King County
Department of Development and Environmental Services
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FINAL CODE INTERPRETATION
L10CI001

Background

By letter dated April 20, 2010, Ms. Jane Ryan Koler, on behalf of her client Pacific Topsoils, requested a code interpretation concerning whether the collection of yard waste in closed containers is a permitted use in the Rural Area (RA) zone. Pacific Topsoils wishes to operate a yard waste collection station at a property located along the Redmond-Fall City Road that houses the Gray Barn Nursery. The property is zoned RA.

The request relates to Code Enforcement Case E0900525.

Discussion

King County Code (K.C.C.) 21A.06.640 defines an interim recycling facility as follows:

> Interim recycling facility: 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. Chapter 21A.08 establishes permitted uses for the different zoning classifications in unincorporated King County. Interim recycling facilities are a permitted use in the RA zone, but are limited "to drop box facilities accessory to a public or community use such as a school, fire station or community center." K.C.C. 21A.08.050B.21.

The proposed use described in the code interpretation request would qualify as an interim recycling facility. Yard waste would be deposited in containers or on a covered concrete pad. The material would then be taken off-site for processing.

The code interpretation request states that "The King County zoning matrix does not provide for a property use which allows yard waste to be dropped off at a site zoned for rural use, stored in covered containers and moved off the site within 24 hours." Koler letter, page 2. This is not

correct. K.C.C. 21A.08 does allow this activity on RA zoned property, but requires that the use must be accessory to a public or community use. K.C.C. 21A.08.050B.21.

The code interpretation request makes a number of public policy arguments for why the use should be allowed in the RA zone. According to the request, the use would be consistent with the Washington State Solid Waste Handling Act, would encourage recycling, would not detract from rural character, would be consistent with rural levels of service, and would not create conflicts with agriculture or forest lands. The code interpretation request notes that other uses that are a more intensive use of the land are allowed in the RA zone. The request also notes that Pacific Topsoils needs to be able to make productive use of the Gray Barn site and that the economics of the nursery industry are such that it is difficult for a small, independent nursery to be financially viable without the ability to provide benefits that big box retailers are unable to provide, such as a site to drop off recyclable materials.

These are all reasons that might support an amendment to the King County Code to allow the proposed use on this type of site, but they are not sufficient to allow a use that the code does not allow.

Decision

Pacific Topsoils proposes to operate a facility that would collect yard waste as an accessory use to a nursery and ship the material to another site for processing. The nursery site is zoned RA. The proposed use meets the definition of an interim recycling facility. Interim recycling facilities are allowed in the RA zone only as an accessory use to a public or community use, such as a school, fire station or community center. The Gray Barn Nursery does not qualify as such a use, therefore an interim recycling facility is not allowed on the site.

The code interpretation request presents a number of public policy reasons for why the limitations should be reconsidered. However, those reasons cannot negate the fact that the King County Code does not allow this use under these circumstances at this time.

Finality of Code Interpretations

Under K.C.C. 2.100.040, a code interpretation that relates to a permit application or a code enforcement action is final when the department makes its decision on the underlying permit or code enforcement action. Under K.C.C. 2.100.050, the administrative appeal of a code interpretation that relates to a code enforcement case is consolidated with the appeal of the underlying code enforcement action. The Director determines that this code interpretation relates to Code Enforcement Case E0900525. Any appeal of this code interpretation shall be consolidated with an appeal of the Department's decision on Code Enforcement Case E0900525.

John Starbard
Director
Development and Environmental Services

06/28/10
Date