

September 10, 2010

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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STIPULATED REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0900831**

BOB McCANN
Code Enforcement Appeal

Location: 19801 Renton-Maple Valley Road SE

Appellant: Bob McCann
represented by **Raymond Frey**
Halsan Frey LLC
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Bellevue, WA 98005
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King County: Department of Development and Environmental Services (DDES)
represented by **Holly Sawin**
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SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Stipulated disposition by revised compliance schedule
Department's Final Recommendation:	Stipulated disposition by revised compliance schedule
Examiner's Decision:	Stipulated disposition by revised compliance schedule

EXAMINER PROCEEDINGS:

Pre-hearing conference opened:	September 2, 2010
Pre-hearing conference closed:	September 2, 2010

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS OF FACT:

1. This matter involves the appeal of a code enforcement Notice and Order. At the pre-hearing conference, the parties stipulated to disposition of the appeal by a revised compliance schedule. This satisfies Appellant Bob McCann's appeal for more time to resolve the matter.
2. On June 14, 2010, the King County Department of Development and Environmental Services (DDES) issued the Notice and Order to Mr. McCann, finding code violations on the subject RA-5-zoned property at 19801 Renton-Maple Valley Road Southeast in the unincorporated Maple Valley area. The Notice and Order cited Mr. McCann and the property with the following violations of county code:
 - A. Operation of a commercial trucking operation, including but limited to storage and pickup of trucks and heavy equipment, fueling of trucks and engagement of multiple employees on a residential RA-5-zoned property on which such use is not permitted outright and on which the subject use does not conform to the allowances of home occupation/home industry regulations.
 - B. Installation of an above-ground (approximately 2,000 gallon) diesel fuel tank without permits.
 - C. Installation of a retaining wall (approximately 12 feet in height made from ecology blocks) together with a vertical excavation cut over five feet in height and the addition of over 2,000 square feet of new impervious surface for vehicle and equipment parking without required permits.

The Notice and Order required correction of such violations by removal of the commercial trucking business from the site and obtainment of permits for the fuel tank and the grading activity.
3. Appellant McCann filed an appeal of the Notice and Order. The sole claim on appeal is that additional time is necessary for resolution. Of particular concern is a reasonable length of time for relocation of the business. Mr. McCann has a new site selection process already in progress and anticipates that the business can reasonably be relocated within six months, possibly necessitating a further 90-day extension. The fuel tank can be removed within 60 days of the instant order, and the retaining wall will be the subject of a permit application. If the permit is denied, the property will be returned to its original site condition, which restoration according to DDES does not require a permit.
4. The parties stipulated to a revised compliance schedule and entry of a stipulated order and decision as disposition of the appeal. The revised compliance schedule is as set forth in the order below.

CONCLUSION:

1. By stipulation as noted, the appeal, which essentially requested additional time for compliance, is adjudicated by imposition of the revised compliance schedule for the Notice and Order.

DECISION:

The Notice and Order is sustained with the stipulated revised compliance schedule set forth in the order below.

ORDER:

1. The commercial trucking business currently operated on the subject property shall be removed in its entirety from the property *by no later than March 9, 2011*. If reasonably necessary based on information provided by the Appellant to DDES, a 90-day extension to *no later than June 9, 2011* may be granted by DDES.
2. The onsite above-ground fuel tank shall be removed from the property *by no later than November 9, 2010*.
3. The Appellant shall schedule a pre-application meeting with DDES for the necessary permits for the retaining wall/excavation and other grading work specified in the Notice and Order, to be held *no later than November 9, 2010*. Thereafter, a complete permit application shall be submitted to DDES for said grading work *by no later than 60 days* after the pre-application meeting. Thereafter, all pertinent timeframes and stated deadlines for supplementary submittals, response comments, etc., if any, shall be diligently observed by the Appellant through to permit issuance and final inspection.
4. If the Appellant decides not to pursue a grading permit for said grading work, or said permit is denied, then the pertinent grading work shall be removed and the site restored *by no later than August 1, 2011* or *60 days* after said permit denial, whichever is later.
5. DDES is authorized to grant deadline extensions for any of the above requirements if warranted, in DDES's sole judgment, by circumstances beyond the Appellant's diligent effort and control. DDES is also authorized to grant extensions for seasonal reasons (potential for erosion, other environmental damage concerns, etc.).
6. No fines or penalties shall be assessed by DDES against Mr. McCann and/or the property if the above compliance requirements and deadlines are complied with in full (noting the possibility of deadline extension pursuant to the above allowances). However, if the above compliance requirements and deadlines are not complied with in full, DDES may impose penalties as authorized by county code retroactive to the date of this decision.

ORDERED September 10, 2010.



Peter T. Donahue
King County Hearing Examiner

NOTICE OF RIGHT TO APPEAL

The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in superior court within 21 days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

PTD:gao
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