



King County

Department of Development and Environmental Services

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REGULATORY REVIEW COMMITTEE

- MINUTES -

MEETING DATE: October 11, 2007

TO: Building Services Division Staff
Jim Chan, Manager
Chris Ricketts
Mark Bergam
Jarrod Lewis

Land Use Services Division Staff
Joe Miles, Manager
Lisa Dinsmore
Randy Sandin
Deidre Andrus
Steve Bottheim

Fire Marshal Division Staff
John Klopfenstein, Fire Marshal
Stephanie Warden, Director
Harry Reinert, Special Projects Manager and RRC Co-Chair
Cass Newell, Prosecuting Attorney's Office

FM: Harry Reinert, Co-Chair

Present: Randy Sandin, Mark Bergam, Chris Ricketts, Deidre Andrus, Jarrod Lewis, Joelyn Higgins, Cass Newell, John Klopfenstein, Steve Bottheim, Lisa Dinsmore, and Harry Reinert

1. Is a nursery is the same as a garden supply store?

Discussion of this item was postponed. The King County Council is considering Proposed Ordinance 2006-0407 which, if enacted, will make this issue moot.

2. Under what circumstances may the Fire Marshal waive the requirement to sprinkler a one- or two-family residence?

Background. The Fire Marshal has been asked on at least two occasions in the recent past to determine whether sprinklers must be provided in circumstances where there is a determination that fire trucks would not be able to get within 150 feet of a single family residence. In each

case, the Fire Marshal determined that even if the driveway were modified to meet the Fire Access Road requirements, fire fighting equipment would not ordinarily use the driveway because of its steepness and the need to make a sharp turn. In both cases a fire hydrant is located across the street from the driveway. In both cases, the Fire Marshal determined that sprinklers were not required because of the availability of a fire hydrant. The Fire Marshal has asked the Regulatory Review Committee to review his analysis.

Discussion. IFC 503.1.1 requires approved fire access roads within 150 feet of all portions of the first floor exterior of a building or structure. IFC 503.1.1 allows the Fire Marshal to increase the 150 feet if the building has approved sprinklers or providing fire road access cannot be provided because of topographical conditions and an approved alternative means of fire protection is provided.

IFC 104.8 also allows the Fire Marshal may modify the provisions of the fire code in individual cases where there are practical difficulties in carrying out provisions of the code. However, K.C.C. 17.04.270 imposes some limits on this authority with respect to life safety/rescue access, fire detection systems, and fire sprinkler systems. The Fire Marshal is required to notify the Fire Chief of the local Fire District of the proposed deviation. The Fire Chief has seven days to respond. If the Fire Chief objects to the deviation within seven days, the issue is submitted to the Fire Code Appeals Board.

Conclusion.

Under the circumstances here, the Fire Marshal was correct to decide to allow a deviation from the requirement to provide sprinklers because the fire access road was longer than 150 feet. The topography was such that even if the driveway were widened, it would not be used. Therefore, the requirements of IFC 503.1.1 were satisfied. The availability of a fire hydrant provided the alternative means of fire protection required by IFC 503.1.1. However, under K.C.C. 17.04.270, the Fire Marshal is required to notify the Fire Chief of the Fire District where the property is located of the proposed deviation.

3. Is a horticultural nursery an allowed use on F Zoned property that has been developed for residential use? Do the limitations on site disturbance for a residential use in KCC 21A.08.030B.2. apply to the horticultural nursery?

Background.

A property located in the F zone was issued a permit in 2002 to locate a mobile home. The mobile home was located in the middle of a one to two acre cleared area. No forest management plan has been prepared. Between 2002 and 2005 additional areas on the property were cleared. The property owners are operating a nursery that is the subject of a code enforcement action.

Discussion.

In the F zone, Agriculture and Forestry are permitted uses. K.C.C. 21A.08.090. This includes growing and harvesting crops under SIC Major Group 01 and growing and harvesting forest products under SIC Major Group 08. The production of ornamental plants and nursery products

falls under SIC 0181, which is in SIC Major Group 01. Forest nurseries are included in SIC 0831, which falls under SIC Major Group 08.

In the F zone, single detached residences are a permitted use subject to limitations on site disturbance. K.C.C. 21A.08.030B.2 limits the amount of site disturbance associated with the development of a new single family residence in the F zone to three acres for "all land alterations, including, but not limited to, grading, utility installation, landscaping, clearing for crops, on-site sewage disposal systems and driveways. Additional site disturbance for raising livestock, up to the smaller of thirty-five percent of the lot or seven acres, may be approved only if a farm management (conservation) plan is prepared in accordance with K.C.C. chapter 21A.30."

A residential use in the F zone requires a forest management plan that is reviewed and approved by the King County's Department of Natural Resources and Parks (DNRP). K.C.C. 21A.08.030B.2.b. Forest management plans are governed by public rules adopted by DNRP. See PUT 8-19-1 (PR), available at <http://www.kingcounty.gov/operations/policies/rules/utilities/put8191pr.aspx>. In this particular case, an approved forest management plan had not been provided to the department. Regardless, the clear meaning of K.C.C. 21A.08.030B.2.b implies that those areas that were not allowed to be developed under the residential building permit were expected to be managed for long term forestry.

In addition, forest practices under a state Class II, III, or IV special forest practices permit or under a county permit for a non-conversion Class IV-G forest practice or forest practices or clearing conducted without state or local approval result in a six-year moratorium on "any other development proposal that is not related to ongoing forestry." K.C.C. 16.82.140C.3. The department may approve a development proposal on the unharvested portion of a site only if the activity is consistent with a forest management plan approved by King County and the plan excluded the area from the plan. K.C.C. 16.82.140E. The conversion of forestland to a horticultural nursery was done without permits and was contrary to the general provisions of K.C.C. 16.82.140.

In this particular case, the residential use was established prior to other uses. As a result, the requirement for a forest management plan and the forest practice moratorium became effective prior to the establishment of the nursery.

Conclusion. In 2002, a property owner with F zoned property applied for permit to locate a mobile home. In the F zone, residential development requires the preparation of a forest management plan for the areas of the property that are to remain unharvested. K.C.C. 21A.08.030B.2. No forest management plan had been prepared for this property. A forest practices moratorium also generally prohibits non-forestry related development for six years. K.C.C. 16.82.140. Development may be allowed if it is consistent with a forest management plan. In addition, if more than three acres are cleared for purposes of conducting agriculture, a farm management plan is required. K.C.C. 21A.08.030B.2.

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To resolve the issues with this site, the property owner could prepare a forest management plan that excludes the house and nursery from the area governed by the forest management plan and seek to modify the forest practices moratorium to exclude these areas from the moratorium. See, K.C.C. 16.82.140. In addition, a farm management plan for the nursery could be prepared as provided in K.C.C. 21A.08.030B.2.a.