



King County

Department of Development
and Environmental Services

900 Oakesdale Avenue Southwest
Renton, WA 98055-1219

REGULATORY REVIEW COMMITTEE

- MINUTES -

MEETING DATE: August 25, 2004

TO: Building Services Division Staff
Mike Dykeman, Manager
Chris Ricketts
Jim Chan
Kenneth Dinsmore
Pam Dhanapal

Land Use Services Division Staff
Joe Miles, Manager
Lisa Dinsmore
Beth Deraitus

Stephanie Warden, Director
Harry Reinert, Special Projects Manager
Paul Reitenbach, Senior Policy Analyst
Tim Barnes, Prosecuting Attorney's Office

FM: Harry Reinert, Co-Chair

Present: Matt Caskey, Jim Chan, Pam Dhanapal, Kenneth Dinsmore, Lisa Dinsmore, Nancy Jo Perdue and Harry Reinert

- 1. Is K.C.C. 21A.08.050 footnote 27a applicable to a small, private secondary school for grades 7-12 in an urban neighborhood?**

Background

This question was raised before the Regulatory Review Committee at its August 11, 2004 meeting. An applicant wants to convert a detached garage accessory to a residence in the R6 zone into a private school for 5 students in grades 7-12. At the prior meeting, the committee recommended the code be revised to address private schools.

The conditions in the Zoning Code governing the siting of schools are directed at public schools and do not provide appropriate standards for private high schools. The existing code permits high schools in urban residential zones, but requires an extensive

public review process and approval by a school board. These procedures are not relevant to a small private school as contemplated here.

At its prior meeting, the Committee recommended that until the code is revised to address private schools, the DDES director should exercise her discretion to decide on the appropriate conditions for siting private high schools. The director asked the Committee to reconsider the issue to evaluate whether there are circumstances under which the director could approve a private high school under the existing code.

Discussion

Under K.C.C. 21A.08.050, a secondary/high school is a permitted use in urban residential zones subject to condition 27a, which states in part:

27.a. New high schools shall be permitted in the rural and the urban residential and urban reserve zones subject to the review process in K.C.C. 21A.42.140.

K.C.C. 21A.42.140 establishes an extensive review process for high schools. It states:

A. The School District shall hold a public hearing on the request for a building permit on the proposed high school and may merge the public hearing for environmental review with this hearing. The hearing shall address the proposal's compliance with the applicable development standards and whether the impacts of traffic on the neighborhood have been addressed pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, and/or through the payment of road impact fees. The hearing may be conducted by the Board of Directors, or where authorized by board policy, by a hearing examiner appointed by the School Board. The District shall provide notice of the hearing as follows:

1. By posting the property;
2. By publishing in a school newspaper of general circulation in the general area where the proposed high school is located;
3. By sending notices by first class mail to owners of property in an area within five hundred feet of the proposed high school, but the area shall be expanded as necessary to send mailed notices to at least twenty different property owners; and
4. By sending notices to other residents of the District that have requested notice.

B. At a regularly scheduled or special Board meeting, the Board of Directors shall adopt findings of compliance with applicable King County development standards, including the decision criteria outlined in K.C.C. chapter 21A.44, or adopt proposed actions necessary to reach compliance.

Existing private high schools in unincorporated King County were approved and built under the previous zoning code, which specifically addressed private schools. Several

applicants are now planning projects for private schools, but all of the proposed projects involve additions to already established campuses and do not involve new private schools.

The Committee considered whether the proposed school might qualify as a specialized instruction school, but concluded that it did not meet the definition in 21A.06.1200 because the school's curriculum is broader than contemplated in that definition.

Condition 27.a provides an alternative process to a CUP. The public notice and comment procedures prescribed in the condition are similar to the procedural requirements of a CUP. The Committee concluded that a private school could use a similar approach to seek public comment. For a small school, as this one, this might only require a demonstration that nearby neighbors have been consulted. For larger schools, a more comprehensive process would be needed.

Decision

A private high school is allowed in the urban residential zone following a public involvement process. The nature of the required process depends on the size of the proposed school. The committee recommends that the zoning code be amended to provide a clear process to govern similar circumstances.

2. **What is the purpose of proposing a change in the definition of daycare in K.C.C. 21A.06.265? Is the intent to limit the total number of clients during the course of a 24-hour period? Or, is it to limit the total number of clients on the premises at any one time?**

Background

DDES is developing an ordinance correcting and updating a number of definitions in the zoning code. The proposed changes include the definition of daycare. The intent of the proposed changes is unclear.

As drafted, a facility would be considered a Daycare 1 as long as there are no more than 12 adults or children on the premises of a daycare at any one time. This would mean that if there were, for example, 8-hour shifts, a total of 36 adults or children could be present during the course of a 24-hour day and still meet the criteria of a Daycare I.

The proposed amendment for K.C.C. 21A.06.265 is as follows:

Daycare. Daycare: an establishment for group care of non ((-)) resident adults or children.

A. Daycare shall include only, SIC Industry No. 835~~1~~, Child Day Care Services, SIC Industry No. ((~~8322~~)) 8361, Adult Daycare Centers and the following:

1. Adult ((~~D~~)) daycare, such as adult day health centers or social day care as defined by the Washington ((~~S~~)) state Department of Social and Health Services;
 2. Nursery schools for children under minimum age for education in public schools;
 3. Privately conducted kindergartens or pre-kindergartens when not a part of a public or parochial school; and
 4. Programs covering after-school care for school children.
- B. Daycare establishments are subclassified as follows:
1. Daycare I – a maximum of ((~~12~~)) twelve adults or twelve children at one time on the premises in any ((~~24~~)) twenty-four hour period; and
 2. Daycare II – a facility that may include over ((~~12~~)) twelve adults or twelve children at one time on the premises in any ((~~24~~)) twenty-four hour period.

Discussion

The committee concluded that the main purpose of the limitation is on the restrict the number of individuals being cared for at any given time. The proposed amendment should be revised to clarify this fact.

Decision

The phrase "in any 24-hour period" should be deleted from the proposed amendment to make it clear that in a Daycare I no more than 12 children or 12 adults will be allowed on the premises of a daycare at one time.

3a. Can a changing message center sign be allowed for Green River Community College?

Background

Green River Community College representatives propose a new sign to replace a sign that recently was torn down. The previous sign is basically in the same location and is believed to be the same size as the proposed sign. The former sign was back lit with florescent lighting, and had manually changeable lettering. The proposed sign is more modern. It will be partially back lit and have a running message. The message will have information regarding availability of parking in various on-campus parking lots. The site is zoned R4.

Discussion

College officials contend the new sign will be less intrusive. They also insist it will be more neighborhood friendly as people will be given more information on where parking is available. Currently, people attending events at the college tend to park along public streets if they cannot easily find a spot in a parking lot.

K.C.C. 21A.20.080 states in part:

Residential zone signs. Signs in the R, UR and RA zones are limited as follows:

A. Nonresidential use:

1. One sign identifying nonresidential uses, not exceeding 25 square feet and not exceeding 6 feet in height is permitted;
2. Schools are permitted one sign per school or school facility entrance, which may be located in the setback. Two additional wall signs attached directly to the school or school facility are permitted; . . .

Changing message center, community bulletin board and directional sign as defined in K.C.C. 21A.06.1095, K.C.C.21A.06.1100 and K.C.C. 21A.06.1105 respectively.

K.C.C. 21A.06.1095 defines a changing message center sign as:

. . .an electrically controlled sign that contains advertising messages which changes at intervals of three minutes or greater.

K.C.C. 21A.06.1100 defines a community bulletin board sign as:

. . .a permanent sign used to notify the public of community events and public services, and which contains no commercial advertising.

K.C.C. 21A.06.1105 defines a directional sign as:

. . .a sign designed to guide or direct pedestrian or vehicular traffic to an area, place or convenience, and may include incidental graphics such as trade names and trademarks.

The proposed Green River Community College sign could fit under more than one definition. It would have a changing message of three minutes or greater, although it would not be an advertising message, since the purpose is to provide parking directions rather than to promote college events. To some extent, the proposal also meets requirements as a directional sign because its purpose is to guide or direct pedestrian or vehicular traffic to an area, place or convenience. The school provisions for signs do not apply.

The proposed replacement sign is larger than 6 square feet in surface area, and directional signs cannot exceed 6 square feet in surface area as established in K.C.C. 21A.20.060.E.

E. Directional signs shall not be included in the sign area or number limitation of K.C.C. 21A.20.070-110, provided they shall not exceed six square feet in surface area and are limited to one for each entrance or exit to surface parking areas or parking structure.

Green River Community College is a legal non-conforming use, which means the previous sign that was torn down was a legal non-conforming use. K.C.C. 21A.20.080A.2 would not apply because of the legal non-conforming use status.

The Committee considered whether the proposed sign would be classified as an expansion of a nonconforming use under 21A.32.065, which states in part:

A nonconforming use, structure, or site improvement may be expanded as follows:

A. The department may review and approve, pursuant to the code compliance process of K.C.C. 21A.42.010, an expansion of a nonconformance provided that:

1. The expansion shall conform to all other provisions of this title, except that the extent of the project-wide nonconformance in each of the following may be increased up to 10 percent:

- a. building square footage,
- b. impervious surface,
- c. parking, or
- d. building height. . . .

Under K.C.C. 21A.32.045C, the non-conforming use may not prohibits the use lapse for more than 12 months:

C. The use has not been discontinued for more than twelve months prior to its re-establishment, or the nonconforming structure or site improvement is reconstructed pursuant to a complete permit application submitted to the department within twelve months of the occurrence of damage or destruction.

Decision

Since Green River Community College is a legal non-conforming use, the previous sign was a legal non-conforming use and the new sign should fit in the same category. Therefore, the new sign will be allowed as long as it is no larger or taller than the previous one.

3b. Can a changing message center sign be permitted for the college through a CUP process?

Background

K.C.C. 21A.32.065 addresses conditional use permits and special use permits. K.C.C. 21A.32.065 reads in part:

B. A special use permit shall be required for expansions of a nonconformance with a development authorized by an existing special use or

unclassified use permit if the expansions are not consistent with the provisions of subsection A.

C. A conditional use permit shall be required for expansions of a nonconformance:

1. Within a development authorized by an existing planned unit development approval, or
2. Not consistent with the provisions of subsections A and B of this section.

Discussion

The new sign will be about 30 square feet in surface area and 13 feet tall. The problem is no one knows for sure the size of the previous sign. They will need some type of photograph showing the old sign. If worse comes to worse, the college representatives can sign an affidavit stating the old sign and the proposed one are the same size.

This particular sign will not be located in exactly the same spot as the previous one. It will be 17 feet further east of the property line, but it will be facing the same direction. The sign had to be moved because it was in the way of the recently constructed dormitories. However, the new location for the sign makes less of an impact to the neighboring community as it is farther away from the exterior of the property than was the previous sign. A county park across the street is the closest neighbor.

If this falls under K.C.C. 21A.32.045 for reestablishment of a discontinued non-conforming use or damaged or destroyed non-conformance structure or site improvement, then there's no requirement here that it has to be placed exactly where it was before. But, the code prohibits expansion or the creation of a new non-conformance, and the use cannot have been discontinued for more than 12 months.

The previous sign was back lit. The message screen of the proposed sign also would be illuminated such as that of a stock market ticker. Discussion indicated this would be OK, although the illumination was different, because it involves new technology.

Decision

Although the illumination of the proposed sign is different from the back lighting on the previous sign, it will be allowed because it involves new technology. Perhaps new technology should be addressed in the code.

3c. Do the limitations in K.C.C. 21A.20.060D prohibit the sign?

Background

K.C.C. 21A.20.060D permits changing message center signs only in NB, CB, RB, O and I zones. The previous two King County zoning codes allowed a detached reader board, lighted or unlighted, for all schools. K.C.C. 21A.20.060D states:

D. Changing message center signs, and time and temperature signs, which can be a wall or freestanding sign, shall not exceed the size permitted for a wall or freestanding sign, and shall be permitted only in the NB, CB, RB, O, and I zones. Changing message center signs shall not exceed the maximum sign height permitted in the zone.

Discussion

Green River Community College is a legal non-conforming use, which means the previous sign was a legal non-conforming use. If the replacement sign maintains the same height and size as the previous sign, it would be considered a continuation of a legal non-conforming use. As a result, if the sign were considered to be a changing message center sign, it would still be allowed as a continuation of the legal non-conforming use.

Decision

K.C.C. 21A.20.060D does not apply to the proposed sign because of its status as a legal non-conforming use.