



King County
Department of Development
and Environmental Services
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TO: Chuck Kleeberg
Greg Kipp
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George McCallum
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Lisa Lee
Lisa Pringle
Ken Dinsmore

FM: Jerry Balcom *JPB 5/27/93*

RE: Minutes of the May 21, 1993 Regulatory Review Committee Meeting

Present: Ken Dinsmore, Lisa Lee, George McCallum, Jerry Balcom,
Gordon Thomson, Laura Casey, Henryk Hiller

1. Three questions concerning the Sensitive Areas Ordinance's agricultural activities exemption at K.C.C. 21.54.030(C):

A. The exemption includes normal and routine maintenance of existing irrigation and drainage ditches, except for ditches used by salmonids (K.C.C. 21.54.030(C)(4)). If the ditch is used by salmonids, will its maintenance require the establishment of a buffer? How does this relate to other agricultural activities that were in existence and are continuing in that buffer area?

If the irrigation ditch has salmonids, it is by definition a stream (see K.C.C. 21.04.823). Since the maintenance of that stream is neither exempt from the SAO nor a permitted alteration, a variance would be needed to conduct that activity (see K.C.C. 21.54.030(C)(4); 21.54.320).

All streams have minimum buffer requirements (K.C.C. 21.54.310). However, if there is an exempt activity taking place in that buffer area (such as harvesting food crops under K.C.C. 21.54.030(C)(3)), that activity is exempt from the buffer restrictions. As a result, there may be a situation in which an exempt agricultural activity is taking place in the buffer of an irrigation ditch with salmonids, but the ditch itself cannot be maintained without a variance.

B. Is all tilling or discing an exempt agricultural activity under K.C.C. 21.54.030(C)(3)?

No. The exemption is only for tilling, discing, planting, seeding, harvesting and related activities for pasture, food crops, grass seed or sod. Therefore, it must be clear that the tilling or discing is for pasture, food crop, grass seed or sod purposes. Tilling or discing as activities in themselves do not fall within the exemption.



- C. Does the exemption cover only the specific agricultural activity that was in existence on November 27, 1990? For example, if the activity in existence on that date was the grazing of livestock (K.C.C. 21.54.030(C)(1)), would the mowing of grass at that same location now be exempt as well (K.C.C. 21.54.030(C)(2))?

The activities are all grouped in one exemption category, although they are separately enumerated within that category. Two of the listed activities require in some circumstances that that specific activity or other specified types of activities have been occurring there (K.C.C. 21.54.030(C)(3), (5)). The general consensus of the Committee was that although only one of the activities needs to have been in existence on November 27, 1990, the exemption permits all of the listed activities to occur (except where specifically stated otherwise, as noted above). This would mean, for example, that if livestock grazing was in existence on November 27, 1990, the land could now be used for mowing grass and remain within the exemption.

Note that agricultural activities tend to have recurring periods of inactivity (due to such factors as weather conditions or soils). Those normal periods of inactivity would not result in the loss of the exemption.

2. Examiner's Decision.

In the Foss/Tapper Code Enforcement Appeal (E92C0402), the Examiner agreed with the department's contention that the commercial paintball games operation is a commercial recreational area use which requires the issuance of a CUP in this zone (AR). The case has been appealed to Superior Court.

3. Legislative update.

A. Bulk Gas. The proposed ordinance to permit certain bulk gas facilities in residential zones with a CUP went before the GMH&E Committee on May 5. The Committee felt that other state or local permits are probably required and that those other permits should take care of the issues that a CUP would address. As a result, the Committee passed the ordinance out of committee without the CUP requirement, but directed council staff to bring to the full council any information on other permits that might be required for the facilities. However, only a county fire systems permit would be required and that permit would address only setback and fire safety issues. Other land use issues, such as special landscaping and general compatibility with the residential neighborhood, would only be addressed through a CUP.

B. Reuse of residential facilities in G-5. The proposed ordinance to permit the re-use of nonresidential structures for certain nonresidential uses as an Administrative CUP in the G-5 zone also went before the GMH&E Committee on May 5. The Committee requested that the proposal be amended to remove the Administrative CUP requirement and that it be brought back to committee in the near future.

C. Retail sales in B-C. The proposed ordinance to permit retail sales of autos, boats and heavy equipment in the B-C zone also went before the GMH&E Committee on May 5. The Committee agreed with the proposal but also felt that the general prohibition on outdoor display of retail sales items in the zone should be removed. A revised proposal, with that additional amendment, is to go before the full Council shortly.

D. New Zoning Code. The public hearing closed on May 3. Action on all individual amendments is scheduled to occur on June 1, with adoption of the new code expected on June 7.

E. Seasonal Clearing in East Sammamish and Bear Creek Plans. DDES and SWM have agreed that the seasonal limits on clearing and grading in the East Sammamish Community Plan Update and the Bear Creek Basin Plan should be removed. They would be replaced with enhanced enforcement, education and training. (Although the seasonal clearing limits were still in the East Sammamish update at the time of its adoption, a specific sunset clause was added so that these limits would be superseded as the Bear Creek, East Lake Sammamish and Issaquah Creek Basin Plans are adopted.) In addition, Community Planning is to draft sunset clauses for other East Sammamish update p-suffix conditions, under which those conditions will give way to new standards that later come into effect. (These other sunset clauses were not drafted by the time the East Sammamish update was adopted on May 24, but they are expected to be proposed at a later date.)

JB:HH

cc: Ann Dold
Steve Wright
Gordon Thomson
Henryk Hiller