

Regulatory Review Committee (RRC) Minutes

Meeting Date: January 23, 2025

Minutes finalized: Feb 3, 2025

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: Robin Proebsting, Warren Clauss, Joe Pursley, Dan Cardwell, Kim Barker, Tracy Cui, Ty Peterson, Rebecca Burke, Jina Kim

1. Future sewer availability and determination of "preclude future residential development consistent with minimum density of zone" in K.C.C. 21A.12.060

Indexes

Subjects: Density, minimum density

Code: K.C.C. 21A.12.060

Background:

This discussion item concerns a specific property that has been the subject of a preapplication meeting for potential subdivision. The property is located in the urban area where new development must be served by public sewer service unless criteria are met for temporary on-site sewage systems. According to coordination with the Lakehaven Water and Sewer District (LWSD), the nearest available sanitary sewer connection point is approximately 2.5 miles away. Additionally, LWSD's approved comprehensive plan does not include any current or future capital improvement plans to extend sewer service to this area. Minimum density standards in K.C.C. 21A would require the subdivision to contain at least 7 lots. Because of the cost of bringing sewer service to the site, the applicant proposes to subdivide the subject property into 3 lots served by on-site septic systems and designing the subdivision in way that could allow for 7 lots in the future, when sewer becomes available.

King County Code (K.C.C.) 21A.12.060.B.1. allows minimum density standards to be waived, providing a pathway for this proposal, if the applicant demonstrates "[t]he proposed layout of the lots in a subdivision... will not preclude future residential development consistent with the minimum density of the zone". A site plan submitted as part of a pre-application meeting showed both 3 proposed and 7 future lots in an effort to document how minimum density standards could be met in the future and how minimum density would not be precluded. The

purpose of the RRC’s discussion was to determine whether the applicant met the requirements of K.C.C. 21A.12.060.B.1.

King County's Utilities Technical Review Committee (UTRC) has received an appeal requesting the allowance of on-site septic systems within the urban growth area, on the basis that LWSD is not able to provide timely and reasonable service, pursuant to K.C.C. 13.24.090.B.3. It is the UTRC's practice to obtain confirmation from the Permitting Division that the proposal meets King County's development regulations before considering an appeal. This is to ensure the UTRC does not take action on a proposal that would result in non-buildable lots. The UTRC's ability to hear this appeal is therefore contingent on whether K.C.C. 21A.12.060.B.1 is met.

Discussion

The discussion centered on: 1) what would “preclude future residential development consistent with the minimum density of the zone” as used in K.C.C. 21A.12.060.B.1; and 2) what information from the applicant would be needed to demonstrate such future development was not precluded.

Relying on dictionary definitions, the RRC determined that “preclude” means “prevent” or “make impossible”. To “not preclude” something would not mean that it was guaranteed or even likely to happen—only that it was not impossible. Denying a layout solely because current conditions make it unlikely to be feasible could unnecessarily limit future development. For example, while public sewer access may not exist now, it could become viable in the future—even 100 years from now—making it possible to achieve the minimum density. Denying this three-lot subdivision based on the sewer issue would likely restrict the site to a single-family home for an extended period, which undermines broader efforts to address the housing shortage.

One concern raised was that without limits on where future improvements could be constructed, future development consistent with the minimum density of the zone could effectively be precluded, for example, by a property owner building an accessory building where access to serve future lots would be needed. This raised the question of whether Permitting should require documentation as it would for a phased development, in which there are safeguards to preserve the option for future development (like easements), or instead whether only the proposed subdivision design should be considered. Based on the language in K.C.C. 21A.12.060.B.1, it was determined that only the subdivision design of the future 7-lot subdivision should be considered, given the wording “[t]he proposed layout of the lots in a subdivision” in this subsection (emphasis added).

The proposed site plan does not meet code standards for a 7-lot subdivision, because the recreation space shown is too small, and lacks code compliant access. Additionally, the lot layout may not meet drainage standards, and more information is needed to confirm.

Conclusion

Not enough information was provided by the applicant to determine whether K.C.C. 21A.12.060.B.1 was met. The applicant needs to provide additional information demonstrating code compliance with all applicable code requirements, including but not limited to, King County Surface Water Design Manual, King County Road and Construction Design Standards, and zoning requirements. Information needed from the applicant to determine if this code section is met would be:

1. A preliminary Technical Information Report; and
2. A site plan of the proposed future lot layout, showing
 - a. A number of lots consistent with minimum density standards;
 - b. Space for access, utilities, and recreation space, consistent with present-day code standards. Easements restricting construction on these areas may be shown but would not be required.
 - c. Preliminary drainage design sufficient to show feasibility of compliance with K.C.C. Title 9.