



King County

Department of Development and Environmental Services

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REGULATORY REVIEW COMMITTEE

- MINUTES -

MEETING DATE: July 10, 2008

TO: Building Services Division Staff

Jim Chan, Manager

Chris Ricketts

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Jarrold Lewis

Joelyn Higgins

Land Use Services Division Staff

Randy Sandin, Manager

Lisa Dinsmore

Deidre Andrus

Steve Bottheim

Doug Dobkins

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Fire Marshal Division Staff

John Klopfenstein, Fire Marshal

Stephanie Warden, Director

Joe Miles, Deputy Director

Harry Reinert, Special Projects Manager and RRC Co-Chair

Cass Newell, Prosecuting Attorney's Office

FM: Harry Reinert, Co-Chair

Present: Nancy Hopkins, Rebecca Scheffer, Mark Bergam, Jim Chan, Randy Sandin, Chad Tibbets, Doug Dobkins, Pesha Klein, Hillary Schafer, DeAnn Stevens, Joelyn Higgins, Lisa Dinsmore, Deidre Andrus, Steve Bottheim, Jarrod Lewis, Cass Newell, Dave Baugh, and Harry Reinert

- 1. Clarification of the use of the term "site" as defined in K.C.C. 21A.06.1170 and how it relates to required setbacks and other zoning code provisions, and other county code requirements, such as the building code, when an applicant is using two or more contiguous parcels.**

Background

K.C.C. 21A.06.1170 defines "Site" as "A single lot, or two or more contiguous lots that are under common ownership or documented legal control, used as a single parcel for a development

proposal in order to calculate compliance with the standards and regulations of this title." Permit center staff asked several questions concerning how this definition should be applied.

Discussion

Items 1 – 4. After some initial discussion, the Regulatory Review Committee concluded that it needed the assistance of additional DDES staff and the Assessor's Office with expertise in lot mergers and boundary line adjustments. Discussion of these items was deferred until a later meeting.

Item 5 – two lots separated by a street. Under the zoning code, if two lots are separated by a street or other public right-of-way, the two lots are not considered to be a site for purposes of the zoning code. If an easement has been granted, for example for a private road, the two lots are not separated by the easement. They may be considered to be a site under K.C.C. 21A.06.1170.

2. What is the use classification under K.C.C. Chapter 21A.08 for a large tennis center facility?

Background

A potential applicant is proposing to construct a 65,000 square foot tennis center on RA zoned property in the Bear Creek basin. The proposed facility would be open to the general public with from six to nine enclosed tennis courts. The facility would also offer tennis instruction, clinics, tournaments, and summer camps. The facility will also have an instruction room, a lounge with tennis related sales, vending machines, two locker rooms, a meeting room, and two management offices.

Discussion

K.C.C. 21A.06.835 defines a park as:

Park. Park: a site designed or developed for recreational use by the public including, but not limited to:

A. Indoor facilities, such as:

1. Gymnasiums
2. Swimming pools; or
3. Activity centers;

B. Outdoor facilities, such as:

1. Playfields;
2. Fishing areas;
3. Picnic and related outdoor activity areas; or
4. Approved campgrounds;

C. Areas and trails for:

1. Hikers;
2. Equestrians;
3. Bicyclists; or
4. Off-road recreational vehicle users;

- D. Recreation space areas required under K.C.C. 21A.14.180;
- E. Play areas required under K.C.C. 21A.14.190; and
- F. Facilities for on-site maintenance.

The relevant provisions of the definition for this discussion are that the park must be for recreational use by the public and that it may include indoor facilities, such as gymnasiums and activity centers. The proposed facility will be available for public use. It is not proposed as a private club. There is no requirement that the facility be owned by the public, just that it be available for public use for recreation. The proposed facility will include indoor courts, which are similar in nature to the types of indoor facilities specifically listed in the definition. Thus, at least with respect to the construction of the facility itself, it falls clearly within the definition of a park.

In the RA zone, parks are a permitted use, subject to conditions, such as minimum setbacks, minimum lot sizes, and lighting requirements.

A second question is whether all of the proposed activities, in particular teaching tennis lessons, are included within the park use or are covered by a separate use category.

Parks with playfields or with other formal facilities, such as a basketball court, are often used for teaching as well as for pure recreational use. This can be either formal or informal, commercial or non-commercial. In addition, the impacts on neighboring property will not be significantly different, whether the facility is used for a game or for providing lessons. The impact will be mostly related to participants and fans coming to and leaving the facility and the actual game itself. Therefore, the use of park recreational facilities for activities related to the recreational purpose, such as teaching sports related activities, should be considered to be included in the use.

The same result would be reached if the teaching activities were considered to be a separate use. Under the Standard Industrial Classification system, non-membership tennis courts and sports instructional schools and camps are classified under SIC 7999, Amusement and Recreation Services, Not Elsewhere Classified. K.C.C. 21A.08.040 includes SIC 7999 as one of the listed uses. This SIC category is subject to Condition 14, which excludes from the category "amusement and recreational uses classified elsewhere in this chapter." SIC 7999 is a permitted use in the RA zone, subject to conditions 8 and 21 and a conditional use, subject to conditions 15 and 18.

The conditions that apply to SIC 7999 are written in a rather confusing fashion. The King County Hearing Examiner in his decision on a motion for summary judgment in Snoqualmie River Soccer Camp, issued on September 28, 2006, noted that a literal reading of the limitations would lead to the "bizarre outcome" that the only uses allowed in that category would be golf driving ranges. The Hearing Examiner's conclusion is correct. This provision should not be read to preclude all of the uses included in SIC 7999.

Since neither condition 8, 15, or 18 apply to this use, this means that the teaching of tennis lessons would be a permitted use in the RA zone.

The one possible use that might apply in this circumstance would be a specialized instruction school. These are defined in K.C.C. 21A.06.1200 as:

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.

The critical element of this definition is that these schools provide instruction in a "field of study." Tennis, baseball, soccer, and similar sports lessons are not a field of study as contemplated by this definition.

Therefore, since giving tennis lessons is not an activity defined elsewhere in the zoning code, the provisions of K.C.C. 21A.08.050 as they apply to Amusement and Recreation Services apply here.

Conclusion

A tennis activity center that will be open to the public is considered to be a park under K.C.C. 21A.06.835. In the RA zone, a park is a permitted use, with some conditions. Tennis lessons may be provided as a subsidiary activity to the park use. Tennis lessons are also covered by SIC 7999, amusement and recreation services. In the RA zone, with some exceptions not relevant here, amusement and recreation services are a permitted use.