



King County
Department of Development
and Environmental Services
900 Oakesdale Avenue Southwest
Renton, WA 98055-1219

REGULATORY REVIEW COMMITTEE

- MINUTES -

MEETING DATE: February 13, 2003

TO: Building Services Division Staff
Chris Ricketts
Jim Chan
Pam Dhanapal
Ken Dinsmore
Stephanie Warden, Director
Jason King, Deputy Director
Harry Reinert, Special Projects Manager
Tim Barnes, Prosecuting Attorney's Office

Land Use Services Division Staff
Joe Miles
Greg Borba
Lisa Pringle

FM: Lisa Pringle, Co-Chair

Present: Lisa Pringle, Harry Reinert, Greg Borba, Jim Chan, Pam Dhanapal and Timothy Barnes

1. The code interpretation L02C1003 asked for an interpretation of K.C.C. 19A.08.180 (circumvention of zoning density prohibited).

Background

McKinley LLC filed preliminary short plat application (L02S0015) on May 31, 2002. The property subject to the application has been affected by several previous boundary line adjustments and a large lot segregation. The following is a brief description of the chronology:

- 1996 – a boundary line adjustment on a 157-acre parcel. The boundary line adjustment reconfigured and moved the boundaries of all of the existing lots, eleven of which were legally recognized prior to the boundary line adjustment. Lot L, the twelfth lot, was an 18-square-foot area that was given recognition in the boundary line adjustment and then moved from one side of the parcel to the other. As reconfigured, Lot L was approximately 67 acres. Current zoning on the lots created by the 1996 boundary line adjustment range from Forest to RA-10.
- 1997 – a large lot segregation, under K.C.C. 19.08.010 (since amended and recodified) created three lots out of Lot L, each exceeding 20 acres.

- 1998 – a boundary line adjustment moved the lines of the three lots created by the 1997 large lot segregation, resulting in two lots of under nine acres and one lot (Lot C) of slightly less than 50 acres.
- 2002 – application for a preliminary short plat of Lot C from the 1998 boundary line adjustment to create four lots. Current zoning on Lot C is RA-10.

By letter of June 19, 2002, DDES informed McKinley LLC that it had concluded prior boundary line adjustments had used the density in the vicinity of the proposed short subdivision. The Department's conclusion was that K.C.C. 19A.08.180 and K.C.C. 21A.12.070 - .080 allowed only two lots on Lot C.

Discussion

The Committee concurred with the discussion in the draft interpretation response:

"McKinley LLC believes that the phrase 'original boundary line adjustment' refers to the 1998 boundary line adjustment, since the lot proposed for subdivision was not created until the 1998 boundary line adjustment in 1998. Under this interpretation, the 1998 boundary line adjustment is the 'original' boundary line adjustment and the relevant evaluation of density would be for that lot. The rationale for this statement is that Lot L was created by the 1996 boundary line adjustment and the Lot C was not created until the 1998 boundary line adjustment.

The meaning of the phrases 'original boundary line adjustment' and 'original land segregation' are not clear on their face. The phrases could have either the meaning suggested by McKinley LLC in its November 27, 2002 letter requesting the code interpretation or the meaning McKinley suggested in the Holtzclaw letter of July 17, 2002. Because of the ambiguity presented by the text of K.C.C. 19A.08.180, an analysis of the language of the section as well as the intent of the section is helpful in its interpretation.

The term 'original' is not defined in Title 19A. Merriam-Webster On-line Dictionary defines "'original' as '**1**: of, relating to, or constituting an original or beginning: INITIAL <the *original* part of the house>.'" The word 'original' then has a meaning of going back to the beginning, to the starting point, to the initial event in a series of events. This would suggest that the phrases 'original boundary line adjustment' and 'original land segregation' are intended to go back to the beginning of the land segregation process affecting a lot, not just to the most recent event, as suggest by McKinley LLC in its code interpretation request.

This conclusion is buttressed by understanding one purpose of the 1999 amendments to King County's subdivision code that created K.C.C. Title 19A and the new restrictions on boundary line adjustments and land segregations. Prior to these changes, King County Code provisions governing boundary line adjustments were very limited. Because state law exempts boundary line adjustments from the subdivision process, property owners began using that process to move and create lots

in a way that avoided the subdivision process and undermined the County's density limitations. This practice had accelerated in the mid-1990s. As a result of these problems, the King County Council adopted the limitations on boundary line adjustments and adopted the limitations in K.C.C. 19A.08.180. (King County Ord. 13694). The Council's intent with respect to the density avoidance issue is clearly expressed by its direction that subsequent land segregations are not allowed if they will "exceed the density allowed under current zoning." (K.C.C. 19A.08.180)

At the same time it adopted K.C.C. 19A.08.180, the Council also adopted a similar provision governing short subdivisions. K.C.C. 19A.12.050 provides that a property owner may not within five years after a short subdivision apply for another short subdivision that would create more than four lots on the 'original short plat boundary.'

Applying McKinley LLC's interpretation of 19A.08.180 could result in violating the intent of the section that sequential boundary line adjustments and land segregations not result in exceeding the current zoning density. This is clearly apparent by applying this interpretation to 19A.12.050, which contains a similar phrase 'original short plat boundary'.

Conclusion

The Committee concurred with the conclusions in the draft interpretation response – to evaluate whether too many lots are created. K.C.C. 19A.08.180 requires an examination of the original boundary line adjustment or the original land segregation.

2. Code interpretation L02C1004 asked what is necessary to meet the requirements of K.C.C. 21A.06.030.B.7.a for an existing accessory dwelling unit.

Background

In 2001, Ms. Balyeat filed an application for a preliminary short subdivision (L01S0006). The property is zoned R-6. According to the site plan provided with the code interpretation request, there is an existing house, accessory dwelling unit, and garage on the property, all of which will be retained and would be located on a single lot (Lot 1) of the proposed short subdivision. Lot 1 as proposed would be approximately 11,505 square feet. According to the property owner, the accessory dwelling unit has been in existence since at least 1985, although no building permit can be found, at least going back to 1980.

On January 18, 2002, DDES issued its findings and conditions of approval of the proposed short subdivision. DDES found that the proposed short subdivision "conforms to the applicable development standards" of the King County Code. Condition of Approval 7.A. required the applicant, prior to recording the final short subdivision map, to meet "all applicable requirements of K.C.C. 21A.06.030.B.7.a for the existing accessory dwelling unit."

Discussion

The Committee concurred with the discussion in the draft interpretation response and further discussed whether the accessory dwelling unit is a legal use, and if not, how to get it legalized.

Conclusion

The Committee concurred with the conclusions in the interpretation response – that the property owner must demonstrate that the short subdivision conforms with the conditions of the approval, which may require demonstration that an accessory dwelling unit conforms with code.