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FINAL CODE INTERPRETATION
L07CI004

Background

By letter of November 29, Mr. William Harper filed a code interpretation request asking for an interpretation of K.C.C. 21A.30.080 and 21A.30.085. The request is raised in the context of Code Enforcement Case E0700284 which is under investigation by the Department of Development and Environmental Services. The property involved in this case is zoned RA-10.

Mr. Harper's request involves two separate, but related questions:

> Under K.C.C. 21A.30.080 and 21A.30.085, may a resident of a dwelling rent or lease portions of the property to non-residents for the purpose of allowing those individuals:
> 1. To operate businesses or to fabricate or warehouse materials?
> 2. To use the space to self-store boats, RV's, and other vehicles?

Mr. Harper references two prior decisions of the Hearing Examiner, one involving the same property. The two cases are E9600058 and E0600348.

These questions are analyzed below.

Discussion

Business and commercial activity is generally limited in the RA zones. Those activities that are allowed are often subject to conditions and may require a conditional use permit. However, business activities that are otherwise not allowed may be permitted as a home occupation.

A home occupation is defined as "a limited-scale service or fabrication activity undertaken for financial gain, which occurs in a dwelling unit or accessory building and is subordinate to the primary use of the site as a residence." K.C.C. 21A.06.610. Home occupations are a permitted use in all zones except for Mineral (M) and Industrial (I). K.C.C. 21A.08.030.

K.C.C. 21A.30.080 and 21A.30.085 establish the standards for home occupations. K.C.C. 21A.30.080 applies to the urban residential zones R and UR. K.C.C. 21A.30.085 applies to property zoned RA, F, and A. Since the property at issue in this case is zoned RA-10, this code interpretation is limited to the provisions of K.C.C. 21A.30.085.

Under K.C.C. 21A.30.085, a resident of a dwelling unit on a site zoned RA, F, or A may conduct a home occupation subject to the following conditions:

- No more than 20% of the dwelling unit may be dedicated to the home occupation. Other buildings on the site may also be used "for activities associated with the home occupation." K.C.C. 21A.30.085A[1].

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[1] K.C.C. 21A.30.085 reads as follows:

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 devoted to all home occupations shall not exceed twenty percent of the dwelling unit. 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;

B. Total outdoor area of all home occupations shall be permitted as follows:

1. For any lot less than one acre: Four hundred forty square feet; and
2. For lots one acre or greater: One percent of the area of the lot, up to a maximum of five thousand square feet.

C. Outdoor storage areas and parking areas related to home occupations shall be:

1. No less than twenty-five feet from any property line; and
2. Screened along the portions of such areas that can be seen from an adjacent parcel or roadway by the:
   a. planting of Type II landscape buffering; or
   b. use of existing vegetation which meets or can be augmented with additional plantings to meet the intent of Type II landscaping.

D. A home occupation or occupations is not limited in the number of employees that remain off-site. Regardless of the number of home occupations, the number of nonresident employees is limited to no more than three who work on-site and no more than three who report to the site but primarily provide services off-site.

E. In addition to activities allowed as home occupations by K.C.C. 21A.30.080, the following activities are permitted:

1. Automobile, truck and heavy equipment repair;
2. Autobody work or painting;
3. Parking and storage of heavy equipment; and
4. Storage of building materials for use on other properties;

F. In addition to required parking for the dwelling unit, on-site parking is provided as follows:

1. One stall for each nonresident employed on-site; and
2. One stall for patrons when services are rendered on-site;

G. Sales are limited to:

1. Mail order sales;
2. Telephone, Internet or other electronic commerce sales with off-site delivery;
3. Items accessory to a service provided to patrons who receive services on the premises; and
4. Items grown, produced or fabricated on-site;

H. The home occupation or occupations do not use electrical or mechanical equipment that results in:

1. A change to the occupancy type of the structure or structures used for the home occupation or occupations;
2. Visual or audible interference in radio or television receivers, or electronic equipment located off-premises; or
3. Fluctuations in line voltage off-premises;

I. Uses not allowed as home occupation may be allowed as a home industry under K.C.C. chapter 21A.30; and

J. The home occupation or occupations may use or store vehicles, as follows:

1. The total number of vehicles for all home occupations shall be:
   a. for any lot five acres or less: two;
   b. for lots greater than five acres: three; and
   c. for lots greater than ten acres: four;

- Up to 5,000 square feet of the property may be used for outdoor storage, subject to requirements for landscaping and minimum setbacks from adjoining properties. K.C.C. 21A.30.085B. and C.
- There are limits on the number of employees who report to the site. K.C.C. 21A.30.085D.
- Four activities are specifically allowed. These include auto repair, autobody work and painting, parking and storage of heavy equipment, and storage of building materials for use on other properties. K.C.C. 21A.30.085E.
- Parking requirements for customers and employees are established. K.C.C. 21A.30.085F.
- Sales are limited to offsite sales through telephone or internet orders delivered offsite or for items grown, produced, or fabricated on site. K.C.C. 21A.30.085G.
- Activities that use mechanical or electrical equipment that require structural changes or affect television or radio signals are prohibited. K.C.C. 21A.30.085H.
- On site storage of vehicles used in the home occupation are limited based on the size of the lot. K.C.C. 21A.30.085J.

K.C.C. 21A.30.085 does not prohibit any specific activities. This is in contrast to K.C.C. 21A.30.080 which applies to the urban residential zones, which specifically prohibits auto repair, auto body work, storage of heavy equipment, and storage of building materials as a home occupation.

The provisions governing home occupations were revised in both 2004 and 2006. Prior to the amendments in 2004, the total area devoted to a home occupation was limited to 20 % of the floor area of the dwelling unit. This included outdoor storage areas. In 2004, K.C.C. 21A.08.080 was amended to allow up to one percent of the site to be used for outdoor storage, up to a maximum of 5,000 square feet, in the RA, A, and F zones. The amendments to the home occupation provisions were amended further in 2006, removing any limits on the use of accessory buildings for activities related to the home occupation. Outdoor storage was not generally allowed under the code as it existed in 1996.

Mr. Harper suggests that two prior Hearing Examiner decisions involving home occupations are relevant for this discussion. The earlier decision dates from 1996. The Hearing Examiner's decision in E9600284 included a discussing of whether outdoor storage is allowed as part of a home occupation. Since that decision, the relevant provisions of the King County Code have been amended. The Hearing Examiner's discussion of the issue in that decision is no longer relevant.

The other case, E0600058, dates from 2006. Two factors are relevant here. First, the 2006 amendments to K.C.C. 21A.30.080, which expanded the options for home occupations were not

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2. The vehicles are not stored within any required setback areas of the lot or on adjacent streets; and

3. The parking area for the vehicles shall not be considered part of the outdoor storage area provided for in subsection C. of this section.

adopted by the County Council until late that year, after the case was decided by the Hearing Examiner. Second, the Hearing Examiner's decision makes it clear that the appellant in that case did not claim that the business was being operated as a home occupation. As a result, the Hearing Examiner's decision in that case is also not relevant to an interpretation of K.C.C. 21A.30.080 and 21A.30.085.

With this background, Mr. Harper's questions can be considered.

1. May a resident rent or lease property to a non-resident to conduct a business or to fabricate or warehouse materials?
If the business activity is allowed in the zone under K.C.C. Chapter 21A.08, then a resident may rent or lease RA, F, or A zoned property to a non-resident to conduct a business. For example, under K.C.C. 21A.08.050, a day care for less than twelve children is a permitted use in the RA zone as a residential accessory use. In this case, the resident could allow a non-resident to operate a day care. However, if the business activity is not allowed under K.C.C. Chapter 21A.08, then the only a resident may operate the business activity as a home occupation and the resident may not rent or lease the property to a non-resident for the purpose of conducting that business activity as a home occupation. Only residents of a dwelling unit may conduct a home occupation. K.C.C. 21A.08.085

2. May a resident rent or lease property to a non-resident to use such space to self-store boats, RV's or other vehicles?
Self storage facilities are not a permitted use in the RA, F, or A zones. K.C.C. 21A.08.060. However, a resident may operate a self-storage business as a home occupation, subject to the conditions in K.C.C. 21A.30.085, including the limits on the area for outdoor storage and setbacks. K.C.C. 21A.30.085A. and B. allow the use of accessory structures for activities related to the home occupation and allow up to 5,000 square feet for outdoor storage. In addition, parking and storage of heavy equipment is specifically allowed as a home occupation. K.C.C. 21A.30.085E.3. The home occupation must also comply with all other relevant zoning code provisions, such as impervious surface limits in K.C.C. Chapter 21A.12 and critical area protections in K.C.C. Chapter 21A.24.

Decision
Under K.C.C. 21A.08.085, in the RA, A, and F zones, only a resident of a dwelling unit may conduct a home occupation. In these zones, a resident may not rent out rooms, buildings, or portions of a building or property to others so that they may conduct a home occupation. However, a resident of a dwelling unit may rent or lease space to others for the self-storage of vehicles, boats, or other materials, subject to compliance with the requirements of K.C.C. 21A.30.085 and other requirements of the King County Code, including K.C.C. Chapters 21A.12 and 21A.24.

Appeal of Code Interpretations
This code interpretation relates to code enforcement case E0700348 which is pending before the department. Under K.C.C. 2.100.050, a code interpretation that is related to permit or code enforcement action that is pending before the Department is final when the Director makes the final decision on the underlying code enforcement action.

When the department makes its final decision on the underlying code enforcement case, this code interpretation may be appealed in the same manner as the underlying code enforcement action.

Stephanie Warden
Director
Development and Environmental Services

1/11/08
Date