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

August 31, 1992

TO: Greg Kipp
Lisa Pringle
Gary Kohler
Terry Brunner
George McCallum
Harold Vandergriff
Lisa Lee
Ken Dinsmore

FM: Jerry Balcom

RE: Minutes of August 14, 1992 Code Interpretation Meeting

Present: George McCallum, Lisa Lee, Jerry Balcom, Kyle Evans, Gordon Thomson, Henryk Hiller

1. **Do the septic tanks, drainfields, or storm water facilities for a proposed development constitute "accessory uses" and, if so, can they be located on a fraction of the lot adjacent to the proposed development, secured by an easement from the adjacent property owner?**

Drainfields, septic tanks, and storm water facilities are not listed as permitted principal uses in any zone; as a result, they are not allowed as principal uses unless a code amendment is secured (K.C.C. 21.46.050). However, they could be permitted as accessory uses, since they are subordinate and incidental to the main use or structure, but only if they are located on the same lot as that main use or structure (K.C.C. 21.04.005, 21.46.040).

Therefore, the adjacent property fraction on which the accessory use is to be placed must first become a part of the lot on which the principal use is located. (That is the case whether or not the two lots are owned by the applicant; separate lots are treated as separate legal entities.) The easiest way to do this is by a lot line adjustment. If both lots are owned by the same person, a formal merging of the two lots could also be used.

This analysis holds even if the adjacent fraction is zoned differently from the principal development site (although any development on both lots would have to meet the standards of both zones).

2. A variance is granted allowing the front yard of a proposed residence to be 8 feet rather than the 20 feet required in the zone. The front yard borders the property's only access road, which is a railroad right-of-way held by the county under a revocable easement from the railroad. If the easement is revoked, the lot would be landlocked, since there would be no room in the 8-foot front yard for access. Other lots along the right-of-way have received similar variances in the past.

a) Does access based on a revocable roadway easement constitute the "legal access" necessary for a lot under K.C.C. 21.04.555?

No. The limited access that exists under a revocable easement is not sufficient. Any new lots to be created should have permanent access.

We will propose a rule on this issue.

b) In processing variance requests, should limited access conditions be considered?

Yes. One of the criteria for the grant of a variance is that it not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity (K.C.C. 21.58.020(B)). In processing the front yard variance, there should be consideration of whether the variance will preclude an access road at some later point (if, for example, the roadway easement is revoked). Note that once variances have been granted for other properties along the right-of-way, this consideration will likely lose some of its importance.

c) Once a variance is granted, and the revocability of the roadway easement is then discovered, can staff decide not to honor the variance?

No. Once the variance is granted and the appeal period expires, staff must honor it unless a formal revocation occurs (K.C.C. 21.66.010). One of the grounds for revoking a variance is that the approval was based on inadequate or inaccurate information (see K.C.C. 21.66.010(B)).

JB:HH
cc: Jeff O'Neill
Kyle Evans
Mark Mitchell
Gordon Thomson
Henryk Hiller