

REGULATORY REVIEW COMMITTEE

- MINUTES -

MEETING DATE: March 8, 1996

TO: Bob Derrick
Greg Kipp
Tom McDonald
Mark Carey
Mike Sinsky

Gary Kohler
Lisa Pringle
Pam Dhanapal
Anna Nelson
Ken Dinsmore
Harold Vandergriff

FM: Jerry Balcom

- 1. Are the permitted alterations of wetlands that are specifically called out in KCC 21A.24.330(E) through (Q) the only wetland alterations allowed, or are other alterations allowed if they meet the criteria of KCC 21A.24.330(A) and (B)? If other alterations are allowed, would a Variance or Reasonable Use Permit be required if the alterations meet the criteria established under KCC 21A.24.330(A) and (B)? (Mason Bowles)**

The committee was unable to come to a conclusive interpretation of this section of code. After a lengthy discussion it was determined that KCC 21A.24.330 could be interpreted in two ways: first, sections (A), (B), (C) and (D) could be interpreted to be the criteria that must be met to allow the wetland alterations specifically called out in sections (E) through (Q). Under this interpretation, only those wetland alterations specifically called out would be allowed provided they met the criteria in sections (A) through (D). A second interpretation is that each subsection, including (A) through (D) identifies a separate allowed alteration. Under such interpretation any wetland alteration that is not called out in sections (E) through (Q) can be allowed if it meets any of subsections (A) through (D). Under this interpretation, the specific wetland alterations called out in sections (E) through (Q) would only need to meet the criteria specific to that alteration, and not the criteria in Sections (A) through (D).

Under current practice, DDES is allowing the wetland alterations called out in sections (E) through (Q) outright and is not reviewing them for compliance with sections (A) through (D). In addition, if a proposed wetland alteration is not one

of those specifically called out in sections (E) through (Q), DDES is requiring a Variance or Reasonable Use Exception. Therefore the practice at DDES does not mirror either of the interpretations identified by the committee.

As written, it would appear that KCC 21A.24.330 is cumulative because of the word “and” placed before the last subsection. However there are breaks in the structure, which leaves some question as to whether KCC 21A.24.330 should actually be read as cumulative. Obviously even if the section is taken to be cumulative, it makes no sense to read this to mean that every allowed wetland alteration must meet every subsection of KCC 21A.24.300. For instance, if the proposal is to install a sewer utility corridor in a wetland buffer (KCC 21A.24.330(F)) it is unreasonable to interpret this to mean that the sewer utility corridor is allowed only if the proposal also includes surface water management activities in the wetlands or their buffers (KCC 21A.24.330(H)), and a public and private trail (KCC 21A.24.330(I)), and a dock, pier, moorage, float or launch facility (KCC 21A.24.330(J)), and etc. Cumulative instead would mean that every allowed alteration would need to meet each applicable criteria (i.e. (A) through (D)) and any one or more of (E) through (Q).

It was concluded that KCC 21A.24.330 should be re-structured to make it clear what wetland alterations are permitted. The committee also looked at other sections of KCC 21A.24 and found the chapter in general was not uniform in structure. Therefore the upcoming amendments to KCC 21A.24 should evaluate the chapter in its entirety and come up with a uniform structure that calls out specifically only what sensitive areas alterations are allowed, and what criteria must be met to do those alterations.

Finally, the committee concluded that an interpretation of KCC 21A.24.330 should be prepared and presented to Bob Derrick for his signature as an interim measure until the upcoming amendments to KCC 21A.24 are adopted.

2. Legislative Update.

The Executive has transmitted two quarterly packages to the Council for review. It is unlikely that either of these will be addressed before the second quarter of 1996.

The **fourth quarter 1995** package contains five ordinances which make the following amendments :

- Correcting drafting errors in KCC Chapter 21A.38 that currently cross reference non-existing provisions in KCC Title 20

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- Amending provisions for sports clubs to allow more flexibility to non-profit facilities by removing the age and operating hour limitations
- Amending Titles 16, 21A, and 25 to require notice of proximity of resource uses/zones with permits as required by state law
- Amending KCC 19.08.010 to clarify applicability of subdivision code to boundary line adjustments
- Clarifying accessory use provisions in Title 21A by defining kitchen, modifying requirements for accessory dwelling units and making livestock building and manure storage setbacks consistent with on-premise requirements

The **first quarter 1996 package** of ordinances contains two ordinances which make the following amendments:

- Amending Title 17 Fire Code to refine the Growth Management Act (GMA) related changes to rural fire flow standards adopted by Ordinance 11625 in late 1994
- Amending Title 16 Building Code to re-adopt standards for the placement of mobile homes and their accessory structures

The ordinance adopting the **1994 Uniform Codes** for application in King County is at the Council but will not be up for consideration until the second quarter at the earliest.

At the present time the Council is reviewing the **ESHB 1724** legislation. The Executive and Council staff briefed the Committee of the Whole (COW) on Proposed Ordinance 96-112. The ordinance has its first hearing before the full Council on Monday, March 18. Council intends to act upon the ordinance on March 25.

The GMH&E Committee deferred action on the **land segregation ordinance** until after March. A working group will be assigned to redraft the ordinance, paying particular attention to large lot segregation, boundary line adjustments, and binding site plans. In the meantime, a housekeeping ordinance which eliminates sections in Title 19 which are inconsistent with Proposed Ordinance 96-112 is under consideration.

JB:pk

cc: Priscilla Kaufmann, Code Development Planner

Mason Bowles, Senior Ecologist, Land Use Services Division

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