

6/23 item 11
PEZ mtg 2009-0307

**BARBARA BENSON TESTIMONY – PHYSICAL ENVIRONMENT COMMITTEE
JUNE 23, 2009 AT 9:30 A.M. ORD # 2009-0307**

My name is Barb Benson and I'm the owner of Centennial Kennels which has operated in Maple Valley for over 40 years under a Conditional Use Permit from King County. I'm trying to clear up some issues that we've had with DDES since early 2006.

The first issue concerns signage. For decades we had a legal sign on the side of our main building. After the expansion of Hwy 18 in 2004, our sign was below the level of the raised highway and invisible to the public. We removed the sign from the side of the building and placed it on the roof, which was the only option that made it visible. Because county codes changed over the years, DDES claims that this move is not allowed. We ask that the code be amended to cover issues where businesses have been impacted through no fault or action of their own and allow signage of equal size and value to what was destroyed by public road projects.

The second issue concerns setbacks for kennel buildings and exercise areas. Our kennel license was granted in 1968 with a CUP that stated the entire property was approved for kennel purposes. In 1970 DDES granted the segregation of a building lot from the original property after the CUP was issued. Now DDES is saying the kennel buildings are too close to this lot and don't meet setback requirements. We are proposing an amendment that precludes lots created from the original property after a license is granted from affecting this license by excluding them from altering setbacks.

As the third issue, DDES believes our doggy day care fails to comply with a section of the code adopted in 2007 that relates to 'kennel free boarding and daycare.' Because we predate the effective date of the changes, we feel that our daycare facility is covered under our current CUP. Kennel free boarding is defined by the industry as day **and** overnight care where the dogs are not confined at night like they are in traditional kennels. Our daycare is for day use only and houses no dogs at all after closing hours. DDES does not distinguish between the two different uses. We need wording in the code to clarify the difference between kennel-free boarding and daycare. In addition, setbacks should be measured from public road centerlines, especially where neighboring lots are on the other side of such roads from kennels.

Kennels provide a valuable and necessary service in King County. As a small business we employ between 12-18 people year-round. We work with local rescue groups and shelters to provide temporary housing for animals in need. We can provide assistance where the County may wish to discontinue publicly funded animal shelters. The changes that DDES demands from us will cost up to \$20,000 with no guarantee of satisfying their requirements and puts our entire business at risk. Many hundreds of pet-owning families depend on us to care for their pets when they can't. Please consider these few narrow changes that will help us continue to serve the animal and human population of King County.

Thank you.

PS - I have attached to this statement information that explains the issues, our concerns and the proposed code changes in more detail.

ERRATA FOR PROPOSED ORDINANCE 2009-0307
KENNELS AND SIGNS
JUNE 23, 2009 AT 9:30 AM

AMEND Section 4, Paragraph (3)(a)(2) to read as follows: “Structures housing animals (i.e., boarded for day and overnight care where the dogs are confined in runs or caged areas as a traditional kennel) shall be a minimum of 100 feet from property lines abutting residential zones, as measured from the centerline of a public road or right-of-way where kennel property is separated from the nearest residential property;”.

AMEND Section 5, Paragraph (b) to read as follows: “buildings housing dogs for kennel-free dog boarding (i.e., boarded for day and overnight care where the dogs are not confined at night in runs as in traditional kennels) shall be no less than seventy-five feet from property lines, as measured from the centerline of a public road or right-of-way where kennel property is separated from the nearest residential property;”.

AMEND Section 5, Paragraph (g) to change the final word “and” from a strike-through ~~and~~ to an underlined and to denote an addition.

**BACKGROUND STATEMENT IN SUPPORT OF BARBARA BENSON TESTIMONY
PHYSICAL ENVIRONMENT COMMITTEE
JUNE 23, 2009 AT 9:30 AM**

Centennial Kennels started operations as a dog kennel in 1969 under its still valid Conditional Use Permit issued in 1968 which approved the entire 11.5 acre site for use as kennel operations. Over the years it has added cattery and dog daycare facilities which all serve a substantial population of unincorporated King County. In 1970 about ¼ of an acre was segregated by the original owner with King County approval to create a separate tax parcel on which to construct their personal residence, and in 2003 about 4 acres were condemned by the State for expansion of SR 18. Because of these two events, the size of the kennel property has been reduced to about 6.5 acres, one of the kennel buildings is actually located on abutting property lines, and the south bound lanes of SR 18 travel high above the ground on an elevated section passing within 20 feet of buildings and 10 feet of the property line. This retaining wall, some 18 feet in height, totally obscured the signage advertising the kennel operations that had been on what is still referred to as the barn wall since the early 1980s, having been moved there from signage along SR 18 originally located in the early 1970s with the State's approval. The State condemned the land but no compensation was made for destruction of the business operating assets, including the signage. In order to revive this valuable business asset, the signage was moved in the exact same size and content to the roof of the barn to retain its utility and value. In 2005 a structure was built in the vicinity of the 1970 segregated tax parcel intended for use in a dog daycare operation with dogs dropped off in the morning and picked up each evening and no overnight boarding. Operation of the daycare was commenced prior to the effective date of the 2007 Code amendments relating to such facilities, but that fact appears meaningless to DDES. The foregoing is a brief but vital background for the reasons Centennial is asking for legislative help, as a legislative fix avoids costly and time consuming litigation. (A summary of the initial proposed changes follows.) The existing King County Code has put Centennial under the DDES microscope and puts it in immediate jeopardy of very substantial sanctions or corrective actions because, under the current Code language and the manner in which such is being construed, it appears that the daycare building is too close to the segregated tax parcel, other buildings are too close to property lines even though such lines are at the edge of public roadways or a result of prior County approved segregation, and DDES has asserted that Centennial has no right to place its signage on the barn roof even though such would be outright permitted in other zones. Centennial's circumstances do not fit the rigid criteria for a variance, it has gone through a code interpretation, and there is now a lawsuit and code enforcement action on hold pending legislative relief. In light of all this hanging over its head, Centennial suggested certain changes to the Code that were reviewed and modified further by your very capable staff into the final proposed form that is now before you for consideration and hopefully concurrence. Centennial wishes to work with this Committee to create a workable, reasonable and appropriate solution under the Code to the issues it has raised and that face this small business. Ambiguities can be clarified and blanket prohibitions can be tempered. Issues that have been raised are certainly not unique to only Centennial and should be addressed under the clear written Code rather than on a case-by-case basis by code enforcement or interpretation, which subject businesses such as Centennial's to substantial and unnecessary costs and uncertainty as to outcome. Although a petition with signatures of Centennial's patrons showing you the deep well of support for its operations could have been added to this background, Centennial has instead chosen to append statements by former owners as well as a letter from its nearest neighbor/new owner of the segregated parcel saying to you that they have no moral or legal issue with the Centennial operations, its signage and proximity to their property. Centennial welcomes you to visit its facilities at any time and its staff is available to meet with you at any place and at any time to work together on this matter.

Mr. Rhys Stirling
PO Box 218
Hobart, WA 98025

11 August 2006

Subject: Centennial Kennels under our ownership

First a brief history. We had previous offers to sell Centennial Kennels which had proven to not work out satisfactorily. We had decided not to place the kennel on the market again. We were contacted by then Barbara Martineau about selling the kennel. Albert Martineau's parents had been customers of the kennel for a period of time & were very nice people. Based on that, we entered into negotiations with the Martineau's & their partner, the McKinnon's to sell the kennel. Note that the partnership between the Martineau's & the McKinnon's was dissolved approximately one year later. This culminated in an earnest money agreement & eventual sale.

One of the conditions of the earnest money agreement was that all Escrow Money's were to be deposited in escrow 10 days prior to closing. This did not happen until the day of closing & consequentially there was considerable confusion on the day of move-out, they were moving in the same door we were moving out. Additionally, they had verbally agreed to our continuing to receive Centennial Kennel mail so we could sort the boarding business from the breeding business. That agreement was broken on Day 1 so we missed mail that did pertain to the kennel breeding business.

When we started the kennel the requirements for a Conditional Use Permit for a boarding kennel were minimum 5 Acres & 150 foot setback from neighboring properties. The county waived that requirement relative to Highway 18 to 75 feet. We could locate the kennels anywhere on the property as long as those requirements were met. All other buildings were subject to applicable King County building codes at the time. The only portion of the Conditional Use Permit we hadn't met at the time of sale was the installation of a solid fence around the kennels.

When we closed the sale all applicable Permitting, Plans & Zoning regulations at the time were passed to the partnership. All other permits that they did not receive were left hanging in the specific buildings they pertained to. The only thing that was not part of the sale was the Water Right on the existing well which should be still registered in our name as Owners.


The barn & office (with Cattery) were built in the early 70's. The barn as an original building by Cenex from Auburn & the Office as a remodel of a small shed with added space, Electrical & Plumbing by Guinn Construction. Both were permitted by King County. I would note the picture in the paper shows more barn than existed at the time of sale. We had originally planned the barn to be 40 feet from SR 18 but the King County required 75 feet minimum which actually worked out better.

The metal building East of the Office Building was built in the early 1980's by Hansen Construction, who are out of business. Again, this was built with a King County permit.

The original 20 kennels & the 24 kennels were built in 1969 & the early 1970's. There was no permit required as the Roof was fastened to the welded pipe with Plumber's tape. When I was informed of the no permit requirement by the King County Inspector I checked no further.

When the kennel started we put up a 5' x 9' sign advertising the kennel's services close to the SE corner of the property within 10 feet of the property line with SR 18. Due to Lady Bird Johnson's Highway Beautification Act the State of WA objected to the sign but had no legal recourse. We had numerous visits from the sign person for the State. When the sign blew over in a windstorm we again received a visit from them telling us that the sign could not be reinstalled, if we attempted to do so the State would take legal action. We then put Styrofoam letters on the East outside wall of the barn. The State told us this was acceptable as long as we stated our business name & services offered. It would not be acceptable to place our phone number or address on the barn's wall.

This is the best we can recall without going through other records, which would take considerable time. I hope it is helpful.



Marvin Sundstrom

CC: File

STATE OF WASHINGTON)
) ss. DECLARATION OF ALBERT J. MARTINEAU
COUNTY OF KING)

ALBERT J. MARTINEAU hereby says and states under penalty of perjury:

1. I am over the age of 21 and I am competent to testify regarding the matters herein described. I make this declaration on my own personal knowledge.

2. My current residence and mailing address is 21040 236th Avenue SE, Maple Valley, WA 98038 (King County Tax Parcel # 1022069131).

3. In 1989 I and my then wife, Barbara Benson, purchased as part of a partnership with the McKinnons, Centennial Kennels (established and operating under and pursuant to Conditional Use Permit, # BA 68-10) and all real property associated therewith, at that time a total of 11.48 acres, from Marvin R. Sundstrom and his wife. The street address of the adjoining Centennial Kennels property is 21120 236th Avenue SE, Maple Valley, WA 98038 (King County Tax Parcel # 1022069112).

4. After our purchase we moved into the home built in the early 1970's by the Sundstroms on that separate tax lot of 0.76 acres segregated from the original 11.48 acre Centennial Kennels property on approval of King County, with full knowledge and acceptance of the fact that such residential property boundary was well within 150 feet of the kennel buildings on the Centennial Kennels parcel.

5. At the time of purchase, there was a large letter sign advertising Centennial Kennels affixed to the south side of the barn facing SR 18.

6. In 1993 Ms. Benson and I were divorced and as part of the agreed settlement, as further amended in 1998, I received the 0.76 acre parcel and Ms. Benson received the Centennial Kennels parcel.

DECLARATION OF ALBERT
J. MARTINEAU
-- PAGE 1 OF 2

7. I have carefully searched my personal files and records and have found no further documents regarding or relating to our purchase of, or the approved operation of, Centennial Kennels.

8. During my co-ownership of Centennial Kennels, although King County animal control personnel conducted periodic inspections of the facilities, including one joint investigation with the King County building department of a complaint during the period 1989 - 1990 regarding the kennel operation, I was not aware at any time that King County had any specific issues or problems regarding or relating to the placement and construction of, size, and use of any of the structures and/or buildings used in the kennel business, including and not limited to the cattery and all of the kennel runs.

9. I am now in the process of selling my lot and all persons interested in my property are made aware of the fact that the adjacent Centennial Kennels is a going concern and is not included as part of the sale.

I certify and declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct:

12/12/07
DATE


ALBERT J. MARTINEAU (WRITTEN)

Maple Valley, WA
PLACE OF SIGNATURE

Albert J Martineau
ALBERT J. MARTINEAU (PRINTED)


DECLARATION OF ALBERT
J. MARTINEAU
-- PAGE 2 OF 2

2/22/09

Statement for the record.

I Jon Ollom purchased this property in March of 2008 with complete knowledge of sign proximity and stand off property distance ~~between~~ between my residence and centennial kennels daycare facility.

I have no moral, or legal issues with them conducting there business, regardless of the proximity of the boundaries.


Jon Ollom

21040 231st ave SE
Maple Valley, WA 98038

June 23, 2009

CENTENNIAL KENNELS

SUMMARY

1. Roof Signage

Sign mounted on sloping portion of roof in RA-5 zone

- Amend K.C.C. 21A.20.060C
- Amend K.C.C. 21A.20.080

2. Kennel Building Setbacks

Kennels buildings housing animals and outdoor runs 100 feet from property lines abutting residential zones – define “housing” and basis for measurement of setback where road or right-of-way separates residential properties from kennel site

- Amend K.C.C. 21A.30.020E.3

3. Daycare Facility

Distinguish kennel-free dog boarding from daycare facilities and setback requirements

- Amend K.C.C. 21A.08.050B.36

June 23, 2009

ISSUES RE: CENTENNIAL KENNELS

Brief Background: Centennial Kennels operates under CUP # BA 68-10 issued in 1968. Original size of lot was 11.48 acres and as to which the CUP permitted the “entire 11 – ½ acres” to be maintained for kennel purposes. Original layout of kennel facilities approved for maximum 100 runs and depicted kennel-related buildings equal to a total of 12,500 sq.ft. First kennel buildings constructed in 1969 and 1970. Cattery added in early 1970’s under expanded Code definition of kennel. Licensing of the kennel operation and inspections are by King County General Services Division/Licensing. Original zoning was R-A, under which an unlighted sign of a size commensurate with its intended use and identifying the premises on which located was permitted. Under this zoning, a 5’ x 9’ (45 sq.ft. total) sign advertising kennel services was erected along PSH No. 2 (now SR 18) in 1969. After the original signage was damaged in a 1983 windstorm, it was then relocated to the outside wall of the barn facing PSH No. 2 in Styrofoam letters; acceptable to the State provided only the business name and services offered were advertised.

Real property actions affecting the size of the Centennial Kennels land area include (1) 1970 lot segregation approved by King County splitting off 0.76 acres to allow the original owner of the kennel operation to finance his home construction separate from the kennel property and voluntarily and artificially created a residential lot immediately adjacent to the ongoing kennel operation; and (2) 2003 State condemnation of roughly 4.21 acres for expansion of SR 18 into 4-lane separated highway. The Centennial Kennels property that remains of the original site is about 6.51 acres. The elevated west-bound lanes of SR 18 destroyed the visibility and utility of the advertising signage on the side of the barn and as a direct result the signage in the same size lettering was relocated onto the barn roof, vertically oriented. The State only condemned real property; no compensation was ever paid for any interference with or destruction of business-related assets, including essential on-premises advertising.

Present kennel-related structures total a maximum of 10,092 sq.ft.; including the barn, the daycare, two sheds and a carport, a dog grooming facility, and 4 kennel runs. There are fewer than 100 runs in the kennel. In an April 17, 2003 letter from DDES’ Kenneth W. Dinsmore, Permit Center Supervisor, in light of concerns expressed by the pending State condemnation and its possible affect on Centennial Kennels as a legal business operation, it was confirmed by DDES that “located on the property is an existing kennel established with a Conditional Use Permit, File # BA 68-10, granted June 13, 1968 [and] hence, the use is a legal use, not non-conforming [and] the taking of a portion of the property for additional right-of-way does not change this.” Because the original owner-created residential lot abuts the kennel operation and was specifically created in full knowledge thereof, all setbacks otherwise applicable to kennel operations from residential properties have been deemed waived as such segregated realty was originally part of the 11.48 acre site that was approved in its entirety for kennel purposes.

ISSUE ONE ROOF SIGNAGE

In a recent meeting with DDES Code Enforcement, County Rural Permit Coordinator, and Deputy Prosecuting Attorney, it was opined thereat by County officials that because of the impact of SR 18 construction that obscured and destroyed the value and utility of advertising signage on the barn side and in lieu of the existing vertical orientation of lettering above the barn roof, this particular complaint matter could be resolved by laying the letting down flat on the roof slope together with removal of the lighting. However, this resolution was apparently overruled by other DDES personnel and the suggestion made that if Centennial Kennels still wished to pursue such advertising placement flat on the rooftop that such issue must be submitted to the Regulatory Review Committee for its consideration. The King County Code needs to be amended to permit advertising signage to be affixed to the sloping portion of roofs under circumstances such as those surrounding the Centennial Kennels operation in a residential RA-5 zone.

RESOLUTION: The King County Code should expressly permit advertising signage to be mounted on the sloping portion of roofs in order to address and ameliorate those circumstances where the value and utility of original advertising was destroyed or substantially and adversely impacted by and as a result of physical construction or acts of others and through no fault of the property/business owner and in order to present to the public travelers a view of the original advertising comparable to that destroyed or substantially impacted. K.C.C. 21A.20.060C should be amended to read in relevant part as follows:

Except as otherwise provided in K.C.C. 21A.20.115 *or allowed hereinafter*, projecting and awning signs and signs mounted on the sloping portion of roofs shall not be permitted for uses in the Resource and Residential zones, ***PROVIDED nevertheless that such signage shall be permitted in all RA zones.*** In other zones ***and including all RA zones***, projecting and awning signs and signs mounted on the sloping portion of roofs may be used in lieu of wall signs, but only if:

1. They maintain a minimum clearance of eight feet above finished grade;
2. They do not project more than six feet perpendicular from the supporting building façade, ***except as otherwise allowed under K.C.C. 21A.20.060J;***
3. They meet the standards of K.C.C. 21A.20.060J, if mounted on the roof of a building; and
4. They shall not exceed the number or size permitted for wall signs in a zone, ***PROVIDED that signs mounted on the sloping portion of roofs may be the same size as that advertising signage previously located on a building wall under circumstances where the value and/or utility of such original wall signage has been destroyed or substantially and adversely impacted as a result of physical construction or acts of others and through no fault of the property/business owner and in order to present to the public travelers a view of the original advertising comparable to that destroyed or substantially impacted; and further except that two roof-mounted signs may be erected on either side of the roof ridge where each sloping roof line is visible from the same public highway but in opposite directions of travel.***

And K.C.C. 21A.20.080 should be amended to read in relevant part as follows:

Residential zone signs. Except as otherwise provided in K.C.C. 21A.20.115 ***and in K.C.C. 21A.20.060C***, signs in the R, UR and RA zones are limited as follows:

- A. . . . (no changes to text)

ISSUE TWO KENNEL BUILDING SETBACKS

Pursuant to K.C.C. 21A.30.020E.3, kennel “structures housing animals and outdoor animal runs shall be a minimum distance of 100 feet from property lines abutting residential zones.” It is not clear whether this language refers to the kennel property line or the property line of another residential lot separated from the kennel by a public road or right-of-way. Here, 236th Ave SE and SR 18 separate the kennel property from neighboring residential property on the West and South. Allowance for this additional separation should be made in the Code setback requirements.

RESOLUTION: In order to clarify this requirement, K.C.C. 21A.30.020E.3 should be amended to read in relevant part as follows:

Kennels and catteries are subject to the following requirements:

- a. For kennels located on residential zoned sites:
 - (1) The minimum site area shall be five acres; and
 - (2) Structures housing animals (*i.e., boarded for more than a full 24-hour period with full meals and caretaking provided*) in runs or caged areas and outdoor animal runs (*excluding animal exercise areas*) shall be a minimum distance of 100 feet (*or 30 feet for outdoor exercise areas*) from property lines abutting residential zones, ***as measured from the centerline of any public street or right-of-way where kennel property is separated thereby from the next nearest***

residential properties; PROVIDED that residential lots created from original kennel property shall be excluded from consideration and exempt from the setback requirements of this subsection.

b. For kennels located on non-residential zoned sites, run areas shall be completed surrounded by an eight foot solid wall or fence, and be subject to the requirements in K.C.C. 11.04.060; and

c. Catteries shall be on sites of 35,000 square feet or more, and buildings used to house cats (*i.e., boarded for more than a full 24-hour period with full meals and caretaking provided*) shall be a minimum distance of 50 feet from property lines abutting residential zones, *as measured from the centerline of any public street or right-of-way where kennel property is separated thereby from the next nearest residential properties; PROVIDED that residential lots created from original kennel property shall be excluded from consideration and exempt from the setback requirements of this subsection.*

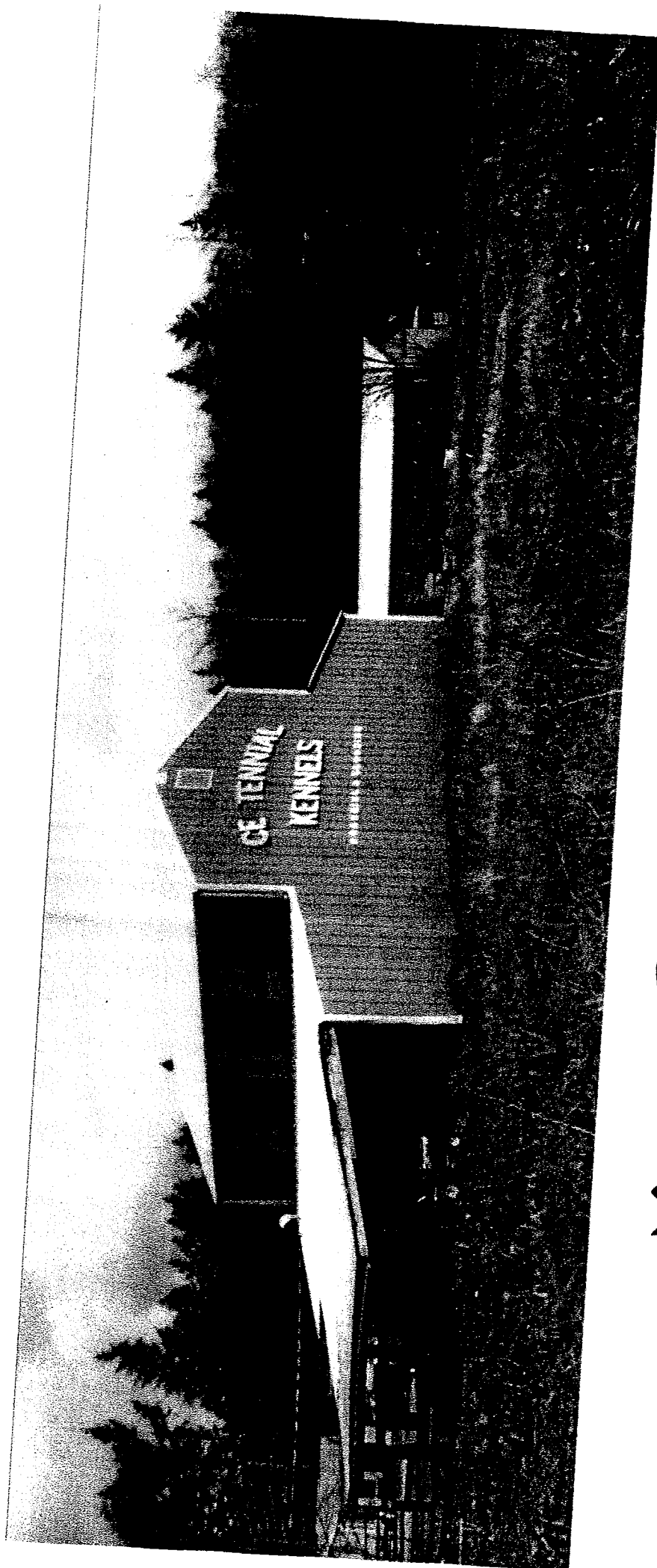
ISSUE THREE DAYCARE FACILITY

Building "G" is part of the Centennial Kennels' doggie daycare program. This part of Centennial Kennel's business is permitted under and pursuant to both the CUP # BA68-10 as well as King County Code K.C.C. 21A.08.050B.36 that outright permits "kennel-free dog boarding and daycare" where certain conditions are met. DDES has indicated as its opinion that a Conditional Use Permit is required for the use of Building "G" for doggie daycare purposes. However, where reasonably read in light of the clear intent of this provision and as applied to the specific and special circumstances of the Centennial Kennels property, the requirements of the King County Code are in fact met.

RESOLUTION: In order to clarify the requirements for daycare facilities separate and distinct from kennel-free dog boarding, K.C.C. 21A.08.050B.36 should be amended to read in relevant part as follows:

Limited to kennel-free dog boarding and daycare facilities, and:

- a. the property shall be at least five acres;
- b. buildings housing dogs *for kennel-free dog boarding (i.e., boarded for more than a full 24-hour period with full meals and caretaking provided)* shall be no less than seventy-five feet from property lines, *as measured from the centerline of any public street or right-of-way where kennel property is separated thereby from the next nearest residential properties; PROVIDED that residential lots created from original kennel property shall be excluded from consideration and exempt from the setback requirements of this subsection;*
- c. outdoor exercise areas shall be located no less than thirty feet from property lines and shall be fenced in a manner sufficient to contain the dogs, *PROVIDED that such setback is as measured from the centerline of any public street or right-of-way where kennel property is separated thereby from the next nearest residential properties; and FURTHER PROVIDED that residential lots created from original kennel property shall be excluded from consideration and exempt from the setback requirements of this subsection;*
- d. the number of dogs allowed shall be limited to twenty-five, consistent with the provisions for hobby kennels as outlined in K.C.C. 11.04.060.B;
- e. training and grooming are ancillary services which may be provided only to dogs staying at the facility *as kennel-free dog boarding;*
- f. the *kennel-free dog boarding and/or daycare* facility shall maintain normal hours of operation no earlier than 7 a.m. and no later than 7 p.m.; and
- g. no new facility shall be permitted to be established after one year from the effective date of this ordinance.



View From SR 18
March 2000




KEYNOTES 

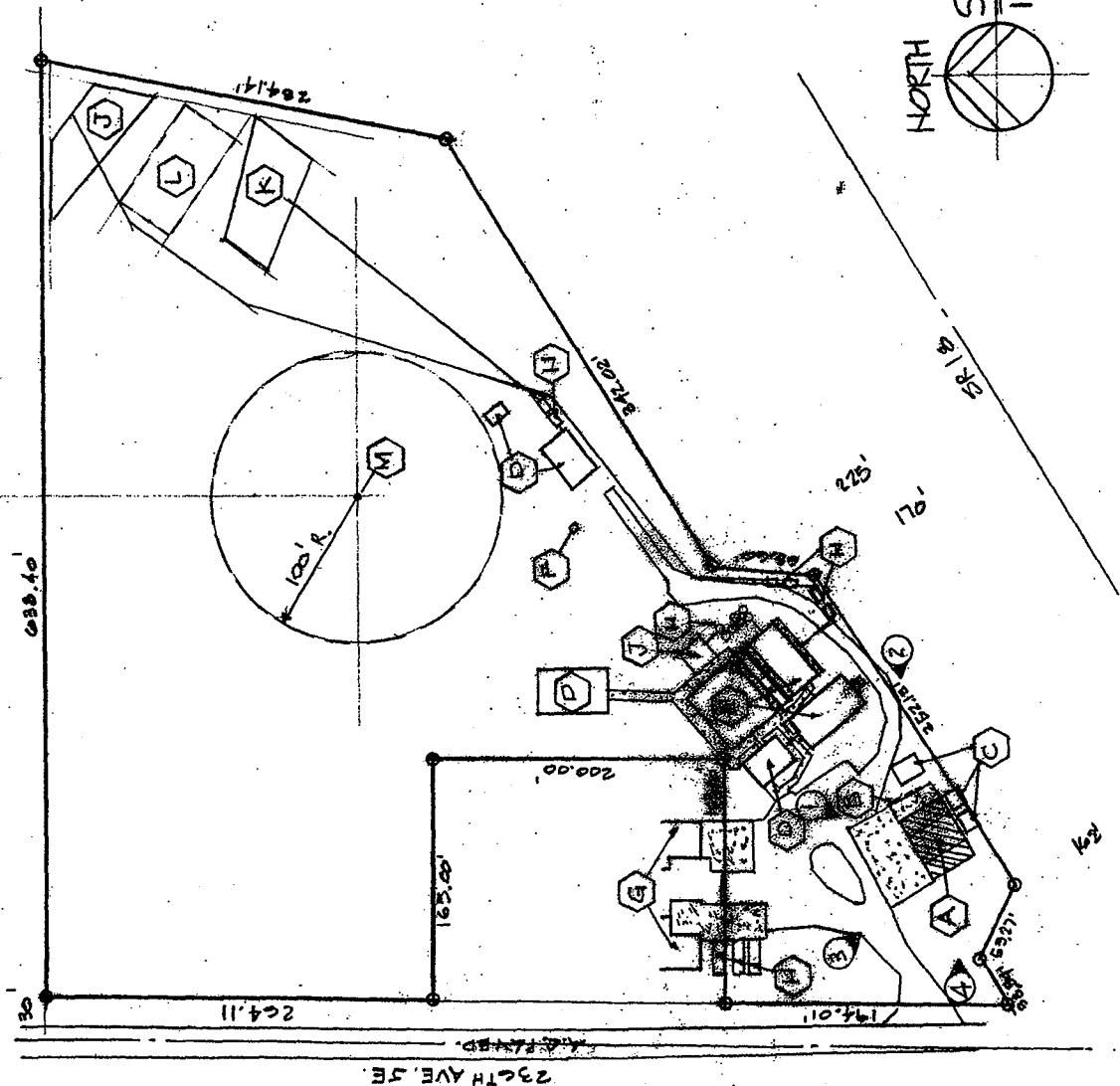
- A KENNEL/OFFICE SUBJECT TO ABC PERMIT
- B ATTACHED CARPORT
- C SHED
- D BUILDING
- E KENNEL
- F PUMP HOUSE
- G ADJACENT BUILDING
- H STORAGE CONTAINER
- J KENNEL DRAINFIELD
- K RESIDENCE DRAINFIELD
- L KENNEL RESERVE DRAINFIELD
- M DOMESTIC WATER WELL
- N SEPTIC SYSTEM COMPONENT

SITE PLAN DRAWING NOTES

- 1- SITE PLAN PREPARED USING INFORMATION FROM A SURVEY BY CRONES & ASSOC. LAND SURVEYORS, KENT, WA DATED AUGUST, 2006
- 2- SEPTIC SYSTEM PREPARED USING INFORMATION FROM A DESIGN PLAN PREPARED BY D, R, STRONG CONSULTING ENGINEERS INC., KIRKLAND, WA DATED REV 1 12/31/03

SYMBOLS

-  CONCRETE
-  GRAVEL
-  EXTERIOR PHOTO NUMBER



SITE PLAN

1" = 100'

CENTENNIAL KENNELS
 21120 232nd AVE SE
 MAPLE VALLEY, WA 98038
 1/19/09
 1 of 1

② SOUTHEAST CORNER



NORTHEAST CORNER

①

④ WEST SIDE



NORTH SIDE

③

2008

KING COUNTY BOARD OF ADJUSTMENT ACTION
Minutes & Written Order

FILE: BA 68-10

In the matter of the application of MARVIN R. SUNDSTROM requesting conditional use permit to establish and maintain a dog kennel on property extending 1140'+ south of 236th Avenue Southeast, north side of State Highway #2, the detailed description of which is on file in the office of the Planning Department,

THE BOARD OF ADJUSTMENT FINDS THAT:

1. All requirements prescribed by law have been performed and public hearings were held April 11 and June 13, 1968;
2. Exhibits and testimony presented were considered by the Board of Adjustment as well as colored slides of the site and the revised plot plans;
3. PROPONENTS: Marvin Sundstrom, 16553-119th Avenue Southeast, Renton

OPPONENTS: None

After reviewing the revised plot plans, Exhibit H-1, reviewing previous testimony, viewing colored slides of the site and considering the report of the staff, the Board took the following action:

ACTION: MOVED and SECONDED that conditional use permit to establish and maintain a dog kennel be approved, the Board finding:

1. This is a wooded area, rural in character.
2. Granting of the conditional use permit will not be detrimental to surrounding area.

SUBJECT TO THE FOLLOWING CONDITIONS:

- A. Compliance with Exhibit H-1, revised plot plans.
- B. Entire 11-1/2 acres will be maintained for this purpose.
- C. Posting of a \$2,000.00 bond to be in effect for at least two years to assure fencing and landscaping as shown.

PASSED by unanimous vote of members present.

AYES: 4; Nays 0; Absent 1.

BE IT RESOLVED that a copy of this Written Order be transmitted to the applicant for his information.

DATED this 13th day of June, 1968.

KING COUNTY BOARD OF ADJUSTMENT

Edward B. Sand
EDWARD B. SAND
Secretary

cc Marvin Sundstrom

jmb

WRITTEN NOTICE OF
ACTION TAKEN MAILED
ON 6-17-68 BY JBS

KING COUNTY BOARD OF ADJUSTMENT
Minutes & Notice of Decision

BA 68-10

In the matter of the request of MARVIN R. SUNDSTROM, requesting Board's consideration to Condition C of the permit as heretofore approved, and specifically requesting alternative to Condition C of the permit, i. e., "Posting of \$2,000.00 bond to be in effect for at least 2 years to assure fencing and landscaping as shown",

1. The Board reviewed the request as received December 2, 1968; and

2. The Board reviewed the action taken previously on this matter; and

after consideration of the request and reviewing the action previously taken, the Board, by motion, voted to take the following action:

ACTION: MOVED that applicant's proposed alternative to "C" of conditions previously imposed be accepted; namely, accept the alternative as follows:

C.

1. All present second growth within 75' of the property boundaries be maintained until fencing and landscaping requirements are completed.
2. A maximum of 40 kennel runs to be built and utilized prior to completion of all landscaping as shown.
3. Each 20 run unit must be fenced as shown prior to an additional 20 run unit being built.

SECONDED.

PASSED by unanimous vote of members present.

VOTE: Ayes 4; Nays 0; Absent 1.

BE IT RESOLVED that a copy of this Written Order be transmitted to the applicant for his information.

DATED this 12th day of December, 1968.

KING COUNTY
BOARD OF ADJUSTMENT

Edward B. Sand
Secretary

jmb

BA 68-10



King County

**Department of Development
and Environmental Services**

900 Oakesdale Avenue Southwest
Renton, WA 98057-5212

206-296-6600 TTY 206-296-7217

www.kingcounty.gov

October 28, 2008

Mr. Rhys Sterling
PO Box 218
Hobart, WA 98025

RE: **Notice of Final Code Interpretation**
Application No. L08CI005 Date Filed: August 25, 2008

Dear Mr. Sterling:

On August 25, 2008, you requested an interpretation of provisions of the King County Code (K.C.C.) as they relate to a code enforcement action against Centennial Kennels, your client. The Director of the Department of Development and Environmental Services (DDES) issued a final code interpretation on October 28, 2008. A copy of the final code interpretation is attached.

Code interpretations are governed by the provisions of K.C.C. Chapter 2.100. Under K.C.C. 2.100.040, a code interpretation that relates to a code enforcement action is final when the Director issues the final code interpretation and may be appealed at the time the department's action on the code enforcement complaint is final. The Director has determined that this code interpretation relates to code enforcement complaint E0600136. Therefore, Code Interpretation L08CI005 is final on October 28, 2008 and may be appealed with the department's final action on E0600136.

If you have any questions concerning this code interpretation, please feel free to contact me at 206-296-7132 or by email at HarryReinert@kingcounty.gov.

Sincerely,

Harry Reinert
Special Projects Manager

cc: Steve Bottheim, Supervisor, Current Planning Section, Land Use
Services Division (LUSD), DDES
Deidre Andrus, Supervisor, Code Enforcement Section, LUSD, DDES
Holly Sawin, Officer, Code Enforcement Section, LUSD, DDES
Cristy Craig, Deputy Prosecuting Attorney, Office of the Prosecuting Attorney



King County

Department of Development and Environmental Services

900 Oakesdale Avenue Southwest
Renton, WA 98057-5212

206-296-6600 TTY 206-296-7217

www.kingcounty.gov

FINAL CODE INTERPRETATION L08CI005

Background

On August 25, 2008, Mr. Rhys Sterling filed a code interpretation request on behalf of his client, Centennial Kennels. Centennial Kennels is located on Parcel 102206-9112, a RA-5 zoned parcel located adjacent to State Route (SR) 18.

Centennial Kennels and its predecessors have operated under a conditional use permit issued in 1968. The site was originally triangular shaped and approximately 11.48 acres. Since that time, the property has been subdivided and is now approximately 5.87 acres. In addition, SR 18 has recently been expanded. This resulted in making a sign advertising Centennial Kennels that was located on the end of a barn on the site less visible to passing motorists. Centennial Kennels constructed two signs on the roof of a barn that is visible to passing motorists driving in both directions on SR 18.

There is a pending code enforcement complaint against Centennial Kennels. (See E0600136) Mr. Sterling requests an interpretation of two code sections related to Centennial Kennels operation: King County Code (K.C.C.) 21A.08.050B.36, which establishes standards for a kennel-free dog day care facility and K.C.C. 21A.20.060C relating to signs for commercial uses located in residential zones.

Discussion

Kennel-Free Dog Boarding and Day Care Facility Requirements. K.C.C. 21A.08.050 was amended by the King County Council in 2007 to add animal specialty services as a permitted use. Ord. 15816, Sec. 1. Animal specialty services are defined in SIC 0752 and include activities such as animal shelters, dog grooming, and showing of pets. In the RA zones, animal specialty services are a conditional use. Under two specific circumstances, animal specialty services are an outright permitted use. One is for animal rescue shelters that meet certain conditions, including a minimum site area and building setbacks. K.C.C. 21A.08.050B.35. The other is for "kennel-free dog boarding and daycare facilities" which also is subject to specific requirements related to lot size, building setbacks, and hours of operation. K.C.C. 21A.08.050B.36. As an outright permitted use, new kennel-free dog boarding facilities were allowed for only one year.

A kennel-free dog boarding and daycare facility is defined in K.C.C. 21A.06.661 as a "Dog boarding or daycare facility that utilizes rooms or outdoor exercise area, rather than cages or cement floored runs, to allow for and encourage the socialization, interaction and exercise of dogs."

A building used by Centennial Kennels for kennel-free dog boarding is located approximately 30 feet from a neighboring residential parcel. That parcel was part of the Centennial Kennel property in 1968 when the kennel was originally permitted. K.C.C. 21A.08.050B.36 requires that buildings "housing dogs" at the kennel-free dog boarding and daycare facility must be at least 75 feet from neighboring properties.

Mr. Sterling argues that the building used for the daycare operation does not house or board dogs and that the 75 foot requirement does not apply. The verb "house" is not defined in K.C.C. Title 21A. The American Heritage College Dictionary defines the term to include "2. to shelter, keep, or store in or as if in a house. 3. To contain; harbor." This clearly covers the use of a building for daycare, where animals are sheltered, kept, or harbored. Mr. Sterling suggests that there is no need for a setback for a building being used for daycare as opposed to for housing overnight or for feeding. If the King County Council had intended to limit this provision to buildings used as a kennel or for overnight boarding, it could have made that intent clear. Instead, it used a more general term that encompasses both daycare and boarding activities.

Mr. Sterling suggests that if the setback is measured from the original property boundary, before the lot segregations that reduced it from over 11 acres to less than 5 acres, the setback requirement would be satisfied. He also suggests that King County somehow was complicit in creating a non-conforming use by approving the lot segregation in 1970. There is nothing in the King County Code to support this interpretation. At the time the lot segregation was approved, the building at issue here had not yet been constructed. K.C.C. 21A.08.050B.36 requires that a building housing dogs must be 75 feet from property lines. This calculation is determined at the time the use is established.

Finally, although Mr. Sterling does not state this explicitly, his request appears to be based on an assumption that if the building cannot be approved under K.C.C. 21A.08.050B.36, it would not be permitted at all. Kennel-free dog boarding and day care facilities, along with other animal specialty services, are allowed as a conditional use in the RA zone. As a conditional use, they are not subject to the requirements in Subsection B.36. The standards for review and approval of conditional uses are set forth in K.C.C. 21A.44.040. Therefore, although the building at issue here does not meet the requirements of K.C.C. 21A.08.050B.36 as an outright permitted use, it may be considered as a conditional use under 21A.44.040.

In conclusion, the building at issue does not satisfy the requirements for an outright permitted use under K.C.C. 21A.08.050B.36 because the building does not meet the 75-foot setback requirement. However, those setback requirements would not prohibit use of the building for a kennel-free dog boarding and day care facility as a conditional use. The provisions of K.C.C. 21A.08.050B.36 will be considered in evaluating a conditional use application, but they are not mandatory.

Sign mounted on roof. When SR 18 was expanded, an existing sign mounted on the side of a barn on the Centennial Kennel's property was no longer readily visible to passing motorists on SR 18. Centennial Kennels constructed new signs mounted on the roof of the barn that face both directions.

K.C.C. 21A.20.060 establishes general sign requirements. K.C.C. 21A.20.060C prohibits signs mounted on the sloping portion of a roof in the residential zones. K.C.C. 21A.20.060J provides that "Any sign attached to the sloping surface of a roof shall be installed or erected in such a manner that there are no visible support structures, shall appear to be part of the building itself, and shall not extend above the roof ridge line of the portion of the roof upon which the sign is attached."

K.C.C. 21A.20.080 establishes additional standards for signs in residential zones. Centennial Kennels is located in the RA zone, which is a residential zone. K.C.C. 21A.20.080A.1. provides that for non-residential uses in the residential zones "One sign identifying nonresidential uses, not exceeding twenty-five square feet and not exceeding six feet in height is permitted."

The signs constructed by Centennial Kennels violates several of these provisions. The structure supporting the signs are clearly visible. In addition, there are two signs, one facing each direction, and each sign is more than twenty-five square feet.

Mr. Sterling argues that the sign does not exceed the maximum size because each letter can be considered an incidental sign, which, under K.C.C. 21A.20.030, is exempt from limitations as long as the sign is less than two square feet. K.C.C. 21A.06.1120 defines an incidental sign as "a sign, emblem or decal designed to inform the public of goods, facilities, or services available on the premises." Examples of incidental signs include signs designating restrooms, hours of operation, property ownership, and recycling containers. The Centennial Kennel sign does not qualify as an incidental sign.

Mr. Sterling also suggests that the new sign should be considered as nothing more than the relocation of an existing sign to a new location. The flaw in this suggestion is that one sign has been replaced by two and that the new sign is on the roof in a manner that violates K.C.C. 21A.20.060J.

Mr. Sterling argues that signs that are painted on the roof are different from signs that are mounted and that the prohibition in K.C.C. 21A.20.060C does not apply to a sign painted on the roof. This is a correct reading of the code. In fact, DDES has suggested to Centennial Kennels that a sign painted on the roof of the barn as a resolution to the code enforcement issue with respect to the sign.

Mr. Sterling then argues that the number and size limitations in K.C.C. 21A.20.080A do not apply to Centennial Kennels because this would amount to a "taking of a valuable business property subject to just compensation." If there was a taking, it was due to the fact that the State of Washington expanded SR 18 which resulted in making the prior sign less visible. Centennial Kennels will need to take this issue up with the State of Washington. If Centennial Kennels believes that King County's sign codes result in a taking of a valuable business property that is an issue that should be addressed through a different mechanism than a code interpretation.

In conclusion on the sign issue, the current sign violates provisions of K.C.C. 21A.20.060 that prohibit signs mounted on the sloping portion of a roof in the RA zone. However, K.C.C. 21A.24.060C does not prohibit painting a sign on the sloping portion of a barn roof. K.C.C. 21A.24.080A.1 does limit non-residential uses in the RA zone to one sign that is no larger than 25 square feet.

Decision

Kennel-Free Dog Boarding and Day Care Facility. K.C.C. 21A.08.050B.36 requires that a building housing dogs in a kennel-free dog boarding and day care facility must be at least 75 feet from property lines in order to allow the facility as a permitted use. A building housing dogs includes buildings used in a day care operation as well as buildings used for boarding and overnight stays. The Centennial Kennels' building is less than 75 feet from a property line and therefore cannot be permitted as an outright permitted use. However, Centennial Kennels may apply for approval of the kennel free dog boarding and day care facility as a conditional use. The 75 foot setback requirement is not mandatory on a conditional use.


Sign mounted on roof. K.C.C. 21A.20.060C prohibits signs mounted on the sloping portion of roof in a residential zone. K.C.C. 21A.20.060J requires that signs that are mounted on a sloping portion of a roof, when allowed, cannot extend above the roof line and that the supporting structure cannot be visible. Because the Centennial Kennels site is in a residential zone, a sign mounted on the sloping portion of the roof is not allowed. In addition, the Centennial Kennel signs have a visible supporting structure. A sign painted on the roof is not mounted and, therefore, is not prohibited by K.C.C. 21A.20.060C.

K.C.C. 21A.20.090A.1. limits non-residential uses in the residential zones to one sign not more than 25 square feet. Therefore, if Centennial Kennels decides to paint a sign on the roof, only one sign is permitted and the sign is limited to 25 square feet.

The individual letters of the sign are not incidental signs that are exempt under K.C.C. 21A.20.030.

Finality of Code Interpretations

Under K.C.C. 2.100.040, a code interpretation that relates to a code enforcement action is final when issued by the director. In such a case, the code interpretation may be appealed to the Hearing Examiner when the Department takes its final action on the code enforcement complaint. The Director determines that this code interpretation relates Code Enforcement Complaint E0600136. Therefore, this code interpretation is final when it is issued and may be appealed together with any appeal of the related Code Enforcement Action.



Stephanie Warden
Director
Development and Environmental Services

10/28/08
Date

**KING COUNTY
DEPARTMENT OF DEVELOPMENT
AND ENVIRONMENTAL SERVICES
Land Use Services Division
Code Enforcement Section
900 Oakesdale Avenue Southwest
Renton, WA 98057-5212**

V.

Barbara Benson
Centennial Kennels
21120 - 236th Avenue Southeast
Maple Valley, WA 98038

**NOTICE OF KING COUNTY CODE
VIOLATION: CIVIL PENALTY ORDER:
ABATEMENT ORDER:
NOTICE OF LIEN: DUTY TO NOTIFY**

CASE NUMBER: E0600136

ZONING: RA-5

ADDRESS: 21120 - 236TH Avenue Southeast

ACCOUNT: 102206-9112

LEGAL DESCRIPTION:

QSTR: NE 10 22 06

PORTION OF W 3/4 OF W HALF NE QTR STR 10-22-06 LYING NWLY OF STATE ROUTE 18 EXC N HALF NW QTR OF SAID NE QTR; & EXC S 200 FT OF N 1115 FT OF NW QTR OF SAID NE QTR; & EXC PORTION WITHIN 236TH AVE SE; & EXC PORTION TAKEN BY STATE OF WA THROUGH DECREE ENTERED 6 JANUARY 2003 IN KING CO SUPERIOR COURT CAUSE NO 02-2-27698-9KNT

YOU HAVE BEEN FOUND TO HAVE COMMITTED A CIVIL CODE VIOLATION AND TO BE A PERSON RESPONSIBLE FOR CODE COMPLIANCE, AND YOU ARE HEREBY NOTIFIED AND ORDERED PURSUANT TO KING COUNTY ORDINANCE 14309, AS AMENDED, OF THE FOLLOWING:

CIVIL CODE VIOLATIONS (Including KCC Section 23.02.010B):

The King County Department of Development and Environmental Services has found the above-described location is maintained or used in violation of the King County Code (KCC).

THEREFORE, YOU ARE ORDERED TO CORRECT VIOLATIONS LISTED BELOW IN ACCORDANCE WITH LISTED CODE PROVISIONS AND CODES ADOPTED UNDER THE AUTHORITY OF TITLE 16 OF THE KING COUNTY CODE AS AMENDED BY ORDINANCE 15802 AND INCLUDING BUT NOT LIMITED TO CHAPTER 21A.50 AND TITLE 23 OF THE KING COUNTY CODE; REVISED CODE OF WASHINGTON (RCW) 19.27.020, 19.27.031, 19.27.040, 19.27.074, AND THE WASHINGTON ADMINISTRATIVE CODE (WAC) 51-40-003:

1. Operation of a kennel-free dog day care business without a conditional use permit (CUP) which was not included in the scope of the original CUP [BA-68-10], and use of a storage structure (building G) to house a kennel-free dog day care without a change of use permit and in violation of property line setbacks in violation of Sections 16.02.240, 21A.06.661, 21A.08.050 (animal specialty services) and 21A.44.040 of King County Code and Sections 105.1 and 113.1 of the 2006 International Building Code as adopted by Ordinance 15802.
2. Construction of a storage shed (shed number 1, over 200 square feet) without a building permit and within setbacks, and placement of a storage shed (shed number 2, less than 200 square feet) within property line setbacks in violation of Sections 16.02.180, 16.02.240 and 21A.12.030 of King County Code and Sections 105.1 and 113.1 of the 2006 International Building Codes as adopted by Ordinance 15802.
3. Placement of mounted signs, one on each side of the sloping portion of barn building roof, and that each exceed size, height and placement requirements in violation of Sections 21A.20.030, 21A.20.060 and 21A.20.080 of King County Code.
4. Window and door alterations without permits (barn building) in violation of 16.02.180 and 16.02.240 of King County Code and Sections 105.1 and 113.1 of the 2006 International Building Codes as adopted by Ordinance 15802

TO BRING THIS PROPERTY INTO COMPLIANCE:

1. Apply for a CUP (forms previously provided) for the dog day care business and obtain all permit finals and approvals. Schedule a pre-application/feasibility meeting by **January 12, 2009**. Meet all timeframes and provide all necessary information. Within 30 days of CUP approval apply for a change of use permit for the structure approved in building permit B04M2717 (building G). Meet all timeframes for requested information and obtain all final permit approvals and inspections in a timely manner.

OR

Discontinue dog day care business and return use of Building G to storage by **February 11, 2009**.

2. Relocate storage shed 2 to meet setback requirements and remove storage shed 1 and associated construction materials by **January 12, 2009**.
3. Remove signs and lighting fixtures from the roof by **February 11, 2009**. One sign may be painted directly onto the roof that does not exceed 25 square feet and which may be indirectly illuminated provided that no direct rays of light are projected from such artificial source into residences or any street right-of-way;
4. Submit an already built construction (ABC) permit application and obtain permit issuance by **January 12, 2009** for alterations to the barn. Obtain all final inspections and approvals in a timely manner. (Call 206-296-7159 to schedule a permit intake appointment).

**** ANY PERMITS REQUIRED TO PERFORM THE CORRECTIVE ACTION MUST BE OBTAINED FROM THE PROPER ISSUING AGENCY. Some permit applications require appointments, which may be several weeks out. Please call 206-296-6797 to make an appointment ****

FAILURE TO COMPLY WITH THIS NOTICE AND ORDER MAY SUBJECT YOU TO ADDITIONAL CIVIL PENALTIES, ABATEMENT AND/OR MISDEMEANOR ACTIONS, AND COULD LEAD TO THE DENIAL OF SUBSEQUENT KING COUNTY PERMIT APPLICATIONS ON THE SUBJECT PROPERTY.

CIVIL PENALTY/NOTICE OF LIEN (Including KCC Section 23.24.070):

You shall correct each violation by the above dates or you will incur daily civil penalties against you according to the following schedule:

- Violation 1: \$50.00 per day for the first 30 days, then \$100.00 per day for each day thereafter.**
Violation 2: \$50.00 per day for the first 30 days, then \$100.00 per day for each day thereafter.
Violation 3: \$50.00 per day for the first 30 days, then \$100.00 per day for each day thereafter.
Violation 4: \$25.00 per day for the first 30 days, then \$50.00 per day for each day thereafter.

Any costs of enforcement including legal and incidental expenses, which exceed the amount of the penalties, may also be assessed against you.

This Department shall periodically bill you for the amount incurred up to and through the date of billing. **PERIODIC BILLS ARE DUE AND PAYABLE 30 DAYS FROM RECEIPT.** If any assessed penalty, fee or cost is not paid on or before the due date, King County may charge the unpaid amount as a LIEN against the real property of all persons responsible for code compliance and as a JOINT AND SEVERAL PERSONAL OBLIGATION of all persons responsible for code compliance.

CRIMINAL MISDEMEANOR/NON-COMPLIANCE WITH FINAL ORDER (KCC Section 23.02.030):

Any person who willfully or knowingly causes, aids or abets a civil code violation by any act of commission or omission is guilty of a misdemeanor. Upon conviction, the person shall be punished by a fine of not to exceed one thousand dollars and/or imprisonment in the County jail for a term not to exceed 90 days. Each week (7 days) such violation continues shall be considered a separate misdemeanor offense. **Failure to corrected cited violations may lead to denial of subsequent King County permit applications on the subject property.**

NOTIFICATION OF RECORDING (KCC Section 23.24.040):

A copy of this Notice and Order shall be recorded against the property in the King County Office of Records and Elections. King County shall file a Certificate of Compliance when the property is brought into compliance.

ABATEMENT WORK/NOTICE OF LIEN (Including KCC Section 23.40.030 and RCW 35.80.030.1H):

King County may proceed to abate the violation(s) and cause the work to be done, and charge the costs thereof as a lien against the real property of all persons responsible for code compliance and as a joint and several personal obligation of all persons responsible for code compliance.

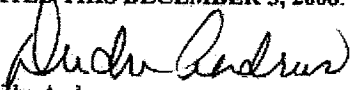
APPEAL (Including KCC Chapter 23.36):

Any person named in the Notice and Order or having any record or equitable title in the property against which the Notice and Order is recorded may appeal the order to the Hearing Examiner of King County. A notice and statement of appeal must be received in writing by DDES within fourteen (14) days of the date of service of the Notice and Order. A form which includes a combined notice and a statement of appeal is included in this packet. You are not required to use the enclosed form. If you use the enclosed form, the entire completed form must be received by DDES by **December 24, 2008**. The DATE OF SERVICE is three business days after the Notice and Order is mailed. FAILURE TO APPEAL WITH THE SPECIFIC REASONS WHY THE NOTICE AND ORDER SHOULD BE REVERSED OR MODIFIED MAY RESULT IN A MOTION TO HAVE THE APPEAL DISMISSED BY THE HEARING EXAMINER. FAILURE TO FILE A TIMELY NOTICE AND STATEMENT OF APPEAL WITHIN THE DEADLINES SET FORTH ABOVE RENDERS THE NOTICE AND ORDER A FINAL DETERMINATION THAT THE CONDITIONS DESCRIBED IN THE NOTICE AND ORDER EXISTED AND CONSTITUTED A CIVIL CODE VIOLATION, AND THAT THE NAMED PARTY IS LIABLE AS A PERSON RESPONSIBLE FOR CODE COMPLIANCE.

DUTY TO NOTIFY (KCC Section 23.24.030N):

The person(s) responsible for code compliance has the DUTY TO NOTIFY the Department of Development and Environmental Services-Land Use Services Division of ANY ACTIONS TAKEN TO ACHIEVE COMPLIANCE WITH THE NOTICE AND ORDER.

DATED THIS DECEMBER 5, 2008.



Deidre Andrus
Code Enforcement Supervisor

DA: HS: tw

Cc: Rhys Sterling, P.E., J.D., Attorney at Law, PO Box 218, Hobart, WA 98025

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Judge James D. Cayce

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

CENTENNIAL KENNELS, INC., a Washington corporation; and BARBARA BENSON, individually and as President of Centennial Kennels, Inc.,

No. 08-2-39327-5 KNT

Petitioners,

STIPULATED MOTION AND ORDER TO STAY LUPA ACTION

vs.

KING COUNTY, a Municipal corporation; DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES, an administrative department of King County; and STEPHANIE WARDEN, as Director of King County DDES,

[clerk's action required]

Respondents.

I. MOTION

THIS MATTER comes before the undersigned judge of the above-entitled court on the parties' stipulation to stay. This LUPA appeal of a King County Code Interpretation presents only one aspect of a Code enforcement case which has been pending for some time. Aspects of this case are currently pending at the Superior Court and the Hearing Examiner levels, as well as being considered by the King County Council for a potential Code change. Due to the

STIPULATION AND ORDER STAYING LUPA ACTION - 1

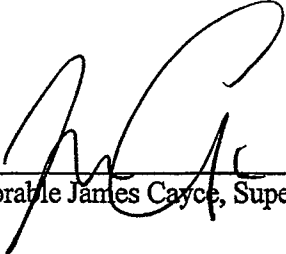
Daniel T. Satterberg, Prosecuting Attorney
CIVIL DIVISION
W400 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9015/SCAN 667-9015
FAX (206) 296-0191

1 complexity of the issues presented the parties are in agreement that this LUPA petition should be
2 stayed to allow for additional settlement negotiations and potential resolution through Code
3 change. Ms. Benson therefore joins the King County Department of Development and
4 Environmental Services in this motion to STAY the above-noted matter pending settlement
5 negotiations and potential resolution of at least some portion of the case through action by the
6 King County Council.

7 **II. ORDER**

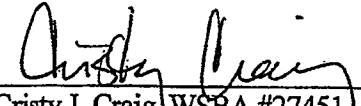
8 Based upon the foregoing stipulation IT IS HEREBY ORDERED that the above-noted
9 cause is HEREBY STAYED. Either party may petition the Court to return this matter to active
10 status by filing a motion pursuant to King County Local Rule 7.

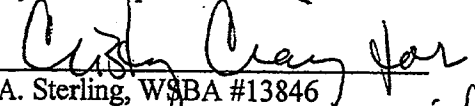
11
12 DATED this 8 day of January, 2009.

13
14 
15 _____
16 Honorable James Cayce, Superior Court Judge

17 Presented by,

18 DANIEL T. SATTERBERG
19 King County Prosecuting Attorney

20 By: 
21 Cristy J. Craig, WSBA #27451
22 Senior Deputy Prosecuting Attorney
23 Attorneys for Respondent

24 And By: 
25 Rhys A. Sterling, WSBA #13846
26 Attorney for Petitioners *via e-mail*
authorization

27 STIPULATION AND ORDER STAYING LUPA
28 ACTION - 2

Daniel T. Satterberg, Prosecuting Attorney
CIVIL DIVISION
W400 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9015/SCAN 667-9015
FAX (206) 296-0191

February 4, 2009

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**
400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654
Email hearingexaminer@kingcounty.gov

ORDER STAYING APPEAL

SUBJECT: Department of Development and Environmental Services File No. **E0600136**

CENTENNIAL KENNELS & BARBARA BENSON
Code Enforcement Appeal

Location: 21120 236th Avenue Southeast

Appellant: Centennial Kennels & Barbara Benson
represented by Rhys A. Sterling
PO Box 218
Hobart, Washington 98025-0218
Telephone: (425) 432-9348
Facsimile: (425) 413-2455
Email: rhyshobart@aol.com

King County: Department of Development and Environmental Services (DDES)
represented by Cristy Craig
Office of The Prosecuting Attorney
516 Third Avenue, W400
Seattle, Washington 98104
Telephone: (206)296-9015
Facsimile: (206) 296-0191
Email: cristy.craig@kingcounty.gov

and

Holly Sawin
Department of Development and Environmental Services
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-6772
Facsimile: (206) 296-6604
Email: holly.sawin@kingcounty.gov


At the request of the parties, this proceeding is continued on call in order to allow for additional settlement negotiations and/or potential resolution through legislation by the King County Council.

DDES shall report on the status of this matter on or around **August 4, 2009**.

At any time, either party may request the convening of a hearing or prehearing conference by filing a written motion to that effect.

Agreement to this stay acts to waive procedural time limits for completion of the hearing process.

ORDERED February 4, 2009.



Peter T. Donahue
King County Hearing Examiner

PTD:gao
E0600136 NOT