



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

November 8, 1991

TO: Greg Kipp
George McCallum
Lisa Pringle
Rich Hudson
Ken Dinsmore
Lanny Henoch

Harold Vandergriff
Jerry Marbett
Gary Kohler
Hilda Hammon
Terry Brunner

FM: Jerry Balcom

RE: Minutes of the November 8, 1991 Code Interpretation Meeting

Present: Jerry Balcom, Cass Jochman, Lisa Lee, Terry Brunner, Harold Vandergriff, Prue Sulzer, Kyle Evans, Ken Dinsmore, Brian Shea.

1. and 2. The first two questions relate to K.C.C. 21.54 and involve pre-emption rights of either state or federal agencies regarding the County's SAO. The facts provided for both questions were insufficient for the prosecutor to formulate an answer. This subject will be discussed at a future meeting once the PAO has an opportunity to review the additional information.

3. K.C.C. 21.52.030 (B)(C) requires that buildings and land shall not be used for or occupied by nonconforming uses if the nonconforming use of the building or land is discontinued for a continuous period of more than one year. Cass Jochman's review of the 1986 Greg Montgomery opinion concerning abandonment of nonconforming uses agreed with the previous decision. The previous decision stated that reduction in the level of activity or even total cessation of business activity does not, by itself, constitute, for the purposes of 21.52.030, a discontinuance of activity. Discontinuance is, instead, equated by the courts with abandonment. The courts, have also concluded that abandonment of a nonconforming use can only be found where the facts establish both an intent on the part of the user to abandon the nonconforming use, and an overt act or failure to act which implies abandonment. Therefore, the conclusions of the Montgomery opinion are still appropriate. However, each case must be reviewed individually to determine whether there is an intent to abandon.

4. Can the owner of nonconforming apartment buildings erect garages with storage as an accessory use on property zoned AR-5 under the provisions of K.C.C. 21.52.050? No decision was made with

November 8, 1991
Page 2

regard to expansion of nonconforming apartments. More information is needed to determine the legal status of the buildings. However, if the use was legally established, garages and accessory storage would be permitted as accessory uses. A new use, such as a mini-storage facility would not be permitted as an accessory to the nonconforming use and would have to be permitted in the current classification before it could be established.