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MEMORANDUM

DATE: December 30, 2021

TO: Jim Chan, Division Director
Mark Rowe, Deputy Division Director

FROM: Christine Jensen, Legislative/Policy Analyst and RRC Co-Chair

CC: Kevin LeClair, Principal Subarea Planner and RRC Co-Chair

SUBJECT: "Rural Area" Terminology & Detached Accessory Dwelling Units (ADUs) in the A (Agriculture) zone

Permitting's planners staff team recently asked for clarification of when detached ADUs are allowed. Specifically, whether A zoned parcels in the APD can have a detached accessory dwelling unit. This relates to 2020 changes to ADU regulations, as well as 2016 changes to the term "rural area" in the King County Comprehensive Plan and the development code. Ultimately, it was determined that detached ADUs are not allowed on A zoned lands in the APD.

Background

Under the Washington State Growth Management Act (GMA), there are three distinct planning geographies and associated planning and regulatory requirements:

1. urban areas (inside the Urban Growth Area (UGA)),
2. rural areas, and
3. Natural Resource Lands

In 2012, the County realized that we were not fully reflecting these three different planning geographies in our Comprehensive Plan and development regulations. We also realized that we were not consistent in how we used terms related to these geographies. For example, we would say "rural area" when we meant both #2 and #3 above. We would also say "rural area" when we only meant #2 above. We

would also say "rural area" when we only mean the RA zone, which is a smaller subset of #2 above.

So, Council and Executive staff worked on this for several years and eventually updated the terms used in our Comprehensive Plan and code in 2016 to: better align with the three GMA geographies; be consistent in how/when we use these terms; and to add clarity about existing intent of when these terms were used.

Based on the 2016 changes, when the term "**Rural Area**" is used, it means lands:

1. outside of the UGA; *and*
2. outside Agricultural Production Districts (APDs). Forest Production Districts (FPDs), Rural Forest Focus Areas, and designated mineral resource sites (aka "natural resource lands;" see KCCP maps at end of Chapter 3).

The term "Rural Area" includes the geography and lands with the following land use designations (and associated zoning that falls under those designations):

- Rural Towns;
- Rural Neighborhood Commercial Centers;
- Rural Area (RA-2.5, RA-5, RA-10 and RA-20 zoning; see below); and
- Small pockets of Industrial, Commercial Outside of Center, , etc. outside of the UGA.¹

When the term "**Rural Area zone**" or "RA" is used, it is:

- A. a subset of the larger "Rural Area" geography above, and
- B. only specific to lands with RA-2.5, RA-5, RA-10, and RA-20 zoning.

In order to identify the necessary 2016 changes, the Council, Executive, and Prosecuting Attorney's Office (PAO) looked at all of the instances in the Comp Plan and development code that needed updating to reflect these terminology changes. Specifically, we looked to the underlying meaning and intent of each instance to see if the existing terminology was consistent with the new terminology. That included review was any areas that said "rural area" or "rural" that needed to also say "Natural Resource Lands" because the existing intent was to apply more broadly than just the Rural Area geography as newly defined above. For example, if an item said "rural area" but meant RA zoning, it was changed accordingly. If it said rural area but meant "Rural Area and Natural Resource Lands," it was changed accordingly.

2016 and 2020 Review of ADU Regulations

In 2016, when reading the existing language about "rural lots" in the pre-2020 green language in the table below, it appears that all of the reviewers determined that reference

¹ Also included are any Agriculture (A) zoned lands that are not in the APD. But this is a rather rare occurrence.

was intended to be narrower than both the Rural Area and Natural Resource Lands.² The determination was that there didn't seem to be an indication that A zoned lands would have been included in that; so, based on that, no changes to this code reference were proposed at the time. However, in reading the "rural area" language in the grey language in the table below, it was determined that both the "Rural Area" geography and "Natural Resource Lands" were intended; so, the language was amended accordingly. Therefore, in 2016, the intent of the green language at the time was that only lots within the Rural Area geography (and not A zoned lands in the APD) can have a detached ADU.

Since that time, the ADU regulations were reviewed and updated in 2020. A variety of substantive changes were made to ADU standards. A variety of technical changes were also made to make the code clearer. The table below shows how the 2020 language aligns with the 2016 language. The green "rural lot" language was updated to "rural area" to better align with the 2016 terminology changes; but the intent was not changed and it still only applies to the "Rural Area" geography and not Natural Resource Lands. The grey language that addresses both the "Rural Area and Natural Resource Lands" was maintained. Therefore, the 2016 intent that the green language only allows lots within the Rural Area geography (and not A zoned lands in the APD) to have a detached ADU is still the case in the 2020 changes and as the code currently sits.

If Permitting determines that this limitation is problematic and inconsistent with the intent and purpose of APD lands, the Division could review the issue again and determine if detached ADUs should be allowed on Natural Resource Lands; a code amendment would be needed to effectuate such a change.

Additionally, definitions about the term "rural area" (and associated terms) could be considered for addition to the development code (in addition to the existing definitions in the Comprehensive Plan) to clarify this issue in the future. Regardless, Permitting staff should continue to always look to the Comprehensive Plan for clarity and guidance, including consideration of any additional regulatory requirements that may be in policy but not in the development code, when reviewing any land use proposal or development application.

² The policies in the King County Comprehensive Plan do not specifically address detached ADUs in the APD. However, this interpretation is supported by the fact that policy R-323 allows additional flexibilities for ADUs on RA zoned lands and R-624 limits ADUs on FPD lands. So, that implies that it is intentional that Natural Resource Lands do not have as many ADU allowances as Rural Area lands.

ADU Regulations in K.C.C. 21A.08.030.B.

2016 Code Changes	Post-2020/Current Code
7.a. Accessory dwelling units:	7.a. Accessory dwelling units are subject to the following standards:
(2) Only in the same building as the primary dwelling unit on:	(2) Only allowed in the same building as the primary dwelling unit, except that detached accessory dwelling units are allowed when there is no more than one primary dwelling unit on the lot , and the following conditions are met:
(a) an urban lot that is less than five thousand square feet in area;	(a) the lot must be three thousand two hundred square feet or greater if located in the urban area or a rural town; or
(b) except as otherwise provided in subsection B.7.a.(5) of this section, a rural lot that is less than the minimum lot size; or	(b) the lot must meet the minimum lot area for the applicable zone if located in the rural area but not in a rural town, except that if one transferable development right is purchased from the Rural Area or Natural Resource Lands under K.C.C. chapter 21A.37, a detached accessory dwelling unit is allowed on a RA-5 zoned lot that is two and one-half acres or greater;
c. a lot containing more than one primary dwelling;	
(5) On a site zoned RA: ... (b) If one transferable development right is purchased from the ((#))Rural ((a))Area or Natural Resource Lands under K.C.C. chapter 21A.37, a detached accessory dwelling unit is allowed on an RA-5 zoned lot that is at least two and one-half acres and less than three and three-quarters acres;	

Resources and references

Rural Area terms as defined in the GMA

RCW 36.70A.030

Definitions.

...

(24) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

Rural Area terms as defined in the Comprehensive Plan

Resource Lands, designated

The Growth Management Act requires cities and counties to designate natural resource lands which include the following: 1) agricultural lands that have long-term significance for the commercial production of food or other agricultural products; 2) forest lands that have long-term significance for the commercial production of timber; and 3) mineral resource lands that have long-term significance for the extraction of minerals. The Comprehensive Plan designates Agricultural Production Districts, Forest Production Districts, and Mineral Resource Sites. (See Chapter 3: Rural Areas and Natural Resource Lands)

Rural Area geography (See also Rural Area Zoning)

The Growth Management Act requires that counties designate a Rural Area in order to conserve the rural character and quality of the existing rural lands in Washington. King County's Rural Area refers collectively to the geography that primarily contains the following land use categories – Rural Towns, Rural Neighborhood Commercial Centers, and Rural Area (RA-2.5, RA-5, RA-10 and RA-20) in unincorporated King County. The Rural Area geography also includes a limited amount of acreage with land use categories such as Industrial, Commercial Outside of Center, etc. The Rural Area geography does not include designated Natural Resource Lands, although resource activities occur on them. The Rural Area contains very low-density residential development, commercial and industrial development, farms, forests, watersheds crucial for both fisheries and flood hazard management, mining areas and towns, historic sites and buildings, archaeological sites and regionally important recreation areas. (See Chapter 3: Rural Areas and Natural Resource Lands)

Rural Area zoning

The Rural Area zone refers to the Rural Area 2.5, Rural Area 5, Rural Area 10 and Rural Area 20 zoning categories. This zoning is meant to provide an area-wide, long-term, rural character and to minimize land use conflicts with nearby agricultural, forest or mineral extraction production districts. These purposes are accomplished by: 1) limiting residential densities and permitted

uses to those that are compatible with rural character and nearby resource production districts and are able to be adequately supported by rural service levels; 2) allowing small scale farming and forestry activities and tourism and recreation uses which can be supported by rural service levels and which are compatible with rural character; and 3) increasing required setbacks to minimize conflicts with adjacent agriculture, forest or mineral zones.

Urban Growth Area

The Growth Management Act requires King County's Comprehensive Plan to designate an Urban Growth Area, where most future urban growth and development is to occur to limit urban sprawl, enhance open space, protect Rural Areas and Natural Resource Lands, and more efficiently use human services, transportation and utilities. The Comprehensive Plan designates an Urban Growth Area which includes areas and densities sufficient to permit the urban growth that is projected to occur in the county for the succeeding 20-year period. (See Chapter 1: Regional Growth Management Planning, and Chapter 2: Urban Communities)

Key ADU Policies in the Comprehensive Plan

R-323 The *Rural and Resource Land Preservation Transfer of Development Rights Program* shall include, but is not limited to, the following:

- a. In addition to the density that is allowed on a receiving site in the urban growth area from the purchase of Transferrable Development Rights, the county shall evaluate the climate change benefits achieved by reducing transportation related greenhouse gas emissions that result from the transfer of development rights from the sending site, provided that such consideration is not precluded by administrative rules promulgated by the state;
- b. In order to satisfy transportation concurrency requirements in the Rural Area in a transportation concurrency travel shed that is non-concurrent, a development proposal for a short subdivision creating up to four lots may purchase Transferrable Development Rights from other Rural Area or Natural Resource Land properties in the same travel shed; allowing this is intended to reduce overall traffic impacts in rural travel sheds by permanently removing development potential. The transfer shall not result in an increase in allowable density on the receiving site. A short subdivision creating two lots where the property has been owned by the applicant for five or more years and where the property has not been subdivided in the last ten years shall satisfy the transportation concurrency requirements without having to purchase Transferrable Development Rights;
- c. King County shall provide an added density bonus of up to a 100% increase above the base density allowed in K.C. Code 21A.12.030, when Transferrable Development Rights are used for projects within any designated commercial center or activity center within the Urban Growth Area that provides enhanced walkability design and incorporates transit oriented development, and may provide an added density when Transferrable Development Rights are used for projects that provide affordable housing in the R-4 through R-48 zones;
- d. King County may allow accessory dwelling units in the Rural Area that are greater than one thousand square feet, but less than 1,500 square feet, if the

- property owner purchases one Transferrable Development Right from the Rural Area, Agriculture or Forestry designations; and
- e. King County may allow a detached accessory dwelling unit on a **RA-5 zoned lot** that is two and one-half acres or greater and less than three and three-quarters acres if the property owner purchases one Transferrable Development Right from the Rural Area, Agriculture or Forestry designations.

R-624 To reduce conflicts with resource uses, a forest management plan shall be required as a condition of development for any residential uses in the Forest Production District. **Accessory dwelling units shall not be allowed in the Forest Production District.**