



## **King County**

**Department of Development  
and Environmental Services**  
900 Oakesdale Avenue Southwest  
Renton, WA 98055-1219

### **FINAL CODE INTERPRETATION L02CI003**

#### **Background**

By letter dated November 27, 2002, Brian Holtzclaw and Nancy Rogers, on behalf of McKinley LLC requested a code interpretation of K.C.C. 19A.08.180. By letter of December 17, 2002, the Department of Development and Environment Services (DDES) acknowledged the request as required under K.C.C. Chapter 2.100.

McKinley LLC filed preliminary short plat application (L02S0015) on May 31, 2002. The property subject to the application has been affected by several previous boundary line adjustments and a large lot segregation. The following is a brief description of the chronology:

- 1996 – a boundary line adjustment on a 157-acre parcel. The boundary line adjustment reconfigured and moved the boundaries of all of the existing lots, eleven of which were legally recognized prior to the boundary line adjustment. Lot L, the twelfth lot, was an 18 square foot area that was given recognition in the boundary line adjustment and then moved from one side of the parcel to the other. As reconfigured, Lot L was approximately 67 acres. Current zoning on the lots created by the 1996 boundary line adjustment range from Forest to RA-10.
- 1997 – a large lot segregation, under K.C.C. 19.08.010 (since amended and recodified) created three lots out of Lot L, each exceeding 20 acres.
- 1998 – a boundary line adjustment moved the lines of the three lots created by the 1997 large lot segregation, resulting in two lots of under nine acres and one lot (Lot C) of slightly less than 50 acres.
- 2002 – application for a preliminary short plat of Lot C from the 1998 boundary line adjustment to create four lots. Current zoning on Lot C is RA-10.

By letter of June 19, 2002, DDES informed McKinley LLC that it had concluded prior boundary line adjustments had used the density in the vicinity of the proposed short subdivision. The Department's conclusion was that K.C.C. 19A.08.180 and K.C.C. 21A.12.070 - .080 allowed only two lots on Lot C.

The request for code interpretation asks for an interpretation of K.C.C. 19A.08.180.

#### **Discussion**

K.C.C. 19.08.180 provides

**Circumvention of zoning density prohibited.** A legal lot, which has been subject to a boundary line adjustment or created through a legally recognized land segregation process and is of sufficient land area to be subdivided at the density applicable to the lot, may be further segregated. However, such further segregation of the lot shall not be permitted if the total number of lots contained within the external boundaries of the lots subject to the original boundary line adjustment or the total number of lots contained within the external boundary of the parcel subject to the original land segregation, exceed the density allowed under current zoning. [Emphasis added.]

McKinley LLC believes that the phrase “original boundary line adjustment” refers to the 1998 boundary line adjustment, since the lot proposed for subdivision was not created until the 1998 boundary line adjustment in 1998.<sup>1</sup> Under this interpretation, the 1998 boundary line adjustment is the “original” boundary line adjustment and the relevant evaluation of density would be for that lot. The rationale for this statement is that Lot L was created by the 1996 boundary line adjustment and the Lot C was not created until the 1998 boundary line adjustment. Letter, page 3.<sup>2</sup>

The meaning of the phrases “original boundary line adjustment” and “original land segregation” are not clear on their face. The phrases could have either the meaning suggested by McKinley LLC in its November 27, 2002 letter requesting the code interpretation or the meaning McKinley suggested in the Holtzclaw letter of July 17, 2002. Because of the ambiguity presented by the text of K.C.C. 19A.08.180, an analysis of the language of the section as well as the intent of the section is helpful in its interpretation.

The term “original” is not defined in Title 19A. Merriam-Webster On-line Dictionary defines “original” as “1 : of, relating to, or constituting an origin or beginning : INITIAL <the *original* part of the house>.” The word “original” then has a meaning of going back to the beginning, to the starting point, to the initial event in a series of events. This would suggest that the phrases “original boundary line adjustment” and “original land segregation” are intended to go back to the beginning of the land segregation process affecting a lot, not just to the most recent event, as suggested by McKinley LLC in its code interpretation request.

This conclusion is buttressed by understanding one purpose of the 1999 amendments to King County’s subdivision code that created KCC Title 19A and the new restrictions on boundary line

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<sup>1</sup> McKinley LLC states that “The 1996 BLA did NOT adjust the boundaries of the Lake Retreat Property [Lot L of the 1996 boundary line adjustment].” Letter from Brian Holtzclaw and Nancy Bainbridge Rogers to Stephanie Warden [Letter], November 27, 2002, page 3.

<sup>2</sup> By letter of June 19, 2002, DDES informed McKinley LLC that DDES had concluded that K.C.C. 19A.08.180 and K.C.C. 21A.12.070 - .080 allowed only two lots on Lot C of the 1998 boundary line adjustment. In response, McKinley LLC requested more information on the basis for the DDES’s decision, with a specific emphasis on the question of the allowed density. Letter from Brian Holtzclaw to Tom Slade, [Holtzclaw Letter] July 17, 2002. The letter states that “Under KCC 19A.08.180 the further segregation of Lot C is prohibited only if the number of lots within the external boundaries of the original BLA exceeds the density allowed on that property under current zoning. Here, the original BLA is the 1996 BLA, which included 12 lots within its external boundaries.” [Emphasis in original.] Holtzclaw letter, page 2.

adjustments and land segregations. Prior to these changes, King County Code provisions governing boundary line adjustments were very limited. Because state law exempts boundary line adjustments from the subdivision process, property owners began using that process to move and create lots in a way that avoided the subdivision process and undermined the County's density limitations. This practice had accelerated in the mid-1990s. As a result of these problems, the King County Council adopted the limitations on boundary line adjustments and adopted the limitations in K.C.C. 19A.08.180.<sup>3</sup> (King County Ord. 13694). The Council's intent with respect to the density avoidance issue is clearly expressed by its direction that subsequent land segregations are not allowed if they will "exceed the density allowed under current zoning." KCC 19A.08.180.<sup>4</sup>

At the same time it adopted KCC 19A.08.180, the Council also adopted a similar provision governing short subdivisions. KCC 19A.12.050 provides that a property owner may not within five years after a short subdivision apply for another short subdivision that would create more than four lots on the "original short plat boundary."

Applying McKinley LLC's interpretation of 19A.08.180 could result in violating the intent of the section that sequential boundary line adjustments and land segregations not result in exceeding the current zoning density. This is clearly apparent by applying this interpretation to 19A.12.050, which contains a similar phrase "original short plat boundary".

Under K.C.C. 19A.12.050, in Year 1 a property owner could short subdivide an 80 acre parcel to create one 35-acre and one 45-acre lot. In Year 2, the property owner could short subdivide the 45-acre lot into three 15-acre lots. The total number of lots at this point, on the 80-acre parcel, is four – one 35 acre and three 15 acre lots. Using McKinley LLC's interpretation of KCC 19A.08.180, in Year 3, the property could short subdivide one of the 15 acre lots into two lots, since the original short plat boundary would be the boundary of the 45 acre lot that was subdivided in Year 2 and created the lot that is now proposed for subdivision in Year 3. Thus, within three years, the property owner would be able use the short subdivision process to create five lots. This is clearly not what the King County Council intended.

## **Decision**

K.C.C. 19A.08.180 allows a lot that has been subject to prior boundary line adjustments and land segregations to be further segregated if there is sufficient area on the lot at current densities. However, the segregation cannot create more lots than the current zoning would allow within the external boundaries of the parcel that was segregated or subject to boundary line adjustments. To determine whether a proposed segregation would create too many lots, K.C.C. 19A.08.180

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<sup>3</sup> One purpose of K.C.C. 19A.08.180 and other related changes to the subdivision code provisions was to prevent the then common practice of using boundary line adjustments and the subdivision process to create more lots than would otherwise be allowed under the zoning in place at the time of the subdivision. As a result of these changes, it is possible that the 1996 boundary line adjustment in this case might not have been allowed if it were proposed under current county code. See, e.g., K.C.C. 19A.28.020 which prohibits using the boundary line adjustment to move a lot from one area of a parcel to another.

<sup>4</sup> McKinley LLC recognizes that concerns about the boundary line adjustment process were in part responsible for the Council's adoption of KCC 19A.08.180. See, [Holtzclaw Letter](#), page 3.

