



**King County**  
**Department of Permitting**  
**and Environmental Review**  
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**REGULATORY REVIEW COMMITTEE**  
**- MINUTES -**

**MEETING DATE: April 27, 2017**  
 Minutes finalized April 27, 2017

<b>TO:</b>	Jim Chan	Steve Bottheim
	Wally Archuleta	Chris Ricketts
	Sheryl Lux	Steve Roberge
	Ty Peterson	Scott Smith

John Starbard, Director  
 Randy Sandin, Resource Product Line Manager and RRC Co-Chair  
 Devon Shannon, Prosecuting Attorney’s Office

**FM:** Lisa Verner, Legislative Coordinator and RRC Co-Chair

Present: Ty Peterson, Lisa Verner, Kim Claussen, Wally Archuleta, Randy Sandin, Chris Ricketts and Sheryl Lux.

**1. At what point does a residential accessory use of a specialized instruction school (KCC 21A.08.050) become the primary use?**

Background

Staff received an application for a self-described specialized instruction school. There are two parcels which combined total 0.56 acres in an RA-5 zone. There is a residence, an ADU, a storage building and a covered swimming pool and pool house. The property owner operates a swim lessons business. Hours of operation are 7 to 9 hours a week M-F (9-12 and 4-8 pm Jan-Nov; 9-1 and 3-8pm July). According to the applicant, there are 64 classes per week (260 per month; 3000 per year) with 1 to 4 students per class.

Discussion

**KCC 21A.06.013 Accessory use.** *Accessory use: a use, structure or activity that is:*  
*A. Customarily associated with a principal use;*

- B. Located on the same site as the principal use; and*
- C. Subordinate and incidental to the principal use.*

**KCC 21A.06.020 Accessory use, residential.** *Accessory use, residential: an accessory use to a residential use, including, but not limited to:*

- A. Accessory living quarters and dwellings;*
- B. Fallout or bomb shelters;*
- C. Keeping household pets or operating a hobby cattery or hobby kennel;*
- D. On-site rental office;*
- E. Pools, private docks or piers;*
- F. Antennae for private telecommunication services;*
- G. Storage of yard maintenance equipment;*
- H. Storage of private vehicles, such as motor vehicles, boats, trailers or planes;*
- I. Greenhouses;*
- J. Recreation space areas required under K.C.C. 21A.14.180 and play areas required under K.C.C. 21A.14.190; and*
- K. Home occupations and home industries under K.C.C. chapter 21A.30.*

**KCC 21A.06.1200 Specialized Instruction School.** *Specialized instruction school: establishments engaged in providing specialized instruction in a designated field of study, rather than a full range of courses in unrelated areas; including, but not limited to:*

- A. Art;*
- B. Dance;*
- C. Music;*
- D. Cooking; and*
- E. Driving.*

**KCC 21A.08.050** identifies general services uses. It lists specialized instruction schools as one of the land uses; in the RA-5 zone, it is a permitted use (subject to Development Condition 19) and a conditional use (subject to Development Conditions 20 and 31).

**KCC 21A.08.050.B.19:**

- 19. Only as accessory to residential use, and:*
  - a. Students shall be limited to twelve per one-hour session;*
  - b. Except as provided in subsection c. of this subsection, all instruction must be within an enclosed structure;*
  - c. Outdoor instruction may be allowed on properties at least two and one-half acres in size. Any outdoor activity must comply with the requirements for setbacks in K.C.C. chapter 21A.12; and*
  - d. Structures used for the school shall maintain a distance of twenty-five feet from property lines adjoining rural area and residential zones.*

(KCC 21A.08.050.B.20 and 31 deal with setbacks, lots 2.5 acres and larger, and trail conditions; these are not relevant to this discussion.)

The accessory use criteria of incidental/subordinate to the residence, customary to the residence and located on the same property as the residence are reviewed on a case by case basis. In this case, the pool and the swim school are incidental/subordinate to the owners' residential use of the property; a pool is customary to have at a residence; the pool/swim school are located on the same property as the residence.

The specialized instruction school meets the criteria in KCC 21A.08.050.B19. The applicable section is B.19.a: according to the applicant, the school has 1 to 4 students per class. There is one class per 30 minutes with a 15 minute break in between, thus meeting the 12 students per hour limitation.

#### Conclusion

The swim school meets the definition of a specialized instruction school. The specialized instruction school meets the requirement to be accessory to a residence. The hours are incidental because they are the same number of hours (they start one hour later and end one hour later) as the hours defined for a home occupation (KCC chapter 21A.30), which is defined as an accessory residential use. In this case, the swim school does not rise above being a residential accessory use to being a primary use.