

Regulatory Review Committee (RRC) Minutes

Meeting Date: October 24, 2024

Minutes finalized: November 13, 2024

TO: Jim Chan, Division Director
Mark Rowe, Deputy Division Director
Jina Kim, Senior Deputy Prosecuting Attorney
Tom Campbell, Code Enforcement Product Line Manager
Tracy Cui, Residential Product Line Manager
Ty Peterson, Commercial Product Line Manager

Scott Smith, Development Engineer

FM: Robin Proebsting, Legislative/Policy Analyst and RRC Chair

Attendees: Ty Peterson, Tom Campbell, Jina Kim, Brian Lee, Greg Goforth, Chad Tibbits, Joe Pursley, Camille Beasley, Scott Smith, and Mark Wilgus.

1. Concerning the expansion of single detached dwelling units in the Shoreline jurisdiction and the applicability of 21A.25.210.

Indexes

Subjects: Shorelines, Flood hazard areas
Code: KCC 21A.25.210

Background

Permitting received an application for a building permit to replace a legally existing single detached dwelling unit located within the Shoreline jurisdiction. As proposed, the replacement single detached dwelling unit will be more than 1,000 sq ft larger than the unit it is replacing and conforms with all zoning and critical area standards. The subject site is within the Shoreline jurisdiction because it is located within the one-hundred-year floodplain for the Raging River. K.C.C. 21A.06.1082B defines "Shoreline jurisdiction" as: "all shorelines of the state, including shorelines, shorelines of statewide significance, shorelands and the one-hundred-year floodplain." (Emphasis added.) The proposed dwelling unit is outside of the 165-ft aquatic area buffer and more than 200 feet from the Ordinary High Water Mark (OHWM) of the Raging River.

Staff requested clarification of whether the standards in K.C.C. 21A.25.210 apply to this proposal.

Discussion

K.C.C. 21A.25.210 states in part:

The expansion of a dwelling unit or residential accessory structure located in the shoreline jurisdiction, if allowed under K.C.C. 21A.24.045, is subject to the following:

A. If the proposed expansion will result in a total cumulative expansion of the dwelling unit and accessory structures of more than one thousand square feet, a shoreline variance is required; [...]

Since the requirements of this section apply to the "expansion of a dwelling unit or residential accessory structure", the question posed is whether the replacement of an existing dwelling unit with a larger dwelling unit is an "expansion" subject to the square footage limit.

Conclusion

K.C.C. 21A.25.210 does not apply where a legally existing dwelling unit is proposed to be completely replaced with a larger dwelling unit that conforms to all applicable standards (e.g., zoning, critical areas etc.). The proposed development is comparable to new construction of the same size which would be allowed given the site conditions. All other applicable requirements (e.g., obtaining a flood permit if within the floodplain) still apply.

2. Concerning allowing stormwater vaults and recreation space to overlap

Indexes

Subjects: Surface Water Management Facilities; Recreation Space, On-Site

Code: KCC 21A.14.180, Surface Water Design Manual

Background

A recent conversation between the planning and engineering teams raised the question of whether an underground stormwater vault may be combined with aboveground recreation space within a subdivision. Past practice has been to allow overlap between these two facilities, after verifying that the proposed recreation space is designed to allow for recreation. However, there are examples of approved subdivisions with development on recreation tracts that are incompatible with the access requirements needed to maintain a vault. For example, previously approved subdivisions have installed basketball courts and playground equipment built over vaults, structures that can't easily be moved to allow for maintenance of the vault.

Discussion

Standards for recreation spaces within subdivisions are in K.C.C. 21A.14.180¹. The Surface Water Design Manual (SWMD)² also provides standards for detention ponds in recreational tracts in Section 5.1.

"Drainage facility" is defined in K.C.C. 21A.06.332C as "a feature, constructed or engineered for the primary purpose of providing drainage, that collects, conveys, stores or treats surface water. A drainage facility may include, but is not limited to, a stream, pipeline, channel, ditch, gutter, lake, wetland, closed depression, flow control or water quality treatment facility and erosion and sediment control facility." This definition therefore encompasses both detention ponds and stormwater vaults.

¹ K.C.C. 21A.14.180 [\[LINK\]](#)

² King County Surface Water Design Manual, dated July 23, 2021 [\[LINK\]](#)

K.C.C. 21A.14.180.F. provides the standards under which recreation areas within stormwater tracts may be credited for up to fifty percent of the required square footage for on-site recreation spaces. These standards include: 1) a requirement that the stormwater tract and on-site recreation tract be contiguously located; and 2) design requirements for drainage facilities, including those to provide no steeper than a 33% side slope and to be landscaped and developed for passive recreation.

By providing standards that speak to the relationship between drainage facilities and recreation space, the code implies that stormwater vaults (a type of drainage facility) and recreation spaces can overlap. However, specific code provisions imply that this subsection applies only to detention ponds, and it is unclear how a stormwater vault could meet some of the applicable standards. For example, the sides of a vault would not be designed to be 33% (they would instead be vertical, or 100%), therefore it could be argued that this standard is not capable of being met by a stormwater vault, and therefore stormwater vaults are not allowed to overlap with recreation space. On the other hand, given that vaults are located underground, it could be argued that this slope standard (which is aimed at allowing a person who fell into a detention pond to escape) does not apply, because it would not be possible to fall into an underground stormwater vault, which has no aboveground opening.

K.C.C. 21A.14.180.G. also speaks to the relationship between drainage facilities and recreation space, stating: "When the tract is a joint use tract for a drainage facility and recreation space, King County is responsible for maintenance of the drainage facility only and requires a drainage easement for that purpose." This indicates that stormwater tracts and on-site recreation tracts may also be overlapping, in addition to being contiguous as stated in K.C.C. 21A.14.180.F. By being located in a separate subsection, K.C.C. 21A.14.180.G. provides an alternate pathway to allowing drainage facilities and recreation spaces to coexist.

In addition to the standards in the K.C.C., the SWDM provides standards for detention ponds in recreational tracts but is silent on standards that apply to stormwater vaults and recreational spaces. It is unclear if this absence of standards should be interpreted to mean that stormwater vaults and recreational spaces are allowed to overlap or disallowed from overlapping.

Conclusion

Stormwater vaults and recreation spaces can overlap, because K.C.C. 21A.14.180.G. speaks to "drainage facilities" which by definition include stormwater vaults. Additionally, the absence of standards in the SWDM regarding the design of stormwater vaults under recreation spaces is not interpreted to mean that the overlapping of these features is disallowed—they are understood to be allowed, but that there are no specific standards in the SWDM to apply and that a drainage adjustment will be required. Adjustments from drainage standards may be only approved where the adjustment will produce a comparable result which is in the public interest, and meet the objectives of safety, function, fire protection, and maintainability based upon sound engineering judgment.

Given past implementation challenges, the RRC offers an accompanying recommendation to revise the subdivision review process to confirm that recreation spaces that also contain a stormwater vault are designed to provide sufficient accessibility, consistent with the drainage easement for maintenance called for by code. This includes confirming that development like basketball courts and playground equipment, which might not be compatible with maintenance of stormwater vaults, are designed to allow for maintenance of stormwater vaults. If found to be

appropriate, Permitting might also consider developing a standard condition for inclusion on the face of plats regarding allowable development in joint use tracts for stormwater and recreation, together with information clarifying the ownership and maintenance responsibility of improvements. Lastly, the Department of Natural Resources and Parks, Water and Land Division may wish to consider updates to the SWDM to clarify standards for stormwater vaults located under recreation spaces.