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REGULATORY REVIEW COMMITTEE

- MINUTES -

MEETING DATE: April 22, 2015
Minutes finalized 5-12-15

TO: Jim Chan Molly Johnson
Wally Archuleta Chris Ricketts
Sheryl Lux Steve Roberge
Ty Peterson Steve Bottheim

John Starbard, Director
Randy Sandin, Product Line Manager, Resource and RRC Co-Chair
Devon Shannon, Prosecuting Attorney's Office

FM: Lisa Verner, Legislative Coordinator and RRC Co-Chair

Present: Chris Ricketts, Nancy Hopkins Goree, Devon Shannon, Lisa Verner, Sheryl Lux, Randy Sandin, Steve Roberge, Molly Johnson, and Wally Archuleta. Special guest Ivan Miller attended.

1. Under KCC 21A.20.050.B, what is the correct way to calculate sign area when a sign is affixed to the side elevation of a free standing "gas station"-type canopy structure?

Background

Nancy Goree brought the question to the RRC from a sign permit review (COMM15-004). Applicants want to place an advertising sign on a free standing canopy structure which is detached from the main business building. Gas pumps are located under the canopy. The site is zoned CB (Community Business). The CB zone allows wall signs provided they do not total an area more than 15% of the building façade on which they are located, per KCC 21A.20.100.A.

It was recently discovered that two different methods have been used by staff in calculating the allowed sign area when a sign is affixed to an open, free standing canopy like those used over gas pumps:

Method 1 used by PRC staff has been to take the entire area of the structure, height times width, from the finished grade up to the top of the canopy structure, including the open space between the ground and canopy.

Method 2 used by the PPM staff has been to take only the actual area of the canopy structure, height times width, not including the open area below.

In a previous RRC interpretation dated 1/9/1998, DPER concluded there was a need to do an administrative interpretation to provide a clear definition of how to measure sign area on a canopy. RRC members agreed it did not make logical sense to include the open area beneath the canopy in the sign area calculation. This just created an inflated sign area on which to base the maximum 15% sign area allowed.

Discussion

KCC 21A.06.125 Building. Building: any structure having a roof.

KCC 21A.06.140 Building facade. Building facade: that portion of any exterior elevation of a building extending from the grade of the building to the top of the parapet wall or eaves, for the entire width of the building elevation.

KCC 21A.06.1085 Sign. Sign: any device, structure, fixture, or placard that is visible from a public right-of-way or surrounding properties and uses graphics, symbols, or written copy for the purpose of advertising or identifying any establishment, product, goods, or service.

KCC 21A.06.1165 Sign, wall. Sign, wall: any sign painted on, or attached directly to and supported by, a building or structure; with the exposed face of the sign on a plane parallel to the portion of the building or structure to which it is attached; projecting no more than one foot from the building or structure; including window signs which are permanently attached.

KCC 21A.20.050 Sign area calculation.

B. Sign area for letters or symbols painted or mounted directly on walls or monument signs or on the sloping portion of a roof shall be calculated by measuring the smallest single rectangle which will enclose the combined letters and symbols.

KCC 21A.20.100 Community business and Industrial zone signs. Signs in the CB and I zones shall be limited as follows:

A. Wall signs are permitted, provided they do not total an area more than 15 percent of the building facade on which they are located;

Applying the definition of building façade, calculating the maximum area of a canopy sign in the CB zone would include the open area between the grade of the building and the canopy. There remains a need to clarify the terms “building canopy” and “building façade” when applied to canopy signs. This may necessitate a code change to define and distinguish canopy signs.

Conclusion

Because the current definition of “building façade” begins the sign area calculation at the “grade of the building,” otherwise known as the ground or ground-level, the conclusion is to include the open space beneath an open air, self-supporting canopy in the sign area calculation. The sign

area calculation includes from the bottom of the supports as they connect to the ground to the top of the parapet wall or eaves, and then across the width of the canopy or structure.

2. Does the definition of “utility facility” under KCC 21A.06.1350 encompass stormwater conveyances, ponds and/or vaults?

Background

Over the years there has been confusion about what types of stormwater facilities constitute “utility facilities.” Several RRC meetings have included discussions on these and related questions.

KCC 21A.06.1350 Utility facility. Utility facility: a facility for the distribution or transmission of services, including:

- A. Telephone exchanges;
- B. Water pipelines, pumping or treatment stations;
- C. Electrical substations;
- D. Water storage reservoirs or tanks;
- E. Municipal groundwater well-fields;
- F. Regional surface water flow control and water quality facilities;
- G. Natural gas pipelines, gate stations and limiting stations;
- H. Propane, compressed natural gas and liquefied natural gas storage tanks serving multiple lots or uses from which fuel is distributed directly to individual users;
- I. Wastewater pipelines, lift stations, pump stations, regulator stations or odor control facilities; and
- J. Communication cables, electrical wires and associated structural supports. (Ord. 15051 § 109, 2004; Ord. 10870 § 310, 1993).

Discussion

When two or more residential lots are served by a stormwater system, the system must ultimately be a public facility, the owners of the residential lots must pay the County’s stormwater fee, and King County maintains the system. Public stormwater systems include conveyances, ponds and vaults.

The definition of “utility facility” does not specifically call out conveyances, ponds or vaults. However, these are typical ways stormwater is handled. Conveyances move the stormwater from one place to another; ponds and vaults hold the stormwater for periods of time either above ground or underground.

Conclusion

The definition of “utility facility” should be clarified in the next code amendment process to:

- A. Include conveyances, ponds, and vaults
- B. Include stormwater facilities that become part of the public system, pursuant to KCC Title 9 (Surface Water Management)

3. Does the pipe conveying surface and stormwater from Horseshoe Lake to the infiltration facility meet the definition in KCC 21A.06.1350 of “utility facility”?

Background

King County DNRP is working on a project that will construct a pipeline for the conveyance of flood water from Horseshoe Lake to an infiltration facility.

The pipeline will be a 12” diameter pressure line running approximately 4,000 linear feet to an infiltration facility at the location of a future proposed Regional Stormwater Facility as described in the Development Agreement between King County and BD Village Partners LP. This pipeline must traverse a wetland and the design hinges on whether or not the pipe is considered to be a utility. Horseshoe Lake is a ground water fed closed depression (Parcel - 346340TRCT owned by the Horseshoe Lake Subdivision Homeowner’s Association) located in Southeast King County, west of the City of Black Diamond. The water level of Horseshoe Lake has risen periodically to levels that threatened both public and private property and King County has performed temporary pumping actions since the 1990’s to limit damages. King County is undertaking this project to provide a long term solution to the recurring flooding threat.

Discussion

Based on the discussion of the previous item (Item 3), a conveyance structure is considered an integral part of a surface and stormwater system. It is part of a “regional surface water flow control and water quality facility.” (KCC 21A.06.1350)

Conclusion

The proposed Horseshoe Lake conveyance pipe is a “utility facility” per KCC 21A.06.1350.

4. Regarding allowed alterations, are the general impact avoidance provisions of KCC 21A.24.125 applicable in addition to specific avoidance criteria in the development conditions allowing for construction of private access roads across aquatic areas? (Part 1; Part 2 is Item 6 below)

Background

A potential buyer of property is seeking guidance about whether a private road crossing in an aquatic area, through a Class III stream and wetland, would be permissible as an allowed alteration under KCC 21A.24.045 where there is sufficient area to develop without crossing the stream.

Within Aquatic Areas, private road crossings are allowed subject to development condition 28 which includes the following:

KCC 21A.24.045. Allowed alterations.

A. Within the following seven critical areas and their buffers all alterations are allowed if the alteration complies with the development standards, impact avoidance and mitigation requirements and other applicable requirements established in this chapter:

1. Critical aquifer recharge area;

2. Coal mine hazard area;
3. Erosion hazard area;
4. Flood hazard area except in the severe channel migration hazard area;
5. Landslide hazard area under forty percent slope;
6. Seismic hazard area; and
7. Volcanic hazard areas.

B. Within the following seven critical areas and their buffers, unless allowed as an alteration exception under K.C.C. 21A.24.070, only the alterations on the table in subsection C. of this section are allowed if the alteration complies with conditions in subsection D. of this section and the development standards, impact avoidance and mitigation requirements and other applicable requirements established in this chapter:

1. Severe channel migration hazard area;
2. Landslide hazard area over forty percent slope;
3. Steep slope hazard area;
4. Wetland;
5. Aquatic area;
6. Wildlife habitat conservation area; and
7. Wildlife habitat network.

C. In the following table where an activity is included in more than one activity category, the numbered conditions applicable to the most specific description of the activity governs. Where more than one numbered condition appears for a listed activity, each of the relevant conditions specified for that activity within the given critical area applies. For alterations involving more than one critical area, compliance with the conditions applicable to each critical area is required.

<p>KEY Letter "A" in a cell means alteration is allowed</p> <p>A number in a cell means the corresponding numbered condition in subsection D. of this section applies</p> <p>"Wildlife area and network" column applies to both Wildlife Habitat Conservation Area and Wildlife Habitat Network</p>	L A N D S L I D E	O V E R 40% A N D	S T E P S L O P E	A N D B U F F E R	W E T L A N D	A Q U I C A R E S A N D M I T I G A T I O N	W I L D L I F E A R E A	A N D N E T W O R K	
ACTIVITY									
Construction of driveway or private access road	A 28	A 28	A 28	A 28	A 28	A 28			

D. The following alteration conditions apply:

28. Allowed only if:
 - a. an alternative access is not available;
 - b. impact to the critical area is minimized to the maximum extent practical including the use of walls to limit the amount of cut and fill necessary;
 - c. the risk associated with landslide and erosion is minimized;

- d. access is located where it is least subject to risk from channel migration; and
- e. construction occurs during approved periods for instream work.

KCC 21A.24.125 Avoiding impacts to critical areas.

A. An applicant for a development proposal or alteration, shall apply the following sequential measures, which appear in order of priority, to avoid impacts to critical areas and critical area buffers:

1. Avoiding the impact or hazard by not taking a certain action;
2. Minimizing the impact or hazard by:
 - a. limiting the degree or magnitude of the action with appropriate technology; or
 - b. taking affirmative steps, such as project redesign, relocation or timing;
3. Rectifying the impact to critical areas by repairing, rehabilitating or restoring the affected critical area or its buffer;
4. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;
5. Reducing or eliminating the impact or hazard over time by preservation or maintenance operations during the life of the development proposal or alteration;
6. Compensating for the adverse impact by enhancing critical areas and their buffers or creating substitute critical areas and their buffers; and
7. Monitoring the impact, hazard or success of required mitigation and taking remedial action.

Discussion

The RRC discussion found that, yes, a property owner is entitled to use his or her whole property, subject to site specific conditions. KCC 21A.24.045.B says development within Aquatic Areas is permitted if identified in Section C and if development conditions in Section D are followed. A private access road, therefore, would be allowed if it meets all five of the conditions in development condition 28.

KCC 21A.24.125 does not apply to this situation because there are site specific criteria dealing with avoidance and mitigation for road crossings in aquatic area. These more specific criteria trump the general criteria in KCC 21A.24.125.

Conclusion

Specific impact avoidance development conditions take precedent over general impact avoidance provisions in reviewing allowed alterations. The criteria of development condition 28 (KCC 21A.24.045.D.28) addresses a driveway crossing a stream in an Aquatic Area.

- 5. Regarding allowed alterations, are the general impact avoidance provisions of KCC 21A.24.125 applicable in addition to specific avoidance criteria in the development conditions allowing for construction of private access roads across aquatic areas? (Part 2; Part 1 is Item 5 above)**

Background

This time the questions involve a 160-acre undeveloped parcel and the property owner is proposing to split the development. The development at the lower elevation (an ADU) requires

two stream crossings and the development at the upper elevation (main house) requires an additional five stream crossings. The property has steep slopes, landslide hazard and other critical areas. There is an existing unimproved BPA road up to the higher elevation which already has seven stream crossings. The property owner may need to improve the road.

Discussion

As long as the property owner is using the existing road at the multiple stream crossings, there is no crossing issue. Development condition KCC 21A.24.045.D.28 applies to this situation and is applicable to improvements to the road at the crossings. While multiple crossings by a private access road are not ideal, if they meet development condition 28, they are permitted.

If the property owner needs an alteration exception, then he or she would have to look at alternative locations for the road and crossings.

Conclusion

Specific impact avoidance development conditions take precedent over general impact avoidance provisions in reviewing allowed alterations. The criteria of development condition 28 (KCC 21A.24.045.D.28) addresses a driveway crossing a stream in an Aquatic Area.

6. May the City of Covington use RA-5 zoned property located outside the UGA to serve as parking for a City park located inside the UGA?

Background

The City of Covington has been offered the opportunity to lease or purchase 3 to 3.5 acres of a parcel adjacent to its Covington Community Park by the property owner. He suggests using the property for parking for the park and using the existing 5,000 sf building for park equipment storage.

The City acknowledges it desperately needs additional parking for the park, which is a regional park with soccer fields. The park is on the edge of the city limits and highly used.

Discussion

The City is asking the County whether there is “anything in the KC Countywide Planning Policies that prohibits the city from purchasing a parcel of land outside the UGA and then developing it for park and/or park maintenance and storage purposes? Is there anything that would prohibit the city from leasing such property for the same purpose?”

The property is zoned RA-5 (Rural Area, minimum 5 acres) and “Parks” are a permitted use, subject to development condition 1 (KCC 21A.08.040.B.1):

B. Development conditions.

1. The following conditions and limitations shall apply, where appropriate:
 - a. No stadiums on sites less than ten acres;
 - b. Lighting for structures and fields shall be directed away from rural area and residential zones;

- c. Structures or service yards shall maintain a minimum distance of fifty feet from property lines adjoining rural area and residential zones, except for fences and mesh backstops;
- d. Facilities in the A zone shall be limited to trails and trailheads, including related accessory uses such as parking and sanitary facilities; and
- e. Overnight camping is allowed only in an approved campground.

In the RA-5 zone, “Public agency or utility yard” is a permitted use, subject to development condition 27 (KCC 21A.08.060.B.27):

B. Development conditions.

27.a. Utility yards only on sites with utility district offices; or

b. Public agency yards are limited to material storage for road maintenance facilities.

Ivan Miller suggested there are KCCP policies regarding avoiding things serving urban uses locating in the rural areas (Policy R-326).

Conclusion

It appears that a park and a park service yard on a RA-5 zoning site is permitted, subject to several conditions. However, a “Public agency yard” is permitted only for road maintenance facilities in this zone.

The overarching question is what is permitted by the King County Comprehensive Plan policies and the Countywide Planning Policies. This agenda item has been forwarded to the Office of Regional Planning for determination.