



### Discussion

The office use on the property is a business use which supported the mobile home park. The use was established pre-zoning code. Today both the business on the property and the mobile home park use are not permitted in the RA-5 zoning and are therefore considered nonconforming uses.

WLRD would like to use the clubhouse or manager's unit as office space for four Washington Conservation Crews who will work on the salmon habitat project for WLRD. This is changing one office use for another office use on the site with a new user.

**KCC 21A.32.055 Nonconformance - modifications to nonconforming use, structure or site improvement.** Modifications to a nonconforming use, structure or site improvement may be reviewed and approved by the department pursuant to the code compliance review process of K.C.C. 21A.42.030 provided that:

- A. The modification does not expand any existing nonconformance; and
- B. The modification does not create a new type of nonconformance.

### Conclusion

Changing from a manager's rental office to an office for the WC crews is a modification that changes one nonconforming use for another, similar one by a new user. It will not expand the existing building nor will it create a new nonconformance. Therefore, the change to the WC crews' office is permitted.

(Note: This question of whether one nonconforming use could be replaced by a different, but similar, nonconforming use was considered by the RRC in September 20, 1996. The committee was in agreement that Title 21A did not contain any provisions which would allow one nonconforming use to replace another nonconforming use, citing K.C.C. 21A.02.040.A:

“no use or structure shall be established, *substituted* (emphasis added), expanded, constructed, altered, moved, maintained, or otherwise changed except in conformance with this title.”

There are no provisions in K.C.C. 21A.32 that allow substituting one nonconforming use for another.

The committee went on to note that the question should be researched further to determine if provisions should be established to allow a change of use provided the new proposed use is on the same permitted use table as the existing use and if it has the same review procedures. (permitted outright, conditional use permit, etc) There are no records that this additional research was ever done.

KCC 21A.32.055 does provide for modification to nonconforming uses, structures or site improvements provided the modification does not expand any existing nonconformance or create a new type of nonconformance. Modification is not defined in KCC 21A.06 but the standard dictionary definition of modification means to make basic or fundamental changes in something, often to give a new orientation to, or serve a new end. Within the broad framework of the permitted use tables in K.C.C. 21A.08.060, changing from a mobile home rental office to a public agency office is not a change in land use. A mobile home rental office is included in the

definition of general business service in KCC 21A.06.540.E, (SIC 6515). Both general business service and public agency office are included in 21A.08.060 and neither are allowed within the RA zone. Provided significant modifications of the existing structure are not required to support the change of use, the change from a mobile home rental office to a WCC office will not create a new nonconformance and would be permitted.

Submitted by Randy Sandin.)