



King County
Department of Development and Environmental Services
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REGULATORY REVIEW COMMITTEE

- MINUTES -

MEETING DATE: October 18, 2000

TO: Building Services Division Staff

Chris Ricketts
Nathan Brown
Beth Deraitus
Pam Dhanapal
Ken Dinsmore

Land Use Services Division Staff

Joe Miles
Greg Borba
Lanny Henoch
Lisa Pringle
Gordon Thomson

Caroline Whalen, Deputy Director
Kevin Wright, Prosecuting Attorney's Office

FM: Harry Reinert, Special Projects Manager

Present: Nathan Brown, Beth Deraitus, Pam Dhanapal, Priscilla Kaufmann, Harry Reinert, Randy Sandin, Gordon Thomson, Rose Werelus, Caroline Whalen

Issue:

1. Can RA-2.5 and RA-5 zoned property receive development credits from the Transfer of Development Credits (TDC) Program if they are transferred from a TDC sending site located within the Rural Forest District even if the TDC sending site did not qualify under the Rural Forest District criteria in K.C.C. chapter 21A.55? (Priscilla Kaufmann)

Discussion:

K.C.C. 21A.55.140A.3 authorizes a parcel in the RA-2.5 or RA-5 zones to receive development credits transferred from Rural Farm and Forest Districts under limited circumstances. K.C.C. 21A.55.130B establishes three basic categories of sending sites: (1) designation in the comprehensive plan or a functional plan as agricultural land or as rural farm or rural forest land; (2) designation in the comprehensive plan or a functional plan as a proposed park site; or (3) designation by a public agency that the site is appropriate as open space, wildlife habitat, an urban separator, a regional trail, or a historic landmark. A parcel in the rural farm or rural forest district may qualify as a sending site under any one of these

three alternatives and a RA-2.5 or RA-5 receiving site may accept credits from such a sending site. K.C.C. 21A.44.140A.3 refers to credits transferred from rural farm and forest districts. If the Council's intent was to limit these provisions to sites designated as rural farm or forest land, the language in the code would have limited the provision to parcels that were so designated.

A related question is whether the provisions of K.C.C. 21A.55.150I.3 applies to a sending site that is in the rural forest district but qualifies under either K.C.C. 21A.55.130B.2 or .130B.3. K.C.C. 21A.55.150I.3 provides in part that a sending site located in the rural forest district must provide a conservation easement that encumbers a minimum of fifteen acres and allow no more than one dwelling unit per twenty acres. As with the provisions of K.C.C. 21A.44.140A.3, this section refers to parcels in the rural forest district. Therefore, regardless of how a parcel qualifies as a sending site under K.C.C. 21A.55.130B, a parcel in the rural forest district must meet the requirements of K.C.C. 21A.55.150I.3.

Conclusion:

A parcel in the rural farm or rural forest district may qualify as a sending site under any one of these three alternatives and a RA-2.5 or RA-5 receiving site may accept credits from such a sending site. Regardless of how it qualifies as a sending site under K.C.C. 21A.55.130B, a parcel in the rural forest district must meet the requirements of K.C.C. 21A.55.150I.3.

Issue:

2. Is topsoil production and sales permitted on RA-5 zoned property? Would this use be allowed under K.C.C. 21A.08.070A as either "Building, Hardware and Garden Materials" or "Agricultural Product Sales?" (Randy Sandin)

Discussion:

K.C.C. 21A.08.070A allows building, hardware and garden materials as a conditional use in rural residential zones. K.C.C. 21A.08.070B.1 further limits this to feed stores and garden supply stores. Garden supply stores are not defined in the King County Code. K.C.C. 21A.06.145 defines building, hardware, and garden materials stores as establishments that are engage in selling building materials, lawn or garden supplies, and similar products. The definition also references SIC Major Group No. 52. Major Group 52 is categorized under Division G: Retail Trade. SIC 5261: Retail Nurseries, Lawn and Garden Supply Stores are those establishments primarily engaged in selling garden supplies. SIC 5211: Lumber and Other Building Materials Dealers are establishments engaged in selling primarily lumber or lumber and other building materials.

The types of activities referenced in the definition of building, hardware, and garden materials stores and in the referenced SIC categories involve retail sales and do not involve manufacturing.

Topsoil production involves a variety of activities that are more closely related to industries categorized under Major Group 32: Stone, Clay, Glass, and Concrete Products or Major Group 14. For example, SIC 3295: Minerals and Earths, Ground or Otherwise Treated covers "establishments operating without a mine or quarry and primarily engaged in crushing, grinding, pulverizing, or otherwise preparing clay, ceramic, and refractory minerals; barite; and miscellaneous nonmetallic minerals..." This activity is under Division D: Manufacturing.

This is consistent with an earlier decision of the RRC. In the minutes for the May 30, 1997 meeting, the RRC discussed the question of whether topsoil mixing was permitted in the Mining Zone. The RRC concluded that topsoil mixing was similar to the activities allowed in the mineral zone.

Conclusion:

Topsoil production is not permitted in rural residential zones.

Issue:

3. What activities are permitted on a parcel zoned RA-5 when the residence is occupied by Buddhist Monks? (Pam Dhanapal)

Discussion:

If there are fewer than eight people, who are not related by blood or marriage, living as a single housekeeping unit in the residence, they qualify as a family (K.C.C. 21A.06.450). Under K.C.C. 21A.08.030A, home occupations are allowed as a permitted use and home industries are allowed as a conditional use in rural residential zones. K.C.C. 21A.30.080 establishes the standards for home occupations and K.C.C. 21A.30.090 the standards for home industries.

A church, synagogue, or monastery can be established as a permitted or conditional use in the rural residential zone (K.C.C. 21A.08.050A). The definition of "church, synagogue, or monastery" includes residences for nuns or clergy (K.C.C. 21A.06.185). These establishments are allowed as a permitted use only if they are the re-use of a public school facility. K.C.C. 21A.08.050B.12. They are allowed as a conditional use only if they do not require expansion of sewer service outside the urban growth area (K.C.C. 21A.08.050B.28).

Conclusion:

If it complies with the limitations on the number of unrelated individuals that may live in a single family residence, a residence for Buddhist monks may be established in the RA-5 zone and may also establish either a home occupation or a home industry. A Buddhist monastery may also be allowed in the RA-5 zone as a conditional use or, if it is a reuse of public school, as a permitted use.

Issue:

4. Does K.C.C. 21A.18.110J, which prohibits parking of vehicles on unimproved surfaces (grass or soil), apply to new development only, or does it also apply to established uses? (Beth Deraitus)

Discussion:

In a code enforcement action alleging a violation of K.C.C. 21A.18.110J, the Hearing Examiner held that the parking in question had been established prior to the adoption of K.C.C. chapter 21A.18 and as such was a legal non-conforming use and that K.C.C. chapter 21A.18 only applied to new development authorized under a permit and not to established uses.

K.C.C. 21A.18.010 provides that the purpose for the parking and circulation chapter is to provide adequate parking, reduce demand for parking, and increase pedestrian mobility. K.C.C. 21A.18.020A requires compliance with the chapter before an occupancy permit can be granted.

Nearly all of the provisions of K.C.C. chapter 21A.18 would apply only during the review of a development proposal. Two provisions in the chapter, K.C.C. 21A.18.110I and .110J are arguably also to be applicable to existing uses. K.C.C. 21A.18.110I requires parking for single family detached dwellings to be in a garage, carport, or approved impervious surface. K.C.C. 21A.18.110J limits the number of vehicles that may be parked or stored on single family residential lots.

The King County Code does include a similar restriction on aircraft parked on residential lots. K.C.C. 21A.08.030B.7.b.

Conclusion:

The provisions of K.C.C. chapter 21A.18 do not apply to existing uses. An amendment to the King County Code is necessary if the provisions of K.C.C. 21A.18.110I and .110J are to apply to existing uses.

HR:sm

cc: Tim Barnes, Prosecuting Attorney's Office