



King County

Department of Development and Environmental Services

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REGULATORY REVIEW COMMITTEE

- MINUTES -

MEETING DATE: February 26, 2009

TO: Building Services Division Staff
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Stephanie Warden, Director
Joe Miles, Deputy Director
Harry Reinert, Special Projects Manager and RRC Co-Chair
Devon Shannon, Prosecuting Attorney's Office

FM: Harry Reinert, Co-Chair

Present: Holly Sawin, Pesha Klein, Lisa Dinsmore, Devon Shannon, Chris Ricketts, Steve Bottheim, Lamar Reed, Randy Sandin, and Harry Reinert

1. May an RV and Self-storage business be operated as a home occupation or home industry? Are there limits on the outdoor area that may be used for the storage?

Background

A property owner with has an 11.86 acre parcel that is zoned RA-5. There is a home, a detached garage and several other structures and a cell tower on site. They also operate a self-storage business. There has been an ongoing code enforcement case open since 1999.

According to a site map prepared by the property owners, there are 103 proposed outdoor stalls for RV parking. There are 95 outdoor stalls proposed in the southeast area of the property for

commercial vehicle/equipment storage. This area is approximately 6.2 acres in size (measured from 2007 aerial photograph). The exact number of RVs, commercial vehicles and equipment is not known but is fewer than proposed on site plan. Approximately 4.0 acres of the parcel is vegetated.

Discussion

K.C.C. 21A.30.085 limits the outdoor area for a home occupation to a maximum of 5,000 square feet. The use proposed by the property owner does not qualify as a home occupation, because the area used for storage of RVs and other vehicles exceeds this threshold.

K.C.C. 21A.30.090, which sets forth the standards for home industries, provides:

A resident may establish a home industry as an accessory activity, as follows:

- A. The site area is one acre or greater;
- B. The area of the home industry does not exceed fifty percent of the floor area of the dwelling unit. Areas within attached garages and storage buildings shall not be considered part of the dwelling unit for purposes of calculating allowable home industry area but may be used for storage of goods associated with the home industry;
- C. No more than four nonresidents who come to the site of the home industry are employed in the home industry;
- D. In addition to required parking for the dwelling unit, on-site parking is provided as follows:
 1. One stall for each non-resident employee of the home industry; and
 2. One stall for customer parking;
- E. Additional customer parking shall be calculated for areas devoted to the home industry at the rate of one stall per:
 1. One thousand square feet of building floor area; and
 2. Two thousand square feet of outdoor work or storage area;
- F. Sales are limited to items produced on-site, except for items collected, traded and occasionally sold by hobbyists, such as coins, stamps, and antiques;
- G. Ten feet of Type I landscaping are provided around portions of parking and outside storage areas that are otherwise visible from adjacent properties or public rights-of-way; and
- H. The department ensures compatibility of the home industry by:
 1. Limiting the type and size of equipment used by the home industry to those that are compatible with the surrounding neighborhood;
 2. Providing for setbacks or screening as needed to protect adjacent residential properties;
 3. Specifying hours of operation;
 4. Determining acceptable levels of outdoor lighting; and
 5. Requiring sound level tests for activities determined to produce sound levels that may be in excess of those in K.C.C. chapter 12.88.

In this case, the property meets the minimum lot size requirement of one acre and the business owners state that they live on the property. They also apparently meet the requirement that no more than 50% of the residence may be used for the home industry. They do not make retail sales and have no employees.

The remaining question is whether there is a limit on the amount of outdoor area that may be used in the home industry. The provisions governing home occupations in K.C.C. 21A.30.080 and 21A.30.085 include specific provisions governing outdoor storage. In the R and UR zones, outdoor activity related to the home occupation must take place indoors, except for growing or storing plants. K.C.C. 21A.30.080B. In the RA, A, and F zones, outdoor storage is based on parcel size, but is limited to a maximum of 5,000 square feet. K.C.C. 21A.30.085B. K.C.C. 21A.30.090 does not include limits on the amount of outdoor storage. It does, however, require that outdoor storage areas provide certain types of landscaping so that outdoor storage areas are not visible from adjacent properties or rights-of-way. K.C.C. 21A.30.090G.

Under K.C.C. 21A.08.030, a home industry is a conditional use in the RA zone. K.C.C. 21A.30.090H sets forth several factors the department must consider during its review of an application for a home industry. The decision criteria for conditional uses, set forth in K.C.C. 21A.44.040 are also applicable.

A home industry will obviously also need to comply with other provisions of K.C.C. Title 21A, including critical area regulations in K.C.C. Chapter 21A.24. Structures may require building permits under K.C.C. Chapter 16.04 and clearing and grading on the property may require permits under K.C.C. Chapter 16.82.

Conclusion

An RV and self-storage business on a 11.86 acre RA zoned property may be permitted as a home industry, as long as the business meets the requirements set forth in K.C.C. 21A.30.090. K.C.C. 21A.30.090 does not set limits on the area that may be used for outdoor storage, however it does require that outdoor storage areas have appropriate landscaping to shield the area from adjacent property and road rights-of-way. A home industry in the RA zone requires a conditional use permit. K.C.C. 21A.44.040 sets forth the review criteria for a conditional use permit review process and includes a requirement that the proposed development will be compatible with the surrounding neighborhood.

2. Review of RRC Minutes for September 11, 2008 concerning separate lots and boundary line adjustments.

Background.

At its September 11, 2008 meeting, the Regulatory Review Committee discussed five different scenarios involving development on adjacent lots. The committee did not come to complete resolution of the issue. The general consensus was that the applicant should be required to do a boundary line adjustment to eliminate lot lines when a structure is placed on the lot line or when the adjacent lots must be treated as one for purposes of complying with the zoning code.

Discussion.

K.C.C. 21A.06.1170 defines a site as "A single lot, or two or more contiguous lots that are under common ownership or documented legal control, used as a single parcel for a development proposal in order to calculate compliance with the standards and regulations of this title." The definition clearly contemplates that a single lot may be considered as a single parcel under K.C.C. Title 21A. K.C.C. 21A.12.130A also contemplates circumstances where a building straddles a lot line. It provides that "When the common property line of two lots is covered by a building(s), the setbacks required by this chapter shall not apply along the common property line." In light of these provisions, the tentative conclusions reached by the Committee at its September 11, 2008 meeting need to be revised. The following are the questions originally posed by the Permit Center staff with the Committee's revised conclusions.

Question 1. An applicant owns two contiguous lots and wishes to build a structure on one. For purposes of setbacks, is each individual lot evaluated independently or are setbacks established for the site as a whole, as if there were no individual lots?

K.C.C. 21A.06.1170 clearly recognizes that multiple parcels may be considered as a single parcel for purposes of compliance with the zoning code. Permit Center and Code Enforcement staff expressed the concern that once a permit had been issued, there was no mechanism to ensure that the properties remain in common ownership as required. The original suggestion was to require a boundary line adjustment. This is an option that is available to the property owner. Another option is to require the property owner to record a covenant or easement that requires the use to be discontinued if the properties do not remain under common ownership. Staff will work with the PAO to develop appropriate documents.

Question 2. An applicant wishes to build a structure that straddles two lots? Do the property lines disappear for the purposes of review? What are the IBC/IRC issues?

Structures are not generally allowed within setbacks, including interior setbacks. See, e.g., K.C.C. 21A.12.170. However, K.C.C. 21A.12.130A provides "When the common property line of two lots is covered by a building(s), the setbacks required by this chapter shall not apply along the common property line." Some committee members believe this provision is intended to apply to legally existing structures and that it is not intended to authorize construction of new structures that straddle a common property line. Although this seems like a reasonable reading, the code does not make this clear.

For the applicant, a more compelling reason to either merge lots or move the boundary line can be found in the IRC and IBC. Those codes require additional safety features for structures located within a certain distance of property lines.

The Committee concluded that a BLA that either erases or moves the property lines was appropriate in this case. K.C.C. 21A.12.130A does at least seem to allow buildings to straddle the property line, but in many cases the IBC and the IRC will make this

impractical. The Committee recommends that a simplified BLA process be developed for cases when adjacent properties will be merged and a lot line erased.

Question 3. If an existing structure is currently straddling a common property line with the lots under the same ownership, is this a non-conforming structure? Would any new structure need to conform to K.C.C. 21A.32.055 or K.C.C. 21A.12.030A? Would a zoning variance be an option?

K.C.C. 21A.06.800 defines a nonconformance as "any use, improvement or structure established in conformance with King County rules and regulations in effect at the time of establishment that no longer conforms to the range of uses permitted in the site's current zone or to the current development standards of the code due to changes in the code or its application to the subject property."

K.C.C. 21A.12.130A waives the setback requirements for a building that is located on the property line between two lots, that building conforms to the current development standards and is not a non-conforming use or structure. With respect to a new structure, the discussion under Question 2 would apply.

Question 4: Does DDES still do lot merger reviews or does this require a boundary line adjustment?

DDES no longer performs lot merger reviews. These requests are handled as a request for a boundary line adjustment. As noted in the response to Question 2, the Committee believes there is a need for a streamlined process for boundary line adjustments that just erase lot lines.

Question 5: Does a "site" qualify as contiguous if the multiple parcels owned by the same person are separated by a street (or other possible legal feature)?

To qualify as a site, multiple lots must be contiguous and under common ownership or documented legal control. If lots are separated by a street, they are not contiguous and may not be considered a site for purposes of complying with the requirements of Title 21A. See the definition of site in K.C.C. 21A.06.1170.

Conclusion.

The Regulatory Review Committee concluded that K.C.C. Title 21A recognizes that multiple adjacent lots may be used by an applicant to meet zoning code requirements. See the definition of site under K.C.C. 21A.06.1170. The committee concluded that a blanket policy requiring a property owner to merge lots through a BLA would be inconsistent with this code provision. The Committee concluded that the Department did have authority to require a property owner who chooses this option to record a covenant or other document to ensure that the property remains under common ownership as long as the use continues. Staff will work with the PAO to develop the appropriate documents. The applicant also has the option of moving or erasing lot lines. To facilitate this process, staff will develop procedures and recommend code changes to simplify the process for erasing lot lines.