King County
Building & Land Development Division
Parks, Planning and Resources Department
3600 - 136th Place Southeast
Bellevue, Washington 98006-1400

June 15, 1992

TO: Greg Kipp
Lisa Pringle
Gary Kohler
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George McCallum
Harold Vandergriff
Lisa Lee
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FM: Jerry Balcom JB

RE: Minutes of June 5, 1992 Code Interpretation Meeting

Present: Jerry Balcom, George McCallum, Betty Salvati, Henryk Hiller, Gordon Thomson, Lisa Lee, Terry Brunner, Laura Casey, John Bethel

1. **A developer now applying for subdivision approval holds a previously issued development permit for the site, although no work has yet occurred under that permit. The existing permit was issued prior to the effective date of the SAO and would now conflict with SAO requirements. Does the SAO now apply through the subdivision approval process to restrict or require a variance for the development that is to take place under the existing permit?**

   No. Whatever is authorized under the existing permit must be treated as if it were an existing structure until the permit expires. Once the permit expires, the current code (including the SAO) would apply to any renewal or other approvals.

2. **Variant on Issue #1: If the subdivision had been given final approval just prior to the SAO, and a previously undiscovered stream or wetland is found during review of a grading permit application submitted after the effective date of the SAO, can the SAO restrictions apply to limit grading, clearing or other activity around the newly discovered feature?**

   No. Under state law, a subdivision is governed for five years from the date of final plat approval by the terms of that final plat approval and the laws in effect at the time that the health department and county engineer approve the final plat (unless changed conditions create a serious threat to public health or safety in the subdivision). RCW 58.17.170. As a result, if final plat approval preceded the SAO, the SAO cannot be applied to the subdivision for five years without invoking the public health or safety exception.

3. **If a project qualifies for an SAO exemption under K.C.C. 21.54.030, an SAO exception under K.C.C. 21.54.050 or .060, or a variance from SAO requirements under K.C.C. 21.54.060(E) and 21.58, must that project meet any of the procedural or substantive requirements in the SAO (such as a Notice on Title, K.C.C. 21.54.100)?**

The introductory language to K.C.C. 21.54.030 makes it clear that a project qualifying for one of the exemptions in that section is exempt from all SAO requirements. However, the exceptions that may be granted under K.C.C. 21.54.050 (public agency and utility) and 21.54.060 (reasonable use) are from specific SAO requirements, and the remainder of the SAO would still apply. Similarly, a variance (K.C.C. 21.54.060(E) and 21.58) is an exception from specific SAO standards and requirements, and other SAO standards would still apply.

The group noted that in the case of public agency exceptions, reasonable use exceptions, and variances it is good practice to ask the Examiner or Adjuster to specifically state that the remainder of the SAO applies to the development proposal.

4. **"Alteration" is defined in part as "any human-induced action which adversely impacts the existing condition of a sensitive area." K.C.C. 21.04.047. The definition then lists some specific activities that "alteration" includes, along with "any other human activity that adversely impacts the existing vegetation, hydrology, wildlife or wildlife habitat." Do the listed activities constitute alterations by definition, or must those activities be determined by staff to "adversely impact" the sensitive area before they are considered to be an "alteration"?**

The wording and punctuation of K.C.C. 21.04.047 make it clear that the listed activities, except for the final catch-all category, constitute "alterations" by definition. There is no basis for staff to make a determination that any of these listed activities "adversely impacts" the sensitive area, since the activities do so by definition. The last category, "any other human activity that adversely impacts the existing vegetation, hydrology, wildlife or wildlife habitat," is intended to catch activities other than those already listed which have an adverse impact. This last category requires staff to determine whether there is an adverse impact or not, but only for activities other than those already listed. For this last category of activities, it may be appropriate to come up with a standard for what constitutes an "adverse impact."

5. **The zoning code defines a duplex as "a building designed exclusively for occupancy by two families living independently of each other, and containing two dwelling units." K.C.C. 21.04.310(C). What is the minimal connection necessary between two otherwise free-standing dwellings in order for them to constitute a duplex?**

The zoning code generally defines "building" as "any structure having a roof." K.C.C. 21.04.145. The group discussion focused on whether a breezeway connecting the two units, having a roof but no walls, was enough to make the two units a single building (and so a duplex). The consensus of the group was that the breezeway was sufficient for the two connected units to be considered a duplex. It was noted that the development would still have to meet any specific U.B.C. standards for fire walls and the like.

It was also noted that when a use is required to be within a building or within an entirely enclosed building, the zoning code requires that all exterior walls be solid from the ground to the roof line except for doors and windows. K.C.C. 21.04.145. A breezeway without walls would not be enough in such an instance. However, there is no express requirement that the residential use be within the duplex building (in contrast, for example, with most uses in the BR-N zone, which must be carried on indoors under K.C.C. 21.27.050(G)). The breezeway, with a roof, is sufficient for the duplex.

There was some interest in how the Executive Proposed Zoning Code defines "building." The complete definition of the term is "any structure having a roof."

6. **Other Matters.**

A. Legislative update.

In the discussion of proposed ordinance 92-263, which would repeal the lot aggregation requirements for substandard lots, it was noted that the exceptions in section 1(C) of the ordinance would apply only when the lot actually first becomes substandard. (That section states the existing law, K.C.C. 21.48.240(C).)

B. Enforcement update.

It was reported that the Examiner has issued a decision regarding an accessory use on a lot without a primary use.

We are following-up on this decision and will report on its details in subsequent minutes.

cc: Laura Casey
John Bethel
Brian Shea
Gordon Thomson
Henryk Hiller

JB:HH