



King County

Permitting Division

Department of Local Services

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FINAL CODE INTERPRETATION CINT21-0002 (Keesling Lots)

Background

On September 16, 2021, Alex Sidles, on behalf of Hollywood Hills Neighbors, filed a code interpretation request with the Permitting Division of the Department of Local Services (Department). The request asks for interpretation of King County Code (K.C.C.)¹ 19A.28.020.D., subsections 1., 2. and 7.. The interpretation request points to pending Boundary Line Adjustment (BLA) applications BLAD21-0005 and BLAD21-0006.

Prior to accepting the Code Interpretation request, King County clarified with Mr. Sidles that this code interpretation is not a review of or decision on BLAD21-0005 and BLAD21-0006, which are being separately reviewed by the Department. Per K.C.C. 2.100.020.A., a code interpretation is limited to “explaining the meaning or requirements of a particular provision in King County’s development regulations.” This code interpretation, therefore, explains the meaning and requirements of K.C.C. 19A.28.020.D. in light of the existing lots and what would be required for a BLA to be approved.

Discussion & Analysis

K.C.C. 19A.28.020.D reads:

"D. A boundary line adjustment proposal shall not:

1. Result in the creation of an additional lot or the creation of more than one additional building site;
2. Result in a lot that does not qualify as a building site pursuant to this title;
3. Relocate an entire lot from one parent parcel into another parent parcel;
4. Reduce the overall area in a plat or short plat devoted to open space;
5. Be inconsistent with any restrictions or conditions of approval for a recorded plat or short plat;
6. Involve lots which do not have a common boundary; or
7. Circumvent the subdivision or short subdivision procedures set forth in this title. Factors which indicate that the boundary line adjustment process is being used in a manner inconsistent with statutory intent include: numerous and frequent adjustments to the existing lot boundary, a proposal to move a lot or building site to a different location, and a large number of lots being proposed for a boundary line adjustment;"

¹ https://kingcounty.gov/council/legislation/kc_code.aspx

The requestor has specifically raised questions as to subsections 1., 2. and 7., which are individually addressed as follows.

1. A boundary line adjustment proposal shall not result in the creation of an additional lot or the creation of more than one additional building site.

The lots at issue in this request are all “legal lots;” they were all legally created pursuant to a 1974 State law that allowed creation of lots by court order. A determination by the Department that a lot was legally created is not a guarantee that the lot constitutes a building site as defined in K.C.C. 19A.04.060.

The requestor’s concern appears to be the potential creation of additional building sites through the BLA process. A lot is buildable if it meets the definition of building site in K.C.C. 19A.04.060. Under this code section, an undeveloped lot constitutes a building site if it is “capable of being developed under current federal, state, and local statutes, including zoning and use provisions, dimensional standards, minimum lot area, minimum lot area for construction, minimum lot width, shoreline master program provisions, critical area provisions and health and safety provisions.”

Whether a lot is buildable is determined by applying the code at the time a complete application is received. Therefore, the undeveloped lots at issue here must meet the definition of building site to be considered buildable for purposes of the BLA request under the regulations in effect when the BLA applications were deemed complete. Whether the BLA applications create additional building sites from what currently exists will be determined through the Department’s review of BLAD21-0005 and BLAD21-0006. It is premature to assess whether BLAD21-0005 and BLAD21-0006 runs afoul of 19A.28.020.D.1., but the Department requires all BLAs to meet this regulatory requirement.

2. A boundary line adjustment proposal shall not result in a lot that does not qualify as a building site pursuant to this title.

As discussed above, the Department is reviewing BLAD21-0005 and BLAD21-0006 for compliance with K.C.C. 19A.28.020.D.. Subsection D.2. prohibits turning a buildable lot into a non-buildable lot. For example, a lot that currently meets the minimum lot width requirements in K.C.C. 21A.12.030 could not be adjusted to narrow the lot in a way that it would no longer meet the lot width requirement. Additionally, the Department has interpreted this requirement to preclude increasing a nonconformance in an already non-buildable lot. For example, if a legal lot does not meet the minimum width requirement and is therefore unbuildable, a BLA will not be approved if it would further reduce the lot width of the non-buildable lot.

The Department requires compliance with K.C.C. 19A.28.020.D.2. in deciding to approve or deny a BLA application. Review of BLAD21-0005 and BLAD21-0006 is ongoing and applicants can modify their applications during the review process to ensure code compliance. It is premature at this time to make an assessment of whether BLAD21-0005 and BLAD21-0006 runs afoul of this regulatory requirement.

3. A boundary line adjustment proposal shall not circumvent the subdivision or short subdivision procedures set forth in this title. Factors which indicate that the boundary line adjustment process is being used in a manner inconsistent with statutory intent include: numerous and frequent adjustments to the existing lot boundary, a proposal to move a lot or building site to a different location, and a large number of lots being proposed for a boundary line adjustment.

The requirement that a BLA not circumvent the subdivision or short subdivision code is intended to ensure that an applicant not use the BLA process to avoid creating infrastructure or making appropriate provisions for public health, safety and welfare. See K.C.C. Chapters 19A.12 and 19A.16. K.C.C. 19A.28.020.D.7. requires a comprehensive review of the BLA proposal, looking at the history of the subject lots, and the scope of change requested in the application.

The requestor has identified the parcels that are subject to BLAD21-0005 and BLAD21-0006. Those parcels have not been subject to prior BLAs. There is also no proposal to move a lot or building site to a different location.

As part of the Department's review of BLAD21-0005 and BLAD21-0006, compliance with K.C.C. 19A.28.020.D.7. will be assessed. This review involves comprehensively looking at the history of the parcels and the intent of the boundary line adjustment request. Therefore, any conclusion as to compliance with this factor is premature as review of the applications is ongoing.

Decision

All Boundary Line Adjustments are required to comply with the criteria in K.C.C. 19A.28.020. The ongoing review of BLAD21-0005 and BLAD21-0006 includes review for compliance with K.C.C. 19A.28.020. BLAD21-0005 and BLAD21-0006 do not seek to create new lots. The buildability of the lots in their current configuration, the retention of building sites, and the applications consistency with statutory intent will be reviewed through the ongoing permit review process. It is premature to challenge the pending applications consistency with K.C.C. 19A.28.020 until the Department has completed its review of BLAD21-0005 and BLAD21-0006 and the Director has issued a final decision.

Finality of Code Interpretations

Under K.C.C. 2.100.050.A, the director's decision on a code interpretation is final. A code interpretation issued by the director governs all staff review and decisions unless withdrawn or modified by the director or modified or reversed on appeal by the King County Hearing Examiner, King County Council or an adjudicatory body (K.C.C. 2.100.040.H).

DocuSigned by:

Jim Chan

11/5/2021

Jim Chan
Director, Permitting Division
Department of Local Services

Date