



## King County

### Department of Development and Environmental Services

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## REGULATORY REVIEW COMMITTEE

- MINUTES -

**MEETING DATE: December 10, 2009**

**TO:** Building Services Division Staff  
Jim Chan, Manager  
Chris Ricketts  
Jarrod Lewis  
Deidre Andrus

Land Use Services Division Staff  
Randy Sandin, Manager  
Lisa Dinsmore  
Steve Bottheim  
Doug Dobkins  
Pesha Klein  
Molly Johnson

Fire Marshal Division Staff  
John Klopfenstein, Fire Marshal

Stephanie Warden, Director  
Joe Miles, Deputy Director  
Harry Reinert, Special Projects Manager and RRC Chair  
Devon Shannon, Prosecuting Attorney's Office

**FM:** Harry Reinert, Chair

Present: Devon Shannon, Steve Bottheim, Molly Johnson, Jarrod Lewis, Jerri Breazeal, Pesha Klein, Fereshteh Dehkordi, and Harry Reinert

- 1. Under K.C.C. 21A.12.144B, if the portion of an existing building that is located within 25 feet of the property line is converted into space that is not used to house livestock, may the remainder of the building be used to house livestock?**

### Background

A property owner constructed a barn on a rural property without a building permit. The property owner has applied for an already built construction permit to legalize the barn. The barn will be used to house livestock. One portion of the structure is located within 25 feet of the interior lot line. K.C.C. 21A.12.144B requires a minimum interior setback of 25 feet for any building used to house, confine or feed livestock other than swine. The property owner has asked whether the

portion of the building that is within the 25 foot setback could be converted to another use, such as storage.

#### Discussion

K.C.C. 21A.12.122 establishes special setback requirements for agricultural structures:

- A. The minimum interior setback for any building used to house, confine or feed swine shall be 90 feet.
- B. The minimum interior setback for any building used to house, confine or feed any other livestock shall be 25 feet.
- C. The minimum interior setback for any manure storage area shall be 35 feet.

For purposes of the zoning code, a building is defined as “any structure having a roof.” K.C.C. 21A.06.125.

The provision in K.C.C. 21A.12.122B does not include any exceptions that suggests that parts of a building can be considered separately for purposes of determining compliance with the requirements of this section. In other provisions in the zoning code, the Council has indicated that portions of a building could be treated separately. For example, K.C.C. 21A.08.050 allows veterinary clinics and kennels and catteries in certain zones if specific conditions are met. One of those conditions is that “The portion of the building or structure in which animals are kept or treated shall be soundproofed.” K.C.C. 21A.08.050B.9.a.(3). K.C.C. 21A.12.122 includes no such similar allowance or condition. If the property owner had applied for a building permit prior to construction, the Department would have been able to ensure that the building was located in compliance with this and other zoning code provisions.

#### Conclusion

Under K.C.C. 21A.12.122, if any part of a building that houses livestock, other than swine, the entire building must be located outside of the 25 foot interior setback.

## **2. How should K.C.C. 21A.12.130 be revised to address implication that structures are allowed in setbacks if they cross a lot line?**

#### Background.

K.C.C. 21A.12.130 provides for modifications to lot setbacks. One modification is “When the common property line of two lots is covered by a building(s), the setbacks required by this chapter shall not apply along the common property line.” In a code enforcement case discussed by the Committee earlier this year, this provision was discussed in the context of a walkway constructed between two buildings. Building permits had not been obtained for the walkway. The Department concluded that the walkway would be allowed under this provision if building code issues could be resolved. However, staff were concerned that this provision was ambiguous and that it should be clarified.

Discussion

The Committee was uncertain about the intent or purpose behind K.C.C. 21A.12.130A. There was speculation that it may have been intended to allow commercial developments that used multiple parcels as a site for a single development. There was also speculation that it was intended to allow a property owner who owns adjacent properties to build a house that straddles the lot line. The difficulty with these scenarios is that the building code treats these as separate lots and requires additional measures, such as firewalls, for any part of a structure that abuts the lot line. A third alternative rationale was to recognize structures built before the current setback requirements were in place. However, the non-conforming use provisions of the Zoning Code address this issue.

The Department has developed legislation to simplify the process for merging lots. The current code makes this process more complicated than it needs to be. For commercial developments, the binding site plan provides an alternative approach to modifying lot boundaries to avoid the problem of having buildings cross lot lines.

The Committee concluded that this provision was unnecessary and that it actually created confusion and should, therefore, be repealed.

Conclusion

K.C.C. 21A.12.130A should be repealed.