



King County  
Department of Development  
and Environmental Services  
3600 - 136th Place Southeast  
Bellevue, Washington 98006-1400

TO: Bob Derrick  
Greg Kipp  
Terry Brunner  
Harold Vandergriff  
Ikuno Masterson

Gary Kohler  
Lisa Pringle  
Anna Nelson  
Ken Dinsmore  
Mike Sinsky

FM: Jerry Balcom JB 11/29/94

RE: Minutes of the October 14, 1994 Regulatory Review Committee Meeting

Present: Terry Brunner, Chris Ricketts, Betty Salvati, Gordon Thomson, Harold Vandergriff

1. Can the five foot setback landscaping exception be taken advantage of if the zoning for a property allows "attached/group residences?" K.C.C. 21A.16.060 (B)

K.C.C. 21A.16.060 (B) states: "Ten feet of Type II landscaping shall be included in an attached/group residence development, except that along portions of the development adjacent to another group/attached residence development or adjacent to any non-residential use the requirement shall be five feet of Type II landscaping." (emphasis added) As written, the standard is ten feet, with five feet being the exception. However, as written the "standard" only applies when adjacent to established single detached residences, the "exception" applies adjacent to all other land uses. Background discussion on this provision also revealed that the intent was to establish a five foot landscape standard for attached/group residential development except when the development is adjacent to a single detached residential use, in which case ten feet of type II landscaping would be required. The committee agreed that the intended provision made more sense, and that a code amendment should be prepared to correct the error.

Related to this discussion, the committee discussed whether to change the reference from "use" to "zone." Under the intended provision, however, the change is not necessary because only the presence of a residential use would trigger the ten foot standard.

2. For the purpose of determining building height, how is grade to be determined? K.C.C. 21.04.465



The determination of building height has received much discussion over the years, particularly with reference to the upper portion of a building. Little formal discussion, however, has taken place on how to determine grade based on the definition in the zoning code. The definition states:

"Grade means the average of the finished ground level at the center of all exterior walls of a building. In case walls are parallel to and within five feet of a sidewalk, the sidewalk shall be considered the finished ground level." (K.C.C. 21.04.465) (emphasis added)

The definition of grade refers explicitly to "finished ground level." Original ground level is therefore not a consideration here. "Finished ground level" may be established by cut and fill techniques with support from a retaining wall. To the extent that the cut and fill exceed grading code exemptions or a retaining wall exceeds six feet in height and infringes on the required side yard setback, then a grading permit and variance will be required.

A related discussion concerned whether a retaining wall attached to the main structure is considered part of the structure for the purpose of determining setback. K.C.C. 21.48.160 (B) allows in any zone, a "wall or fence not more than six feet in height" to be located and maintained on any part of a lot. Moreover, the zoning code excludes "fences" from the definition of "structure, and defines "fences" to include "masonry walls." Therefore, the retaining wall may be constructed within the required yard, up to six feet in height.

(Note: There may be cause to revisit this issue when the new zoning code, K.C.C. 21A, goes in to effect.)

### 3. Legislative Update

The Council passed proposed ordinance 94-324 amending the K.C.C. 20.24 on Monday, September 26, 1994. The amendments revise many of the requirements governing the hearing examiner process. Most of the provisions do not affect DDES participation in the hearing process. However, a new provision for pre-hearing conferences will require involvement by DDES staff. We will also be required to notify applicants for plats, rezones, UUP's, PUD's, and shoreline redesignations when we have determined their application is complete. The ordinance will become effective January 1, 1995, and will be evaluated for its effectiveness by council within two years. The ordinance will be circulated as soon as it is available.