



King County

Department of Development and Environmental Services

900 Oakesdale Avenue Southwest
Renton, WA 98057-5212

206-296-6600 TTY 206-296-7217

www.kingcounty.gov

FINAL CODE INTERPRETATION L09CI002

Background

By letter dated July 6, Mr. William Walsh, counsel for General Dynamics, made a code interpretation request. General Dynamics' Ordnance and Tactical Systems Division tests munitions that it supplies to the federal government. The munitions are tested at a facility in Bothell. Until recently, the munitions were stored in Redmond. General Dynamics has moved storage of the materials to a site in unincorporated King County zoned RA-10. The materials are stored in three magazines, the largest of which is 6 feet by 8 feet by 7 feet. There is also a temporary storage shed. The property is accessed no more than twice a day, once in the morning and once in the afternoon to retrieve and return materials to the magazines.

Mr. Walsh has requested an interpretation of whether the described activity is a permitted use under King County Code (K.C.C.) 21A.08.

Discussion

K.C.C. 21A.08 does not include a specific category that covers the use as described by Mr. Walsh.

One similar activity is Warehousing and Wholesale Trade, which is defined as "establishments involved in the storage and/or sale of bulk goods for resale or assembly, excluding establishments offering the sale of bulk goods to the general public which is classified as a retail use in K.C.C. 21A.08.070. These establishments shall include only SIC Major Group Nos. 50 and 51 and SIC Industry Group Nos. 422 and 423." K.C.C. 21A.06.1375. In this case, the storage does not involve bulk goods stored for assembly.

Mr. Walsh notes two uses that might be considered to be analogous to the proposed use. One is log storage yards, which are a permitted use in the RA zone. The other is self-storage, which is not a permitted use in the RA zone. Mr. Walsh suggests that although General Dynamics' is engaged in manufacturing ammunition, ordnance, and explosives – which are covered by SIC Major Codes 28 and 34 – it is not engaged in those activities on the RA zoned property.

Mr. Walsh recognizes that the use might fall under the category of a commercial/industrial accessory use. This is defined as "A use that is subordinate and incidental to a commercial or

industrial use; including, but not limited to ... Incidental storage of raw materials and finished products sold or manufactured on-site" K.C.C. 21A.06.015. Mr. Walsh notes that no manufacturing or sales take place on site. However, the list of examples in K.C.C. 21A.06.015 are modified by the phrase "including, but not limited to." If these materials were stored on the same site on which they were being used for manufacturing, the storage would clearly be considered to be an accessory use to the manufacturing use. However, since they are not stored on the same site as the manufacturing use, they cannot be considered as accessory.

Mr. Walsh argues that, because their activity is not described in one of the permitted use tables, it should be analyzed under K.C.C. 21A.02.070D, which gives the Director of DDES authority to determine whether a land use is allowed in a zone. The Director's decision is to be

based on whether or not permitting the proposed use in a particular zone is consistent with the purposes of this title and the zone's purpose as set forth in K.C.C. 21A.04; by considering the following factors:

1. The physical characteristics of the use and its supporting structures, including but not limited to scale, traffic and other impacts, and hours of operation;
2. Whether or not the use complements or is compatible with other uses permitted in the zone; and
3. The SIC classification, if any, assigned to the business or other entity that will carry on the primary activities of the proposed use.

K.C.C. 21A.02.070D.

Mr. Walsh suggests that the proposed use is consistent with the rural area zone, that the physical characteristics of the use would have minimal impact on the surrounding area, and that the use would be compatible with other uses permitted in the rural area zone. The use as described by Mr. Walsh does appear to meet these requirements. However, there is a final element that the director must consider, the SIC classification assigned to the business entity that will carry out the activity. As noted above, General Dynamics' activities would be assigned to either SIC 28 or 34, neither of which is a permitted use in the RA zone. However, this is only one factor to be considered and it does not necessarily mean that the use is not allowed merely because the entity falls within a disfavored SIC category.

Given these considerations, the proposed use may be allowed in the RA zone, but it requires a conditional use permit. The conditional use permit provides the process by which the department can ensure that the use is compatible with the character of the surrounding area and to address the factors set forth in K.C.C. 21A.02.070D.

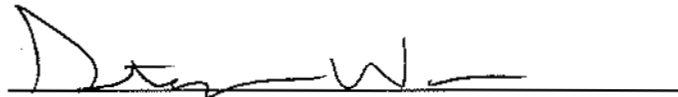
Decision

General Dynamics proposes to store ammunition and other explosives in three magazines on RA zoned property. The material is used in testing conducted at the company's facility in Bothell. No manufacturing or use of the materials would take place at the storage site.

There is no specific category that encompasses the described activity. Under K.C.C. 21A.02.070D, the Director may determine whether a use may be allowed in a zone after considering certain factors. In this case, the proposed use may be allowed in the RA zone with a conditional use permit. A conditional use permit enables the department to ensure that the use will not have adverse impacts on the surrounding area, including adverse traffic impacts. Also due to the nature of the material stored on site, the conditional use permit will allow the department to make sure appropriate measures are implemented to protect the public health and safety.

Finality of Code Interpretations

Under K.C.C. 2.100.040, a code interpretation that does not relate to a permit application or a code enforcement action is final when issued by the director. The Director determines that this code interpretation does not relate to a permit application or to a code enforcement action. Therefore, this code interpretation is final when it is issued.



Stephanie Warden
Director
Development and Environmental Services

9/10/09
Date