMDS2_Striking_Amendment_Zahilay_bar2_03.19.2024_v2_FINAL](#), [10. ATT3. AMDT2_Title_Amendment_Zahilay](#), [11. ATT4. 2023-0310.1_AMDS2_Striking_Amendment_Zahilay_bar2_03.19.2024_v2_FINAL_TRACK_CHANGES](#)

Staff: Kim, Andrew

History (7) Text

7 records Group Export

Date	Ver.	Action By	Action	Result	Action Details	Meeting Details	Video
3/19/2024	1	Transportation, Economy, and Environment Committee	Deferred		Action details	Meeting details	Not available
2/20/2024	1	Transportation, Economy, and Environment Committee	Deferred		Action details	Meeting details	Not available
1/9/2024	1	Metropolitan King County Council	Introduced and Referred		Action details	Meeting details	Not available
11/28/2023	1	Metropolitan King County Council	Hearing Held		Action details	Meeting details	Not available

Proposed Ordinance 2023-0310

Exceptions

- Beginning on January 1, 2025, employers that employ fifteen employees or fewer and have an annual gross revenue less than two million dollars shall pay their employees an hourly minimum wage rate as established in subsection A. of this section minus three dollars. The three-dollar reduction shall decrease annually by fifty cents on January 1 of each year thereafter until the reduction is zero. (lines 436-441)
- Beginning on January 1, 2025, employers that employ more than fifteen employees but fewer than five hundred employees shall pay their employees an hourly minimum wage rate as established in subsection A. of this section minus two dollars per hour. The two-dollar reduction shall decrease annually by one dollar on 446 FebruaryJanuary 1 of each year thereafter until the reduction is zero.

Proposed Ordinance 2023-0310

Section 11E. Employer Records

- All employers in unincorporated King County shall maintain adequate records to provide proof of compliance and either have it available upon request by the department or have it available for a proceeding involving an aggrieved employee bringing a civil action in a court of competent jurisdiction against an employer for violating this chapter as described in section 1114 of this ordinance, or both. Adequate records shall include, but not be limited to:
 - 1. The number of employees employed by the employer during the previous year;
 - 2. The number of employees paid the minimum wage as required by subsection A. of this section during the previous year;
 - 3. Wages paid by the employer to all employees during the previous year;
 - 4. The number of work hours of each employee during the previous year;
 - 5. Wages paid to each employee during the previous year; and
 - 6. The amount of any deductions from the wages paid to each employee during the previous year.

Proposed Ordinance 2023-0310

Section 16

A. The executive is requested to consult with the community to evaluate the hourly minimum wage rate as required by this ordinance on the agricultural sector in unincorporated King County. The community should include, but not be limited to, the following:

- 1. King County agriculture commission representatives;
- 2. Either individuals or organizations, or both, that represent agricultural sector employees in unincorporated King County; and
- 3. The chair of the local services and land use committee, or designee.

Proposed Ordinance 2023-0310

Section 16

B. The executive should transmit a letter with findings and recommendations, if any, to address any impacts on the agricultural sector as a result of this ordinance. The executive shall electronically file any such a letter and any proposed ordinance to implement the recommendations no later than September 30, 2024, with the clerk of the council, who shall retain an electronic copy and provide an electronic copy to all councilmembers, the council chief of staff, and the lead staff for the transportation, economy, and environment committee, or its successor.



King County

Agriculture Commission

201 South Jackson Street, Suite 5600

Seattle, WA 98104-3855

206.477.4800

April 11, 2024

The Honorable Girmay Zahilay
516 Third Avenue, Room 120
Seattle, WA 98104

Dear Councilmember Zahilay:

I am writing on behalf of the King County Agriculture Commission (Commission) regarding King County's Proposed Ordinance 2023-0310, establishing an hourly minimum wage for employees of employers in unincorporated King County. The Agricultural Commission provides the agriculture sector with the opportunity to take an active role in the development and evaluation of policies, regulations, and programs that affect commercial agriculture in King County. The Commission is made up of representatives within the agricultural sector, including commercial producers, agricultural real estate, food and feed processing, wholesale and retail marketing, produce buying, direct marketing, supply and finance.

In a January 23, 2024 letter to Council, the Commission requested that Council consider providing an exemption from Ordinance 2023-0310 for employers of agricultural employees. Farms in King County have many financial challenges and although most farms pay above the proposed minimum wage, the upward pressure on farmworker pay will add to those financial challenges.

We understand that our request for an exemption is not being considered at this time so we would like to offer several amendments to the Ordinance that can help lessen the burden. These include support for agricultural businesses in relation to housing, transportation, and a reimbursement grant program. Please find details of each proposed policy or program below.

1. Housing

Many farm owners provide housing for farm workers, and that contribution is not considered in the County's proposed new minimum wage. Additionally, farm owners that are not able to provide housing are challenged to find and retain farm workers because of the high cost of housing in this area. The following actions can help address farmworker housing issues:

- Add housing assistance as a key policy priority for permanent and seasonal farm employees particularly in unincorporated areas and cities adjacent to Agricultural

Production Districts within King County housing assistance programs and the Housing Planning and Development Program.

- Provide housing vouchers for rural housing.
- Support temporary housing at private or King County campgrounds.
 - Extend maximum stay length at King County's Tolt MacDonald Park and Campground for farm employees to match the seasonal vegetable and fruit growing season from April 1 – October 31.
 - Create expanded or designated camping sites at Tolt MacDonald Park for seasonal farm employees – Chelan County Housing Authority provides an example how management of public parks can be modified to house seasonal farm employees.
 - Add housing facilities at Tolt MacDonald Park for seasonal farm employees - Growers League Bender Creek housing complex in Cashmere provides an example [[LINK](#)].
- Expedite process of permit requests and lower the permit cost for new farmworker housing (2-3 months maximum from current of several months).

2. Transportation

Ensure County transportation programs add farm businesses as eligible entities so they can transport employees to and from affordable housing to the farm, since current public transportation schedules and routes are not aligned with farm locations and work hours.

- Add farm businesses as eligible entities to receive surplus County vans at no-cost.
- Add farm businesses and their farm employees as eligible entities for Metro DART service on-demand.
- Add farm businesses and their farm employees as eligible entities for reduced rate/low-income Metro Vanpool (perhaps vans with rubber floor mats to keep them cleaner from farm dirt).

3. Agricultural Employer Reimbursement Grant Program

Establish a King County agricultural employer reimbursement grant program. With grant funds of

- Minimum \$1M/year for each of the next 3-5 years.
- Reimburse agricultural employers to support employee recruitment and retention as they transition to this higher minimum wage rate.
- Based on L&I's Stay at Work wage reimbursement program [[LINK](#)], utilize L&I quarterly reporting submitted of total labor hours by farm businesses to qualify for a percentage of wages to be reimbursed quarterly or annually. Establish interlocal agreement with L&I so that employer reports can be shared with King County. Suggest a system such as the total amount of hours divided by total grant funds to create a weighted average of what each business could claim.

- Consider including tools and equipment, training, and clothing as other allowed reimbursable expenses.

In addition to the recommendations above for this Council ordinance, we recommend these two further actions be pursued by DNRP.

4. Education and Outreach

Add or target resources for education and outreach for farmers on:

- Farmworker housing options for farm owners such as Farm King County's Farmworker Housing Fact Sheet [[LINK](#)].
- WA State's Farm Internship Program on Small Farms (farms with annual sales of less than \$265,000 per year are eligible to apply) [[LINK](#)].

5. Public Awareness Campaign

Establish a public information campaign that advocates for King County producers, their King County farm products and tells the story of quality and cost.

- Utilize public service announcements,
- Social media campaigns,
- Programmatic internal and external newsletters.
- Explain why groceries cost so much. Because farms large and small face higher costs to grow high quality food due to:
 - Some of the highest farmland costs and rental rates in the nation.
 - Some of the highest labor rates in the nation.
 - Inflation for utilities, fuel, construction materials, inputs such as seed or feed.
 - Improved animal welfare standards.

As mentioned in our January letter, in the last three years, multiple business pressures have challenged King County farms to remain competitive and viable. Elimination of the overtime pay exemption for agriculture in 2021, a highly competitive labor market, Covid recovery, high inflation for inputs, high land prices, and regional/national/global pressures on supply chain demand and pricing have been devastating for many farms in King County.

The United States Department of Agriculture (USDA) National Agricultural Statistics Service (NASS) 2022 Census of Agriculture was released in February 2024 and shows that between 2017-2022, King County lost 192 farms. 174 of those were farms of 1 to 9 acres in size, often viewed as the new and beginning farmer demographic, the "next generation" of farmers who will likely scale up in the next 5-10 years to larger acreage farms, generating more food, more land conservation and valuable productive open space. This segment of farmers is the canary in the coal mine, so to speak.

King County's Comprehensive Plan includes many valuable policies that recognize the importance of maintaining a productive and viable local food system. Collaboration among

Ag Commission Response to Proposed Ordinance 2023-0310

April 11, 2024

Page 4

Council, Executive departments, and the private sector is required if those policies are to be effective.

Please take action to support agricultural employers by including King County policy and programmatic support for agriculture in this ordinance.

Thank you for your consideration,



Kevin Scott-Vandenberg, Chair
King County Agriculture Commission

cc: King County Councilmembers
King County Agriculture Commission Members
John Taylor, Director, King County Department of Natural Resources and Parks
(DNRP)
Josh Baldi, Division Director, Water and Land Resources Division (WLRD),
DNRP
Ashley Evans, Policy Director, WLRD, DNRP
Joan Lee, Manager, Rural and Regional Services (RRS), WLRD, DNRP
Richard Martin, Manager, AFI, RRS, WLRD, DNRP
Patrice Barrentine, Staff Liaison, Agriculture Commission, AFI, RRS, WLRD, DNRP



Battery Energy Storage Systems (BESS)

Update 4/11/24

Information sent from Libby
Hollingshead, CM Perry's Chief of Staff



Agricultural and Forest Zone. In the Agricultural (A) and Forest (F) zones, BESS would:
Require a special use permit, unless the system meets the definition of a resource accessory use.

Not be subject to the 2-acre limitation in the initially introduced version of the ordinance.



REMEMBER BESS?



1ST UPDATE AND
ACTION SINCE FALL



DIGGING INTO WHAT
THESE CHANGES MEAN



ANY CONCERNS?

Information for Ag Commission from Libby Hollingshead, CM Perry's Chief of Staff



Unable to attend tonight's meeting.



Sharing the following information and updates.



Please let know if there any questions from commissioners or if you need any additional information from our office.



Council Staff, Jake Tracy's March 20 briefing is in your packet

2023-0263 Battery Energy Storage Systems (BESS)

After having conversations with the Agriculture Commission earlier in the year and Executive staff on how best to protect and preserve our farm land for farming and provide opportunity for resiliency on our farms, Councilmember Perry arrived at the proposal to remove maximum size requirement and put other protections in place.

- A special use permit is the highest level of scrutiny our Permitting Division has.
- A SUP would require review each proposal on a case by case basis to ensure and would be able to deny a permit if it isn't consistent with our comprehensive plan goals or place conditions and requirements on the permit to mitigate impacts on agriculture, soil, or other factors.
- Additionally, a SUP needs to be approved by the Permitting Division (Executive Branch) and the Hearing Examiner (Legislative Branch).
- Agricultural accessory uses cannot exceed one acre per state law, so anything larger than an acre would need to go through the SUP process.

2023-0263 Battery Energy Storage Systems (BESS)

Lastly, I wanted to share a summary of the changes in the most recent striking amendment. These changes have been informed by stakeholders and experts at the state level. The legislation is very technical so I find the summary to be helpful in understand the impacts of the various changes.

- Accessory-use Battery Energy Storage Sites with a total size of two Megawatts or less (sea cargo container equivalent), which are established for primarily on-site use are Permitted in all zones where accessory uses are allowed.
- Non-accessory use Battery Energy Storage Sites, of any size, which are established for primarily off-site use are Permitted under the following circumstances:
 - Conditional Use Permit would be required in Urban Residential (R) zones
 - Special Use Permit would be required in Agricultural (A) and Forest (F) zones
 - Permitted Use in all other zones
- Vendor Permit Application for a BESS must only demonstrate a financial surety of at least \$1 million (insurance, bonds, etc.) to cover damages from a fire or explosion if:
 - The BESS is more than two Megawatts, AND
 - The BESS technology does not mitigate thermal runaway, AND
 - The BESS individual room, cabinet, container, or other enclosure containing the system has an energy rating greater than two megawatt-hours, or any two enclosures are less than ten feet apart, AND

2023-0263 Battery Energy Storage Systems (BESS)

Summary continued

- The BESS is within 100 feet of buildings, lot lines, public ways, stored combustible materials, hazardous materials, high-piled stock, or other exposure hazards.
- Vender Permit Application for a BESS greater than two Megawatts would be required to:
 - submit a decommissioning plan (including soil mitigation) and demonstrate financial responsibility in an amount to carry out the decommissioning plan,
 - share fire and evacuation plans required by state law with the local fire protection district.
- All BESS sites and sizes would be subject to the standard setbacks in each zone, including the standard setbacks for nonresidential uses in the R, RA, and UR zones, except when:
 - BESS for accessory use would be allowed in a street setback, if used solely to supply electricity for electric-vehicle-charging infrastructure also within the setback or adjacent right-of-way.
 - BESS would not be allowed to extend into interior setbacks
- The County Executive would be required to consult with representatives of the energy industry, emergency response community, renewable energy industry, labor, and state and local governments to assist in developing the report.



King County

**Metropolitan King County Council
Local Services and Land Use Committee**

STAFF REPORT

Agenda Item:	6	Name:	Jake Tracy
Proposed No.:	2023-0263	Date:	March 20, 2024

SUBJECT

Proposed Ordinance (PO) 2023-0263 would adopt regulations for battery energy storage systems (BESS) in unincorporated King County.

SUMMARY

Battery Energy Storage Systems (BESS) are technologies that use rechargeable batteries to store electrical energy for later use. BESS are not currently defined as a distinct use in the County’s zoning code, King County Code (K.C.C.) 21A. According to Executive staff, BESS are currently considered to be a subset of utility facility, which is defined as a facility for the distribution or transmission of services. Except in a limited case that does not apply to BESS, utility facilities are a permitted use in all zones and are not subject to any use-specific development conditions.

The PO would define “BESS” and “Consumer-scale BESS” as distinct uses in K.C.C. Title 21A. BESS would be a permitted use in all zones except for R zones, where they would require a conditional use permit. Consumer-scale BESS would be accessory uses, allowed only when accessory to another allowed use on a site.

The PO would include the requirements below for BESS and Consumer-scale BESS.

Table 1. Proposed Requirements for BESS and Consumer-scale BESS

	BESS Under 1 MW¹	BESS 1 MW or more	Consumer-Scale BESS Under 1 MW	Consumer-Scale BESS 1 MW or more
Ten-foot separation between the facility and vegetation	Yes	Yes	No	Yes
No projections into setbacks	Yes	Yes	Yes	Yes
Special requirements in RA, UR, R Zones	Yes	Yes	No	No
Size limitation in A and F zones	Yes	Yes	No	No
Financial responsibility for explosion and decommissioning	No	Yes	No	Yes

¹ Megawatt

There is a striking amendment, S2, that would make changes to allowances for BESS for accessory use, change the thresholds at which financial responsibility is required, change the amount of financial responsibility required for fire and explosion, require a special use permit for non-accessory BESS in the A and F zones, allow for site-specific zoning conditions for public safety, require sharing of emergency plans with the local fire protection district, make changes relating to BESS for electric vehicle charging, and require a report. There is also a title amendment, T2.

BACKGROUND

Battery Energy Storage Systems. Battery Energy Storage Systems (BESS) are technologies that use rechargeable batteries to store electrical energy for later use, intended to enhance the stability, reliability, and efficiency of electrical grids.

BESS consist of battery modules or packs, power electronics, and control systems that enable them to charge and discharge electricity. They can be deployed at various scales, ranging from residential and commercial applications to utility-scale installations, each serving specific grid needs and energy requirements.

The primary purpose of BESS is to balance supply and demand in the electrical grid, mitigating the challenges posed by the intermittency of renewable energy sources, such as solar and wind power, by providing a way to store excess energy during periods of high generation and release it when energy demand is high or generation is low. This can smooth out power fluctuations and provide grid stability, help avoid grid congestion, reduce the need for fossil fuel-based peaker plants, and enhance the overall reliability of the electrical system.

BESS are also employed for various grid services, including frequency regulation and response, and voltage support. They can respond rapidly to changes in grid conditions, providing grid operators with a tool to maintain the grid's stability and quality of power supply. They also are used to provide backup power during grid outages and to assist in demand response, and can reduce overall energy consumption through load shifting.

Lithium-ion batteries are the most common battery type used in BESS, but other types are used as well, including vanadium, zinc-bromine, lead-acid, nickel metal hydride, and nickel-cadmium, among others.

Existing County Regulations. BESS are not currently defined as a distinct use in the County's zoning code, King County Code (K.C.C.) 21A. According to Executive staff, BESS are currently considered to be a subset of utility facility, which is defined as a facility for the distribution or transmission of services.² While BESS are not specifically listed in the definition, the list provided is exemplary only and not exhaustive. Except in a limited case that does not apply to BESS, utility facilities are a permitted use in all zones and are not subject to any use-specific development conditions. Utility facilities are exempt from the special standards for nonresidential uses in the RA, UR, and R zones.

² K.C.C. 21A.06.1350

According to Executive staff, several small-scale BESS, serving a single site, have been permitted as accessory uses. No large-scale BESS facilities have been permitted, although an application was received for a BESS near the City of Covington.³ That application has been cancelled.

2021 International Fire Code & State Amendments. Section 1207 of the 2021 International Fire Code (IFC) contains provisions relating to energy storage systems.⁴ The provisions only apply to energy storage systems over a certain capacity. For lithium-ion systems, the threshold is 20 kilowatt hours (kWh). These are summarized very broadly below:⁵

- Construction and operational permits required.
- A failure modes and effects analysis or other approved hazard mitigation analysis is required. It must evaluate:
 - Thermal runaway;⁶
 - Failure of battery management, ventilation, or exhaust system;
 - Failure of smoke detection, fire detection, fire suppression, or gas detection system;
 - Other listed technical failures.
- The analysis described above must conclude that fires, flammable gases, and toxic gases will be contained below certain thresholds and allow time for evacuation if necessary, and that flammable gases during a fire will be controlled through the use of ventilation, prevention of accumulation, or by deflagration venting.
- System testing prior to commissioning is required.
- Identification, documentation, and training of personnel is required.
- Ongoing inspection and testing are required.
- Noncombustible enclosures are required.
- A management system that disconnects electrical connections if potentially hazardous conditions are detected is required.
- Fire-resistant separations required.
- Vehicle impact protection required.
- Size and separation requirements.
- Fire detection and suppression required.
- Vegetation control surrounding a BESS required.
- Exhaust ventilation, explosion control, spill control, and thermal runaway protections required.

³ Permit No. CDUP23-0003

⁴ The majority of these provisions are also in the 2018 IFC, which is in effect until October 29, 2023.

⁵ The full text of the provisions can be found at <https://codes.iccsafe.org/content/IFC2021P1/chapter-12-energy-systems#text-id-19095843>. The requirements are more nuanced than described in this staff report and include multiple caveats and exceptions based on size and type of the specific system in question.

⁶ Thermal runaway is the primary cause of fires in batteries. It is a phenomenon in which the cell enters an uncontrollable, self-heating state, which can lead to ejection of gas, shrapnel and/or particulates (violent cell venting), extremely high temperatures, smoke, and fire.

The State has also adopted amendments to IFC Section 322, regarding storage of lithium-ion batteries in particular. In addition to the requirements listed above, lithium-ion battery storage would be required to have a fire safety plan, and indoor storage and storage in a container would be subject to a technical opinion and report to evaluate the fire and explosion risks associated with the indoor storage area and to make recommendations for fire and explosion protection. Outdoor battery storage would be subject to size limits and a requirement for separation from buildings, lot lines, public streets, and each other.

On September 15th, the State Building Code Council voted to delay implementation of the 2021 IFC until March 15, 2023. As that date has now passed, the requirements are now in effect.

ANALYSIS

Definitions. The PO would define “BESS” and “Consumer-scale BESS” as distinct uses in K.C.C. Title 21A. They would be defined as follows:

Battery energy storage system: A facility designed and constructed for the purpose of storing electrical energy using battery technology. Battery energy storage system does not include consumer-scale battery energy storage systems.

Consumer-scale battery energy storage system: A facility designed and constructed for the purpose of storing electrical energy using battery technology, and used solely to store energy for use on the site on which the system is located, excluding net metering.

“Net metering,” as referenced in the Consumer-scale BESS definition, refers to an electricity billing mechanism through which consumer-scale renewable energy generation systems, such as solar panels on a home, can feed a portion of the excess power they generate back into the grid. The proposed definition aligns with the County’s definition of “consumer-scale renewable energy generation system,” which allows for net metering.

The PO would also include Consumer-scale BESS in the list of things considered to be residential accessory uses, commercial/industrial accessory uses, and resource accessory uses. As these accessory uses cover all potential primary uses, any primary use allowed in a zone would be allowed to have a Consumer-scale BESS as an accessory use. This includes Consumer-scale BESS used for providing electricity for buildings as well as for vehicle charging.

Required Permits. As noted above, BESS are currently treated as a subset of utility facility, which makes it a permitted use in all zones, and Consumer-scale BESS are treated as allowed accessory uses, permitted as part of other allowed development in a given zone.

BESS. The PO would make BESS a standalone use in the Regional Land Uses table, K.C.C. 21A.08.100.A., and would define it as a permitted use in all zones, except for the R-1 through R-48 zones, in which it would require a conditional use permit.

The conditional use permit requirement would subject BESS in these zones to public notice and comment requirements, if not already required through the State Environmental Policy Act (SEPA), and would require the applicant to demonstrate the following:

- The conditional use is designed in a manner which is compatible with the character and appearance of an existing, or proposed development in the vicinity of the subject property;
- The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;
- The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;
- Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;
- The conditional use is not in conflict with the health and safety of the community;
- The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood;
- The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities; and
- The conditional use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of K.C.C. 21A.⁷

Consumer-scale BESS. By formally adding Consumer-scale BESS to the list of residential accessory uses, commercial/industrial accessory uses, and resource accessory uses, Consumer-scale BESS would remain a permitted use in all zones.

SEPA. The proposed ordinance would not affect the state requirements for SEPA review of BESS or Consumer-scale BESS. All projects would be subject to SEPA review unless found to be exempt under state law or K.C.C. Title 20.

Specific Requirements. The proposed ordinance would add new requirements to K.C.C. 21A for permit approval. Requirements would differ for BESS and Consumer-scale BESS, as well as based on whether the capacity of the system was below 1 megawatt (MW) or was at or above 1 MW. For reference, in California, a 1 MW system

⁷ K.C.C. 21A.44.040

is estimated to store enough electricity to power 750 homes for four hours.⁸ The requirements are summarized in Table 2 and discussed in more detail below

**Table 2.
Proposed Requirements for BESS and Consumer-scale BESS**

	BESS Under 1 MW	BESS 1 MW or more	Consumer-Scale BESS Under 1 MW	Consumer-Scale BESS 1 MW or more
Ten-foot separation between the facility and vegetation	Yes	Yes	No	Yes
No projections into setbacks	Yes	Yes	Yes	Yes
Special requirements in RA, UR, R Zones	Yes	Yes	No	No
Size limitation in A and F zones	Yes	Yes	No	No
Financial responsibility for explosion and decommissioning	No	Yes ⁹	No	Yes ⁸

Nonvegetated Buffer. The PO would require a minimum separation of ten feet between structures containing BESS and landscaping or other vegetation. The International Fire Code has a similar requirement, but allows some exemptions in which vegetation could be placed closer than ten feet.¹⁰ The PO would eliminate the possibility of these exemptions. The nonvegetated buffer would also be required for Consumer-scale BESS with a capacity of 1 MW or more.

Setback Projections. King County Code allows “electrical and cellular equipment cabinets and other similar utility boxes and vaults” to project into required setbacks from property lines. The PO would specify that equipment associated with BESS and Consumer-scale BESS are not allowed to project into required setbacks.

Nonresidential Land Use Requirements. Utility Facilities are exempt from the special requirements for nonresidential land uses in the RA, UR, and R zones.¹¹ The proposed ordinance would subject BESS to these requirements. The requirements are as follows:

- A. Impervious surface coverage shall not exceed:*
- 1. Forty percent of the site in the RA zone.*

⁸ <https://www.gov.ca.gov/2023/07/12/icymi-california-grid-reaches-5600-mw-of-battery-storage-capacity-a-1020-increase-since-2020/#:~:text=With%20one%20megawatt%20of%20electricity,batteries%20need%20to%20be%20recharged.>

⁹ Only required for privately owned facilities. See discussion below.

¹⁰ IFC 1207.5.7.

¹¹ Found in K.C.C. 21A.12.220.

2. *Seventy percent of the site in the UR and the R-1 through R-8 zones.*
 3. *Eighty percent of the site in the R-12 through R-48 zones.*
- B. Buildings and structures, except fences and wire or mesh backstops, shall not be closer than 30 feet to any property line, except as provided in subsection C.*
- C. Single detached dwelling allowed as accessory to a church or school shall conform to the setback requirements of the zone.*
- D. Parking areas are permitted within the required setback area from property lines, provided such parking areas are located outside of the required landscape area.*
- E. Sites shall abut or be accessible from at least one public street functioning at a level consistent with King County Road Design Standards. New high school sites shall abut or be accessible from a public street functioning as an arterial per the King County Design Standards.*
- F. The base height shall conform to the zone in which the use is located.*
- G. Building illumination and lighted signs shall be designed so that no direct rays of light are projected into neighboring residences or onto any street right-of-way.*

Limitations in A and F Zones. In the A (Agriculture) and F (Forest) zones, the PO would limit the size of BESS to two acres or 2.5% of the site, whichever is less. This mirrors a limitation for renewable energy generation systems in these zones. The PO would specify that, if a renewable energy generation system and BESS are located on the same property, the two acre or 2.5% limitation would apply to the combined area of both uses.

This requirement would not apply to Consumer-scale BESS that are accessory to allowed uses in the A and F zones. However, as the Consumer-scale BESS would be required to be subordinate and incidental to the allowed agriculture or forestry use on site, and would only be allowed to be used to provide power to that on-site use, this would represent an inherent limitation on the size of the system.

Financial Responsibility. In May 2023, the Council adopted Ordinance 19601, which established financial responsibility requirements for privately owned fossil fuel facilities and nonhydroelectric generation facilities. The PO would extend these requirements to privately owned BESS with 1 MW or more of capacity, as well privately owned Consumer-scale BESS with 1 MW or more of capacity. The County is prohibited by state law from imposing financial responsibility on public entities, but the PO would encourage the Permitting Division to seek voluntary compliance from public entities.¹²

The financial responsibility requirements would be moved to a new chapter in Title 21A, but would be identical to the existing requirements for fossil fuel facilities and nonhydroelectric generation facilities. Applicants would be required to demonstrate proof of financial responsibility in an amount necessary to compensate for the maximum damages from an explosion resulting from a worst-case release, and proof of financial responsibility in an amount necessary to compensate for facility decommissioning (e.g., brownfield remediation).

¹² RCW 36.32.590

The level of financial responsibility necessary would be determined by the Executive based on studies provided by the applicant at the time of permit application. The PO lays out the information that would be required in these studies.

For the explosion scenario, the study would be required to:

- Incorporate the volume of oils, gases, refrigerants, and other flammable or explosive chemicals stored, used, or generated within the facility;
- Consider such matters as: the frequency of facility operations; facility layout and vegetation that could cause flammable vapor accumulation; the damages that could result from the explosion to public and private structures onsite and offsite; public infrastructure and environmental resources and functions; and the potential loss of life and injury to persons onsite and to members of the public;
- Include modeling and disclosure of a nil or very low wind condition vapor cloud explosion scenario;
- Be prepared by a person accredited in vapor cloud explosion analysis, or an equally qualified individual as authorized by the director, at the applicant's expense; and
- Undergo third-party validation by a qualified entity to be hired upon mutual agreement of the applicant and the department, at the applicant's expense.

For decommissioning, the study would be required to include, but not be limited to:

- Listing of the hazardous substances, as defined in RCW 70A.305.020, that will be stored, handled or generated within the facility; the range of potential release volumes requiring cleanup in the event of failures of technological or safety catchment features; and whether such releases have the potential to contaminate groundwater or surface waters on or adjacent to the site;
- The range of cleanup activities that would be required to address such hazardous substances;
- Detailed estimates of the cost to implement the plan, including conducting cleanup and facility closure, based on the cost of hiring a third party to conduct all activities. All cost estimates must be in current dollars and may not include a net present value adjustment or offsets for salvage value of wastes or other property; and
- Methods for estimating closure costs.

For BESS and Consumer-scale BESS subject to the financial responsibility requirement, the owner or operator would be required to verify financial responsibility to the Permitting Division on a five-year basis.

SEPA Review and Public Notice. The PO required review under the State Environmental Policy Act (SEPA). A Determination of Nonsignificance was issued on September 27, 2023 and the SEPA public comment period is complete.

The proposed ordinance requires a 30-day public hearing notice prior to the hearing at full Council.

AMENDMENT

Striking Amendment S2. The striking amendment would make the following changes:

BESS as Accessory Uses.

- Would remove the "Consumer-scale BESS" definition and instead refer to these as BESS for residential accessory use, commercial/industrial accessory use, or resource accessory use, as those terms are defined in the K.C.C. 21A.06. These BESS would be continue to be limited to on-site use except as caveated below, and would retain "permitted use" status in all zones where residential accessory uses, commercial/industrial accessory uses, or resource accessory uses are allowed.
- Would clarify that, for the purposes of being considered an accessory use, vehicle charging on-site or in the immediately adjacent right-of-way is allowed. When a BESS qualifies as an accessory use, and is used solely to serve electric vehicle charging infrastructure within a street setback, the BESS would also be allowed to be located within the street setback.
- Would allow BESS for accessory use to participate in load sharing or other electricity sharing programs that may involve some amount of off-site use.
- Would stipulate that BESS over 2 MW do not qualify as an accessory use.

Agricultural and Forest Zone. In the Agricultural (A) and Forest (F) zones, BESS would:

- Require a special use permit, unless the system meets the definition of a resource accessory use.
- Not be subject to the 2-acre limitation in the initially introduced version of the ordinance.

Financial Responsibility for Fire and Explosion. Would change the amount of financial responsibility required for fire and explosion to a flat \$1 million, rather than an amount determined based on a study of maximum potential damages.

Would also change the threshold at which financial responsibility for fire and explosion is required. Rather than a 1 MW threshold, the striking amendment would stipulate the following:

- 2 MW or less – financial responsibility not required.
- Over 2 MW – financial responsibility required if all three of the following conditions are met:
 - The battery technology is capable of thermal runaway;
 - Any individual room, cabinet, container, or other enclosure containing the system has an energy rating greater than two megawatt-hours, or any two enclosures are less than ten feet apart; and
 - The system is located within one hundred feet of buildings, lot lines, public ways, stored combustible materials, hazardous materials, high-piled stock, or other exposure hazards.

Financial Responsibility for Decommissioning. Would change the threshold at which financial responsibility for decommissioning is required from 1 MW to 2 MW.

Permit Conditions for Public Safety. Would specify that the Permitting Division can impose additional permit conditions to protect public health and safety, including, but not limited to, increased setbacks or increased separation between structures containing battery energy storage systems, based on the findings of studies required by the zoning code or fire code.

Sharing of Emergency Plans. Would require applicants to share draft fire safety and evacuation plans with the local fire protection district prior to application, and would require final versions to be shared with the local fire protection district prior to final inspection.

Follow-up Report. Would require the Executive to submit a report one year from the date that the first BESS is given final inspection approval under the regulations in this ordinance, or three years from the date this ordinance is enacted, whichever comes first. The report would include information on BESS applications and pre-application meetings in unincorporated King County, changes to battery technology, and changes to relevant codes, as well as recommendations for changes to King County Code, if warranted based on the findings of the report. If code changes were found to be warranted, the Executive would be required to submit a proposed ordinance making those changes along with the report. The Executive would be required to consult with representatives of the energy industry, emergency response community, renewable energy industry, labor, and state and local governments in development of the report.

Technical and Clarifying Changes. Would make technical and clarifying changes, including changes to the definition of BESS, removal of a vehicle impact requirement that is duplicative of state law, updated cross-references, addition of a severability clause, and changes to match legislative drafting guidelines.

Title Amendment T2. The title amendment would conform the title to the striking amendment.

INVITED

- Marissa Aho, Director, Office of Climate
- Jim Chan, Director, Permitting Division, DLS

ATTACHMENTS

1. Proposed Ordinance 2023-0263
2. Striking Amendment S2
3. Title Amendment T2



Preparing for Officer Elections

Policies and Procedures

Elections and Terms of Officers

- ◇ 5.3.1.1. Officers shall be elected from the entire Commission at its first regular meeting in **October**, or as necessary to fill unscheduled vacancies.
- ◇ 5.3.1.2. Officers of the Commission shall include a Chair and a Vice-Chair. The Recording Secretary shall be the Staff liaison.
- ◇ 5.3.1.3. Officers shall **assume office in January** and serve through the **calendar year**.

Nominations of Officers:

◇5.3.2.1. Current Chair shall seek nominations from all Commissioners at least one month prior to officer elections. Chair shall call for additional nominees from the floor prior to a motion for officer elections.

- A commissioner may nominate another commissioner or self-nominate oneself.
- Commissioners may also reach out to the staff liaison and/or executive committee with a nomination.
- The staff liaison will confirm all known nominations before Nov's vote.

Duties of Officers:

1. Chair:

- ⌚ Shall preside at all meetings of the Commission, and at other special meetings, as appropriate. The chair is an ex-officio member of all committees.
- ⌚ Shall vote to break a tie.
- ⌚ Shall create and dismiss standing committees, with approval of the Commission.
- ⌚ Shall take nominations from Commissioners for seats on various committees.
- ⌚ Shall be responsible for official Commission communications.

Vice Chair:

- ⌚ Shall act on behalf of the Chair when Chair is unable to perform official duties
- ⌚ Participate in agenda planning with Chair and staff liaison when necessary.

From
Commission's
Policy and
Procedures

From
Commission's
Policy and
Procedures

Executive Committee

- ◆ Membership. The Executive Committee shall be composed of officers of the Commission.
- ◆ Officers of the commission shall include a Chair, a Vice Chair, and a Past Chair.
- ◆ Meetings. The Executive Committee shall meet as required to perform its duties.
- ◆ Reports. The Executive Committee shall report as needed to the Commission and give full information on its proceedings, if any.
- ◆ Responsibilities. The Executive Committee shall monitor work of the Commission with assistance of the Staff liaison. The Executive Committee shall be responsible to the Commission and reports to it.

Additional Duties of Executive Committee

- ◇ Maintain Commission focus on mission statements.
- ◇ Maintain Commission focus on goals and objectives.
- ◇ Communicate Commission priorities to the Staff liaison.
- ◇ Consider community input in setting priorities.
- ◇ Make recommendations consistent with existing policies, programs, laws and regulations.
- ◇ Review proposals falling outside regular committee guidelines.
- ◇ Prepare correspondence on advocacy issues with assistance from staff liaison.
- ◇ Run the commission meetings. If no executive committee member is present to run a meeting, the chair will appoint a commissioner to run the meeting.

From
Commission's
Policy and
Procedures

Nomination Slate for 2024 (April 15-December)

- ◆ Stacey Smith, Chair
- ◆ Jessi Bloom, Vice Chair

Are there any additional nominees from the floor?

Motion/Vote

PUBLIC
COMMENTS
SUBMITTED IN
WRITING

KING COUNTY AGRICULTURAL COMMISSION MEETING TESTIMONY FOR THURSDAY, MARCH 14, 2024:

RE: NEW STG/REMLINGER MUSIC CONCERT VENUE + CARNATION FARMS TUP

Dear King County Ag Commission Members and members of the public,

My name is Jules Hughes and I live and work in Carnation, in District 3.

There is a new summer concert venue coming to Carnation on May 24th, that is in direct conflict with the King County Code, Climate Action Goals, and the emerging Comp Plan Update. The site is in a Conservancy Shoreline, FEMA floodplain and floodway of the Tolt River. It is on a dead-end road off of rural 2-lane 203 and will cause immeasurable access and egress issues, up to 34 times a year.

The Snoqualmie Valley is a sensitive eco-system of farmlands, wildlife habitat, human and natural forces and cannot handle the stresses that would occur as a result of this venue.

From reporting in the Seattle Times, it is a new Carnation “amphitheater,” which at a capacity of 6,000, exceeds the capacity of Marymoor by 1000 and St. Michele by 2000.

This proposal by STG and Remlinger Farms, is considered a non-conforming use by King County, however this does not represent past use and is a change of use. This would not be allowed within Issaquah or Sammamish, so why is it being allowed here? And in a much more ecologically sensitive area, risking the health of critical Tolt and Snoqualmie watersheds?

Remlinger did not receive proper permits for the STG concert last June and it appears they are planning to continue this unpermitted use, as tickets have already been sold for concerts. This project will have an enormous impact on surrounding neighbors, including traffic, noise, polluted stormwater runoff, compromised police, fire, and ambulance access. At minimum, a temporary or conditional use permit that includes full environmental and public review as required by law, should be required so that impacts can be identified and addressed.

We want to preserve the natural beauty and environmental health of the Snoqualmie Valley and not have it be overrun by voracious out of town corporate interests that could put all preservation efforts in jeopardy and cause us to fail in reaching our climate action goals.

Please do all you can to ensure King County does not let this venue proceed, as proposed, without robust oversight, mitigation, and legally required public process.

It’s imperative for the County to consider ALL of the development pressures surrounding Carnation as a whole. If you have a potential 6,000 people at STG/Remlinger and up to another 4,000 at Carnation Farms, if their TUP is granted, on the same summer day as other existing events in downtown Carnation, that’s basically 5X the current Carnation population.

Our emergency services, police, traffic, access, infrastructure, and the health of our natural environment, and quality of life for neighbors, cannot handle all of this additional pressure. King County must consider ALL CUP and TUP applications wholistically to minimize the predictable negative effects on the environmental health of the Snoqualmie Valley and its essential farmlands, before it’s too late.

Thank you.

Sincerely,

Ms. Jules Hughes (member Carnation Community Alliance – carnationcommunityalliance@gmail.com)

PO Box 815

Carnation, WA 98014

KING COUNTY AGRICULTURAL COMMISSION MEETING TESTIMONY

FOR THURSDAY, MARCH 14, 2024:

RE: NEW STG/REMLINGER MUSIC CONCERT VENUE + CARNATION FARMS TUP

My name is Simone Oliver and I've been a Carnation resident since 1994. I have an environmental consulting firm that works regularly in unincorporated King County. I'm very familiar with codes pertaining to land use.

The STG/Remlinger vested use is not legal. This venue is not allowed under the state shoreline act as administered by DOE. The whole site is located within the floodway and floodplain of the Tolt River, RA and agricultural lands.

The vesting allowed by Jim Chan is a gross expansion of the existing use that has never included public concerts of this magnitude, up to 6000 people 34 times a year – that's 1.5 times the size of St. Michelle concerts. Everything they've hosted since the early 90's has been much smaller private corporate picnics and private music concerts. The non-conforming code section KCC 21A.32.065 does not allow for expansion of existing non-conforming use by over 10%, which this clearly exceeds the vested use in both number of attendees and change of use.

In the rationale provided by Remlinger to document their vested use, the average attendees were provided on an annual basis, not an event basis. It is unclear how many attendees were present per event, which is necessary to accurately document past use. The vesting granted by King County represents 6000 people per event for up to 34 times per year. Regardless, the data they provided, 3866 is the average high number of attendees in one event and 25 is the average amount of events per year. This reflects an increase of 55% in number of attendees and 36% increase in frequency of events over the vague data provided by Remlinger. This does not comply with the non-conformance code section KCC 21A.32.065.A.2 that limits maximum expansion to 10% and Jim Chan's decision "that the use may continue, provided that:...any modification or expansion of the use complies with nonconformance standards in KCC 21A.32' . Based on this alone, the vesting certificate should be revoked per code section KCC 21A.50.040.2 'The approval was based on inadequate or inaccurate information.'

This venue has never been an "open-air theater" as the vesting interpretation states granting them full, unappealable green light to play by a different set of rules, or no rules in this case. I had hoped that making back-room deals was a thing of the past, but apparently that's not the case. The County needs to do the right thing and revoke this vesting certificate and require STG/Remlinger to go through the standard TUP/CUP process as required by law. This process allows for public review and input, SEPA, multi-agency review and mitigation for impacts.

Thank you.

Simone Oliver

Carnation Community Alliance – carnationcommunityalliance@gmail.com