



## King County

Department of Development  
and Environmental Services

900 Oakesdale Avenue Southwest  
Renton, WA 98055-1219

# REGULATORY REVIEW COMMITTEE

- MINUTES -

**MEETING DATE: January 20, 2005**

**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  
Steve Bottheim  
Randy Sandin

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, Pam Dhanapal, Kenneth Dinsmore, Nancy Jo Perdue and Harry Reinert

## **1. Is the sale of espresso, which is produced on site, allowed in an RA zone?**

### Background

A property owner on RA-10 zoned property is operating a drive-up espresso stand from an existing RV trailer parked in her driveway. Planners reviewing the permit application are trying to determine if an espresso stand may be permitted under the King County Code as a home occupation, a home industry or with a Conditional Use Permit (CUP).

### Discussion

Espresso stands fall within SIC category 58, eating and drinking establishments. In RA zones, eating and drinking establishments are allowed as a permitted use only as accessory to a park. K.C.C. 21A.08.070B.24. Eating and drinking establishments are allowed as a conditional use as an accessory use to a winery or brewery or to a large active recreation multi-use park. Espresso stands are allowed as an accessory use to a permitted manufacturing or retail use, but drive-through sales are not permitted. K.C.C. 21A.08.070B.22.

Therefore, a drive-through espresso stand is not allowed under K.C.C. 21A.08.070. However, a use not otherwise allowed under the permitted use tables may be allowed as a home occupation or home industry under the provisions of K.C.C. 21A.30.080 and 21A.30.090.

The resident of a dwelling unit may conduct one or more home occupations, subject to limitations on the floor area of the businesses, the number of non-resident employees, and how sales are conducted. For home occupations, sales are limited to mail order and telephone sales with off-site delivery. K.C.C. 21A.30.080G. Services to patrons must be arranged by appointment or provided off-site. K.C.C. 21A.30.080H.

A drive-through espresso stand cannot qualify under the home occupation provisions unless it meets all of these requirements. The sale of espresso drinks is a sale and not a service. Therefore it must either occur off-site or through the mail. Even if it were considered a service, drive-through services would not be allowed unless the services were provided by appointment.

Home industries are allowed as an accessory use to a residential use, but require a conditional use permit. The limitations are less restrictive than for home occupations. A larger area may be used for the business, more non-resident employees are allowed, and sales of items produced on site are allowed. K.C.C. 21A.30.090.

A drive-through espresso stand that makes espresso drinks on-site qualifies under this provision. Therefore, the drive-through espresso stand may be allowed as a home industry under a conditional use permit.

#### Decision

A drive-through espresso stand on RA-10 zoned property is allowed as a home industry under K.C.C. 21A.30.090. Home industries require a conditional use permit.

- 2. If some uses on a property are allowed only as a home industry and others are allowed as a permitted use, do the limitations on the home industry apply to all of the uses? If more than one home industry is proposed, do the limitations of K.C.C. 21A.30.090 apply to all of the home industries when considered as a whole, or does each home industry qualify for a separately.**

#### Background

In addition to espresso sales, the property owner applicant has been operating a pet cemetery, and she has two nonresident employees providing pet water therapy from an indoor swimming pool located on the property. The indoor pool is not attached to the residence.

The applicant's total proposal is for a Conditional Use Permit for espresso sales, a pet cemetery, a future pet cemetery, a future pet crematorium, and a future remembrance wall. She also wants to sell pet caskets and urns. She predicts she eventually need at least nine employees to operate all of the proposed services.

Discussion

K.C.C. 21A.30.090 provides that “A resident may establish a home industry as an accessory activity ....” This introductory wording is different from K.C.C. 21A.30.080, amended in 2004, which provides that “Residents of a dwelling unit may conduct one or more home occupations as accessory activities ....” The home occupations provisions explicitly provide that the limitations apply to all of the home occupations on the property. See, e.g., K.C.C. 21A.30.080A. Because of this difference in wording, the provisions of K.C.C. 21A.30.090 limit a property owner to only one home industry.

Some of the uses the applicant has identified may be allowed as a conditional use and do not require a home industry permit. For example, a pet cemetery is allowed as a conditional use in RA zones. K.C.C. 21A.08.050. Pet cemeteries are considered a subclassification of cemeteries. K.C.C. 21A.06.180.

If uses are allowed as either a permitted use or a conditional use, the limitations in K.C.C. 21A.30.080 and 21A.30.090 do not apply to those uses and any employees or areas devoted to those uses that are not devoted to the home industries or home occupations are not “counted against” those activities.

Decision

The applicant can have only one home industry and multiple home occupations. All home occupations combined must meet the provisions of K.C.C. 21A.30.080. For example, only one nonresident employee is allowed for all home occupations. If the applicant has both home industries and a home occupation, she can have as many as five nonresident employees. If the property owner also has other uses that are allowed separately under the permitted use tables in K.C.C. 21A.08, the limitations on home industry and home occupations do not apply to those uses.

HR:njp

cc: Matt Caskey