March 19, 2024

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
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REPORT AND DECISION

SUBJECT: Department of Local Services file no. **ENFR221293**

GREGORY AND MARY BROCK
Code Enforcement Appeal

Location: [redacted] Auburn

Appellants: **Gregory and Mary Brock**
[redacted]
Auburn, WA 98001
Telephone: [redacted]
Email: [redacted]

King County: Department of Local Services
represented by **Cortlee Harris**
Department of Local Services
919 SW Grady Way Suite 300
Renton, WA 98057
Telephone: (206) 848-0300
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FINDINGS AND CONCLUSIONS:

Overview

1. Greg and Mary Brock appeal a notice and order asserting, and requiring them to cease, operation of a commercial operation from a residential site. After hearing the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we find that, while at the time the Department of Local Services issued its notice and order there was a violation, the Brocks have ceased that commercial use and brought the properties into compliance as it relates to the business/home occupation currently under appeal.

Analysis

2. The Brocks' abutting properties are all zoned R-4, meaning residential zoning at a four dwelling-unit-per-acre density. Construction and trade business are not allowed in a residential zone. KCC 21A.08.060.A. Some limited "home occupation" use, meaning "a limited-scale service or fabrication activity undertaken for financial gain, which occurs in a dwelling unit or accessory building and is subordinate to the primary use of the site as a residence," is allowed on residentially-zoned property. KCC 21A.06.610. However, the bedrock principle is that, aside from growing or storing plants, "All the activities of the home occupation or occupations shall be conducted indoors," and, "There shall be no exterior evidence of a home occupation." KCC 21A.30.080.C. & I. In addition, parking or storing heavy equipment related to a business is outright prohibited. KCC 21A.30.080.E.3.

3. The Brocks run an excavation and earthworks company, Greg Brock Dozing, Inc.[1] As of March 2023, one of the business's heavy-duty excavators and one of its dump trucks was on their residential properties. Ex. D7. The May 2023 aerial shows two dump trucks and an excavator on one of the properties. The last time Local Services visited in November 2023—less than three weeks before Local Services issued its notice and order—two commercial dump trucks were visible from the road. Ex. D5. So, as of the December 2023 notice and order, there was a commercial-related violation.

4. However, the Brocks testified that they no longer park those large dump trucks or excavators on the property, and they no longer bring back job-related materials to temporarily store on the property before returning them into the business cycle. That leaves the remaining outdoor items—a backhoe, several eco block bins, a pile of landscape rocks, and gravel. Are those tied to the business (and thus a violation) or for personal use (and not a commercial/home occupation violation)?

5. Certainly, all those items are what one would normally associate with an excavation and earthworks company. After reviewing the exhibits before hearing, our first take was that those were business-related. However, the Brocks explained that while they originally brought the landscape rocks to the property from a jobsite, they keep those for landscaping on their properties. That is, those rocks are no longer part of the business. They assert the remaining backhoe is for maintenance of their properties and the adjacent road they maintain. They now only have one eco-block bin, which they use for material generate of their properties. The small amounts of gravel, topsoil, and beauty bark are for use either on or adjacent to their properties and play no part in their business operations.

6. There is a stark size difference between the heavy-duty excavator the Brocks' use commercially and the remaining, relatively small dozer. *Compare* Ex. D7 *with* Ex. D6 at 003. While that smaller dozer obviously *could* be used on a jobsite, it is not inconsistent in scale with the uses the Brocks testified are the only ones they use—working on and

[1] *See* https://gbd-llc.com/. The website notes that Greg Brock Dozing has "various pieces of equipment, which include two excavators (with attachments), two dump trucks with pup trailers, a 700-D bulldozer, a backhoe/loader, three compactors, including a Dynapac Drum Compactor, and a fully loaded service truck."

adjacent to their properties. And though the rocks came from a jobsite, they are not of such a massive quantity to be inconsistent with personal use on and adjacent to their properties.

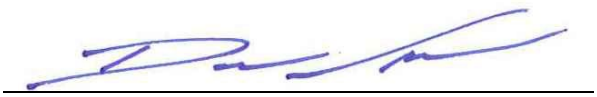
7. There being no evidence obviously undermining the Brock's explanation for how they employ the remaining outdoor items, the issue comes down to witness credibility. And we found the Brocks credible. We thus find that the Brocks have brought the property into compliance as it relates to commercial/home occupation use.

8. Commercial use was the sole item alleged in ENFR221293 and for which we held our appeal hearing. There was apparently an earlier clearing and grading notice and order, ENFR170913, with a remaining dispute over whether and how the properties have been or should be brought into compliance. The Brocks stated that between they, their consultant, and Local Services' then-abatement manager, they arrived at a resolution years ago. But then that abatement manager and their consultant retired, and Local Services is trying to change the terms. We have no jurisdiction over that matter and offer no commentary. Our only request is that the current abatement manager contact the Brocks in the next two weeks to try to bring that ship into shore.

DECISION:

ENFR221293 is resolved.

ORDERED March 19, 2024.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

King County Code 20.22.040 directs the Examiner to make the County's final decision for this type of case. This decision shall be final and conclusive unless proceedings for review of the decision are timely and properly commenced in superior court. Appeals are governed by the Land Use Petition Act, Chapter 36.70C RCW.

MINUTES OF THE MARCH 4, 2024, HEARING IN THE APPEAL OF GREGORY AND MARY BROCK, DEPARTMENT OF LOCAL SERVICES FILE NO. ENFR221293

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Cortlee Harris, Mary Brock, and Gregory Brock. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

The following exhibits were offered and entered into the record by the department:

Exhibit no. D1	Department of Local Services staff report
Exhibit no. D2	Notice and order, issued December 14, 2023
Exhibit no. D3	Appeal, received January 8, 2024
Exhibit no. D4	Codes cited in the notice and order referenced
Exhibit no. D5	Photographs of subject property, dated November 28, 2023
Exhibit no. D6	Photographs of subject property, dated January 4, 2023
Exhibit no. D7	Photographs of subject property, dated March 16, 2023
Exhibit no. D8	Aerial photographs of subject property, dated 2005, 2007, 2009, 2021, and 2023
Exhibit no. D9	Aerial photographs of subject property with overlays

The following exhibits were offered and entered into the record by the appellant:

Exhibit no. A1	Photographs

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CERTIFICATE OF SERVICE

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GREGORY AND MARY BROCK
Code Enforcement Appeal

I, Lauren Olson, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND DECISION** to those listed on the attached page as follows:

☒ EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.

☒ placed with the United States Postal Service, Quadient-Impress, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED March 19, 2024.

Lauren Olson

Lauren Olson
Legislative Secretary

Breazeal, Jeri
Department of Local Services

Brock, Gregory/Mary
Hardcopy

Campbell, Thomas
Department of Local Services

Harris, Cortlee
Department of Local Services

Whalen, LaDonna
Department of Local Services