



## King County

### Department of Development and Environmental Services

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## REGULATORY REVIEW COMMITTEE

- MINUTES -

**MEETING DATE: October 28, 2010**

**TO:** Building Services Division Staff  
Jim Chan, Manager  
Chris Ricketts  
Jarrod Lewis  
Sheryl Lux  
Lisa Dinsmore

Land Use Services Division Staff  
Randy Sandin, Manager  
Steve Bottheim  
Molly Johnson

Fire Marshal Division Staff  
Gay Johnson, Assistant Fire Marshal

John Starbard, Director  
Harry Reinert, Special Projects Manager and RRC Chair  
Devon Shannon, Prosecuting Attorney's Office

**FM:** Harry Reinert, Chair

Present: Steve Bottheim, Devon Shannon, Randy Sandin, Jarrod Lewis, Sheryl Lux, Bill Kerschke, Chris Ricketts, Jim Chan, Fereshteh Dehkordi, and Harry Reinert

- 1. Is fish farming for food production (aquaculture) considered an agriculture activity under K.C.C. 21A.08.090 and K.C.C. Chapter 21A.24? Can a fish farm be proposed or expanded into a wetland or wetland buffer?**

### Background

Pacific Seafoods proposes to construct a facility to raise fish for food. Part of the facility would be located within a wetland or wetland buffer.

Discussion

“Agriculture” and “agriculture activities” are not specifically defined in the K.C.C. Title 21A. K.C.C. 21A.08.090 (Resource Land Uses) includes aquaculture and agriculture under different Resource Land Use Categories. Within the permitted uses table, agriculture is identified as a specific resource category, and aquaculture is identified as a subcategory of the Fish and Wildlife Management category.

Within the 1987 Standard Industrial Classification Manual (SIC), however, animal aquaculture is identified as a subcategory of agriculture, within “Major Group 02 – Agriculture Production – Livestock and Animal Specialties.” Specifically, SIC 0273 - Animal Aquaculture provides:

Establishments primarily engaged in the production of finfish and shellfish, such as crustaceans and mollusks, within a confined space and under controlled feeding, sanitation, and harvesting procedures. Establishments primarily engaged in hatching fish and in fish and in operating fishing preserves are classified in Industry 0921.

The SIC manual includes Fish Hatcheries and Preserves under Major Group 09 – Fishing, Hunting, and Trapping. These activities are identified as establishments primarily engaged in operating fish hatcheries or preserves. The notes to this Major Group state that establishments that are primarily engaged in the production of fish under controlled feeding and harvesting procedures are classified in the Industry Group 027, which includes animal aquaculture.

Thus, although the permitted use tables in K.C.C. Chapter 21A.08 separate aquaculture from other agricultural uses in terms of where aquaculture is a permitted use, aquaculture is still considered to be a form of agriculture.

K.C.C. 21A.24.045 establishes the circumstances under which “allowed alterations” are permitted in critical areas and critical area buffers. New nonresidential structures are allowed in wetlands and aquatic areas and their buffers under the following circumstances:

3. Limited to nonresidential farm-structures in grazed or tilled wet meadows or buffers of wetlands or aquatic areas where:
  - a. the site is predominantly used for the practice of agriculture;
  - b. the structure is in compliance with an approved farm management plan in accordance with K.C.C. 21A.24.051;
  - c. the structure is either:
    - (1) on or adjacent to existing nonresidential impervious surface areas, additional impervious surface area is not created waterward of any existing impervious surface areas and the area was not used for crop production;
    - (2) higher in elevation and no closer to the critical area than its existing position; or
    - (3) at a location away from existing impervious surface areas that is determined to be the optimum site in the farm management plan;

- d. all best management practices associated with the structure specified in the farm management plan are installed and maintained;
- e. installation of fencing in accordance with K.C.C. chapter 21A.30 does not require the development of a farm management plan if required best management practices are followed and the installation does not require clearing of critical areas or their buffers; and
- f. in a severe channel migration hazard area portion of an aquatic buffer only if:
  - (1) there is no feasible alternative location on-site;
  - (2) the structure is located where it is least subject to risk from channel migration;
  - (3) the structure is not used to house animals or store hazardous substances; and
  - (4) the total footprint of all accessory structures within the severe channel migration hazard area will not exceed the greater of one thousand square feet or two percent of the severe channel migration hazard area on the site.

K.C.C. 21A.24.045D.3. Since the operation of a fish farm is agriculture, the facility proposed by Pacific Seafoods would qualify for approval under this condition. If the proposed facility meets the conditions, it is an allowed alteration. If it does not meet the conditions, it may be able to qualify for an alteration exception under K.C.C. 21A.24.070A.

#### Summary

Fish farms raise fish in an enclosed and controlled environment, specifically for food production. Fish farms that produce fish for food are considered an agricultural activity and fall under SIC 0273.

K.C.C. 21A.24.045D.3 allows “nonresidential farm-structures in grazed or tilled wet meadows or buffers of wetlands or aquatic areas” under specified conditions. Structures in support of aquaculture are allowed alterations if they meet these conditions. Otherwise, they may be able to qualify for an alteration exception under K.C.C. 21A.24.070A.

## **2. What is the use category of a structure built as a single family detached residence that is rented out for events, such as weddings, family reunions, and corporate retreats, and also provides sleeping accommodations for up to 20 guests?**

#### Background

A permit was issued for a single family dwelling unit on the subject property which is zoned F-Forestry. The dwelling unit is rented out to groups of people. There are also events such as weddings, parties, and corporate events. The facility advertises itself as “an impressive and inviting stage to conduct any corporate engagement.” For weddings, it “has the air of a luxury resort while making you and your guests feel right at home.” For other events, as “a beautiful and flexible venue for all exceptional occasions.” See <http://themoonmansion.com/fp/html/home/default.htm>.

The owners of the property live in accessory living quarters on the premises. They have a TUP application for the events.

Discussion

The zoning code defines a dwelling unit as:

one or more rooms designed for occupancy by a person or family for living and sleeping purposes, containing kitchen facilities and rooms with internal accessibility, for use solely by the dwelling's occupants; dwelling units include but are not limited to bachelor, efficiency and studio apartments, factory-built housing and mobile homes.

K.C.C. 21A.06.345. A family as is defined as

an individual; two or more persons related by blood or marriage; ... a group of eight or fewer residents, who are not related by blood or marriage, living together as a single housekeeping unit ....

K.C.C. 21A.06.450.

The Moon Mansion is not being operated as a single family dwelling unit for purposes of the zoning code.

For the lodging function of Moon Mansion, the applicable residential use category is temporary lodging as a hotel or motel. The zoning code relies on the 1987 Standard Industrial Classification (SIC) for its definition of this use. Hotels or motels are "Commercial establishments, known to the public as hotels, motor hotels, motels, or tourist courts, primarily engaged in providing lodging, or lodging and meals, for the general public." SIC 7011. SIC 7011 lists a variety of transient housing types as being included within the definition of hotels and motels. These include:

- Bed and breakfast inns
- Cabins and cottages
- Casino hotels
- Hostels
- Hotels, except residential
- Inns, furnishing food and lodging
- Motels
- Recreational hotels
- Resort hotels
- Seasonal hotels
- Ski lodges and resorts
- Tourist cabins
- Tourist courts

Bed and breakfast inns are not included in the definition of “motel and hotel” for purposes of the permitted use table. K.C.C. 21A.08.030B.1. The rental of the Moon Mansion for lodging purposes falls within the definition of a hotel or motel.

Hotels or motels are not a permitted use in the Forestry Zone.

For the rental of Moon Mansion for events, the applicable use category is “conference center.” The zoning code defines a “conference center” as “an establishment developed primarily as a meeting facility, including only facilities for recreation, overnight lodging, and related activities provided for conference participants.” K.C.C. 21A.06.235. The rental of Moon Mansion for weddings and other events and for corporate retreats clearly falls within this definition.

Conference centers are not a permitted use in the Forestry zone.

Because the Moon Mansion operation is not permitted in the zone, the use as either a hotel or motel or as a conference center may be permitted as a temporary use. A temporary use permit is required for “[u]ses not otherwise permitted in the zone that can be made compatible for periods of limited duration and/or frequency ....” K.C.C. 21A.32.100A.

A use that will operate continuously for more than sixty days is considered permanently established. K.C.C. 21A.08.010. If the use will be operating for less than sixty days, it is subject to the temporary use provisions of K.C.C. Chapter 21A.32.

Recently adopted amendments to the temporary use provisions now allow a temporary use permit to be effective for one year. See K.C.C. 21A.32.120, as amended by Ordinance 16950, Sec. 27. Prior to this amendment, a temporary use permit was valid for only 180 days in a calendar year. A temporary use permit may be renewed annually, for up to five years.

A temporary use is allowed only for sixty days in any calendar year. K.C.C. 21A.32.120B. Each day the Moon Mansion is rented for lodging or for events are included in the sixty calendar days that are allowed for a temporary use.

The Regulatory Review Committee has previously considered the question of the rental of a single family residence as a vacation rental. See, [RRC Minutes, October 6, 2005](#). In that case, the determination was that occasional rental of a single family residence as a vacation cabin did not convert the use into a hotel or motel use.

That case is different from the present circumstances. The Moon Mansion is operated as a commercial establishment offering a variety of services, including events such as weddings, family reunions, and corporate retreats.

Finally, the owners of the Moon Mansion live in another building on the property that has been converted into accessory living quarters. Accessory living quarters are not a permitted use in the Forestry zone. K.C.C. 21A.08.020B.7.a.(9).

Conclusion

The Moon Mansion was originally constructed as a single family residence and is located in the Forestry zone. The owners offer the facility for weddings and other events and for corporate retreats. Under these circumstances, the Moon Mansion is being operated at various times as a motel or hotel and as a conference center. Neither use is a permitted use in the Forestry Zone. The owners have converted another building on the property into accessory living quarters, which is also not a permitted use in the Forestry Zone.

The Moon Mansion operation may be permitted as a temporary use under K.C.C. Chapter 21A.32. Recent amendments to the temporary use permit provisions allow a temporary use permit to extend for a full year and to be renewed annually for up to five years. Temporary uses are limited to sixty days in each calendar year. For an operation such as Moon Mansion's, each day the facility is rented for either lodging or an event is included in the sixty day allotment.