



INFORMAL DIRECTOR'S INTERPRETATION

Date: March 8, 2019

Location: Tax Parcel No. 332402-2-065-2005

Proposal: 'Rancho Storage Center' covered RV storage facility; applicable to Rural Commercial (RCO) setbacks for on-site development

Request: Director's Interpretation-Informal

Subject of Interpretation

Kitsap County Code (KCC) 17.410.050.A.12 reads:

All buildings and activities shall be set back a minimum of **fifty feet** in FRL, MRO, RW, RP, RR, **RCO**, RI or parks zones and thirty-five feet in all other zones **from a side or rear lot line...** (emphasis added)

However, KCC 17.420.054 lists the setbacks as "20 (ft), 50 (ft) when abutting residential zone". What constitutes reasonable setback requirements for this parcel is the subject of this interpretation.

Cause for Interpretation

This parcel-specific interpretation addresses differing setbacks, especially as they regard the mix of adjacent Rural Residential (RR) and RCO zones bordering the subject property. Specifically, it is the setbacks that are adjacent to RCO that are being addressed.

This interpretation is solely related to setbacks for the RCO zone as they exist in this circumstance and does not address the legalities under state law. Furthermore, this interpretation may not be construed as an authorization to circumvent or violate state or federal laws.

Background

This interpretation is prompted by a February 18, 2019 letter from Craig Baldwin, PE, WestSound Engineering, to DCD written on behalf of Kari Kaltenborn, of Rancho Storage Center, who has an option to buy the subject flag lot. The letter outlines that the difference between developability using a 50-ft setback requirement vs a 20-ft setback along the adjacent RCO properties results in a loss of about 20% of the available total building space. Using 50-ft setbacks all around also makes the approximately 250-ft-deep x 130-ft-wide 'approach' segment (fronting SE Mile Hill Dr) unusable, except for a 250-ft drive aisle into the site.



Zoning Map excerpt: RCO (Rural Commercial – brown) and RR (Rural Residential – green) NTS

Interpretation

KCC Title 17 *Zoning* guides development within Kitsap County. It discusses limitations of development, including setbacks and proximity of development between structures and property lines. However, the zoning code cannot conceive of every situation that may require adjustment, additional review or, as in this instance, a Director's Interpretation.

Setbacks are often meant to provide a 'buffer' between incompatible uses, which is why there is a minimum 50-ft setback between RCO structures and RR property lines. However, we must presume that uses within the RCO are compatible with each other, albeit occasionally through additional review (eg, Conditional Use Permits), or else they would not be listed in the same zone designation column within the zoning use table. When we consider that RCO uses on adjacent property must be, by strict application of code alone, a minimum of 100 ft apart, the director finds this unusual.

For the development proposal to reduce the setbacks to a minimum of 25 ft, DCD finds that an interpretation in Baldwin's favor is appropriate. Further, DCD finds that a minimum of 25 ft seems arbitrary when there is an allowance for a 20-ft setback in the density and dimensions table when not adjacent to residential uses. DCD would argue a 20-ft setback is the minimum standard that is supportable when:

1. The proposed development would not be injurious to the intent of KCC Title 17 *Zoning*;
2. The proposed development would not adversely impact the public health, safety and general welfare of the occupants of the RCO zone;

3. A reduction to a 20-ft setback would not create a greater intensity, density or generate more environmental impact than adjacent uses of the RCO zone; and
4. The interpretation would allow enjoyment of a substantial property right enjoyed by others in the same zone.

Conclusion

When considering the adjacency of and compatibility of uses within RCO zones, DCD will authorize a reduction of the minimum setback from 50 ft to 20 ft. The 50-ft setback requirement for portions of development shall be required where the property abuts a RR zone. DCD will propose this issue be considered for code adjustment at the next earliest opportunity.

Pursuant to KCC 21.04.290, these interpretations are neither subject to appeal nor binding on the department.



Author of the Interpretation
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Manager, DSE

March 8, 2019

Date



Approved By
Jim Bolger
Interim Director