

Legislation Text

---

**File #:** 2006-0448, **Version:** 2

---

Clerk 09/28/2006

AN ORDINANCE relating to zoning and standards for low-impact development and Built Green demonstration projects, and amending Ordinance 14662, Section 1, and K.C.C. 21A.55.060.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 14662, Section 1, and K.C.C. 21A.55.060 are each hereby amended to read as follows:

A. The purpose of the low-impact development and Built Green demonstration projects is to determine whether innovative permit processing, site development and building construction techniques based on low-impact development and building construction practices result in environmental benefits, affordable housing and lead to administrative and development cost savings for project applicants and King County. The demonstration projects will provide information on application of these techniques to an urban infill mixed-use redevelopment project, an urban single family residential project and a Vashon Town housing project. The demonstration projects will also provide information to assist in the development of King County Comprehensive Plan policies to guide application and refinement of regulations such as zoning, subdivision, roads and stormwater regulations. Expected benefits from the demonstration projects include: improved conditions of habitat, ground and surface waters within a watershed; reduced impervious surface areas for new site infrastructure in developed and redeveloped projects; greater use of recycled-content building materials and more efficient use of energy and natural resources; and the opportunity to identify and evaluate potential substantive changes to land use development regulations that support and improve natural functions of

watersheds. The demonstration projects will also evaluate whether consolidated administrative approval of modifications or waivers and any subsequent hearings, if required, effectively speeds the development review process while maintaining land use coordination and environmental protection, and whether that leads to administrative costs savings for project applicants and King County.

B. The department shall implement the low-impact development and Built Green demonstration projects in all or a portion of each of the following: the White Center neighborhood of the ~~((Park Lake Homes HOPE VI))~~ Greenbridge Project as described in Attachment A to ~~((this-ø))~~ Ordinance 14662; the unincorporated Urban Area east of Renton at approximately 148th Avenue Southeast and Southeast 128th Street as described in Attachment B to ~~((this-ø))~~ Ordinance 14662; and the Vashon Town as described in Attachment C to ~~((this-ø))~~ Ordinance 14662. If the geographic boundaries of ~~((Park Lake Homes HOPE VI))~~ the Greenbridge Project are expanded, the provisions of this ordinance may apply provided the criteria in subsection ~~((K))~~ L. of this section are met.

C. A request by the applicant to modify or waive development standards for the development proposals shall be evaluated by the department based on the criteria in subsection ~~((K))~~ L of this section. A request shall first be either approved or denied administratively and may be further reviewed as described in subsection ~~((G.3))~~ H.3 of this section. Approval or denial of the proposed modification or waiver shall not be construed as applying to any other development application either within the demonstration project area or elsewhere in the county.

D. A modification or waiver approved by the department in accordance with the low-impact development and Built Green demonstration projects shall be in addition to those modifications or waivers that are currently allowed by K.C.C. Title 9 and this title. The range of proposed modifications or waivers to development regulations that may be considered pursuant to the low-impact development and Built Green demonstration projects shall include only the following King County code regulations and related public rules:

1. Drainage review requirements: K.C.C. chapter 9.04 and the Surface Water Design Manual;

2. King County road standards: K.C.C. 14.42.010 and the county road standards, 1993 update;

3. Density and dimensions: K.C.C. chapter 21A.12, if the base density is that of the zone applied to the entire demonstration project and if the minimum density is not less than the minimum residential density of the zone calculated for the portion of the site to be used for residential purposes, in accordance with K.C.C. 21A.12.060. However, if a demonstration project provides fifty-one percent or more of the housing to households that, at the time of initial occupancy, have incomes of eighty percent or less of median income for King County as periodically published by the United States Department of Housing and Urban Development, or its successor agency, or if fifty-one percent or more of the rental housing is permanently priced to serve low-income senior citizens, then the director may approve:

a. less than the minimum density; and

b. for parcels within the area bounded by SW Roxbury Street, 12th Avenue SW, SW 102nd Street and 2nd Avenue SW that are developed in conjunction with the Greenbridge Project, greater than the maximum density, up to a maximum of R-48 (Residential forty-eight dwelling units per acre);

4. Design requirements: K.C.C. chapter 21A.14;

5. Landscaping and water use: K.C.C. chapter 21A.16;

6. Parking and circulation: K.C.C. chapter 21A.18;

7. Signs: K.C.C. chapter 21A.20; and

8. Environmentally sensitive areas: K.C.C. chapter 21A.24, if the modification results in a net improvement to the functions of the sensitive area.

E. A demonstration project authorized by this section and located in the R-12 through R-48 zones may contain residential and limited nonresidential uses subject to the following provisions:

1. The demonstration project may request a modification or waiver of any of the development conditions contained in K.C.C. 21A.08.030, 21A.08.040, 21A.08.050, 21A.08.060, 21A.08.070, 21A.08.080 and 21A.08.100, subject to the review process described in subsection ((G)) H. of this section and the criteria

described in subsection ((K)) L. of this section.

2. The demonstration project may include single family detached residential dwelling units as a permitted use, subject to the review process described in subsection ((G)) H. of this section and the criteria described in subsection ((K)) L. of this section.

3. The demonstration project may include any nonresidential use allowed as a permitted use in the NB zone, subject to any development conditions contained in K.C.C. 21A.08.040, 21A.08.050, 21A.08.060, 21A.08.070, 21A.08.080 and 21A.08.100, without the need to request a modification or waiver as described in subsection ((G)) H. of this section. The applicant may request a modification or waiver of the development conditions contained in K.C.C. 21A.08.030, 21A.08.040, 21A.08.050, 21A.08.060, 21A.08.070, 21A.08.080, and 21A.08.100, subject to the criteria in subsection ((K)) L. of this section. If a nonresidential use is permitted in the R-12 through R-48 zones, subject to development conditions, and is permitted in the NB zone without development conditions, the use shall be permitted in the demonstration project without development conditions and without the need to request a modification or waiver.

4. If a nonresidential use is subject to a conditional use permit in the R-12 through R-48 zones and not subject to a conditional use permit in the NB zone, the use shall be permitted in the demonstration project without requiring a conditional use permit.

5. If a use is subject to a conditional use permit in both the R-12 through R-48 zones and the NB zone or only in the NB zone, the use may be permitted in the demonstration project if the demonstration project applies for and obtains a conditional use permit and satisfies the conditional use permit criteria.

6. Uses authorized by this subsection shall be allowed only as part of a demonstration project under this section. All such uses shall be subject to the development standards in KCC 21A.12.030, except as may be modified or waived under subsection D<sub>2</sub> of this section and this subsection E.

F. A site in the NB and R-12 through R-48 zones located in a demonstration project authorized by this section may contain residential uses subject to the following:

1. The demonstration project may request a modification or waiver for the site of any of the development conditions contained in K.C.C. 21A.08.030, 21A.08.040, 21A.08.050, 21A.08.060, 21A.08.070, 21A.08.080 and 21A.08.100, subject to the review process described in subsection H. of this section and the criteria described in subsection M. of this section;
2. The site may include single family detached residential dwelling units as a permitted use, subject to the review process under subsection H. of this section and the criteria described in subsection M of this section;
3. The site may include any residential use allowed as a permitted use in the R-12 through R-48 zones, subject to any development conditions in K.C.C. 21A.08.030, without the need to request a modification or waiver under subsection H. of this section. The applicant may request a modification or waiver of the development conditions in K.C.C. 21A.08.030, subject to the criteria in subsection M. of this section. If a residential use is permitted, subject to development conditions, in the NB zone and is permitted without conditions in the R-12 through R-48 zones, the use shall be permitted without development conditions and without the need to request a modification or waiver;
4. If a residential use is a conditional use in the NB zone and is a permitted use in the R-12 through R-48 zones, the use shall be permitted as a permitted use under the conditions that apply in the R12 through R-48 zones;
5. If a use is subject to a conditional use permit in both the R-12 through R-48 zones and the NB zone or only in the R-12 through R-48 zones, the use shall be permitted in the demonstration project if the demonstration project applies for and obtains a conditional use permit and satisfies the conditional use permit criteria; and
6. Uses authorized by this subsection shall be allowed only as part of a demonstration project under this section. All such uses shall be subject to the development standards in K.C.C. 21A.12.040, except as may be modified or waived under subsection D. of this section and this subsection F.

G. This subsection authorizes a residential basics program for townhouse and apartment building types

if such housing are located in a demonstration project located in the R-12 through R-48 zones, even if not otherwise authorized by the department of development and environmental services public rules chapter 16-04: residential basics program.

~~((G.))~~ H.1. Requests for a modification or waiver made in accordance with this section may only be submitted in writing in relation to the following types of applications:

- a. a site development permit;
- b. a binding site plan;
- c. a building permit;
- d. a short subdivision; ~~((F.))~~
- e. a subdivision;
- f. a conditional use permit; or
- g. a clearing and grading permit.

2. Requests shall be submitted to the department in writing before or in conjunction with an application for one or more of the permits listed in this subsection (~~((G.1 of this section))~~), together with any supporting documentation. The supporting documentation must illustrate how the proposed modification meets the criteria of subsection ~~((K.))~~ L. of this section.

3. Except for an applicant's request for a modification or waiver submitted in conjunction with an application for a subdivision, the notice of application, review and approval of a proposed modification or waiver shall be treated as a Type 2 land use decision in accordance with K.C.C. 20.20.020. The request for a modification or waiver submitted in conjunction with an application for a subdivision shall be treated as a Type 3 land use decision in accordance with K.C.C. 20.20.020.

4. A preapplication meeting with the applicant and the department to determine the need for and the likely scope of a proposed modification or waiver is required before submittal of such a request. The department of natural resources and parks and the department of transportation shall be invited to participate in

the preapplication meeting, if necessary.

5. If the applicant requests a modification or waiver of K.C.C. 9.04.050 or the Surface Water Design Manual, the director shall consult with the department of natural resources and parks before granting the modification or waiver.

6. If the applicant requests a variance from the county road standards, the director shall refer the request to the county road engineer for decision under KCC 14.42.060, with the right to appeal within the department of transportation as provided in K.C.C. 14.42.062. The purposes of this demonstration ordinance are intended as a factor to be considered relative to the public interest requirement for road variances described in K.C.C. 14.42.060.

7. Administrative appeals of modifications or waivers approved by the director shall be combined with any appeal of the underlying permit decision, if the underlying permit is subject to appeal.

~~((H-))~~ I. The hearing examiner may consider an environmental impact statement adequacy appeal in conjunction with a demonstration project plat appeal if the environmental impact statement is prepared by a lead agency other than the department and if its adequacy has not previously been adjudicated, even if not otherwise authorized by K.C.C. 20.44.120.

~~((F-))~~ J. An approved development proposal for any of the applications listed in subsection ~~((G-1))~~ H.1. of this section, including site plan elements or conditions of approval, may be amended or modified at the request of the applicant or the applicant's successor in interest designated by the applicant in writing. The director may administratively approve minor modifications to an approved development proposal. Modifications that result in major changes as determined by the department or as defined by the approval conditions, shall be treated as a new application for purposes of vesting and shall be reviewed as applicable to the underlying application pursuant to K.C.C. 20.20.020. Any increase in the total number of dwelling units above the maximum number set forth in the development proposal permit or approval shall be deemed a major modification. The county, through the applicable development proposal permit or approval conditions, may

specify additional criteria for determining whether proposed modifications are major or minor. The modifications allowed under this section supercede other modification or revision provisions of K.C.C. Title 16, Title 19A and this title.

~~((J. For any))~~ K.1. The preliminary subdivision approval of a subdivision with more than four hundred units that is ~~((also a))~~ part of a demonstration project under this section~~((, the preliminary subdivision approval))~~ shall be effective for eighty-four months, even if not otherwise authorized by K.C.C. 19A.12.020. The director may administratively grant a one-time extension, extending the preliminary subdivision approval an additional five years, only if the applicant has shown substantial progress towards development of the demonstration project. Before granting the extension, the director will assess the applicant's compliance with the demonstration project conditions and may modify or impose new standards deemed necessary for the public health or safety.

2. A code modification or waiver approved under this section is effective during the validity of the underlying development permit or for forty-eight months, whichever is longer.

~~((K.1.))~~ L.1. To be eligible to ~~((utilize))~~ use the provisions of the demonstration project, development proposals must be located within the boundaries of the ~~((Park Lake Homes HOPE VI))~~ Greenbridge Project as described in Attachment A to ~~((this ordinance))~~ this ordinance (Proposed Ordinance 2006-0448), or as may be modified as described in subsection B<sub>2</sub> of this section; in the area east of Renton at approximately 148th Avenue Southeast and Southeast 128th Street as described in Attachment B to ~~((this-ø))~~ Ordinance 14662; and in the Vashon Town as described in Attachment C to ~~((this-ø))~~ Ordinance 14662.

2. Proposals to modify or waive development regulations for a development application must be consistent with general health, safety and public welfare standards, and must not violate state or federal law.

3.a. Applications must demonstrate how the proposed project, when considered as a whole with the proposed modifications or waivers to the code, will meet all of the criteria listed in this subsection, as compared to development without the modification or waiver, and achieves higher quality urban development; enhances



infill, redevelopment and greenfield development; optimizes site utilization; stimulates neighborhood redevelopment; and enhances pedestrian experiences and sense of place and community.

b. Any individual request for a modification or waiver must meet two or more of the following criteria (~~((1) through (4) as follows))~~:

(1) uses the natural site characteristics to protect the natural systems;

(2) addresses stormwater and drainage safety, function, appearance, environmental protection and maintainability based upon sound engineering judgment;

(3) contributes to achievement of a two-star or a three-star rating for the project site under the Built Green "Green Communities" program recognized by the Master Builders Association of King and Snohomish ~~((C))~~ counties; or

(4) where applicable, reduces housing costs for future project residents or tenants without decreasing environmental protection.

4. The criteria of this subsection (~~((K of this section))~~) supercede other variance, modification or waiver criteria and provisions of K.C.C. Title 9 and Title 21A.

~~((L.))~~ M.1. Regulatory modification and waiver applications, or both, authorized by this section shall be filed with the department by December 31, ~~((2006))~~ 2007, or by such a later date as may be specified in the conditions of any development approval for any type of modification or waiver for which the opportunity for future application is expressly granted in those conditions.

2. Modifications or waivers contained within an approved development proposal shall be valid as long as the underlying permit or development application approval is valid. A permit or approval that implements an approved code modification or waiver shall be considered under the zoning and other land use control ordinances in effect on the date the applicable complete code modification or waiver application is filed.

3. Modifications or waivers that are approved as separate applications must be incorporated into a valid permit or development application that must be filed by December 31, ~~((2006))~~ 2007.

4. The director may extend the date for filing the demonstration project permit and development applications for a maximum of twelve months.

5. The ability to establish the location and maximum size of uses that are not otherwise permitted in the R-12 through R-48 zones as set forth in subsection E. of this section expires December 31, ~~((2006))~~ 2007. The ability to establish the location and maximum size of uses that are not otherwise permitted in the NB zone or the R-18 zone as set forth in subsection F. of this section expires at the end of the effective period established in subsection K. of this section.

6. Any deadline set forth in this subsection shall be adjusted to include the time for appeal of all or any portion of the project approval.

~~((M.1.))~~ N.1. By December 31, 2006, the director shall prepare and submit to the council a report on the pilot programs that:

- a. describes and evaluates the pertinent preliminary results from the demonstration projects; and
- b. recommends changes, based on the evaluation, which should be made to the county processes and ordinances.

2. If only insufficient or inconclusive data are available when this report is due, the director shall provide an interim status report and indicate the date a subsequent

report or reports will be transmitted to fully evaluate outcomes of the demonstration projects.