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Regulatory Review Committee (RRC)
- Minutes -

Meeting Date: December 12, 2019
Minutes finalized: April 15, 2020

TO: Jim Chan, Director
Mark Rowe, Assistant Director
Devon Shannon, Prosecuting Attorney's Office
Ramon Locsin, Urban Product Line Manager
Doug Dobkins, Residential Product Line Manager
Ty Peterson, Commercial Product Line Manager
Sheryl Lux, Code Enforcement Product Line Manager
Chris Ricketts, Building Official and Fire Marshal

FM: Christine Jensen, Legislative/Policy Analyst and RRC Co-Chair
Kevin LeClair, Principal Subarea Planner and RRC Co-Chair

Present: Christine Jensen, Kevin LeClair, Scott Smith, Pesha Klein, Steve Bottheim, Ty Peterson, Sheryl Lux, Matt Maynard, Wally Archuleta

1. Concerning King County Code[1] (K.C.C.) 21A.06.1391.B.9 and whether wetlands unintentionally expanded by roadwork are regulated as "wetlands."

Indexes

Subjects: Wetland, Road, Roadway
Code: 21A.06.1391

[1] https://www.kingcounty.gov/council/legislation/kc_code.aspx

Background

In 2007, a King County road crew filled-in a roadside ditch in 2007. There was an existing wetland present in the vicinity of the ditch. This filling of the ditch increased the elevation of a closed depression and consequently caused the wetland to expand to the area between the old elevation and the new elevation.

King County Code defines what areas constitute wetlands for the purposes of regulations in K.C.C. Title 21A, which includes an exception for artificial features.

> **K.C.C. 21A.06.1391 Wetland**
> **"**Wetland: an area that is not an aquatic area and that is inundated or saturated by ground or surface water at a frequency and duration sufficient to support, and under normal circumstances supports, a prevalence of vegetation typically adapted for life in saturated soil conditions. For purposes of this definition:
>
> A. Wetlands shall be delineated using the wetland delineation manual required by RCW 36.70A.175; and
>
> B. Except for artificial features intentionally made for the purpose of mitigation, "wetland" does not include an artificial feature made from a nonwetland area, which may include, but is not limited to:
>
> 1. A surface water conveyance for drainage or irrigation;
> 2. A grass-lined swale;
> 3. A canal;
> 4. A flow control facility;
> 5. A wastewater treatment facility;
> 6. A farm pond;
> 7. A wetpond;
> 8. Landscape amenities; or
> 9. A wetland created after July 1, 1990, that was unintentionally made as a result of construction of a road, street or highway."
>
> (Ord. 19034 § 21, 2019: Ord. 16985 § 119, 2010: Ord. 15051 § 119, 2004: Ord. 12122 § 1, 1996: Ord. 11621 § 34, 1994: 10870 § 323, 1993)

In this definition, one of the wetland exceptions includes wetlands unintentionally created as a result of road construction. The question before the RRC is whether the exemption in K.C.C. 21A.06.1391.B.9 applies to the unintended expansion of an existing wetland (rather than a newly created wetland) caused by construction in a roadside ditch (rather than a road).

Discussion

First, while the term "road" is not defined in the King County Code, the term "roadway" is defined as follows.

K.C.C. 21A.06.1011C Roadway
"Roadway: the maintained areas cleared and graded within a road right-of-way or railroad prism. For a road right-of-way, "roadway" includes all maintained and traveled areas, shoulders, pathways, sidewalks, ditches and cut and fill slopes. For a railroad prism, "roadway" includes the maintained railbed, shoulders, and cut and fill slopes. "Roadway" is equivalent to the "existing, maintained, improved road right-of-way or railroad prism" as defined in the regional road maintenance guidelines."
(Ord. 15051 § 93, 2004)

In this definition, roadways include shoulders, ditches, and filled slopes. So, the committee determined that this construction work to fill a roadside ditch is considered a "road" and thus could potentially be considered for the exception in K.C.C. 21A.06.1391.B.9.

The committee then discussed whether the wetland in question was unintentionally created as a result of the construction.

The intent behind the provision in K.C.C. 21A.06.1391.B.9 was to preserve existing wetlands and not to protect artificially created new wetlands. In this case before the committee, there was an existing wetland in the general vicinity.

Regardless of whether the ditch construction was the sole contributor to the expansion of the wetland area, the wetland itself existed previously and was not artificially created. There is no hydrological separation from the unintended expansion area and the existing wetland area. As a result, the entire area meets the definition of a wetland and must be regulated as such.

Conclusion

The exemption in K.C.C. 21A.06.1391.B.9 does apply to roadway construction, including roadside ditches.

The exemption in K.C.C. 21A.06.1391.B.9 does not apply to unintentionally expanded areas of wetlands that already existed. Wetlands that are unintentionally expanded must be regulated as wetlands.

2. Whether K.C.C.21A.24.325.C.2. and K.C.C.21A.24.358.A.3. applies to landslide hazards with slopes less than 40 percent.

Indexes

Subjects: Aquatic area buffer; Wetland buffer; Steep slope hazard area; Landslide hazard area
Code: 21A.24.325.C.2.; 21A.24.358.A.3.

Background

King County Code states that a wetland buffer or aquatic area buffer overlaps with a steep slope hazard area or landslide hazard area, the wetland or aquatic area buffer is expanded to the top of the hazard area.

> **K.C.C. 21A.24.325 Wetlands - buffers**
> "…
> C. Wetland buffer widths shall also be subject to modifications under the following special circumstances:
> …
> 2. For a wetland buffer that includes a steep slope hazard area or landslide hazard area, the buffer width is the greater of the buffer width required by the wetland's category in this section or the top of the hazard area;
> …"
> (Ord. 19034 § 26, 2019: Ord. 16985 § 124, 2010: Ord. 16950 § 25, 2010: Ord. 16267 § 52, 2008: Ord. 15051 § 185, 2004)

> **K.C.C. 21A.24.358 Aquatic areas - buffers**
> "A. Aquatic area buffers shall be measured as follows:
> …
> 3. If the aquatic area buffer includes a steep slope hazard area or landslide hazard area, the aquatic area buffer width is the greater of either the aquatic area buffer in this section or the top of the hazard area.
> …"
> (Ord. 16985 § 125, 2010: Ord. 16950 § 26, 2010: Ord. 16267 § 56, 2008: Ord. 15051 § 193, 2004)

A steep slope hazard area is defined as follows.

> **K.C.C. 21A.06.1230 Steep slope hazard area**
> "Steep slope hazard area: an area on a slope of forty percent inclination or more within a vertical elevation change of at least ten feet. For the purpose of this definition, a slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least ten feet of vertical relief. Also for the purpose of this definition:
> A. The "toe" of a slope means a distinct topographic break in slope that separates slopes inclined at less than forty percent from slopes inclined at forty percent or more. Where no distinct break exists, the "toe" of a slope is the lower most limit of the area where the ground surface drops ten feet or more vertically within a horizontal distance of twenty five feet; and
> B. The "top" of a slope is a distinct topographic break in slope that separates slopes inclined at less than forty percent from slopes inclined at forty percent or more. Where no distinct break exists, the "top" of a slope is

> the upper-most limit of the area where the ground surface drops ten feet or more vertically within a horizontal distance of twenty-five feet."
> (Ord. 15051 § 101, 2004: Ord. 10870 § 286, 1993)

A landslide hazard area is defined as follows.

> **K.C.C. 21A.06.680 Landslide hazard area**
> "Landslide hazard area: an area subject to severe risk of landslide, such as:
> A. An area with a combination of:
> 1. Slopes steeper than fifteen percent of inclination;
> 2. Impermeable soils, such as silt and clay, frequently interbedded with granular soils, such as sand and gravel; and
> 3. Springs or ground water seepage;
> B. An area that has shown movement during the Holocene epoch, which is from ten thousand years ago to the present, or that is underlain by mass wastage debris from that epoch;
> C. Any area potentially unstable as a result of rapid stream incision, stream bank erosion or undercutting by wave action;
> D. An area that shows evidence of or is at risk from snow avalanches; or
> E. An area located on an alluvial fan, presently or potentially subject to inundation by debris flows or deposition of stream-transported sediments."
> (Ord. 15051 § 70, 2004: Ord. 10870 § 176, 1993)

K.C.C. 21A.24.045 requires that development activities in a wetland buffer, aquatic area buffer, steep slope hazard, or landslide hazard *with a slope of 40 percent or greater* be limited. Some activities may require an alteration exception or are prohibited.

K.C.C. 21A.24.280.E. allows alterations in a landslide hazard area *with a slope less than 40 percent* if: "1. the proposed alteration will not decrease slope stability on contiguous properties; and 2. the risk of property damage or injury resulting from landsliding is eliminated or minimized." This is accomplished through a geotechnical report with recommended landslide mitigations.

King County Executive Report – Best Available Science, dated February 2004,[2] states that on steep slopes adjacent to streams, buffers should be established from the top and toe of slopes *40 percent or greater* in order to protect the vegetation and trees on these slopes for slope stabilization and large woody debris recruitment for stream health.

These regulations have different development standards for landslide hazards with slopes above or below 40 percent. However, the definition of landslide hazards includes any lands that meet the definition, regardless of the slope's percent of incline. The buffers triggered in K.C.C. 21A.24.325.C.2. and K.C.C. 21A.24.358.A.3. are also silent on slope percentages.

[2] https://your.kingcounty.gov/dnrp/library/2004/kcr1562/BAS-Chap1-04.pdf

Updates to landslide hazard mapping in 2016 resulted in identification of new potential landslide hazard areas, including many areas with slopes less than 40 percent. Determination of whether these potential areas meet the definition of landslide hazard area may require further evaluation by a qualified professional. In some cases, landslide hazard areas with slopes less than 40 percent may include entire neighborhoods and/or many acres of land. If potential landslide hazard areas are determined to meet the criteria in K.C.C. 21A.06.680, wetland buffer and aquatic area buffers would then be expanded to the top of the hazard per K.C.C. 21A.24.325.C.2. and K.C.C. 21A.24.358.A.3. Any lands – mapped or not – that meet the landslide hazard definition and that overlap with a wetland or aquatic area buffer would trigger the larger buffer.

Expanding a wetland or aquatic area buffer to landslide areas with slopes less than 40 percent would impose more limiting regulations than if the area were only subject to the landslide hazard area regulations.

The question before the RRC is whether K.C.C. 21A.24.325.C.2. and K.C.C. 21A.24.358.A.3. applies to landslide hazards with slopes less than 40 percent.

Discussion

As defined in King County Code, a steep slope hazard is an area with slopes that are 40 percent or greater. Some landslide hazard areas can also be steep slope hazard areas if the slope of the landslide hazard is 40 percent or greater. However, not all landslide hazards are steep slope hazards, as some landslide hazard areas may have slopes less than 40 percent.

Use of the word “or” in K.C.C.21A.24.325.C.2. and K.C.C.21A.24.358.A.3. makes it clear that the buffer increase is not limited to only areas with slope that are 40 percent or greater. If then intent was to only apply the regulation to lands with slopes 40 percent or greater, only “steep slope hazard areas” would have been listed. Including “or landslide hazard areas” means that lands that have other characteristics than steep slope hazard areas, such as slopes less than 40 percent, are also intended.

Conclusion

K.C.C. 21A.24.325.C.2. and K.C.C. 21A.24.358.A.3. applies to all landslide areas, including those with slopes less than 40 percent.

If there is a desire to only apply K.C.C. 21A.24.325.C.2. and K.C.C. 21A.24.358.A.3. to steep slope hazard areas or landslide hazard areas with slopes 40 percent or greater, a code change would be needed. In the meantime, case-by-case exceptions from this regulation could be considered if an alteration exception under K.C.C. 21A.24.070 is applied for.

3. Whether a yurt can be used as accessory recreation equipment storage for a passive recreational primary use.

Indexes

Subjects: Passive Recreation, Reasonable use
Code: 21A.06.9585; 21A.06.1345; 21A.06.1347; 21A.24.070.B.

Background

A property owner built a 615 square foot yurt on a property on Vashon Island (Parcel Number 0121029068) without a permit. The property is otherwise vacant and is encumbered by critical areas, critical area buffers, and shoreline areas. The owner intends to use the yurt to support occasional recreational use of the property, such as for camping, kayaking, or to use an RV (recreational vehicle). Upon learning of a March 8, 2007, RRC decision[3] related to storage structures for recreational equipment as an accessory use when the primary use of a property is passive recreation, the owner proposed the yurt for such use.

The question before the RRC is whether the yurt can be used as accessory recreation equipment storage for a passive recreational primary use and, given the environmental constraints on the property, whether a reasonable use allowance could permit it.

Discussion

The committee reviewed the aforementioned 2007 RRC decision related to accessory storage of recreational equipment. That decision stated that storage of recreational equipment is considered accessory when the primary use of a property is passive recreation and, in such instances, that a shed could be used to store recreational equipment on an otherwise vacant parcel. However, the decision also stated that such a storage shed could only be allowed "under appropriate circumstances." Some of those circumstances include, but are not limited to, those discussed in the 2007 determination:

1. Whether the primary use of the property meets the definition of "passive recreation" in K.C.C. 21A.06.9585;
2. Whether the size and nature of the accessory storage structure aligns with its intended use; and
3. Whether the structure is located in an area with environmental constraints, such as critical areas and/or critical area buffers.

The committee used these circumstances to review the proposed passive recreation accessory storage structure in this case and whether a reasonable use allowance would be appropriate.

[3] https://www.kingcounty.gov/~/media/depts/permitting-environmental-review/dper/documents/codes/rrc/MinRRC070308

#1 – Passive Recreation Primary Use

The committee evaluated whether the proposed primary use in this case meets the definition for "passive recreation," which is as follows.

> **K.C.C. 21A.06.9585 Recreation, passive**
> "Recreation, passive: recreational activities that do not require prepared facilities like sports fields or pavilions. Passive recreational activities place minimal stress on a site's resources and are highly compatible with natural resource protection. Passive recreation include, but is not limited to, camping, hiking, wildlife viewing, observing and photographing nature, picnicking, walking, bird watching, historic and archaeological exploration, swimming, bicycling, running/jogging, climbing, horseback riding and fishing."
> (Ord. 15606 § 9, 2006).

The 2007 RRC decision determined that using a vacant property for kayaking is considered a passive recreation primary use. Additionally, in a June 22, 2017, RRC decision,[4] the committee previously determined that camping or RVing on vacant private property is allowed as a passive recreation primary use. However, in that 2017 decision, the committee also determined that this is only appropriate when it is a temporary use that cannot exceed 60 days per year and that any camping facilities, such as tents or RVs, must be removed from the property outside of those 60 days. Even as a temporary use, all other regulations must also be met, including but not limited to health, safety, and welfare standards for sanitation, restrooms, cooking, and proper disposal of waste products.

As defined in K.C.C. 21A.06.1345 and 21A.06.1347, any enclosed space used for sleeping purposes that exceeds a temporary use (i.e. longer than 60 days) would be considered an established use and the space would need to be permitted as and meet the regulatory standards for a dwelling unit.

> **K.C.C. 21A.06.1345 Use**
> "Use: the purpose for which land or a structure is designed, built, arranged, intended, occupied, maintained, let or leased."
> (Ord. 17841 § 20, 2014: Ord. 10870 § 309, 1993).

> **K.C.C. 21A.06.1347 Use, established**
> "Use, established: a use that has been in continuous operation for more than sixty days and that conformed to King County's rules and regulations and to other applicable local and state rules and regulations at the time it began operation and throughout the sixty days."
> (Ord. 17841 § 21, 2014).

[4] https://www.kingcounty.gov/~/media/depts/permitting-environmental-review/dper/documents/codes/rrc/RRC_Minutes_2017_06_22

Based on the 2007 and 2017 RRC decisions, the committee determined that using the vacant property to camp, kayak, and/or use an RV does constitute passive recreation primary use, provided that the camping structure (tent, shelter, etc) and/or RV are not on site for longer than 60 days and that all other regulations are complied with.

#2 – Appropriate Size and Scale of Accessory Storage Structure

The committee evaluated whether the size and features of the yurt in this case aligns with its intended use as a passive recreation accessory storage structure.

The King County Building Code in K.C.C. 16.02.240.1 and 16.02.240.2 allows residential, agricultural, and forestry accessory storage structures without a building permit if they are 200 square feet or less in size. While the proposed storage structure in this case is not a *residential or resource* accessory structure, the committee felt that the 200 square footage limitation could be a helpful consideration when determining the appropriate size and scale for passive recreation storage accessory structures.

> **K.C.C. 16.02.240 Permits - Work exempt from permit**
> "Work exempt from permit (IBC 105.2). A building permit shall not be required for the following:
> Building:
> 1. One-story detached one and two family residential accessory buildings used as tool and storage sheds, playhouses, tree supported structures used for play and similar uses, not including garages or other buildings used for vehicular storage, provided the floor area does not exceed 200 square feet (11.15 m2) provided that the roof overhang does not exceed twenty-four inches measured horizontally from the exterior wall.
>
> 2. One-story detached agricultural and forestry accessory buildings used as animal shelters or sheds for the storage of tools, animal feed, animal bedding, seeds, seedlings or similar materials or products, not including office, sleeping or resting quarters, garages or buildings used for vehicle storage, provided the floor area does not exceed 200 square feet (11.15 m2) provided that the roof overhang does not exceed twenty-four inches measured horizontally from the exterior wall.
> …"
> (Ord. 17837 § 9, 2014: Ord. 17539 § 4, 2013: Ord. 17191 § 3, 2011: Ord. 15802 § 7, 2007: Ord. 14914 § 22, 2004: Ord. 14111 § 10, 2001: Ord. 12560 § 10, 1996. Formerly K.C.C. 16.04.05005)

The committee discussed that the yurt is 615 square feet in size. When evaluating the normal amount of space that would be needed to store kayaking and/or camping equipment, the committee determined that 615 square feet was not reasonable for and would be in excess of what is needed for such storage.

The property owner stated an intention to camp on the property. It is unclear if the property owner intends to use the yurt for camping purposes, such as for sleeping and/or cooking. Yurts, include those of similar size and scale as on this property, are typically used for habitation and/or sleeping purposes. The committee was concerned that the yurt would be used as such, which would not align with the stated use as an accessory storage structure. As noted above, if the yurt is used for camping or other habitation purposes, it would not longer be considered an accessory storage structure and it could only be onsite for up to 60 days per year; otherwise it would have to be permitted as and meet the regulatory standards for a dwelling unit.

Given the size and nature of the structure, the committee determined that the yurt does not align with its intended use as passive recreation accessory storage structure.

#3 – Environmental Constraints

Given that the parcel is encumbered by critical areas, critical area buffers, and shoreline areas, the committee reviewed shoreline and critical area regulations for possible applicability to this case.

The shoreline regulations in K.C.C. 21A.25.150.K. requires non-water-oriented active recreation facilities to be located outside of shoreline areas to the maximum extent practical. While the proposed accessory storage structure is not for *active* recreation, the committee felt that the limitation could be a helpful consideration when determining the siting of passive recreation structures in shoreline areas.

> **K.C.C. 21A.25.150 Recreational development**
> "K. To the maximum extent practical, proposals for non water oriented active recreation facilities shall be located outside of the shoreline jurisdiction and shall not be permitted where the non water oriented active recreation facility would have an adverse impact on critical saltwater habitat."
> (Ord. 16985 § 38, 2010: Ord. 3688 § 415, 1978. Formerly K.C.C. 25.16.200)

Additionally, K.C.C. 21A.25.100.C.24. prohibits detached residential accessory structures over 150 square feet in size in shoreline areas. While the proposed accessory storage structure in this case is not a *residential* accessory structure, the committee felt that the 150 square foot limitation could be a helpful consideration when determining the appropriate size and scale of passive recreation accessory structures in shoreline areas.

> **K.C.C. 21A.25.100.C.24 -Shoreline use, development conditions**
> "…
> 24. Residential accessory uses must meet the following standards:
> a. docks, piers, moorage, buoys, floats or launching facilities must meet the standards in K.C.C. 21A.25.180;

b. residential accessory structures located within the aquatic area buffer shall be limited to a total footprint of one-hundred fifty square feet; and

c. accessory structures shall be sited to preserve visual access to the shoreline to the maximum extent practical.

…"

(Ord. 19034 § 31, 2019: Ord. 17485 § 26, 2012: Ord. 16985 § 31, 2010).

Critical areas regulations in K.C.C. 21A.24.045.D.7.b.(2) allows expansion or replacement of existing detached accessory structures up to 1000 square feet in size in critical areas and their buffers. However, a January 9, 2014, RRC decision[5] determined that construction of *new* detached residential accessory structures is not allowed in critical areas or critical area buffers. While the proposed accessory storage structure in this case is not a *residential* accessory structure, the committee felt that the limitation on construction of new residential accessory structures could be a helpful consideration when evaluating the siting of accessory structures in critical areas or critical area buffers.

K.C.C. 21A.24.045.D.7 - Allowed alterations, alteration conditions

"…

7. Allowed only in grazed wet meadows or the buffer or building setback outside a severe channel migration hazard area if:

a. the expansion or replacement does not increase the footprint of a nonresidential structure;

b.(1) for a legally established dwelling unit, the expansion or replacement, including any expansion of a legally established accessory structure allowed under this subsection B.7.b., does not increase the footprint of the dwelling unit and all other structures by more than one thousand square feet, not including any expansion of a drainfield made necessary by the expansion of the dwelling unit. To the maximum extent practical, the replacement or expansion of a drainfield in the buffer should be located within areas of existing lawn or landscaping, unless another location will have a lesser impact on the critical area and its buffer;

(2) for a structure accessory to a dwelling unit, the expansion or replacement is located on or adjacent to existing impervious surface areas and does not result in a cumulative increase in the footprint of the accessory structure and the dwelling unit by more than one thousand square feet;

(3) the location of the expansion has the least adverse impact on the critical area; and

(4) a comparable area of degraded buffer area shall be enhanced through removal of nonnative plants and replacement with native vegetation in accordance with an approved landscaping plan;

c. the structure was not established as the result of an alteration exception, variance, buffer averaging or reasonable use exception;

[5] https://www.kingcounty.gov/~/media/depts/permitting-environmental-review/dper/documents/codes/rrc/RRC_Minutes_2014_01_09

d. to the maximum extent practical, the expansion or replacement is not located closer to the critical area or within the relic of a channel that can be connected to an aquatic area; and

e. The expansion of a residential structure in the buffer of a Type S aquatic area that extends towards the ordinary high water mark requires a shoreline variance if:

(1) the expansion is within thirty-five feet of the ordinary high water mark; or

(2) the expansion is between thirty-five and fifty feet of the ordinary high water mark and the area of the expansion extending towards the ordinary high water mark is greater than three hundred square feet.

…"

(Ord. 19034 § 23, 2019: Ord. 18791 § 172, 2018: Ord. 18767 § 7, 2018: Ord. 17841 § 38, 2014: Ord. 17539 § 44, 2013: Ord. 17485 § 18, 2012: Ord. 17191 § 40, 2011: Ord. 16985 § 120, 2010: Ord. 16950 § 24, 2010: Ord. 16267 § 40, 2008: Ord. 15051 § 137, 2004)

When considering the shoreline and critical areas regulations for other types of accessory structures, the committee felt that these regulations support the aforementioned committee determination that the size and nature of the yurt does not align with its intended use as an accessory structure, especially when considering environmentally sensitive areas.

Reasonable Use

If a property is encumbered by critical areas and/or critical areas buffers that would deny all "reasonable use" of the property, K.C.C. 21A.24.070.B. allows for some use of the property.

K.C.C. 21A.24.070.B. Alteration exception, reasonable use

"…

B. The director may approve alterations to critical areas, critical area buffers and critical area setbacks if the application of this chapter would deny all reasonable use of the property as follow:

1. If the critical area, critical area buffer or critical area setback is outside of the shoreline jurisdiction, the applicant may apply for a reasonable use exception under this subsection without first having applied for an alteration exception under this section if the requested reasonable use exception includes relief from development standards for which an alteration exception cannot be granted under this section. The director shall determine that all of the following criteria are met:

a. there is no other reasonable use with less adverse impact on the critical area;

b. development proposal does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site

> and is consistent with the general purposes of this chapter and the public interest;
>
> c. any authorized alteration to the critical area or critical area buffer is the minimum necessary to allow for reasonable use of the property; and
>
> d. for dwelling units, no more than five thousand square feet or ten percent of the site, whichever is greater, may be disturbed by structures, building setbacks or other land alteration, including grading, utility installations and landscaping but not including the area used for a driveway or for an on-site sewage disposal system; and
>
> 2. If the critical area, critical area buffer or critical area setback is located within the shoreline jurisdiction, the request for a reasonable use exception shall be considered a request for a shoreline variance under K.C.C. 21A.44.090.
>
> …"
>
> (Ord. 18767 § 8, 2018: Ord. 17539 § 46, 2013: Ord. 17191 § 41, 2011: Ord. 16985 § 122, 2010: Ord. 16267 § 42, 2008: Ord. 16172 § 2, 2008: Ord. 15051 § 142, 2004: Ord. 13190 § 19, 1998: Ord. 12196 § 54, 1996: Ord. 11621 § 73, 1994: Ord. 10870 § 454, 1993)

In this case, the property owner has asked if they could get a reasonable use exception to allow use of the yurt as an accessory recreation equipment storage for a passive recreational primary use.

As noted above, the property can currently be used for passive recreation and an accessory storage building for recreation equipment is already allowed. The critical areas regulations are not prohibiting those uses. The uses just need to be at an appropriate size and scale, which is the case for all of the other allowed uses regulated in the Zoning Code in K.C.C. Title 21A. Therefore, the owner is already allowed reasonable use of the property and a reasonable use exception to use the yurt in this manner is not appropriate.

Conclusion

Accessory recreation equipment storage for a passive recreational primary use is allowed; however, the structure must be sized and scaled appropriately. In this case, the 615 square foot yurt is not appropriate for such use. Either the storage space needs to be made smaller or the yurt needs to be used as a temporary camping space that is only on the property up to 60 days per year.

4. Concerning K.C.C. 21A.32.055 and boundary line adjustments of Rural Area lots that do not meet the minimum lot size in the given zone.

Topic was tabled until January 23, 2020, RRC meeting.