



King County
Department of Development and Environmental Services
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REGULATORY REVIEW COMMITTEE

- MINUTES -

MEETING DATE: January 24, 2001

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: Harry Reinert, Caroline Whalen, Greg Borba, Lanny Henoch, Pam Dhanapal, Ken Dinsmore, Nathan Brown, Tim Barnes, Karen Sharer, and Dick Etherington.

Issue:

1. **Does the Zoning Code regulate the height of replacement poles in the right-of-way when they are used for both telecommunication antenna and other common utilities (light, power, etc.)?**

Discussion:

K.C.C. 21A.26.400 provides that the use of existing or replacement utility poles for telecommunication facilities is permitted outright in the right-of-way. The first sentence in K.C.C. 21A.26.400 applies only to existing and replacement structures. The remainder of K.C.C. 21A.26.400 applies to a new structure used solely for telecommunication antenna in a public or private right-of-way and requires compliance with zoning provisions of the adjacent property.

K.C.C. 21A.26.380B limits the increase in height of an existing telecommunication support structure to no more than 40 feet above the height of the structure. A telecommunication structure is defined as "a pole or lattice-work structure specifically designed and intended to support antenna and related communication equipment. The term does not include poles or lattice-work towers supporting above-ground distribution or transmission lines for utility services such as electric, telephone, cable, etc." (K.C.C. 21A.06.1320) Replacement

structures to support telecommunication facilities in parks and other open spaces cannot exceed the height of the existing structure by more than forty feet. (K.C.C. 21A.26.410)

K.C.C. chapter 14.45 regulates use agreements for telecommunication facilities in the County right-of-way. There is no specific reference to vertical height limitation in K.C.C. chapter 14.45. The horizontal projection of an antenna is regulated under certain circumstances. Provisions of K.C.C. chapter 14.45 do reference the relationship between right-of-way use and the Zoning Code, but do not include height restrictions. See, e.g., K.C.C. 14.45.010F, 14.45.040, and 14.45.070C. K.C.C. 14.45.090B defines "replacement pole" for purposes determining compensation for use of the County's right-of-way, but does not address the height issue.

The RRC also consulted the legislative history of Ordinances 13129 and 13734. Those two enactments include findings that encourage the location of wireless towers in non-residential areas and the joint use of new and existing tower sites.

Conclusion:

Based on these considerations, the RRC concluded that when a structure, such as a light or utility pole, is replaced in the right-of-way for the purpose of mounting minor telecommunications facilities, K.C.C. 21A.26.400 does not limit the height of that replacement utility pole. However, if the structure is a transmission support structure, i.e. it does not support other utility services such as electric or telephone lines, the provisions of K.C.C. 21A.26.380 apply, including its height restrictions. Since placement of a minor telecommunications facility on an existing or replacement utility pole is permitted outright, a conditional use permit is not required. This conclusion is consistent with the Council's findings in Ordinances 13129 and 13734. It is also bolstered by the fact that in other parts of the code, the Council expressed an intent to limit the height of telecommunications facilities. Principles of statutory construction would lead to the conclusion that the Council did not intend height restrictions in these circumstances.

2. What are the applicable provisions (definitions and standards) to apply to "internal driveways" for multi-family projects? (Karen Scharer)

Discussion:

The issue presented to the RRC concerned access requirements within multi-family housing developments.

The Zoning Code (K.C.C. 12A.18.140) refers development of internal access roads to the "design requirements for private commercial roads set forth in K.C.C. chapter 14.42, King County Roads Standards." K.C.C. 21A.18.110E provides that "Driveways providing ingress and egress between off-street parking areas and abutting streets shall be designed, located and constructed in accordance with the provisions of K.C.C. chapter 14.42, Road Standards." The Zoning Code does not define "driveway," "internal access road," or "private commercial road," but does define 'alley,' 'parking lot aisle,' and 'street.'

After discussion, the RRC concluded that there are potential gaps and inconsistencies between the Zoning Code and the Road Standards. It recognized that different access requirements

could apply to developments that are similar in their physical nature and their impacts, but differ only in their legal status.

Conclusion:

The RRC recommends that a code development process should be initiated to address the ambiguities and inconsistencies in the access requirements under the Zoning Code and how those requirements relate to the Road Standards set forth in K.C.C. chapter 14.42. The RRC noted that an interpretation of access requirements had also been discussed at a November 15, 2000 RRC meeting.

cc: Tim Barnes, Prosecuting Attorney's Office