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Regulatory Review Committee (RRC) Minutes

Meeting Date: February 23, 2023
Minutes finalized: March 16, 2023

TO: Jim Chan, Division Director
Mark Rowe, Deputy Division Director
Jina Kim, Senior Deputy Prosecuting Attorney
Doug Dobkins, Single Family Residential Product Line Manager
Tom Campbell, Code Enforcement Product Line Manager
Ty Peterson, Commercial Product Line Manager
Chris Ricketts, Building Official and Fire Marshal
Scott Smith, Development Engineer

FM: Robin Proebsting, Legislative/Policy Analyst and RRC Chair

Attendees: Eric Beach (DNRP), Robin Proebsting, Mark Rowe, Jeri Breazeal, Jina Kim, Tom Campbell, Chris Ricketts

1. Concerning King County Code (K.C.C.)¹ 21A.08.030.B, the definition of rural area, and whether detached ADUs are allowed in the A zone.

Indexes

Subjects: accessory dwelling unit, rural area
Code: 21A.08.030.A and 21A.08.030.B.7

Background

Department of Natural Resources and Parks, Agriculture, Forestry and Incentives Unit (DNRP AFI) staff requested RRC review of a previous RRC conclusion from December 30, 2021. At this previous RRC meeting, the conclusion made at the time was that detached Accessory Dwelling Units (ADUs) were not allowed in the Agriculture Zone (A Zone). At the 2023 RRC meeting, the committee reached a different conclusion: That detached ADUs *are* allowed in the A-zone, subject to the limitations specified in the code, for the reasons described below.

¹ K.C.C. 21A.08 [\[LINK\]](#)

The question of whether detached ADUs would be allowed within the A Zone arose at the Dec. 30, 2021 RRC meeting. The minutes recount the history of previous relevant code and policy changes, beginning in 2012, when County staff discovered that the term “rural area” was being used inconsistently in the comprehensive plan and code. In some places, “rural area” was intended to include Natural Resource Lands (which, according to RCW 36.70A.060² encompass agricultural, forest, and mineral resource lands). In others, it referred to lands outside of urban areas and Natural Resource Lands.

To ensure consistency in the use of the term “rural area”, the County updated the code in 2016 to replace “rural area” with “the Rural Area or Natural Resource Lands” or just “Rural Area”, as appropriate. When reviewing ADU regulations in K.C.C. 21A.08.030³, County staff saw indicators that the reference to “rural lots” (the code language used at the time) was intended to refer only to the Rural Area and not Natural Resource Lands. Specifically referring to the language highlighted in green below, the RRC said in its Dec. 30, 2021 memo:

“The green “rural lot” language was updated to “rural area” to better align with the 2016 terminology changes; but the intent was not changed and it still only applies to the “Rural Area” geography and not Natural Resource Lands. [...] Therefore, the 2016 intent that the green language only allows lots within the Rural Area geography (and not A zoned lands in the APD) to have a detached ADU is still the case in the 2020 changes and as

2016 Code Changes	Post-2020/Current Code
7.a. Accessory dwelling units:	7.a. Accessory dwelling units are subject to the following standards:
(2) Only in the same building as the primary dwelling unit on:	(2) Only allowed in the same building as the primary dwelling unit, except that detached accessory dwelling units are allowed when there is no more than one primary dwelling unit on the lot , and the following conditions are met:
(a) an urban lot that is less than five thousand square feet in area;	(a) the lot must be three thousand two hundred square feet or greater if located in the urban area or a rural town; or
(b) except as otherwise provided in subsection B.7 a.(5) of this section, a rural lot that is less than the minimum lot size; or	(b) the lot must meet the minimum lot area for the applicable zone if located in the rural area but not in a rural town, except that if one transferable development right is purchased from the

the code currently sits.

Discussion

In 2023, the RRC arrived at a different conclusion. The use table in K.C.C. 21A.08.030.A lists Residential Accessory Uses, which include accessory dwelling units, as being a Permitted Use in

² RCW 36.70A.060 [\[LINK\]](#)

³ K.C.C. 21A.08 [\[LINK\]](#)

the A Zone, subject to the standards in K.C.C. 21A.08.030.B.7. This indicates that ADUs are allowed within at least a subset of Natural Resource Lands, since agricultural lands are one type of Natural Resource Land.

The RRC in 2023 also understands the green highlighted language in K.C.C. 21A.08.030.B.7 differently than the RRC did in 2021. K.C.C. 21A.08.030.B.7 lists standards for both attached and detached ADUs. K.C.C. 21A.08.030.B.7.2 says that “detached accessory dwelling units are allowed when there is no more than one primary dwelling unit on the lot, and the following conditions are met:... the lot must meet the minimum lot area for the applicable zone **if located in the rural area** but not in a rural town”.

Since “rural area” does not include Natural Resource Lands, given the 2016 code updates, the standard in K.C.C. 21A.08.030.B.7.2.b means that a lot does *not* need to meet the minimum lot area for the applicable zone (here, the A zone), because it is *not* located in the rural area. (Similarly, the standard in K.C.C. 21A.08.030.B.7.2.a does not apply, because it only applies to lots in the *urban area*, which also does not include Natural Resource Lands.)

The RRC also does not find any other standards in K.C.C. 21A.08.030.B.7 that prohibit detached ADUs from being on A zoned lands.

Further, K.C.C. 21A.04.030 provides additional policy support to the conclusion that detached ADUs are allowed in the A zone where it states:

“The purpose of the agricultural zone (A) is to preserve and protect irreplaceable and limited supplies of farmland.... These purposes are accomplished by:... 3. **Allowing for residential development primarily to house farm owners, on-site agricultural employees and their respective families.**”

Conclusion

Both attached and detached ADUs are allowed in A zone, including the APD, subject to the standards in K.C.C. 21A.08.030.B.7.

2. Request for Code Interpretation concerning the definition of “Self-Service storage”.

Indexes

Subjects: Self-service storage facility

Code: 21A.06.1050

This was the subject of Permitting Division Director’s interpretation CINT23-0001. The discussion and conclusion are included in that decision document and will not be repeated here.

3. Concerning home occupations and the use of garages and storage buildings

Indexes

Subjects: Home occupation

Code: 21A.06.610, 21A.30.085

Background

A property within the RA-5 zone contains a home occupation within an existing single-family residence. The property owner wishes to move an office that serves the home occupation from the residence to a garage/storage building. This raised the question of whether the garage/storage building can be used for an office, given the standards in K.C.C. 21A.30.085.

Discussion

K.C.C. 21A.30.085.A through B states:

21A.30.085 Home occupations in the A, F and RA zones. In the A, F and RA zones, residents of a dwelling unit may conduct one or more home occupations as accessory activities, under the following provisions:

A. The total floor area of the dwelling unit devoted to all home occupations shall not exceed twenty percent of the dwelling unit.

B. Areas within garages and storage buildings shall not be considered part of the dwelling unit and may be used for activities associated with the home occupation;

Areas within garages and storage buildings can be used for the business and the area limit does not apply. Does this mean that the use of said structures can be converted to office use for activities associated with the home occupation?

Given that K.C.C. 21A.30.085.A speaks to home occupations not exceeding 20% of the total floor area of the dwelling unit, this indicates that home occupation is a separate use that does not overlap with the residential dwelling use. That is, a given space within the existing single-family residence is used for either the home occupation or dwelling, but not both at the same time.

Additionally, garage and storage buildings are defined by their use—they are buildings used to store vehicles and/or objects, and not intended for occupancy. An office use would be a different use than storing vehicles and/or objects. If the “activities associated with the home occupation” as used in K.C.C. 21A.30.085.B were storing vehicles and/or objects, then the garages and storage buildings could be used to support the home occupation. Introducing a new, distinct use to support a home occupation to the garages and storage buildings would be inconsistent with the narrow exception allowed under K.C.C. 21A.30.085.B. It is key that the code does not say “all accessory buildings” may be used for activities associated with the home occupation—it specifies garages and storage buildings, which are not intended for occupancy. If office work is taking place in a garage—a building intended to store vehicles and/or objects—it ceases to be a garage use. The proposed conversion of a garage or storage building into an office space for activities associated with the home occupation therefore would not fall within the exception outlined in KCC 21A.30.085.B.

Conclusion

Garages and storage buildings *cannot* be converted to office use for activities associated with a home occupation as contemplated by KCC 21.30.085.A, because doing so would cause them to cease being garages and storage buildings, which by definition are buildings used to store vehicles and/or other objects—not engage in office work.