



King County

Department of Development and Environmental Services

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REGULATORY REVIEW COMMITTEE

- MINUTES -

MEETING DATE: March 22, 2007

TO: Building Services Division Staff
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Stephanie Warden, Director
Harry Reinert, Special Projects Manager and RRC Co-Chair
Cass Newell, Prosecuting Attorney's Office

FM: Harry Reinert, Co-Chair

Present: Randy Sandin, Chris Ricketts, Deidre Andrus, Steve Bottheim, John Briggs, Rod Brandon, Paul Reitenbach, and Harry Reinert

- 1. King County's Department of Transportation Roads Maintenance Division currently operates a facility located on RA-5 zoned property. May the activities conducted on that site be relocated to other RA-5 or RA-10 zoned properties that are also located over either Category I or II critical areas?**

Background

A developer has approached King County Department of Transportation (KCDOT) seeking to swap two parcels of RA zoned land for the one parcel currently used by KCDOT for its road maintenance operations. Parcel A is 30 acres, zoned RA-5, and is entirely within a Category I Critical Aquifer Recharge Area. Parcel B is 151 acres, zoned RA-10 and mostly within a Category I CARA. A small portion of Parcel B is shown being within a CARA II and approximately 15 acres is shown as being outside of any CARA.

KCDOT operates its road maintenance facility on RA-5 zoned land. The following activities have been identified as being carried out on the existing site and are proposed to be relocated to the two properties under review:

A. Separation of vactor wastes into solids and liquids and decant station. KCDOT separates vactor wastes into solids and liquids.

B. Bioremediation of street wastes and vactor wastes – the Street Waste Alternative Program (SWAP). KCDOT uses bioremediation to remove hydrocarbons from its street wastes and vactor wastes.

C. Construction waste recycling (Construction Recycling of Waste Program – CROW). KCDOT sorts and recycles road maintenance construction waste, which includes asphalt concrete, fill, street sweepings, and brush.

D. Fill using bioremediated vactor waste. Vactor wastes treated through SWAP may meet the definition of clean fill and, if so, would be used as fill on the property.

E. Salt, deicer, and hazardous waste temporary storage. KCDOT stores salt and chemical deicer for use on county roads. It also generates small amounts of hazardous waste, for example paint cans used in its operations or roadside debris, that it stores for ultimate disposal at an appropriate hazardous disposal waste disposal site.

Discussion

Critical Aquifer Recharge Areas (CARAs) are a type of critical area governed by K.C.C. Chapter 21A.24. They are categorized into three different types, with Category I being the most sensitive and therefore needing the most protection, and Category III being less sensitive and therefore requiring less protection.

For some types of critical areas, e.g. streams and wetlands, only specifically identified activities are allowed in critical areas and their buffers. K.C.C. 21A.24.045B. For CARAs and most of the geological hazard areas, alterations to the critical area are allowed unless specifically prohibited. K.C.C. 21A.24.045A.

K.C.C. 21A.24.311 through .316 govern CARAs. The development standards are set forth in K.C.C. 21A.24.316. As a starting point, activities are prohibited for a site that is located in one of the CARAs. A site is defined 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." K.C.C. 21A.06.1170. This means that if any part of a parcel is within a CARA, the entire parcel – or if multiple parcels are being used as part of a single development, then all of the parcels – is considered to be within the CARA. For sites over 20 acres, prohibited activities may be allowed if the applicant produces a critical area study that demonstrates that a portion of the property is not located within a CARA and that the development proposal will not cause significant adverse environmental impacts. K.C.C. 21A.24.316H.

At least one of the parcels under consideration in this case, is shown as being located over two different categories of CARA. K.C.C. 21A.24.020D provides that " when the provisions of this chapter are in conflict, the provision that provides more protection to environmentally critical areas apply." Therefore, where a single parcel is located over two different CARAs, the more

restrictive standards would apply. In this circumstance, this would mean that the entire property would be assumed to be in a Category I CARA.

A. Separation of Vector Wastes. K.C.C. 21A.24.316 does not specifically identify storage or treatment of vector wastes as a prohibited activity in any CARA. Vector wastes are defined as a "special waste" under K.C.C. Chapter 10.04. For purposes of K.C.C. 21A.24.316 they should be considered to be hazardous wastes. The closest activity described in K.C.C. 21A.24.316A relates to storage tanks for hazardous substances. Above ground storage tanks are required to have primary and secondary containment and a spill protection plan. K.C.C. 21A.24.316A.8. If the vector waste decant station meets these requirements, it would be allowed over a Category I CARA.

A Vector Waste Receiving Facility is defined as "a facility where vector waste is brought for treatment and storage prior to final disposal." K.C.C. 21A.06.1353. The decant station meets this definition. Vector waste receiving facilities are a permitted use in RA zones, subject to condition 18. K.C.C. 21A.08.060A. Condition 18 limits the facility to an "an accessory use to a public agency or utility yard, or to a transfer station."

A public agency or utility yard is "a facility for open or enclosed storage, repair, and maintenance of vehicles, equipment, or related materials, excluding document storage." In the RA zone, a public agency or utility yard is a permitted use, subject to condition 27. K.C.C. 21A.24.060A. Condition 27 provides:

- 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.

Condition 27.b. would apply to a King County roads maintenance facility. If Roads Maintenance established a public agency yard on a RA-zoned property, subject to the limitation in Condition 27.b., a vector waste receiving facility would be permitted as an accessory use.

B. Bioremediation of wastes. K.C.C. 21A.24.316 does not specifically address bioremediation of wastes. As with the handling of vector wastes, if the wastes are considered to be hazardous waste, the same analysis with respect to the handling of vector waste would apply to the bioremediation activities.

K.C.C. 21A.06.1185 defines a soil recycling facility as "an establishment engaged in the collection, storage and treatment of contaminated soils to remove and reuse organic contaminants." This definition appears to fit the description of the SWAP activity. Soil recycling facilities are allowed in the RA zone as a special use. K.C.C. 21A.08.100.

C. Construction waste recycling. Unless hazardous wastes are involved, construction waste recycling is not prohibited in any of the CARAs. To the extent that hazardous wastes are involved, the same standards that apply to separation of vector wastes would also apply.

A materials processing facility is defined as "a site or establishment ... that is primarily engaged in crushing, grinding, pulverizing or otherwise preparing earth materials, vegetation, organic waste, construction and demolition materials or source separated organic materials and that is not the final disposal site." K.C.C. 21A.06.742. Materials processing facilities are not a permitted use in the RA zone. K.C.C. 21A.08.080. Therefore, if the construction waste recycling activity meets the definition of materials processing, it would not be allowed in the RA zone.

An interim recycling facility is defined as

a site or establishment engaged in collection or treatment of recyclable materials, which is not the final disposal site, and including:

- A. Drop boxes;
- B. Collection, separation and shipment of glass, metal, paper or other recyclables.

K.C.C. 21A.06.640. Interim waste recycling facilities are a permitted use in the RA zone, subject to Condition 21. K.C.C. 21A.08.050A. Condition 21 limits interim recycling facilities to drop boxes accessory to a public use, such as a school, fire station, or community center.

A public agency or utility yard is defined as "a facility for open or enclosed storage, repair, and maintenance of vehicles, equipment, or related materials." K.C.C. 21A.06.935. If the construction waste recycling is merely the temporary storage of materials recovered from road construction projects and does not involve any process, the construction waste recycling could be construed to fit within types of activities that are allowed in a public agency yard. As discussed with respect to the vector waste decant issue, in the RA zone, public utility yards are limited to material storage for road maintenance facilities. Without knowing more about the nature of the construction waste recycling activity, it is not possible to determine which of the above fits the proposed activity.

D. Fill using bio-remediated wastes. K.C.C. 21A.24.316 does not prohibit fill within any class of CARA. As long as the bioremediated wastes meet the standards for fill in K.C.C. 16.82.100, nothing would prohibit its use in any category of CARA.

Fill is not a use governed by K.C.C. Chapter 21A.08 and would not be prohibited in the RA zone.

E. Salt, Deicer, and Hazardous Waste Storage. To the extent that any of these activities involve the same issues as the handling of vector wastes, the discussion with respect to vector waste decant facilities would apply here. There would appear to be no general prohibition on storing these materials in any category CARA as long as appropriate measures are taken to ensure that the groundwater is not contaminated.

These activities also present no specific zoning code issues. Salt and deicer storage are the type of activity allowed in a public agency yard in a RA zone. The type of hazardous waste generated would also appear to fall within that category.

Conclusion

The types of activities described as taking place in the King County Road Maintenance Facility would all appear to be allowable over a Category I CARA. In some instances, for example handling of hazardous wastes, appropriate measures are required to ensure that there is no contamination of the groundwater.

With respect to whether these activities are allowed in the RA zone, the answer differs for the different activities.

A. Vector waste receiving facility. This activity is a permitted use in the RA zone if it is accessory to a public agency yard. In the RA Zone, a public agency yard is limited to storage of materials related to road maintenance activities.

B. Bio-remediation of street wastes. This activity is a permitted use in the RA zone as a soil recycling facility, which requires a special use permit.

C. Construction waste recycling. Depending on the nature of the activity, this use might not be allowed in the RA zone. If it involves processing materials or collection of materials other than those generated by roads maintenance activities, it would not be a permitted use in the RA zone. If it is merely the temporary storage of materials that are eventually disposed of in an appropriate manner, it would be a permitted activity within the overall activity of a public agency yard.

D. Bio-remediated fill. This activity is not regulated as a use. However, the fill must conform to the requirements of K.C.C. 16.82.100.

E. Salt, deicer, and hazardous waste storage. As described, these activities would all fall within the allowed activities within a public agency yard as allowed within the RA zone.