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Clerk 07/30/2009

..title

AN ORDINANCE relating to three development projects; adopting provisions for approval of three sustainable communities and housing demonstration projects, in accordance with K.C.C. 21A.55.010; and adding a new section to K.C.C. chapter 21A.55.

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PREAMBLE:

The availability of affordable housing is a regional vision as expressed in the Growth Management Act, Vision 2040 multicounty planning policies, the King County countywide planning policies and the King County Comprehensive Plan. Ideally, affordable housing would be located in communities that are safe, healthy, accessible to facilities and services and part of diverse communities.

Comprehensive Plan Policy U-108 calls on the county to promote public health by concentrating growth within the Urban Growth Area, allowing mixed-use developments and adding pedestrian linkages. Further, Comprehensive Plan Policy U-132 encourages innovative, quality infill development and redevelopment in existing urban areas. More specifically, this policy directs the county to consider a strategy employing techniques for assembly and resale of sites to providers of affordable housing. With an understanding of the cost of providing parking

combined with the decreasing need for parking within urban areas due to increased transit options, Policy U-329 suggests a reduction in parking requirements for affordable housing projects that utilize any of a variety of affordable housing incentive programs, subsidies, tax abatement or credits. Further, in accordance with Policy U-337, King County understands the importance of incorporating the principles of healthy communities and homes, sustainability and greenhouse gas emissions mitigation in affordable housing developments.

The King County initiative, HealthScape, reported that people who live in more compact urban communities actually drive, on average, twenty-six percent less than people who live in more-sprawling communities.

Furthermore, communities that are designed to increase biking and walking also serve as ideal communities for transit. Communities that have integrated street networks, a mix of uses and residential densities supportive of public transportation can reduce vehicle miles traveled because auto trips are being replaced with more walking, biking and transit.

King County wishes to foster affordable housing developments that will demonstrate that less parking is needed, that a mix of uses will increase opportunities for walking, biking and transit, and that higher densities on infill properties will foster more vibrant urban communities.

The Housing Stimulus Plan, as called for in King County Motion 12901, approved by the King County council on December 15, 2008, identifies

increased density bonuses for sustainable development projects, greater development flexibility, and the use of King County surplus properties for housing developments as elements to support and enhance the economic vitality of the housing market.

King County is planning to convey certain properties it currently owns as sustainable communities and housing demonstration projects subject to restrictions that will require any purchaser to develop the properties consistent with the county's goals.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

NEW SECTION. SECTION 1. There is hereby added to K.C.C. chapter 21A.55 a new section to read as follows:

A.1. The purpose of the sustainable communities and housing demonstration projects is to provide affordable housing and workforce housing integrated into developments containing market rate housing and maximize sustainable development, which includes bike, pedestrian and transit connections, a mix of housing types, and the use of recyclable materials. The demonstration projects will provide information on the application of these techniques to urban infill redevelopment and urban single family residential development, some of which may include mixed use. The demonstration projects will also assist the county in refining regulations relating to zoning, subdivision, roads and stormwater as they relate to sustainable development.

2. The demonstration projects will also enable the county to evaluate whether consolidated administrative approval of zoning and subdivision-related 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 expected benefits from the demonstration projects include: the use of innovative design and development techniques to promote sustainable communities, reduced impervious surface areas for site infrastructure; a 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 the development of sustainable and affordable housing.

C. A request by the applicant to modify or waive development standards for the development proposals shall be evaluated by the department of development and environmental services based on the criteria in subsection J. of this section. A request shall first be either approved or denied administratively and may be further reviewed as described in subsection 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 of development and environmental services in accordance with this section shall be in addition to those modifications or waivers that are currently allowed by this title. The proposed modifications or waivers to development regulations that may be considered regarding sustainable communities and housing demonstration projects shall include only the following chapters 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. chapter 14.42 and the county road standards, 2007 update;

3. Density and dimensions: K.C.C. chapter 21A.12;

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;

8. Critical areas: K.C.C. chapter 21A.24, if the modification results in a net improvement to the functions of the critical area; and

9. Landscape installation timing: K.C.C. chapters 27A.30 and 27A.40.

E. A demonstration project authorized by this section may contain residential and limited nonresidential uses subject to the following:

1. The demonstration project may include any residential uses as allowed as a permitted use in the R12 - 48 zones, subject to any development conditions in K.C.C. 21A.08.030, without the need to request a modification or waiver as described in subsection H. of this section. The applicant may request a modification or waiver of any of the development conditions for residential uses contained in K.C.C. 21A.08.030, subject to the review process described in subsection H. of this section and the criteria in subsection J. of this section;

2. The demonstration project may include, as part of a residential project, any nonresidential use allowed as a permitted use in the NB zone under K.C.C. 21A.08.030,

21A.08.040, 21A.08.050, 21A.08.060 and 21A.08.070, subject to any development conditions contained in those sections without the need to request a modification or waiver as described in subsection H. of this section, except the following uses are not allowed:

- a. automotive parking;
- b. automotive repair and automotive service, K. C.C. 21A.08.050;
- c. commuter parking lot, K.C. C. 21A.08.060 , unless as part of a transit-oriented development as defined in K.C.C. 28.94.175;
- d. gasoline service stations as defined in K.C.C. 21A.08.070;
- e. off-street required parking lot commercial and industrial accessory uses;
- f. private stormwater management facility;
- g. self-service storage; and
- h. vector waste receiving facility.

3. The nonresidential uses shall be no greater than three thousand square feet per use, with a total maximum of all nonresidential uses not to exceed ten percent of the area of the demonstration project site or twenty thousand square feet, whichever is smaller. The applicant may request a modification or waiver of the development conditions for nonresidential uses in K.C.C. 21A.08.030, 21A.08.040, 21A.08.050, 21A.08.060 and 21A.08.070, subject to the review process described in subsection H. of this section and the criteria in subsection J. of this section.

F. A demonstration project authorized by this section allows a residential basics program for townhouse and apartment building types, consistent with the department of

development and environmental services public rules chapter 16-04: residential basics program.

G. All related review processes such as subdivision, building permit, inspection and similar processes for a demonstration project shall be expedited if:

1. fifty percent or more of all residential units proposed for the demonstration project are affordable to households at eighty percent of area median income, as defined by Department of Housing and Urban Development income guidelines for King County and below; or

2. seventy percent or more of all residential units for the demonstration project are affordable to households at eighty to one hundred fifteen percent of area median income, as defined by Department of Housing and Urban Development income guidelines for King County.

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; or
- e. a subdivision.

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 subsection H.1. of this section, together with any supporting documentation. The supporting documentation

must illustrate how the proposed modification meets the criteria in subsection J. 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 of development and environmental services to determine the need for and the likely scope of a proposed modification or waiver is required before submittal of such a request. If a modification or waiver requires approval of the department of natural resources and parks or the department of transportation that department shall be invited to participate in the preapplication meeting.

5. If the applicant requests an adjustment from the county drainage standards, the director of the department of development and environmental services shall refer the request to the department of natural resources and parks for decision under K.C.C. chapter 9.04, with the right to appeal within the department of natural resources and parks as provided in K.C.C. 9.04.050.C.6. The department of natural resources and parks shall consider the purposes of this demonstration ordinance as a factor relative to the public interest requirement for drainage adjustments described in K.C.C.9.04.050.C.

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 K.C.C.

14.42.060, with the right to appeal within the department of transportation as provided in K.C.C. 14.42.060 and the associated public rule. The department of transportation shall consider the purposes of this demonstration ordinance as a factor 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.

I. An approved development proposal for any of the applications listed in subsection 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 supersede other modification or revision provisions of K.C.C. Title 16, Title 19A and this title.

J.1. To be eligible to use the provisions of this section, a demonstration project must be located on a demonstration project site identified in section 2 of this ordinance

and the applicant has accepted the site as a King County sustainable communities and housing demonstration project.

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 in this subsection J., as compared to development without the modification or waiver, and:

- (1) achieves higher quality urban development;
- (2) provides quality infill development;
- (3) optimizes site utilization; and
- (4) 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) contributes to the creation of a sustainable community, which includes features such as a connected street network, a mix of housing types, pedestrian or bike routes throughout the development, direct bus connections, no front garages, and front porches.

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

(3)(a) contributes to achievement of a three-star rating for the project site under the Built Green Communities program administered by the Master Builders Association of King and Snohomish Counties;

(b) contributes to achievement of a four-star or higher rating for the single family units under the Built Green program administered by the Master Builders Association of King and Snohomish Counties or achieve a gold certification under the U.S. Green Building Council, LEED program or equivalent program; or

(c) contributes to achievement of a four-star or higher rating for the multifamily units under the Built Green program administered by the Master Builders Association of King and Snohomish Counties or achieve a gold certification under the U.S. Green Building Council, LEED program or other equivalent program; and

(4) provides attractive, well-designed development that will assist in improving safety and preventing crime in the development and surrounding area, including adequate outdoor lighting along walkways/trails, walkways/trails 5' or wider and low vegetation along walkways/trails.

4. The criteria in this subsection supersede other variance, modification or waiver criteria and provisions of K.C.C. Title 21A.

K. Regulatory modification and waiver applications, or both, authorized by this section shall be filed with the department of development and environmental services within three years of the approval of the development proposal, which includes issuance of a building permit or site development permit, recording of a plat, short plat or binding site plan, 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. Modifications or waivers contained within an approved development proposal are valid as long as the underlying permit or development application approval is valid. If modifications or waivers are approved as

separate applications, they must be incorporated into a valid permit or development application within three years of approval of the development proposal. The director may extend the date for filing the demonstration project permit and development applications for a maximum of twelve months. Any deadline in this subsection shall be adjusted to include the time for appeal of all or any portion of the project approval.

SECTION 2. A. The department of development and environmental services shall implement section 1 of this ordinance only in all or a portion of each of the following demonstration project sites: the White Center neighborhood of the White Center Workshop as described in Attachment A to this ordinance; the Skyway neighborhood of Brooks Village as described in Attachment B to this ordinance; and the Federal Way neighborhood of Kit's Corner as described in Attachment C to this ordinance.

B.1. By December 31, 2013, the director shall prepare and file eleven copies with the clerk of the council, for distribution to all council members, of a report on the demonstration programs that:

a. describes and evaluates the pertinent preliminary results from the demonstration projects; and

b. recommends changes, based on the evaluation that should be made to the county processes and ordinances. The executive shall then transmit any proposed ordinances to the council within six months of the report.

2. If only insufficient or inconclusive data are available when the report required under subsection B.1. of this section is due, the director of the department of

development and environmental services shall prepare and file eleven copies with the clerk of the council, for distribution to all council members, of a report on these

demonstration projects that indicates the date a subsequent report or reports will be transmitted to fully evaluate outcomes of the demonstration project sites.