



King County
Department of Development and Environmental Services
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REGULATORY REVIEW COMMITTEE

- MINUTES -

MEETING DATE: March 13, 2002

TO: Building Services Division Staff
Chris Ricketts
Jim Chan
Pam Dhanapal
Ken Dinsmore

Land Use Services Division Staff
Joe Miles
Greg Borba
Lisa Pringle

Caroline Whalen, Deputy Director
Harry Reinert, Special Projects Manager
Tim Barnes, Prosecuting Attorney's Office

FM: Harry Reinert, Co-Chair

Present: Greg Borba, Ken Dinsmore, Pam Dhanapal, Caroline Whalen, Lisa Pringle, Tim Barnes, and Harry Reinert

Issue:

1. May a trout farm (classified as a "park") in the R-1 zone have an accessory use for the purpose of selling snacks, T-shirts and souvenirs?

Background:

A private trout farm is located in an R-1 zone. The trout farm owner would like to put in a snack bar that would sell snacks, T-shirts, and souvenirs.

K.C.C. 21A.06.835 defines a park as "a site designed or developed for recreational use by the public...." The definition includes a list of indoor and outdoor facilities that are specifically included. K.C.C. 21A.06.835 does not include any indication of what accessory uses may be associated with a park. There are definitions for some types of accessory uses, see K.C.C. 21A.06.015 - .025, but none that apply to parks or other recreational uses. Although some retail/eating establishments are allowed in the R zones with a CUP, such uses are prohibited in the R-1 zone. K.C.C. 21A.08.070.

King County Parks operates several park facilities throughout unincorporated areas of King County. Many of these facilities are located in residential zones, including R-1 zones. King County Park facilities frequently offer patrons of the facility snacks and other food items as well

as clothing and other items related to that particular facility or to events sponsored by King County Parks at other King County facilities.

Discussion:

A private trout farm falls within the definition of a park under K.C.C. 21A.06.835. Parks are a permitted use in residential zones, including R-1 zones, although there are some limitations applicable to this circumstance. K.C.C. 21A.08.040A and B.1.

Although the King County Code does not define “recreational accessory use,” the definition of “use” states that an accessory use is “any use subordinate or incidental to the primary use” K.C.C. 21A.06.1345.

Golf facilities are the only recreational use that specifically define the accessory uses that are allowed. Golf course facilities are allowed in the R-1 zone (K.C.C. 21A.08.040A) and may include restaurants as an accessory use (K.C.C. 21A.06.555). K.C.C. 21A.08.040B.7 provides that “ancillary facilities associated with a golf course are limited to ... activities that provide convenience services to players.”

King County Parks operates a number of park facilities with accessory uses similar to that allowed for golf courses. Those facilities include snack bars and sales counters with items related to the park, such as T-shirts and caps with Park logos, or related to activities sponsored by King County Parks.

Conclusion:

A private trout farm is a park, as defined in K.C.C. 21A.06.835, and is a permitted use in the R-1 zone, subject to the limitations found in K.C.C. 21A.08.040B.1. A park may include as an accessory use a snack bar and sales counter with items for sale to the park’s patrons. The accessory use must be incidental to the primary use as a park and should be designed as a convenience for the park’s patrons. Any food preparation on site may also require appropriate permits from the Department of Health.

A code amendment is recommended to address this issue.

Issue:

2. Do the provisions of K.C.C. 21A.26.380 allow multiple increases in height of a transmission support structure of up to 40 feet on each occasion? Or can the height of the transmission support structure only be increased a total of 40 feet over the life of the structure? (See Item 2, RRC Minutes from January 9, 2002.)

Background:

A question has been raised whether or not the provisions of K.C.C. 21A.26.380 can be applied cumulatively over the life of a transmission support structure, i.e., applied on multiple occasions, raising the height up to an additional 40 feet on each occasion, or if there is a limitation such that the height of the structure can only be raised a total of 40 additional feet over the life span of the structure.

Example: In 1998, a 100-foot tower (a transmission support structure) in a commercial zone is permitted and constructed. In 2000, a request to collocate and raise the height of the structure to 130 feet is requested and approved pursuant K.C.C. 21A.26.400. In 2002, another collocation

request is proposed that would increase the height to 170 feet. Is the latter allowed outright under K.C.C. 21A.26.380? Or, is a conditional use permit required under K.C.C. 21A.26.140 because the increase is 30% greater than the original height or exceeds 40 feet of the original height?

Discussion:

Among the expressed purposes of K.C.C. chapter 21A.26 is to “minimize the total number of towers throughout the community” and to “strongly encourage the joint use of new and existing towers.” K.C.C. 21A.26.010A and B. Tower users are also encouraged to configure towers and antennas to minimize adverse visual impact. K.C.C. 21A.26.010C.

K.C.C. 21A.26.380 allows modifications of transmission support structures to accommodate collocation of antennas or new technologies. K.C.C. 21A.26.380 provides in part that

Modifications to transmission support structures are also permitted outright, provided there is no increase in the height of the transmission support structure except when ...

B. Limited to no more than forty feet above the height of the existing transmission support structure

The provision of this sections hinges in part on the meaning of the word “existing.” If “existing” means the structure as it exists at the time that antenna modification is proposed, there would appear to be no limit on the height of the structure. If “existing” means the structure as it was constructed, prior to any modifications, the maximum increase in height the would be permitted outright would be forty feet.

In light of the expressed purpose of K.C.C. chapter 21A.26 to limit the number of antennas and the strong encouragement for collocation, the most appropriate reading of this section is that 21A.26.380B applies only to the existing transmission support structure and that multiple increases in height, as long as each increase is less than forty feet, are permitted outright. K.C.C. 21A.26.380 contains other limitations that may also be applicable in a given set of circumstances.

King County Council staff have confirmed that this interpretation is consistent with the intent of the Council when it adopted these provisions.

Conclusion:

A proposed modification to a minor communication facility that would increase the height of the facility by less than forty feet is permitted outright, K.C.C. 21A.26.380B, if the proposal is consistent with the other requirements of K.C.C. 21A.26.380. Subsequent modifications to the facility that would add less than forty feet to the height of the facility are also permitted outright, subject to the limitations of K.C.C. 21A.26.380 and K.C.C. chapter 21A.26.