



King County

**Department of Permitting
and Environmental Review**

35030 SE Douglas Street, Suite 210
Snoqualmie, WA 98065-9266

206-296-6600 TTY Relay: 711

www.kingcounty.gov

CODE INTERPRETATION

CINT15-0003

Issue/Background

The Vashon Island Grower's Association (VIGA) operates a farmers market on Vashon Island outside the boundaries of the island's principal commercial area during certain times of the year, which is permissible, but during months of inclement weather it would prefer to operate in enclosed space within the boundaries of the island's principal commercial area, which is governed in part by the "Vashon Town Plan." When the Vashon Town Plan was adopted in 1996, a zoning ordinance also was adopted that is consistent with the Plan. That zoning ordinance identifies a list of uses that are permitted, and in the Community Business zone—which is the zone in which VIGA wants to locate temporarily—a farmers market is not specifically listed. However, King County did not adopt a definition for a farmers market until 2011, and the Vashon Town Plan has not been updated officially since 1996. The question is whether what VIGA is proposing to do in the Community Business zone on the island is substantially similar to uses that are permitted in that zone.

Analysis

Farmers markets are fairly prevalent in both cities and unincorporated areas in this region, and over the years King County has taken numerous actions and amended its laws to encourage farming, increase access to locally-grown food, and support farm-to-table initiatives. In 2011, the King County Council adopted a definition for farmers market into its zoning code (K.C.C. 21A.06.451M), and at present farmers markets are allowed in most places in the County in any zoning district but for the Mineral zoning district (K.C.C. 21A.08.070.A).

For decades, King County has worked with its citizens to develop land use plans for specific unincorporated areas. These subarea plans are a vehicle for articulating a more local character for certain land use and related policies than the broader, County-wide policies may not completely address. One example of a subarea plan is the Vashon Town Plan, which was crafted with the public in 1994 and adopted by the King County Council in 1996 (King County ordinance 12395).

The Vashon Town Plan has an appendix—"Attachment 2"—that specifies recommended zoning designations and zoning conditions to implement the policies in the Plan. Within that appendix is section 2(f), "Restricted Uses for Community Business-zoned Properties," that is detailed about what uses were recommended to be permitted in that zoning district. The introduction to section 2(f) states: "Property with Community Business zoning shall be restricted to the following specific land uses as set forth in Chapter K.C.C. 21A.08." Title 21A is the County's zoning code, and 21A.08 includes several tables of permitted uses for each zoning district. As mentioned above, the County did not define "farmers market" until 2011, so likely in 1994/1996 K.C.C. 21A.08 did not address farmers markets. Attachment 2 was adopted by the King County Council at the same time it adopted the Vashon Town Plan, and in so doing the recommendations in Attachment 2 were codified.

So, on one level one could conclude that a farmers market is not allowed in the Community Business zone on Vashon-Maury Island because it is not specifically called out in the Plan. However, there are planning principles that say similar uses should be treated similarly, and that similar products should be regulated similarly.

The department asked VIGA to put in writing how it proposed to operate its winter market. Salient points are:

- The winter market will be operated in enclosed space at 9370 S.E. Bank Road in what was formerly a liquor store, which space is adjacent to the Vashon Thriftway.
- It will be open on Saturdays in November and December for a limited number of hours.
- Usually there will be two staff members to assist customers and coordinate with vendors, though other volunteers may help from time to time.
- About thirty vendors may participate, and items sold will include Vashon-grown produce, meat, and dairy; baked goods; hand-made candy; local cider and wine; and craft items such as kitchenware, jewelry, and dog treats.
- Perhaps 200 customers per Saturday will patronize the space, spread over the hours of operation.
- Parking is available.

Rather than operate as the classic image of a farmers market—tents and folding tables in an open-air setting—the VIGA winter market will appear as any other general store. It will be in one of the tenant spaces of a retail strip center that provides full utilities, provides paved parking for patrons, and will be near or next to a grocery store—which, interestingly, sells produce, meat, and dairy; baked goods; candy; and so on.

While the director acknowledges that a farmers market is not specifically identified as a permitted use on the particular site in question, the similarities between the proposed winter market and the adjacent, permitted grocery store are so strong that a casual passerby may not even initially perceive the VIGA temporary use as a "farmers market" but instead a small, local

general store. To that end, the Vashon Town Plan *does* permit the following uses: "...Department and Variety Store; Food Store;...Apparel and Accessory Stores; Furniture and Home Furnishings Stores;...Liquor Stores;...Jewelry Stores;...Florist Shops;...Pet Shops [,]" and other uses (see Vashon Town Plan, Attachment 2, section 2(f), "Retail/Wholesale Land Uses").

Director's Conclusion

Because the uses, products, and even the appearance of the proposed Vashon Island Grower's Association winter market are so strikingly similar and functionally equivalent to uses and products that are outright allowed in the Community Business zoning district within the boundaries of the Vashon Town Plan, the director of the department of permitting and environmental review concludes that the winter market shall be deemed an allowed use.

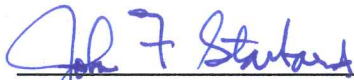
Notes

K.C.C. 2.100.030.A provides that the director may issue a code interpretation on the director's own initiative. This interpretation was initiated on the director's own initiative.

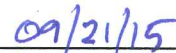
K.C.C. 2.100.070 states that a request for a code interpretation must be accompanied by a fee of \$250. Since this interpretation was initiated by the director, no fee is required.

Finality of Code Interpretations

Under K.C.C. 2.100.050.A, the director's decision on a code interpretation is final. A code interpretation issued by the director governs all staff review and decisions unless withdrawn or modified by the director or modified or reversed on appeal by the King County Hearing Examiner, King County Council, or an adjudicatory body (K.C.C.2.100.040.H).



John F. Starbard, Director
Department of Permitting and Environmental Review



Date