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COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

CEDAR HILLS RURAL PRESERVATION ALLIANCE, a Washington
nonprofit corporation

Respondent,

v.

KING COUNTY, a charter county; YOUNG WOMEN'S CHRISTIAN
ASSOCIATION OF SEATTLE-KING COUNTY-SNOHOMISH
COUNTY, a Washington nonprofit corporation; and PASSAGE POINT
HOUSING LIMITED PARTNERSHIP, a Washington Limited
Partnership

Appellants.

APPEAL FROM SUPERIOR COURT FOR SNOHOMISH COUNTY
THE HONORABLE GEORGE N. BOWDEN

BRIEF OF APPELLANT KING COUNTY

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I. INTRODUCTION

King County appeals from a Land Use Petition Act judgment rendered by the Snohomish County Superior Court. The Superior Court's ruling vacated a building permit issued to the Young Women's Christian Association ("YWCA") for renovations to residential, social service facilities located on a County-owned campus adjacent to the Cedar Hills landfill. CP 25. The YWCA proposes to use renovated buildings to provide supportive services to parents at risk of homelessness, who are transitioning from incarceration and reuniting with their children. CAR 01160.¹ The program will operate under the name "Passage Point".

The Superior Court granted the Cedar Hills Rural Preservation Alliance's (hereinafter "CHRPAs") petition based upon an incorrect determination that Passage Point approval violated King County Zoning Code non-conforming use restrictions. CP 25.

II. ASSIGNMENTS OF ERROR AND ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

The Superior Court erroneously granted CHRPA's land use petition. The Court erred both as a matter of fact and law in its

¹ Numeric "CAR" (Certified Administrative Record) citations in this memorandum refer to "CHRPA" numbers that appear in the lower right corner of the Certified Administrative Record filed with the Superior Court in this case. (Sub No. 17) Other Superior Court documents are referred to in this brief by either the associated Clerk's Paper (CP) or Partial Report of Proceedings (RP) numbering.

determination: (1) that the legal nonconforming status of prior facility operations had been discontinued; (2) that YWCA's proposed use is materially different than earlier facility use; (3) that the YWCA's project expands the prior facility; and (4) that the County's decision with respect to each of these issues was not entitled to substantial deference.

III. STATEMENT OF THE CASE

A. Cedar Hills Facility.

For over thirty-five years, King County has operated a Cedar Hills residential care facility, providing counseling/treatment, health care, vocational and educational assistance and other supportive social services to low-income persons addicted to alcohol or other substances. The 208-bed facility, consisting of seven separate buildings, is located within the southeast boundary of the County's nine-hundred and twenty acre Cedar Hills Landfill parcel. CAR 00730, 00733, 01363, 00966 (map).

B. Cedar Hills Facility (1966 - 2003).

The Cedar Hills facility was initially constructed by the King County Sheriff's Department pursuant to a 1966 Special Permit that was issued by resolution of King County's Board of County Commissioners.² CAR 01268. The original campus consisted of two residential buildings,

² The Cedar Hills site was originally leased to the County by the State of Washington. CAR 01407. In 1992, the State deeded the property to King County. CAR 01406

an administration building, multi-use building, shop building and greenhouses. CAR 01404. From its inception, the facility was linked to the criminal justice system. Among those residing at Cedar Hills were "prisoners convicted ... of a crime coincidental with their excessive use of alcoholic stimulants" and other nonviolent offenders. See e.g., CAR 00542, 00546, 00549, 00552, 00554. The facility provided these and other residents with an in-patient "rehabilitation" program that included counseling and vocational guidance to "enable those poor, infirm alcoholics [to] ... accelerate their recovery and return to productive society." CAR 00563, 00567.

In the years following the facility's initial operations, the criminal justice approach to dealing with problems of alcohol abuse shifted towards a more treatment-oriented model, emphasizing counseling and ultimate reintegration of individuals into the mainstream. See RCW 70.96A.010 ("It is the policy of this state that alcoholics and intoxicated persons may not be subjected to criminal prosecution solely because of their consumption of alcoholic beverages but rather should, within available funds, be afforded a continuum of treatment in order that they may lead normal lives as productive members of society."). These changes were reflected in the expanded facilities and services subsequently provided at Cedar Hills.

In 1975, King County's Zoning Adjuster issued a Conditional Use Permit (CUP) authorizing expansion of the facility with a greater emphasis on counseling and treatment. CAR 01384-1390. At the time the CUP was issued, the site was zoned "G" (General), a no-longer-existing zoning category that allowed facilities for the treatment of alcoholics pursuant to a conditional use permit. CAR 01403-1405 (DCED Preliminary Report to Zoning Adjuster). The 1975 CUP decision approving the County's Cedar Hills' expansion project determined that:

1. This is an addition to a needed public facility. The demand for this type of facility has been increasing for social reasons, and, also due to changes in the law which requires treatment of alcoholics as a health problem rather than a police problem.

2. The location and surrounding development are such that this addition will have no adverse affect on surrounding properties. That fact has already been demonstrated by the existence of the use at this site for some years.

3. The proposed expansion is consistent with the original plan that was contemplated as future development in the original application of 1966.

CR 00297-0302. Pursuant to the 1975 permit, the County constructed two additional residential buildings on the site, resulting for all intents and purposes in its current configuration of seven buildings with associated walkways and parking, as depicted on the Passage Point permit plan sheets. CAR 01689.

While the Cedar Hills facility operations were classified as a form of "hospital" use under prior County zoning laws, the actual services provided at the facility have always been predominantly residential counseling and social services, and have not included the sort of medically-oriented care one would typically associate with a hospital.³ CAR 00134-35. In a report provided to the King County Council in 2001, the County's Department of Community and Health Services described these earlier Cedar Hills operations as "a loosely configured array of counseling, education, and daily activities, which depended on the knowledge and skills of the individual counselor and the motivation of the client to ensure success." CAR 00134. The facility was not staffed by physicians or psychiatrists. CAR 00135. Actual medical care issues that arose at the facility, including detoxification, were treated at off-site facilities such as Harborview Medical Center or Recovery Center of King County -- not at Cedar Hills.⁴

From 1967 through the end of 2002, operations at the Cedar Hills facility included an array of social and health services:

³ The 1974 zoning code distinguished between hospitals of a medical or surgical nature, K.C.C. 21.04.480 (Hospital), and hospitals for the treatment of alcoholics, which offer primarily care and counseling, K.C.C. 21.04.485 (Hospital, mental).

⁴ Only a simple medical clinic was maintained on site. The clinic was located in a trailer, not in any permanent building. CAR 00155. Nursing staff was hired largely to manage medications and refer residents to further medical/psychiatric care where needed. See CAR 00570; 00033 (regarding number of medical care referrals from Cedar Hills).

- Addiction treatment counseling based on the Twelve-Step⁵ Alcoholics Anonymous (AA) recovery model. CAR 00134;
- Part time nursing; a commissary for non-prescription medication; eight hours per month of physician oversight; and, in later years, clinical psychiatric services. CAR 00570;
- Class work in basic literary skills and other educational subjects to develop reading and writing abilities and facilitate progress towards GED, high school equivalency certificate. CAR 00518, 00522;
- Vocational resources to contribute to the rehabilitation and re-employment of residents, including training in metal technology, wood technology, culinary crafts, landscaping, and other skills, CAR 00563, 00567, 00529 (Manpower vocational assistance program); CAR 00611, 0614 (therapeutic greenhouse employment and training of patients augmenting food services, special and work release populations);
- Life skills group activities to assist in successful reentry into life of sobriety. CAR 00533; and
- Alternative sentencing/diversion via mental health court, drug diversion court and other courts. CAR 00541-0562 (contracts with various district courts and King County Superior Court); CAR 00043 (describing drug court, municipal court and mental health court funding sources).

In its later years of operation, funding for the Cedar Hills facility became inadequate to make ends meet. By 2001, the County was losing

⁵ AA's 12-step program is commonly utilized in alcoholism treatment. The program's methods focus on abstinence, program engagement with other lay-alcoholics, and self-awareness/character development and do not include professional alcoholism treatment in any clinical sense. See Dehn, *How it Works: Sobriety Sentencing, the Constitution and Alcoholics Anonymous*, 10 Mich.St.U.J.Med. & L 255, 258-269 (2006) (describing elements of AA's twelve-step program).

nearly \$1.4 million dollars per year at Cedar Hills. CAR 01298. Due to such budget shortfalls, in July of 2002, the King County Council adopted an Adult Justice Operational Master Plan that included plans for closing addiction treatment components of the facility effective December 31, 2002. CAR 01298, 00052-0054. While the County maintained its formal Cedar Hills dependency service contract with the Department of Social and Health Services through June 30, 2003, CAR 00629, Washington State certification to provide intensive, inpatient chemical dependency services was cancelled on November 1, 2002. CAR 00124. Since that time, beyond general upkeep of the site and ongoing vocational training in landscaping and horticulture⁶, active site operations have been placed on hold until the planning and permitting of Passage Point is completed.

C. Planned Passage Point Use Cedar Hills (2002 - present).

While budget constraints prompted the County's decision to suspend residential treatment operations, the County consistently manifested a clear and unequivocal intent to continue providing residential social services at the Cedar Hills campus.

⁶ Greenhouses and adjacent areas of the Cedar Hills campus have long been utilized as part of a vocational training program for campus residents. The program essentially involves cultivation of plants for use by various County agencies. Over the past ten years, this program has been a coordinated effort among various county departments, providing therapeutic employment and training for patients, special and work release populations. CAR 00611-0624; 01259; 01266.

Ongoing efforts were undertaken each year to maintain the campus buildings. See e.g., CAR 00586-588; 00597-606.

More significantly, the King County Department of Community and Health Services, King County Executive and King County Housing Authority have been actively engaged in significant, systematic planning steps necessary to continue use of the site as a supportive residential facility. These extensive planning efforts were well underway in September through December of 2002, even before treatment operations began to wind down. CAR 00142-145, 00181, 00091-096, 00084-089, 00403-407. Such efforts continued thereafter without interruption.

Detailed plans for continued residential social service use of the site were defined in a January, 2003 Women's Recovery Environment and Transitional Housing Project (WREATH) Report of the King County Housing Authority. The 43-page WREATH Report set forth a carefully considered and cohesive strategy to utilize the Cedar Hills facility as:

a supportive, participatory community for women who are homeless and recovering from addiction and trauma, with a special focus on women who have young children or are attempting to reunite with their children.... [The] Program will offer a unique resource for women due to its emphasis on both trauma and addiction, combined with on-site employment opportunities and support services including mental health and chemical dependency counseling, legal services, skill building, licensed therapeutic day care and Head Start. It is WREATH's goal to integrate these housing and support service opportunities into a holistic and

supportive setting where women will have ample time to heal and build skills to become more successful parents and citizens.

CAR 00313. The January, 2003 Report reviewed background uses of the site, project goals, campus configuration, on and off-site services and programs to be provided, pro's and con's of the Cedar Hills campus/location, target population and demand data, model programs in other locations across the nation, projected cost estimates, and funding sources. CAR 00308-0352.

The discussions and analysis of financial and operational aspects of the Program continued to formally jell in the months of public process that followed. In July of 2003, the King County Department of Community and Human Services and King County Housing Authority entered into a formal Memorandum of Understanding that committed each agency to fund further study necessary for reuse of the Cedar Hills facility. CAR 00408. After further discussions and preparations, in November of 2003, a Request for Qualifications was issued for the redevelopment and operation of the Cedar Hills facility. CAR 00409-0437, 00146-0151. Thereafter, in March of 2004, the YWCA was selected to direct and operate the Cedar Hills project, now known as Passage Point. CAR 01299.

Over this period of time and up through the present day, the active planning process to implement the Passage Point project has never

faltered. On April 22, 2005, the Director of King County's Department of Development and Environmental Services determined that proposed Passage Point uses are appropriately viewed as a continuation of non-abandoned, lawfully established uses. CAR 01038-1039. Further background regarding this conclusion is set forth at pages 13 through 16 and pages 25 through 38 below.

Shortly thereafter, in June of 2005, King County, the YWCA and King County Housing Authority entered into a detailed Memorandum of Understanding outlining each entity's specific tasks and responsibilities for redevelopment and operation of Passage Point. CAR 00441-44; 00070-71.

In November of 2005, the King County Council appropriated \$4.1 million to fund the repair and remodel Passage Point facilities at Cedar Hills. CAR 00445.

Detailed site and building assessments were undertaken in the months that followed. See e.g., CAR 00201-0208 and 00248-0280 (Miller Hull Architects, Passage Point Building Assessment); CAR 00209-0247 (M.A. Wright, Preliminary Structural/Seismic Evaluation); CAR 00289-0295 (Wetherholt, Preliminary Roof and Wall Evaluation); CAR 00281-0285 (Passage Point, Narrative of Site Conditions); CAR 00286-0288 (Springline Design Civil Engineering, Sewer, Storm Drain and Water System Field Inventory).

In February of 2007, The YWCA, King County Housing Authority, and King County Departments of Community and Human Services, Natural Resources and Parks, and Executive Services entered into a formal Memorandum of Agreement further defining their respective roles throughout the development phases and subsequent operation of the project. CAR 00445

In October of 2007, the King County Council adopted Ordinance 15942, authorizing execution of an easement and bill of sale to facilitate operation of the site as Passage Point.⁷ CAR 00565-0589; CAR 01198-1280 (Council Report on Ordinance 15942). These property agreements were then executed by the County and respondent Passage Point Housing Limited Partnership, essentially the alter ego of the YWCA for funding-related purposes. CAR 01162-1164.

Thereafter, in November of 2007, King County entered into a formal Passage Point funding agreement with the YWCA. CAR 00449-509. The contract commits \$4,981,825 in project funding to the YWCA, with the requirement that the following types of services be provided to

⁷ CHRPA filed suit challenging Ordinance 15942 based on essentially the same zoning code issues raised in this case. CHRPA v. King County, Snohomish County Case No. 07-2-08807-3. CP 13 (See also CP 2 from consolidated cause no. 07-2-08807-3). The 2007 case was consolidated with this action and stayed with the understanding that such issues were more appropriately resolved in this LUPA matter. CP 13.

qualified⁸ residents: (a) pre-release assessment and counseling; (b) case management -- including health, legal, employment, housing, financial management, counseling and assistance; (c) education, job training and placement; (d) parenting classes and support; (e) mental health, alcohol and chemical dependency counseling; (f) domestic violence support; (g) school liaison and children's services; (h) housing transition planning; (i) other life skills programs as appropriate (e.g. socialization, health fitness, education); and/or (j) transportation to transit center, employment center and other priority activities. CAR 00502; see also CAR 00308-0309, 00345-0352 (Passage Point Services/Staffing); CAR 01293 (Passage Point Goals and Responses); CAR 00580 (Passage Point Health Service Needs and Responses).⁹

D. Passage Point Permit Review.

Over this same period of time, the County's development department (DDES) was actively undertaking detailed permit-related

⁸ "Qualified residents" include households with income below 50% of area median income and homeless parents reuniting with their children and overcoming trauma, addiction, or mental illness. CAR 00501.

⁹ The project's campus setting is considered a significant advantage by those most familiar with available resources and the needs of the population served. See WREATH Report, CAR 00308-0352. The unique campus setting provides a much needed, focused resource for women recovering from trauma issues and addiction, allowing for combined onsite employment opportunities and support services. CAR 00359. The project accordingly has the strong support of numerous federal, state and local agencies and community groups. CAR 01132.

review of Passage Point's proposed Cedar Hills renovations and operations.

DDES initially evaluated whether Passage Point use of the facility was allowed under its current zoning classification. On April 22, 2005, the DDES Director issued a determination that, while such facility operations are not an allowed use within the site's current RA (Rural) zoning category, they are allowed to remain as continuation of the earlier, lawful nonconforming use of the site. CAR 01296-1297. The Department Director's 2005 determination indicated that, under the County's longstanding interpretation of its nonconforming use code, the project's nonconforming use status was not forfeited by the closure of licensed residential operations, fifteen months earlier. Forfeiture of such a nonconforming use under King County Code requires a showing of intent to abandon the use and, in this instance, there was no such intent, as evidenced by the active planning and discussions regarding continued use of the site prior to its closure. CAR 01296-1297. The Director further determined that the range of uses proposed as part of the Passage Point facility would "not result in an intensification of use of the site." CAR 01296-1297. DDES accordingly specified that the project did not constitute a nonconforming use expansion, so long as the number of

residents served did not exceed the number of residents certified for the prior operation. CAR 01296.

DDES' technical review of the Passage Point permit application continued in the years that followed. A wide range of detailed reports were submitted to and reviewed by DDES regarding, among other matters: geotechnical conditions, CAR 00841-865; wetlands and critical areas, CAR 00867-984; endangered species, CAR 00811-813; environmental impacts, CAR 00821-840; transportation/traffic, CAR 00705-0709, 00814-820; and surface water, CAR 00712-00719, 01059-1120.

At the same time, the Department continued to evaluate the nature of the non-conforming use allowance. On July 2, 2007, counsel for the YWCA submitted a written request to the Department requesting formal zoning certification that: (1) the proposal is an existing legal nonconforming use; (2) the nonconforming use was not abandoned; and (3) the proposal continues but does not expand the nonconforming use. CAR 01036-037. On July 17, 2007, the Department's Current Planning Section Supervisor Lisa Pringle responded by advising the YWCA that the facility was a legal nonconforming use, was not abandoned and does not expand the nature of the nonconformance. CAR 01032. In subsequent correspondence, the Department reconfirmed these conclusions and reiterated that the YWCA would need to obtain a conditional use permit if

the existing facility was increased by more than 10% or if the number of residents exceeded the number certified for prior operations. CAR 01034-1035 (YWCA inquiry), 01030 (August 7, 2007 reconfirmation).

On April 29, 2008, the County's Transportation Division Director, likewise determined that the Passage Point project did not include changes that were substantial enough to even trigger the need for any special transportation concurrency certificate approval. CAR 01122.

On September 22, 2008, the County's SEPA Responsible Official¹⁰ likewise determined that the residential counseling facility was not a change in use from that previously undertaken on the site. CAR 01126

The previous use was as temporary housing for persons involved with in-patient substance abuse treatment and counseling. The proposed use is temporary housing for persons who are in transition from an institutional setting and being re-united with their minor children in a structured setting with counseling oversight. Therefore there is no change in use [from] that previously existing.

Mr. Perlman further determined that proposed alterations to existing structures did not constitute a material expansion. Specifically, with respect to the 5445 square feet of added Building D floor area alluded to in petitioner's hearing memorandum, the SEPA Official found:

¹⁰ As the County's SEPA Responsible Official, Mr. Perlman was responsible for undertaking the County's procedural responsibilities under the State Environmental Policy Act. WAC 197-11-788.

I considered the 2nd floor remodel as a non-material expansion because the overall building height remains the same, only the pitch of the roof changes. Further, there is no increase in the building footprint.

CR 01126. On the basis of these findings, the project was deemed to be exempt from further State Environmental Policy Act review pursuant to WAC 197-11-800(3)(minor alteration of existing public structures).¹¹ CAR 01126. There is no challenge to this SEPA determination.

On October 8, 2008, DDES issued its formal construction permit approval to the YWCA for Passage Point. CAR 01160. The approved permit includes well over fifty pages of conditions, including plan sheets setting forth allowable demolition, renovation and uses of existing structures, CAR 01689-1707¹²; mandatory requirements to comply with various detailed building, mechanical and fire code standards, CP 2 (Petition at Ex. 1, permit conditions 1-26); and specific direction incorporating earthwork and paving mitigation measures set forth in

¹¹ King County Council approval of property transfers for the Passage Point project did involve review under the State Environmental Policy Act. After reviewing a SEPA environmental checklist, a determination was issued that the project would not have any significant adverse environmental impact. CAR 01379-1380. That SEPA determination was likewise not challenged by CHRPA.

¹² To avoid unnecessary cost and bulk, parties agreed to include only a small sampling of the numerous approved permit plan sheets as part of this LUPA record. CAR 01689 - 01707. Other portions of the extensive record of Passage Point and prior Cedar Hills operation permit review were similarly truncated by agreement of the parties.

approved geotechnical (CR 01059-01120); and wetland mitigation reports (CR 00945-0984).

E. Land Use Petition Act Review.

On October 31, 2008, the CHRPA filed this Land Use Petition Act case challenging DDES' construction permit approval on grounds that it allegedly violated the King County Zoning Code. CP 2.

Following briefing and argument, on April 14, 2009, the Honorable George Bowden issued an oral decision that the YWCA's permit violated the nonconforming use provisions of King County's zoning laws. Partial Report of Proceedings (RP). A written Order and Judgment was later issued by the Court on May 12, 2009. CP 25. In its judgment order, the Court vacated the YWCA's permit based upon its determination that the Passage Point use was not permitted under current County Zoning and could not be maintained under King County Code 21A.32.045 (Re-establishment of discontinued nonconforming use): (1) because the legal nonconforming status of prior facility operations had been discontinued; (2) because the nature of the YWCA's proposed use was different than the earlier chemical dependency treatment facility use; and (3) because the permit allowed for expansion of the prior facility. Id.

King County filed this appeal on June 4, 2009. CP 27.

IV. ARGUMENT

A. Land Use Petition Act Standard of Review

In reviewing decisions under the Land Use Petition Act ("LUPA") the Court of Appeals stands in the same position as the Superior Court, applying LUPA's review standards directly to the local government's challenged decision. Benchmark v. Battleground, 146 Wn.2d 685, 49 P.3d 860 (2002); Belleau Woods II, LLC v. City of Bellingham, 150 Wn.App. 228, 231, 208 P.3d 5, 7 (2009).

LUPA provides that such review is to be based on the certified record filed in Superior Court and on any supplemental evidence authorized under RCW 36.70.120. RCW 36.70C.120 and .130(1). Where, as in this case, the challenged decision was not rendered by a quasi-judicial officer, RCW 36.70C.120(3) allows the record to be supplemented by material evidence that was not part of the certified record. No party opted to supplement the record in this case.

Relief may be provided under LUPA only if the petitioner has carried its burden of establishing that one of the standards in RCW 36.70C.130(1) has been met. Griffin v. Thurston County, 165 Wn.2d 50, 55, 196 P.3d 141, 143 (2008). For purposes of this challenge, the relevant standards include the following:

- (a) The body of officer that made the land use decision engaged in an unlawful procedure or failed to follow a prescribed process, unless the error was harmless;
- (b) The land use decision is an erroneous interpretation of the law, after allowing for such deference as is due the construction of a law by a local jurisdiction with expertise;
- (c) The land use decision is not supported by evidence that is substantial when viewed in light of the whole record before the court;
- (d) The land use decision is a clearly erroneous application of the law to the facts.

RCW 36.70C.130(1).

These provisions and the cases applying them make clear that judicial review under the Land Use Petition Act affords considerable deference to the governmental entity that rendered the challenged permit. "This statute reflects a clear legislative intention that [the] court give substantial deference to both legal and factual determinations of local jurisdictions with expertise in land use regulation." Timberlake Christian Fellowship v. King County, 114 Wn. App. 174, 180, 61 P.3d 332, 335 - 36 (2002). See Sylvester v. Pierce County, 148 Wn. App. 813, 823, 201 P.3d 381, 387 (2009) (LUPA court grants "such deference as is due the construction of a law by a local jurisdiction with expertise," so long as that interpretation is not contrary to the statute's plain language).

Such deference is in keeping with that traditionally applied by the courts to land use permit challenges.

It is a well established rule of statutory construction that considerable judicial deference should be given to the construction of an ordinance by those officials charged with its enforcement. ... The primary foundation and rationale for this rule is that considerable judicial deference should be accorded to the special expertise of administrative agencies.

Citizens For A Safe Neighborhood v. City of Seattle, 67 Wn. App. 436, 440, 836 P.2d 235, 238 (1992). King County Code vests the Department of Development and Environmental Services ("DDES") with the power to administer and interpret the County's nonconforming use provisions. K.C.C. 2.16.055. DDES' determination that the Passage Point building permit application complies with applicable King County Zoning Code requirements is accordingly entitled to deference.¹³

A court reviewing matters under the "clearly erroneous" standard set forth in RCW 36.70C.130(1)(d) may only reverse an administrative determination when, after considering the entire record, the court is left with the "definite and firm conviction that a mistake has been made."

Woodinville Water Dist. v. King County, 105 Wn. App. 897, 904-05, 21 P.3d 309, 313 (2001).

¹³ In its oral ruling, the Superior Court erroneously suggested that the deference mandated under LUPA does not apply to the sort of code interpretations rendered by DDES in this case. "I think the deference that is called for is the sort of deference that applies when we are talking perhaps about setback requirements, which might be an issue here, or mitigation, and some of the other technical issues that often come with land use decisions. ... I think it's a little different question when it's a question of interpretation of law and what law applies to the County's zoning ordinances." RP at pp. 2 - 3.

In conducting review under RCW 36.70C.130(1)(c)'s substantial evidence test, a challenge will be sustained only where the petitioner demonstrates that there was not “evidence [in the record] in sufficient quantum to persuade a fair-minded person of the truth of the declared premises.” Id.

B. Passage Point Permit Complies with County's Non-Conforming Use Codes.

1. Non-Conforming Uses Generally

CHSPA erroneously contends that the construction permit approval issued to the YWCA by the King County Department of Development and Environmental Services violated nonconforming use provisions of King County's Zoning Code. In order to place CHSPA's arguments in proper context, this section provides general background regarding non-conforming use law. The sections that follow then address CHSPA's more specific arguments under the King County Code.

A nonconforming use is a use that lawfully existed prior to the enactment of a zoning ordinance and which is maintained after the effective date of zoning restrictions applicable to the district in which it is situated. Rhod-A-Zalea v. Snohomish County, 136 Wn.2d 1, 6, 959 P.2d 1024, 1027 (1998). Richard L. Settle, *Washington Land Use and Environmental Law and Practice* § 2.7(d) (1983) (nonconforming land use

is one that was lawful when instituted but would no longer be permitted under the prevailing land use regulations). In King County, the non-conforming quality may be the use made on the site or some aspect of a structure or its relationship to the particular site.

Nonconformance. Nonconformance: any use, improvement or structure established in conformance with King County rules and regulations in effect at the time of establishment that no longer conforms to the range of uses permitted in the site's current zone or to the current development standards of the code due to changes in the code or its application to the subject property.

K.C.C. 21A.06.800.

There is no dispute in this case over the fact that longstanding residential counseling and treatment uses of the Cedar Hills site have been properly viewed as lawful, nonconforming uses. Such uses were lawfully established under prior zoning laws but are no longer allowed under the RA-10 (Rural) zoning that currently applies to the site. See CP 19 (CHSPA Superior Court Hearing Memorandum at p. 5). They have been allowed to continue after the RA-10 zoning took effect by virtue of their status as legal nonconforming uses under the King County Code.

Nonconforming uses "cannot be lost or voided easily." Van Sant v. Everett, 69 Wn. App. 641, 649, 849 P.2d 1276 (1993).

Legal nonconforming uses are vested legal rights. *Skamania County v. Woodall*, 104 Wn. App. 525, 539, 16 P.3d 701, *review denied*, 144 Wn.2d 1021, 34 P.3d 1232

(2001) (citing *Van Sant v. City of Everett*, 69 Wn. App. 641, 649, 849 P.2d 1276 (1993)). Washington law allows preexisting legal nonconforming uses to continue in spite of a subsequent contrary zoning ordinance. *Jefferson County v. Lakeside Industries*, 106 Wn. App. 380, 385, 23 P.3d 542 (2001), *review denied*, 145 Wn.2d 1029, 42 P.3d 974 (2002).

First Pioneer Trading Co. v. Pierce County, 146 Wn. App. 606, 614, 191 P.3d 928, 932 (2008).

This is not to say that nonconforming uses are immune from later-adopted regulatory controls. In Washington, local governments are free to preserve, limit or terminate nonconforming uses subject only to the broad limits of applicable enabling acts and the constitution. Rhod-A-Zalea, 136 Wn.2d at 7. While the right to continue a nonconforming use is often referred to as a “protected” or “vested” right, local governments have discretion to adopt codes that phase out such uses so long as they afford a reasonable amortization period to satisfy constitutional requirements. Id. at 10. See also Richard L. Settle, *Washington Land Use and Environmental Law and Practice* § 2.7(d) (1983) (“Since Washington’s enabling statutes are silent on the regulation of nonconforming uses, local governments are free, within the broad limits of applicable enabling acts and the constitution, to make their own policies.”).

The question of whether a particular nonconforming use is or is not allowed accordingly depends on the manner that the local government has

chosen to regulate such uses. King County regulates non-conforming uses in chapter 21A.32 of its zoning code. See K.C.C. 21A.32.010(A) (purpose of chapter to "establish the legal status of a nonconformance by creating provisions through which a nonconformance may be maintained, altered, reconstructed, expanded or terminated").¹⁴

King County's Zoning Code generally allows nonconforming uses to continue unless and until they are terminated in accordance with specified code provisions.

Nonconformance - Creation, continuation, and forfeiture of nonconformance status. Once created pursuant to K.C.C. 21A.06.800, a nonconformance may be continued in a manner consistent with the provisions of this chapter. However, nonconformance status is forfeited if the nonconformance is discontinued beyond the provisions of K.C.C. 21A.32.045. Once nonconformance status is forfeited, the nonconformance shall not be re-established.

K.C.C. 21A.32.025. Under the cross-referenced county code section 21A.32.045, a nonconforming use that has been discontinued, damaged or destroyed may be re-established if:

(A) The nonconforming use, structure, or site improvement which previously existed is not expanded; (B) A new nonconformance is not created; and (C) The use has not been discontinued for more than twelve months prior to its re-establishment, or the nonconforming structure or site improvement is reconstructed pursuant to a complete permit application submitted to the department within twelve months of the occurrence of damage or destruction.

¹⁴ Copies of relevant King County Code sections are attached at Appendix A.

K.C.C. 21A.32.045.

In challenging the YWCA's permit in this case, CHRPA argues: (1) that Passage Point does not satisfy the limitations in K.C.C. 21A.32.045(A), (B) and (C) for reestablishing a nonconforming use; (2) that Passage Point approval conflicts with various King County Comprehensive Plan Policies; and (3) that the project's purported use modifications and expansions triggered the need for written permit findings that such changes provide the same level of protection for and compatibility with adjacent land uses.¹⁵ Each of these arguments is addressed in the subsections that follow.

2. Passage Point Permit Satisfies Requirements of K.C.C. 21A.32.045(A), (B) and (C).

a. Non-Conforming Use of Cedar Hills Site Was Not Discontinued.

CHRPA's argument that the nonconforming Cedar Hills facility use was forfeited by lack of use is premised on a fundamental misreading of King County's Zoning Code and disregard of the property owner's continuing, active effort and intent to retain such use of the site.

¹⁵ The Snohomish County Superior Court ruled on only the first of these arguments: that permit approval violated K.C.C. 21A.32.045(A), (B) and (C). The Superior Court did not reach CHRPA's second (comprehensive plan policies) and third (special finding) claims.

As noted above, King County Code allows a nonconforming use that has been discontinued to be re-established if "[t]he use has not been discontinued for more than twelve months prior to its re-establishment." K.C.C. 21A.32.045(C). The Department of Development and Environmental Services, the entity charged with authority for interpreting King County's Zoning Code, has always formally construed such discontinuance language to require both a showing of intent to abandon the use and an overt act or failure to act which carried the implication of abandonment. CAR 01277 (DDES zoning certification letter); 01279-1280 (DDES Director Determination); CAR 01552 (Code Interpretation Minutes); CAR 01556 (Code Interpretation Minutes). See also Andrew v. King County, 21 Wn. App. 566, 572, 586 P.2d 509 (1978); King County v. High, 36 Wn.2d 580, 582-83, 219 P.2d 118 (1950).

This King County interpretation is in keeping with the majority of jurisdictions in and outside of State of Washington. Most courts, however, have merged the terms "discontinue" and "abandon" and require proof of an intent to abandon even though the zoning code speaks in terms of a discontinued use or a use discontinued for a specified period of time. 1 R. Anderson, *American Law of Zoning* s 6.63 (2d ed. 1976). See *King County v. High*, supra. The prevailing view is expressed by the Supreme Court of Alabama: 'The courts have generally held that the word discontinuance, as used in a zoning ordinance, is equivalent to abandonment. A discontinuance results from the concurrence of an intent to abandon and some overt act or failure to act which carries the implication of abandonment.' Board of Zoning Adjustment v. Boykin, 265

Ala. 504, 92 So.2d 906, 909 (1957). Thus the cessation of a use for the one-year period prescribed by the King County zoning code is only prima facie evidence of an intent to abandon the nonconforming use.

Andrew v. King County, 21 Wn. App. at 571-72.

The County's interpretation parallels that of the majority of jurisdictions construing comparable language. See e.g., Skamania County v. Woodall, 104 Wn. App. 525, 540, 16 P.3d 701, 709 (2001) ("Under Washington law, to prove a land occupier has discontinued using a nonconforming use, a person seeking to prove discontinuance has the burden of proving: (a) an intention to abandon; and (b) an overt act, or failure to act, which carries the implication that the owner does not claim or retain any interest in the right to the nonconforming use."); accord University Place v. McGuire, 144 Wn.2d. 640, 652, 30 P.2d 453 (2001); Van Sant v. Everett, 69 Wn. App. 641, 648, 849 P.2d 1276 (1993) (requiring both intent to abandon and overt act or failure to act with implication that owner does not retain interest in or right to nonconforming use). See also Rathkopf, *The Law of Zoning and Planning* §§ 74.2 (in most cases, lack of use alone is insufficient to establish a discontinuance); 8A E. McQuillin, *Municipal Corporations* § 25.192 (3d ed. 1986) ("Mere nonuse does not in itself ordinarily establish abandonment.").

King County has no quarrel with the notion that a local legislative body *could* provide for the termination of a nonconforming use without the normal required showing of intent to abandon. To be sure, in Choi v. Fife, 60 Wn. App. 458, 803 P.2d 1330 (1991), the Court affirmed a city's determination that a nonconforming use terminated under the relevant city code as a result of a thirteen month cessation of all site operations, irrespective of whether there was an intent to abandon the use over this time period. This decision was based, however, on unique City of Fife code language, which specified that nonconforming uses would be deemed to have terminated when "vacated or abandoned" for six consecutive months. Id. at 461. While acknowledging that nonconforming use law has commonly construed the word "discontinued" to include a required element of intentional abandonment, the Court found sufficient code indication that the City of Fife did not intend such a result in its nonconforming use code provisions. This conclusion was based upon the city code's use of the term "vacate" (rather than "discontinue") and on the city code's inclusion of both terms "vacated" and "abandoned" in its nonconforming use code. Id. at 462-64 (in context, it would be redundant to construe "vacated" and "abandoned" to mean the same thing).

Unlike in Fife, King County Code does not purport to eliminate the required nonconforming use showing of intended abandonment. Like the

codes at issue in Woodall, University Place and Andrew decisions referenced above, King County Code section 21A.32.045 continues¹⁶ to reference a time frame over which the use was "discontinued". Like the courts in Skamania Place, University Place and Andrew, King County continues to interpret such code language to require a showing of intent to abandon the nonconformance. Under LUPA and under general rules of land use code interpretation, the County's interpretation of its zoning code is entitled to deference in this review. Supra at pp. 19-21.

The burden rests with the party claiming that a nonconforming use has been extinguished to prove that this has in fact occurred. Van Sant v. Everett, 69 Wn. App. at 648. Skamania County v. Woodall, 104 Wn. App. at 540. As the Washington Supreme Court has indicated, this burden of proof is "not an easy one." University Place v. McGuire, 144 Wn.2d at 647-48. Where, as in this case, the decision maker found the nonconforming use was not abandoned, the challenging party bears the burden of showing either "land use decision is not supported by evidence that is substantial" or that the "decision is a clearly erroneous application

¹⁶ The fact that the King County Council has opted not to revise its code to jettison the "discontinue" language interpreted in these and other cases provides further evidence of the County's intent to retain intentional abandonment as a factor. Legislative bodies are presumed to be aware of judicial interpretations of laws. Bailey v. State, 147 Wn. App. 251, 262, 191 P.3d 1285, 1291 (2008). Where code language remains unchanged after a court decision, courts will not overrule clear precedent interpreting such language. Riehl v. Foodmaker, 152 Wn.2d 138, 147, 94 P.3d 930, 935 (2004).

of the law to the facts." RCW 36.70C.130(c), (d). See University Place, 144 Wn.2d at 652.

CHSPA cannot satisfy its burden of establishing that nonconforming use rights at the Cedar Hills facility were extinguished. Under any reasonable view of the extensive history of project planning, site evaluation, inter-jurisdictional and interagency agreements, maintenance, public and private funding applications and financing, development review and permitting, legislative action, property transfers, and site upkeep and utilization, it is abundantly clear that the County did not intend to abandon residential social service use of its Cedar Hills facility.¹⁷ Supra at pp. 7-17. While the County suspended Cedar Hills operations due to budget constraints, there was never any question that the County intended to continue its use of the site. As the record amply demonstrates, extensive planning and implementation efforts were well-underway with respect to the Passage Point project even before prior facility operations ceased, and they have continued through the present. Id. (outlining history of active planning and permitting from September,

¹⁷ The Superior Court indicated that it was most persuaded that abandonment occurred as a result of the County's relinquishment of its state license. RP at p. 3. Van Sant makes clear, however, that merely discontinuing such licensing does not establish requisite intent to abandon the nonconforming use. Van Sant, 69 Wn. App. at 651-54. The record here plainly reveals steadfast intent to continue the nonconforming use of the site.

2002 through the present). See also CAR 01131-1134 (Department of Community and Human Services Director supporting memorandum and chronology to DDES); and CAR 01298 (chronology). While it is certainly true that a number of years passed between the time that facility operations were suspended and the date permit issuance occurred, the duration of the multi-agency and legislative review and approval process in no sense reflects any intent to abandon nonconforming use of the site. County resolve to continue the use has been readily apparent throughout the process. The record evidence in this case is more than adequate both to persuade a fair-minded person that the non-conforming use was not abandoned and to avoid a definite and firm conviction that the Department's conclusion was a mistake. Woodinville Water Dist., 105 Wn. App. at 904-05 (describing substantial evidence and clearly erroneous standards of review). CHRPA's argument that nonconforming use of the Cedar Hills site was abandoned should be rejected.

b. Passage Point Is Not a New Nonconformance

CHRPA's argument that Passage Point creates a "new nonconformance" on the Cedar Hills site is likewise without merit. The uses Passage Point seeks to undertake are the same in all material respects as those that have long occurred on the Cedar Hills campus. Based on these facts, DDES properly determined that the project does not create a

new nonconformance within the proper meaning of King County Code 21A.32.045(B).

Differences between the nature of operations that occurred previously and that will occur during Passage Point use of the Cedar Hills campus do not constitute a new nonconformance. Nonconforming uses typically do not remain absolutely static. Keller v. Bellingham, 92 Wn.2d 726, 731, 600 P.2d 1276, 1279 (1979) (*quoting* 1 R. Anderson, American Law of Zoning §6.47 (2nd ed. 1976)). Even throughout the earlier use of the Cedar Hills facility, operations have varied in the precise manner that uses are carried out, with activities eliminated or added and with focus at times redirected in order to meet overall project needs. See pp. 3-7 *supra*.

Local governments have discretion to determine the extent to which a given nonconforming use is allowed to vary its scope or configuration. In King County, a nonconforming use that has been discontinued may be re-established so long as "a new nonconformance is not created." K.C.C. 21A.32.045(B). This requirement is plainly not intended to preclude any variation from the original nonconformance. Indeed, King County Code expressly allows for even outright modifications to nonconforming uses, structures or site improvements, so long as they do not "expand any existing nonconformance" or "create a

new type of nonconformance". K.C.C. 21A.32.055. See also K.C.C. 21A.32.065 (allowing for limited expansion of nonconforming uses, structures and improvements).

With respect to Passage Point, the County's Department of Development and Environmental Services appropriately determined on numerous occasions that the nature of the project operation is so essentially similar to the longstanding residential counseling and social service use of campus that the project does not constitute a new nonconformance. CAR 01279 (April 22, 2005 DDES Director determination that facility is viewed as a continuation of a nonconforming use and not an expansion provided that the number served does not exceed the number certified under the previous facility operation); CAR 01277 (July 17, 2007 DDES zoning certification letter acknowledging that the proposed facility is a continuation and not expansion of the former facility Passage Point, provided that the number of people served does not exceed the number certified for the former facility); CAR 01276 (August 7, 2007 DDES zoning clarification letter reaffirming that Passage Point, while not a treatment facility, is allowed as a continuation of the legally established nonconforming use).

The County's determination that Passage Point does not create a new nonconformance is well-supported by the record. Project activities

closely mirror those that occurred in the earlier Cedar Hills facility operations. Indeed, each of the life skills and support features and reintegration services to be provided at Passage Point was undertaken in earlier operation of the Cedar Hills campus. The prior Cedar Hills facility and current project each provide temporary residents with core supportive social services that include: addiction treatment/counseling and mental health services; class work in basic literary skills and other educational subjects; vocational resources to contribute to the rehabilitation and re-employment of residents; greenhouse/horticultural employment and training; and a broad array of life skills activities and support services to enable participants to successfully transition into stable and productive members of society. Compare pages 5 and 6 (pre-Passage Point facility uses) with pages 8, 9, 11 and 12 (Passage Point facility uses).

No doubt, there are some aspects of Passage Point that will differ from the earlier Cedar Hills campus operations. For example, while Passage Point participants will include persons suffering from alcohol/chemical dependency and mental health issues, the facility will not operate as a licensed alcoholism treatment center, and clients will not be limited to persons suffering from substance addiction. County permit decision makers properly determined that these and other differences in the nature of the uses that have been and will be made on the site are not

fundamentally significant, and do not convert the campus into a "new nonconformance". CAR 01276, 01777, 01279. As the County's responsible SEPA official succinctly stated:

The previous use was as temporary housing for persons involved with in-patient substance abuse treatment and counseling. The proposed use is temporary housing for persons who are in transition from an institutional setting and being re-united with their minor children in a structured setting with counseling oversight. Therefore there is no change in use [from] that previously existing.

CR 01126.

Here, the County properly determined that differences between current and prior uses are not sufficient to constitute a new nonconformance. This conclusion is not unlike that of other jurisdictions considering proposed variations on similar sorts of uses. See e.g., Kastendike v. Baltimore Ass'n for Retarded Children, 267 Md. 389, 297 A.2d 745 (1972) (home for care of mentally retarded adults continuation of prior nonconforming nursing home use); Rogers v. Association for the Help of Retarded Children, 308 N.Y. 126, 133, 123 N.E.2d 806, 809 (1954) (use property as school for mentally retarded children continues nonconforming use as a convalescent home for cardiac children).

CHRPA over-simplistically argues that Passage Point is a new nonconformance because earlier site operations were classified as a

"mental hospital" under the county's zoning code, and Passage Point will no longer satisfy that hospital definition.¹⁸ Such argument places unwarranted and overly mechanical focus on general zoning use category descriptions, rather than looking to the actual nature of allowable activities that have been and will be undertaken on the site. It is after all the lawful, preexisting uses, improvements and structures that are protected by nonconforming use law -- not their zoning code classification. See K.C.C. 21A.06.800 (defining "nonconformance" as "any use, improvement or structure" that no longer conforms with zoning requirements).

The County development department's focus on the nature of the actual use rather than to the category within which the use is classified is evident in earlier cases addressing King County nonconforming use law. In all cases, the nature and scope of a nonconforming use is to be defined by actual use that the property was put to prior to the change in zoning. See Meridian Minerals v. King County, 61 Wn. App. 195, 209 and 211, 810 P.2d 31, 38 and 40 (1991) (proposed quarry use is "different in kind" than existing nonconforming use notwithstanding fact that proposed

¹⁸ Indeed, Passage Point does not fall squarely within any Zoning Code use category. See CP 19 (CHRPA Hearing Memorandum) at pp. 23 - 26 (Passage Point does not fall within Hospital, Community Residential Facility or Social Services use categories.

volume increases are classified as the same "type of activity").¹⁹

CHRPCA's contrary approach would have the nonsensical and clearly unintended affect of allowing a nonconforming use that is classified within a broad use category to be replaced with a similarly classified but vastly different form of use within the same category. For example, K.C.C. 21A.06.1350 defines "utility facility" to include, among other uses, telephone exchanges, water reservoirs, electrical substations, natural gas pipelines and gate stations, and wastewater facilities). Under CHRPCA's view, a nonconforming water reservoir could be replaced by wastewater facilities, as both uses fall within the same zoning code use classification and therefore constitute the same use. King County, by contrast, requires that the actual activities undertaken be considered in deciding whether a particular use constitutes a "new nonconformance."

When evaluating whether there is a change in use sufficient to constitute a new nonconformance, the proper focus is on the activities and functions undertaken. In this case, DDES correctly determined that no new nonconformance would be created because proposed activities and functions are essentially the same as those previously undertaken on the

¹⁹ Other jurisdictions similarly look to actual use rather than to the classification when considering proposed changes to a nonconforming use under their code. See e.g. Miller v. Bainbridge Island, 11 Wn. App. 152, 43 P.3d 1250 (2002) (even where code allowed for some transformation of nonconforming use, fact that prior and current activities both fell within "commercial" zone classification is insufficient to support proposed change).

site. This decision is well supported by the record and is entitled to substantial deference in this LUPA proceeding. Timberlake Christian Fellowship v. King County, 114 Wn. App. 174, 180, 61 P.3d 332, 335-36 (2002). CHRPA's argument that Passage Point improperly creates a new nonconformance should be rejected.

c. Passage Point Does Not Expand Non-Conformance.

The nonconforming uses, structures, and site improvements that have existed at the Cedar Hills site are not expanded as a result of the YWCA's project. Passage Point uses will take place entirely within six of the seven buildings that all already lawfully exist on the Cedar Hills campus.²⁰ While these buildings are being remodeled, they are in no sense expanded. Neither the footprint nor height of any existing building is increased by the YWCA's project.

CHRPA contends that Passage Point increases the total existing 54,636 square feet of building area by 5,445 square feet. The increase in square footage does not, however, result from any expansion of the size or shape of the building. Rather, the additional square footage occurs through more efficient use of Building D -- adding a second floor within

²⁰ The existing buildings are labeled A, B, C, D, E and G on permit plan sheets. CAR 01689. The challenged permit does not approve any work on or use of the seventh Building H, which is being contemplated for use in a later phase of operations not at issue in this case. CAR 01705.

the existing one-story structure. CAR 01705. The additional area occurs entirely within the current building footprint. CAR 01696-700 and 01705. It does not change the height of the existing building. CAR 01700. Simply adding efficiency within an existing structure does not expand the nonconformance. Cf. Keller v. City of Bellingham, 92 Wn.2d 726, 731-32, 600 P.2d 1276 (1979) (distinguishing between allowed common law intensification of nonconforming use and disallowed expansion).

Finally, the number of residents allowed under the approved Passage Point permit is not increased as a result of the YWCA's project. Indeed, there will be significantly fewer Passage Point residents than were previously permitted on the Cedar Hills campus. While the prior facility operations allowed for 208 residents, CAR 02197, the challenged permit provides for a total of only 46 residential units. CP 2 at Appendix 1; CAR 01705 - 07. Indeed, in reaching its conclusion that Passage Point would not expand the nonconformance, DDES made clear that any use of the facility that exceeded prior occupancy limitations would require special conditional use permit approval. CAR 01296.

DDES' determination that Passage Point does not constitute an unlawful expansion of the nonconformance is accordingly well-supported by the record and should be affirmed.

3. Other CHRPA Arguments Do Not Support Permit Challenge.

The Superior Court did not reach CHRPA's remaining arguments: that permit approval violated the County's comprehensive plan and that alleged expansion of the prior nonconforming use triggered the need for additional findings under the County Code. For reasons discussed below, the Court should reject these arguments.²¹

a. No Violation of Comprehensive Plan Policies.

CHRPA incorrectly contends that Passage Point unlawfully expands the nonconforming use in a manner that conflicts with King County Comprehensive Plan policies. This argument is based on King County Code 21A.32.065(D), which specifies that:

No expansion shall be approved that would allow for urban growth outside of the urban growth area, in conflict with King County Comprehensive Plan rural and natural resource policies **and** constitute impermissible urban growth outside an urban growth area.

(emphasis added). CHRPA erroneously contends that minor increases in Passage Point impervious surface area (6,384 square feet) and building

²¹ CHRPA's has also argued that Passage Point violates K.C.C. 21A.02.040, which provides that "[n]o use or structure shall be established, substituted, expanded, constructed, altered, moved, maintained, or otherwise changed except in conformance with this title." CHRPA argues that Passage Point violates this section because of its alleged inconsistency with the very same zoning code provisions discussed above. As the prior sections of this memorandum demonstrate, permit approval of the Passage Point fully satisfied applicable zoning code requirements. This makeweight claim adds nothing to CHRPA's other arguments.

square footage (5,445 square feet -- as discussed above) violate this restriction because residential social services provided by Passage Point constitute impermissible urban growth outside of the urban growth area and because project approval conflicts with comprehensive plan rural and natural resource policies. Neither assertion has merit.

i. Passage Point does not constitute impermissible urban growth.

Minor increases in aggregate impervious surface area or in overall building square footage do not result in impermissible urban growth outside of the urban growth area. The Passage Point campus already exists and has a long history of parallel use. The minimal increases referenced by CHRPA do not by any reasonable stretch alter the existing intensity of uses lawfully present on the site. Continued utilization of existing, remodeled facilities is not urban growth.²²

Nor can it be reasonably said that urban growth results from the number of temporary residents that will participate in Passage Point supportive transitional housing and counseling services. As noted above, the number of allowable residents at Passage Point actually decreases from

²² RCW 36.70A.030(17) distinguishes between "urban growth" and the condition of being "characterized by urban growth," which refers to land having urban growth located on it.

that previously permitted on the Cedar Hills campus, with 208 residents under earlier facility operations and 46 residential units provided in the current project.²³

Passage Point uses will occur within buildings that all lawfully exist on the site as a result of prior Cedar Hills permit approvals. CAR 01126. No urban growth occurs as a result of the Passage Point operation.²⁴

²³ Though perhaps not directly relevant to any of the claims being made in this case, the number of residential units on the Passage Point campus has never been inconsistent with applicable rural density. CHRPA's sense that the 46-unit project exceeds the current RA-10 (1unit/10 acres) density limitations is premised on a misconception that the relevant parcel size is 24 acres. In fact the project is located on a 920-acre parcel. CAR 00730, 00733, 01363, 00966. See K.C.C. 21A.12.080(A)(all site areas may be used to calculate base and maximum density). While the particular uses being made of the site are nonconforming, its density is not.

²⁴ Even setting aside the lawful nonconforming use status of Passage Point, it is questionable whether comprehensive plan urban growth policies *could* preclude location of this type of facility. Essential public facilities are an exception to the restriction on locating urban growth in rural areas. Vashon-Maury v. King County, CPSGMHB Case No. 95-3-0008, Final Decision at 68, 1995 WL 903209 (1995). While the Passage Point has not sought approval as an essential public facility, it would certainly appear to meet such criteria. Essential public facilities include "those facilities that are typically difficult to site, such as ... state and local correctional facilities,... in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities...." RCW 36.70A.200(1). RCW 36.70A.200(5) states that "[n]o local comprehensive plan or development regulation may preclude the siting of essential public facilities." "[T]he Legislature recognized that the location of essential public facilities ... might encounter local opposition. It therefore enacted RCW 36.70A.200(2), which provides that no local comprehensive plan or development regulation may preclude the siting of such facilities. Dept. of Corrections v. Kennewick 86 Wn. App. 521, 533, 937 P.2d 1119, 1126 (1997).

ii. No conflict with Rural and Natural Resource Comprehensive Plan policies.

Nor does Passage Point conflict with any Rural and Natural Resource Comprehensive Plan policies. The policies that CHRPA contends are violated by Passage Point are each directed at fundamental use conditions that have long existed at this location. The policies are not implicated by the minor, technical dimensional increases presented by Passage Point. See e.g., CP 19, King County Comprehensive Plan Policies attached to Petitioner's Hearing Memorandum at Appendix G: R-101 (protection and enhancement of rural area components such as a varied low-density housing choices, traditional rural land uses, with human service facilities targeted primarily to designated urban centers); R-202 through R-209 (encouraging low rural residential densities); R-105 (appropriate rural resource uses); R-221 (types of nonresidential uses appropriate in rural area); F-206 (spending to support growth should be directed to urban areas); F-207 (services provided should not facilitate urbanization); and F-215 (investment in health and human service facilities should be targeted primarily to designated urban centers). CP 19.

At the outset, any reference by CHRPA to policies F-206, F-207 and F-215 is misplaced. Such policies are "services, facilities and utilities" policies, not "rural and natural resource policies" which are at

issue in K.C.C. 21A.32.065.

In any event, CHRPA's assertion that Passage Point violates these and other policies because it "involves the siting of high density housing and social services in an area not intended to accept those densities and uses" ignores the reality that the facilities to be used and the uses to be undertaken by Passage Point already exist at the site.

b. No Violation of Finding Provision.

Finally, CHRPA contends that King County' construction permit approval of the Passage Point project violated King County Code section 21A.32.075 by not including written findings that proposed modifications and expansions will provide the same level of protection for and compatibility with adjacent land use as the original land use approval.

Modifications or expansions approved by the department shall be based on written findings that the proposed: Modification or expansion of a nonconformance located within a development governed by an existing conditional use permit, special use permit, unclassified use permit, or planned unit development shall provide the same level of protection for and compatibility with adjacent land uses as the original land use permit approval.

K.C.C. 21A.32.075.

i. No special finding was required.

CHRPA incorrectly argues that a special written finding was required because Passage Point "both modifies and expands the

nonconforming use by changing the use, reconstructing and expanding the buildings and increasing impervious areas." As the Department correctly determined, Passage Point uses are for all intents and purposes the same as those undertaken previously on the campus and do not therefore modify nonconforming use of the site. Supra at pp. 31-38.

Likewise, while existing buildings on the Passage Point campus are being remodeled they are not being expanded. All remodeling is occurring within the existing building footprints. CAR 01301 and 01302. As noted above, the only minor increase in total building area results from the more efficient use of an existing structure within its existing footprint and height. CAR 01126.

Similarly, the minor addition of impervious surface area does not expand any nonconformance. The extent of existing and proposed impervious surface area is well below the 15% maximum impervious surface area allowed under K.C.C. 21A.12.040, and there is no permit or other limitation on the extent of impervious surface area that would render existing or proposed impervious surface conditions nonconforming. No nonconformance expansion occurs with respect to Passage Point's conforming impervious surface area.

CHRPAs additional suggestion that that Passage Point approval of remodeling within Building E violates 1975 conditional use permit

conditions is frivolous. This assertion is premised on a fundamental misreading of setback language in the CUP. The relevant conditional use permit condition reads: "All buildings proposed in this request and all future buildings shall observe the 100' setback from the east property line to provide a buffer and transition zone adjacent to privately owned property in that area." CAR 01400 (emphasis added). The buildings to which the CUP condition is directed include then-proposed buildings C and H, CAR 01403, and any future buildings not yet constructed on the site. See e.g., CAR 01440 (Activity Building). By its plain terms, the condition did not impose a 100-foot setback on existing structures already located closer to the adjacent property line, such as Building E.²⁵

In any event, as with each of the other buildings on the campus, remodeling of Building E does not increase its existing dimension or alter the existing building location.

ii. County findings were sufficient.

Even if, for sake of argument, the County had been required in this circumstance to render written findings regarding the protection of and compatibility with adjacent land uses, such a requirement would have been satisfied in this case. While CHRPA complains that no written

²⁵ The structure labeled as Building E was approved in its current location 25-feet from the east property line as part of the original 1966 Special Permit. CAR 01403-1405.

finding was included in the permit document itself, there is no such requirement in code. King County Code 21A.32.075 simply requires that the pertinent modifications or expansions be based on written findings. The written record in this case is replete with findings regarding absence of any meaningful change in use, dimension or impact resulting from Passage Point. See e.g., CAR 01297 ("while the proposal would result in a greater range of uses allowed on the site, it would not result in an intensification of use of the site."); CAR 01031 ("the Department acknowledges that the proposed Passage Point Treatment Facility is the continuation and not the expansion of the former CHTF's nonconforming use"); CAR 01030 ("this use, while not a treatment center is allowed as the continuation of the Cedar Hills Treatment Facility"); CAR 01126 ("the permit was/is categorically exempt from SEPA review under WAC 197-11-800(3) as a minor alteration to an existing public structure, involving no material expansion or change in use"). As such, even if such a finding was required, the determinations rendered by the Department over the course of its review more than satisfied any applicable code requirement. See e.g., Washington Ass'n for Retarded Citizens v. City of Spokane, 16 Wn. App. 103, 109, 553 P.2d 450, 455 (1976) (council's permit document need not include findings where record itself is available to review factual basis for determination).

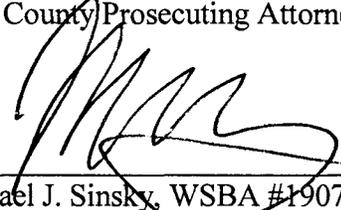
Finally, any technical deficiency in the manner of documenting Department conclusions regarding the nature of project protections and impacts was clearly harmless in view of the minor revisions at issue and in light of the readily apparent thought process and conclusions expressed within the certified record. Beyond generalized assertions that the project will improperly increase rural density and the incorrect assertion that existing Building E exceeds setback requirement imposed by the 1975 CUP, CHRPA does not point to any actual adverse impact or compatibility change that results from Passage Point. Even when there are procedural errors in the decision-making process, a land use decision may not be reversed under LUPA if the court determines the errors were harmless. Thornton Creek Legal Defense Fund v. Seattle, 113 Wn. App. 34, 54, 52 P.3d 522, 531 (2002). No relief would accordingly be justified under these circumstances.

V. CONCLUSION

For reasons set forth above, King County respectfully requests that the Order and Judgment of the Snohomish County Superior Court be reversed and that the YWCA's construction permit for Passage Point be affirmed.

DATED this 28th day of September, 2009.

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Appendix A

2.16.055 Department of development and environmental services — duties — divisions.

A. The department of development and environmental services is responsible to manage and be fiscally accountable for the building services division, land use services division, fire marshal division and administrative services division. The director of the department shall be the county planning director, zoning adjuster and responsible official for purposes of administering the state Environmental Policy Act, and may delegate those functions to qualified subordinates. The department shall be responsible for regulating the operation, maintenance and conduct of county-licensed businesses, except taxicab and for-hire drivers and vehicles. The department shall be responsible for managing and coordinating the implementation of Growth Management Act requirements, coordinating county and regional land use planning with public and private agencies, developing proposed policies to address regional land use planning and developing and overseeing the countywide program for implementation of the county's Comprehensive Plan including coordinating the implementation of plans that are developed by departments.

B. The building services division shall be responsible for ensuring consistent and efficient administration of environmental, building and land use codes and regulations for commercial and residential projects by means of permit review and approval, construction inspections and public information. The manager of the building services division shall be the county building official. The duties of the division shall include the following:

1. Permit center and public information;
2. Building plan and application review, including building, mechanical, barrier-free, energy, security and other uniform code reviews;
3. Site review, including engineering and critical areas review of permit applications;
4. Inspections, including new-construction inspections for compliance with site and building code requirements.

C. The land use services division shall be responsible for the effective processing and timely review of land development proposals, including zoning variance and reclassification, master drainage plans, variances from the surface water design manual and the King County road standards, critical area, subdivision, right-of-way use, urban planned development, clearing and grading, shoreline, special use and conditional use applications. The duties of the division shall include the following:

1. Permit center and public information;
2. Plan review, including the review of applications for compliance with shorelines, critical areas, subdivision and other zoning regulations, road standards and variances from the surface water design manual, as well as community plans and utility comprehensive plans;
3. Engineering review and inspection, including the review of clearing and grading applications and review of engineering plans for compliance with adopted road and drainage standards and specifications;
4. Development inspection, including inspection of construction activity to ensure compliance with approved plans and codes;
5. Develop and assist in implementing local and subarea specific plans for urban and rural areas, consistent with the Comprehensive Plan;
6. Develop proposed policies to address long-range comprehensive land use planning and analyze and provide proposed updates to the Comprehensive Plan on an annual basis;
7. Develop proposed county plans, programs and policies and implement regulations on environmental issues, including critical areas and mineral resources, and serve as the contact for cities and agencies, providing appropriate research in support of county initiatives on these issues;
8. Administer the state Environmental Policy Act and act as lead agency, including making the threshold determinations, determining the amount of environmental impact and reasonable mitigation measures and coordinating with other departments and divisions in the preparation of county environmental documents or in response to environmental documents from other agencies;
9. Monitor the cumulative effects of the county's Comprehensive Plan and other plans, policies and laws intended to protect natural and community resources while permitting development and growth, and providing periodic status reports to the executive and council; and
10. Pursue and resolve code violations, including preparing for administrative or legal actions, evaluating the department's success in obtaining compliance with King County rules and regulations and designing measures to improve compliance.

D. The fire marshal division shall be responsible for programs designed to reduce the potential risk of fires and for investigating the causes of fires. The manager of the fire marshal division shall be the county fire marshal. The duties of the division shall include the following:

1. Development and implementation of an inspection program to identify fire hazards and require conformance with K.C.C. Title 17;
2. Review of building plans and applications for compliance with K.C.C. Title 17; and
3. Inspections, including inspections of new construction, for compliance with K.C.C. Title 17.

E. The administrative services division shall provide support services throughout the department, including personnel and payroll support, budget support, financial services, information services, facilities management and support, and records management and program analysis services. (Ord. 15921 § 1, 2007; Ord. 15319 § 1, 2005; Ord. 14561 § 3, 2002; Ord. 14199 § 15, 2001; Ord. 12940 § 1, 1997; Ord. 12441 § 5, 1996; Ord. 12051 § 1, 1996; Ord. 11955 § 5, 1995).

2.16.060 Department of public safety – duties – divisions (*as amended by Ordinance 15921*).

A. The department of public safety, as identified in Section 350.20.40 of the King County Charter and managed by the King County sheriff, may also be known and cited in the King County Code and in other usage as the office of the sheriff. Employees managed by the King County sheriff may be referred to in the King County Code or otherwise, as King County police, King County officer or deputy sheriff.

B. The department of public safety is responsible to keep and preserve the public peace and safety including the discharge of all duties of the office of sheriff under state law, except those duties relating to jails and inmates which are performed by other departments of county government. The functions of the department include:

1. Oversee a crime prevention program, investigate crimes against persons and property and arrest alleged offenders.
2. Execute the processes and orders of the courts of justice and all other mandated functions required by law.
3. In coordination with the office of emergency management, plan and coordinate resources for the public safety and welfare in the event of a major emergency or disaster.
4. Provide service and administrative functions which support but do not duplicate other governmental activities, and which have the potential to be fiscally self-supportive.
5. Investigate the origin, cause, circumstances and extent of loss of all fires.

C. The department of public safety shall be composed of the following divisions:

1. Field operations division. The division of field operations shall be responsible for administering resources allocated to the functions of police patrol, general criminal investigation, crime prevention, traffic, and emergency management.

2. Technical services division. The division of technical services shall be responsible for administering resources allocated to the functions of:

- a. civil process;
- b. fiscal control;
- c. communications;
- d. personnel and training;
- e. records and identification; and
- f. property management, including evidence; stolen, lost or unclaimed property; and department equipment and supplies.

- 3.a. Criminal investigation division. The division of criminal investigation shall be responsible for administering resources allocated to the functions of:

- (1) major crimes investigation;
- (2) narcotics investigation;
- (3) gambling and vice investigation;
- (4) criminal warrants service;
- (5) fire and arson investigation in accordance with RCW 43.44.050; and
- (6) other criminal investigations not conducted in the field operations division.

21.04.469 Grazed wet meadows. "Grazed wet meadows" means palustrine emergent wetlands, typically having up to six inches of standing water during the wet season and dominated under normal conditions by meadow emergents such as reed canary grass, spike rushes, bulrushes, sedges, and rushes. During the growing season, the soil is often saturated but not covered with water. Grazed wet meadows frequently have been or are being used for livestock activities. (Ord. 9614 § 45, 1990).

21.04.470 Home Occupation. "Home occupation" means any activity undertaken for gain or profit and carried on in a dwelling, or building accessory to a dwelling, by a member or members of the family residing in the dwelling. (Ord. 5526 § 1, 1981).

21.04.475 Horticultural nursery. "Horticultural nursery" means an area for the cultivation and propagation of trees, shrubs and plants which are grown for transplanting. This can be accomplished in open ground or in pots and containers either outdoors or within structures. A horticultural nursery does not involve retail sales unless specifically permitted by the zone. (Ord. 7655 § 13, 1986).

21.04.480 Hospital. "Hospital" means an institution specializing in giving clinical, temporary and emergency services of a medical or surgical nature to human patients and licensed by state law to provide facilities and services in surgery, obstetrics and general medical practice, as distinguished from treatment of mental and nervous disorders and alcoholics, but not excluding surgical and post-surgical treatment of mental cases. (Res. 25789 § 263, 1963).

21.04.485 Hospital, mental (including hospital for treatment of alcoholics). "Mental hospital" means an institution licensed by state agencies under the provisions of law to offer facilities, care and treatment for cases of mental and nervous disorders, and alcoholics. Establishments limiting services to juveniles below the age of five years and establishments housing and caring for cases of cerebral palsy are not considered mental hospitals. (Res. 25789 § 264, 1963).

21.04.490 Hospital or clinic, small animal. "Small animal hospital or clinic" means an establishment in which veterinary medical services, clipping, bathing and similar services are rendered to dogs, cats and other small animals and domestic pets, not including kennels. (Res. 25789 § 265, 1963).

21.04.495 Hotel. "Hotel" means a building in which there are six or more guest rooms where lodging with or without meals is provided for compensation, and where no provision is made for cooking in any individual room or suite, and in which building may be included one apartment for use of the resident manager, but shall not include jails, hospitals, asylums, sanitariums, orphanages, prisons, detention homes and similar buildings where human beings are housed or detained under legal restraint. (Res. 25789 § 266, 1963).

21.04.500 Household Moving Center. A business specializing exclusively in the rental of household moving rental trucks and utility rental trailers, in the sale and rental of other products and services directly related to do-it-yourself moving, including the temporary storage of personal belongings, and involving the rental, display, minor maintenance and/or storage for rental purposes of such vehicles on an open, hard surface lot. (Ord. 5806 § 1, 1981).

21A.01.010 Adoption and transference. Pursuant to the requirement of King County Charter Section 880, there is adopted Title 21A of the "King County code" as compiled by the King County council. K.C.C. Chapter 21A.61A of the code is hereby transferred to Title 27. K.C.C. Sections 21A.61.060, .070 are hereby transferred to Title 20. (Ord. 10870 § 1, 1993).

21A.01.020 Zoning code adopted. Under the provisions of Article XI, Section 11 of the Washington State Constitution and Article 2, Section 220.20 of the King County Charter, the zoning code attached to Ordinance 10870, which is referred to hereinafter as the 1993 Zoning Code, is adopted and declared to be the zoning code for King County until amended, repealed or superseded, subject to the provisions of K.C.C. 21A.01.030. This code also is hereby enacted to be consistent with and implement the comprehensive plan in accordance with RCW 36.70A. This code shall be compiled in Title 21A. (Ord. 11621 § 1 (part), 1994: Ord. 10870 § 2, 1993).

21A.01.025 Notification to Tribes. The county recognizes that many actions undertaken pursuant to Title 21A, as amended, may impact treaty fishing rights of federally-recognized tribes. In order to honor and prevent interference with these treaty fishing rights and to provide for water quality and habitat preservation, the county shall provide notice to any federally-recognized tribes whose treaty fishing rights would be affected by an action undertaken pursuant to this title, including but not limited to: development of wetlands, stream and river banks, lakeshore habitat of water bodies, or development directly or indirectly affecting anadromous bearing water bodies, including the promulgation of plans, rules, regulations or ordinances implementing the provisions of this title, whether or not review of such actions is required under the State Environmental Policy Act (SEPA) RCW 43.21C. (Ord. 11621 § 1 (part), 1994).

21A.01.030 Application of the 1993 Zoning Code.

A. Except as provided in subsection C below, the 1993 Zoning Code shall apply to a specific property when, after the effective date of Ordinance 10870 (6/28/93), the zoning map with respect to such property is amended pursuant to:

1. an individual quasi-judicial zone reclassification;
2. countywide zoning conversion process set out in Section 5; or
3. community planning area zoning proposals accompanying plan updates or amendment studies.

B. Any reclassification requests or proposals for application of area or countywide zoning initiated after the effective date of Ordinance 10870 shall use the new zone classifications adopted in the 1993 Zoning Code.

C. The provisions of King County Code Chapter 21A.24, together with the relevant provisions of Chapters 21A.06 and 21A.12, shall apply to all properties as of the effective date of Ordinance 11621 (1/9/94). (Ord. 11621 § 2, 1994: 10870 § 3, 1993).

21A.01.040 Transition to new code.

A. Complete applications for conditional use permits, planned unit developments, binding site plans, right-of-way use permits, commercial site development permits, variances, unclassified use permits, or public agency and utility exceptions which were pending at the time Title 21A took effect shall continue to be processed under those applicable zoning regulations governing review prior to implementation of Title 21A; except when a conditional use permit application has been submitted for a use that under Title 21A no longer requires a conditional use permit, that conditional use permit shall not be a requirement for the vested development proposal. Notwithstanding any contrary provisions in this title, where approved, these permits shall continue to establish allowable uses on the property until permit expiration. A variance to Title 21 standards which has been approved and has not expired shall be deemed to also vary like standards set forth in Title 21A relating to the same subject matter and development proposal. Planned unit development applications pending on October 1, 1994 shall be deemed to have vested at the time a complete application was filed. Nothing in this subsection is intended to restrict otherwise applicable vested applicant rights.

B. Except for the requirements of K.C.C. 21A.43, any lot created by subdivision or short subdivision for which a complete subdivision or short subdivision application was submitted prior to February 2, 1995, may be developed pursuant to the standards of Resolution 25789, as amended (former K.C.C. Title 21), including any applicable p-suffix conditions in adopted community plans and area zoning in effect on February 1, 1995 for a period of six years from the date of recording of the applicable final plat or short plat. (Ord. 12824 § 19, 1997: Ord. 11765 § 1, 1995: Ord. 11621 § 3, 1994: 10870 § 4, 1993).

21A.02.010 Title. This title shall be known as the King County Zoning Code. (Ord. 15051 § 1, 2004; Ord. 10870 § 11, 1993).

21A.02.020 Authority to adopt code. The King County Zoning Code is adopted by King County ordinance, pursuant to Article XI, Section 11 of the Washington State Constitution; and Article 2, Section 220.20 of the King County Charter. (Ord. 10870 § 12, 1993).

21A.02.030 Purpose. The general purposes of this title are:

- A. To encourage land use decision making in accordance with the public interest and applicable laws of the State of Washington.
- B. To protect the general public health, safety, and welfare;
- C. To implement the King County Comprehensive Plan's policies and objectives through land use regulations;
- D. To provide for the economic, social, and aesthetic advantages of orderly development through harmonious groupings of compatible and complementary land uses and the application of appropriate development standards;
- E. To provide for adequate public facilities and services in conjunction with development; and
- F. To promote general public safety by regulating development of lands containing physical hazards and to minimize the adverse environmental impacts of development. (Ord. 10870 § 13, 1993).

21A.02.040 Conformity with this title required.

- A. No use or structure shall be established, substituted, expanded, constructed, altered, moved, maintained, or otherwise changed except in conformance with this title.
- B. Creation of or changes to lot lines shall conform with the use provisions, dimensional and other standards, and procedures of this title and Title 19, Subdivisions.
- C. All land uses and development authorized by this title shall comply with all other regulations and or requirements of this title as well as any other applicable local, state or federal law. Where a difference exists between this title and other county regulations, the more restrictive requirements shall apply.
- D. Where more than one part of this title applies to the same aspect of a proposed use or development, the more restrictive requirement shall apply.
- E. Temporary uses or activities, conducted during an emergency event, or training exercises conducted at emergency sites, designated pursuant to an emergency management plan, shall not be subject to the provisions of this title. (Ord. 11621 § 8, 1994; 10870 § 14, 1993).

21A.02.050 Minimum requirements. In interpretation and application, the requirements set forth in this title shall be considered the minimum requirements necessary to accomplish the purposes of this title. (Ord. 10870 § 15, 1993).

21A.02.060 Interpretation: General.

- A. In case of inconsistency or conflict, regulations, conditions or procedural requirements that are specific to an individual land use shall supersede regulations, conditions or procedural requirements of general application.
- B. A land use includes the necessary structures to support the use unless specifically prohibited or the context clearly indicates otherwise.
- C. In case of any ambiguity, difference of meaning, or implication between the text and any heading, caption, or illustration, the text and the permitted use tables in K.C.C. 21A.08 shall control. All applicable requirements shall govern a use whether or not they are cross-referenced in a text section or land use table.
- D. Unless the context clearly indicates otherwise, words in the present tense shall include past and future tense, and words in the singular shall include the plural, or vice versa. Except for words and terms defined in this title, all words and terms used in this title shall have their customary meanings. (Ord. 10870 § 16, 1993).

21A.02.070 Interpretation: Standard industrial classification.

A. All references to the Standard Industrial Classification (SIC) are to the titles and descriptions found in the Standard Industrial Classification Manual, 1987 edition, prepared by United States Office of Management and Budget which is hereby adopted by reference. The (SIC) is used, with modifications to suit the purposes of this title, to list and define land uses authorized to be located in the various zones consistent with the comprehensive plan land use map.

B. The SIC categorizes each land use under a general two-digit major group number, or under a more specific three- or four-digit industry group or industry number. A use shown on a land use table with a two-digit number includes all uses listed in the SIC for that major group. A use shown with a three-digit or four-digit number includes only the uses listed in the SIC for that industry group or industry.

C. An asterisk (*) in the SIC number column of a land use table means that the SIC definition for the specific land use identified has been modified by this title. The definition may include one or more SIC subclassification numbers, or may define the use without reference to the SIC.

D. The Director shall determine whether a proposed land use not specifically listed in a land use table or specifically included within a SIC classification is allowed in a zone. The director's determination shall be based on whether or not permitting the proposed use in a particular zone is consistent with the purposes of this title and the zone's purpose as set forth in K.C.C. 21A.04, by considering the following factors:

1. The physical characteristics of the use and its supporting structures, including but not limited to scale, traffic and other impacts, and hours of operation;
2. Whether or not the use complements or is compatible with other uses permitted in the zone; and
3. The SIC classification, if any, assigned to the business or other entity that will carry on the primary activities of the proposed use. (Ord. 11621 § 7, 1994; 10870 § 17, 1993).

21A.02.080 Interpretation: Zoning maps. Where uncertainties exist as to the location of any zone boundaries, the following rules of interpretation, listed in priority order, shall apply:

A. Where boundaries are indicated as paralleling the approximate centerline of the street right-of-way, the zone shall extend to each adjacent boundary of the right-of-way. Non road-related uses by adjacent property owners, if allowed in the right-of-way, shall meet the same zoning requirements regulating the property owners lot;

B. Where boundaries are indicated as approximately following lot lines, the actual lot lines shall be considered the boundaries;

C. Where boundaries are indicated as following lines of ordinary high water, or government meander line, the lines shall be considered to be the actual boundaries. If these lines should change the boundaries shall be considered to move with them; and

D. If none of the rules of interpretation described in subparagraphs A. through C. apply, then the zoning boundary shall be determined by map scaling. (Ord. 10870 § 18, 1993).

21A.02.090 Administration and review authority.

A. The hearing examiner in accordance with K.C.C. chapter 20.24 may hold public hearings and make decisions and recommendations on reclassifications, subdivisions and other development proposals, and appeals.

B. The director may grant, condition or deny applications for variances, conditional use permits, renewals of permits for mineral extraction and processing, alteration exceptions and other development proposals, unless an appeal is filed and a public hearing is required under K.C.C. chapter 20.20, in which case this authority shall be exercised by the hearing examiner.

C. The department shall have authority to grant, condition or deny commercial and residential building permits, grading and clearing permits, and temporary use permits in accordance with the procedures in K.C.C. chapter 21A.42.

D. Except for other agencies with authority to implement specific provisions of this title, the department shall have the sole authority to issue official interpretations and adopt public rules to implement this title, in accordance with K.C.C. chapter 2.98. (Ord. 15051 § 2, 2004; Ord. 10870 § 19, 1993).

21A.06.780 Motor vehicle and bicycle manufacturing. Motor vehicle and bicycle manufacturing: fabricating or assembling complete passenger automobiles, trucks, commercial cars and buses, motorcycles, and bicycles, including only uses located in SIC Industry Group Nos.:

- A. 371-Motor Vehicles and Motor Vehicle Equipment; and
- B. 375-Motorcycles, Bicycles, and Parts. (Ord. 10870 § 196, 1993).

21A.06.782 Mulch. Mulch: any material such as leaves, bark, straw left loose and applied to the soil surface to reduce evaporation. (Ord. 11210 § 29, 1994).

21A.06.785 Municipal water production. Municipal water production: the collection and processing of surface water through means of dams or other methods of impoundment for municipal water systems. (Ord. 11157 § 7, 1993; Ord. 10870 § 197, 1993).

21A.06.790 Native vegetation. Native vegetation: plant species indigenous to the Puget Sound region that reasonably could be expected to naturally occur on the site. (Ord. 15051 § 79, 2004; Ord. 10870 § 198, 1993).

21A.06.795 Naturalized species. Naturalized species: non-native species of vegetation that are adaptable to the climatic conditions of the coastal region of the Pacific Northwest. (Ord. 10870 § 199, 1993).

21A.06.797 Net buildable area. Net buildable area: the "site area" less the following areas:

- A. Areas within a project site that are required to be dedicated for public rights-of-way in excess of sixty feet in width;
- B. Critical areas and their buffers to the extent they are required by K.C.C. chapter 21A.24 to remain undeveloped;
- C. Areas required for storm water control facilities other than facilities that are completely underground, including, but not limited to, retention or detention ponds, biofiltration swales and setbacks from such ponds and swales;
- D. Areas required to be dedicated or reserved as on-site recreation areas;
- E. Regional utility corridors; and
- F. Other areas, excluding setbacks, required to remain undeveloped. (Ord. 15051 § 80, 2004; Ord. 11798 § 3, 1995; Ord. 11555 § 2, 1994).

21A.06.800 Nonconformance. Nonconformance: any use, improvement or structure established in conformance with King County rules and regulations in effect at the time of establishment that no longer conforms to the range of uses permitted in the site's current zone or to the current development standards of the code due to changes in the code or its application to the subject property. (Ord. 10870 § 200, 1993).

21A.06.805 Nonhydro-electric generation facility. Nonhydro-electric generation facility: an establishment for the generation of electricity by nuclear reaction, burning fossil fuels, or other electricity generation methods. (Ord. 10870 § 201, 1993).

21A.06.810 Non-ionizing electromagnetic radiation ("NIER"). Non-ionizing electromagnetic radiation ("NIER"): electromagnetic radiation of low photon energy unable to cause ionization. (Ord. 10870 § 202, 1993).

21A.06.815 Noxious weed. Noxious weed: a plant species that is highly destructive, competitive or difficult to control by cultural or chemical practices, limited to any plant species listed on the state noxious weed list in chapter 16-750 WAC, regardless of the list's regional designation or classification of the species. (Ord. 15051 § 81, 2004; Ord. 10870 § 203, 1993).

21A.06.817 Off-street required parking lot. Off-street required parking lot; parking facilities constructed to meet the off-street parking requirements of K.C.C. 21A.18 for land uses located on a lot separate from the parking facilities. (Ord. 13022 § 4, 1998).

21A.06.1330 Transportation system management ("TSM"). Transportation System Management ("TSM"): low-cost projects that can be implemented in a short time frame designed to increase the efficiency of existing transportation facilities. This also includes transit and/or ride sharing measures to decrease single occupancy vehicle trips. (Ord. 10870 § 306, 1993).

21A.06.1331 Tree, hazard. Tree, hazard: any tree with a structural defect, combination of defects or disease resulting in structural defect that, under the normal range of environmental conditions at the site, will result in the loss of a major structural component of that tree in a manner that will:

- A. Damage a residential structure or accessory structure, place of employment or public assembly or approved parking for a residential structure or accessory structure or place of employment or public assembly;
- B. Damage an approved road or utility facility; or
- C. Prevent emergency access in the case of medical hardship. (Ord. 15051 § 107, 2004).

21A.06.1332 Trough subsidence. Trough subsidence: a readily predictable or historically observed surface depression phenomena caused by coal extraction which is generally characterized by a gentle and continuous dish shape which may extend beyond the subsurface area in which coal mining has occurred. (Ord. 13319 § 5, 1998).

21A.06.1335 Ultimate roadway section. Ultimate roadway section: a designation by King County that the maximum roadway or intersection capacity has been reached and further right-of-way acquisition and/or improvements are not feasible to increase peak hour vehicle capacity. (Ord. 10870 § 307, 1993).

21A.06.1340 Urban Plan Development (UPD). Urban Plan Development: a site specific project consisting of conceptual site plan(s), development standards, processing and other elements. (Ord. 10870 § 308, 1993).

21A.06.1345 Use. Use: activity or function carried out on an area of land, or in a building or structure located thereon. Any use subordinate or incidental to the primary use on a site is considered an accessory use. (Ord. 10870 § 309, 1993).

21A.06.1348 Utility corridor. Utility corridor: a narrow strip of land containing underground or above-ground utilities and the area necessary to maintain those utilities. A "utility corridor" is contained within and is a portion of any utility right-of-way or dedicated easement. (Ord. 15051 § 108, 2004).

21A.06.1350 Utility facility. Utility facility: a facility for the distribution or transmission of services, including:

- A. Telephone exchanges;
- B. Water pipelines, pumping or treatment stations;
- C. Electrical substations;
- D. Water storage reservoirs or tanks;
- E. Municipal groundwater well-fields;
- F. Regional surface water flow control and water quality facilities;
- G. Natural gas pipelines, gate stations and limiting stations;
- H. Propane, compressed natural gas and liquefied natural gas storage tanks serving multiple lots or uses from which fuel is distributed directly to individual users;
- I. Wastewater pipelines, lift stations, pump stations, regulator stations or odor control facilities; and
- J. Communication cables, electrical wires and associated structural supports. (Ord. 15051 § 109, 2004; Ord. 10870 § 310, 1993).

21A.06.1352 Vector waste. Vector waste means liquid or solid waste material collected from catch basins, retention/detention facilities or drainage pipes. (Ord. 12018 § 1, 1995).

21A.06.1353 Vector waste receiving facility. Vector waste receiving facility means a facility where vector waste is brought for treatment and storage prior to final disposal. (Ord. 12018 § 2, 1995).

**Chapter 21A.08
PERMITTED USES**

Sections:

- 21A.08.010 Establishment of uses.
- 21A.08.020 Interpretation of land use tables.
- 21A.08.030 Residential land uses.
- 21A.08.040 Recreational/cultural land uses.
- 21A.08.050 General services land uses.
- 21A.08.060 Government/business service land uses.
- 21A.08.070 Retail land uses.
- 21A.08.080 Manufacturing land uses.
- 21A.08.090 Resource land uses.
- 21A.08.100 Regional land uses.
- 21A.08.900 Applicability – Ordinance 13694.
- 21A.08.901 Severability – Ordinance 13694.

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21A.08.010 Establishment of uses. The use of a property is defined by the activity for which the building or lot is intended, designed, arranged, occupied, or maintained. The use is considered permanently established when that use will or has been in continuous operation for a period exceeding sixty days. A use which will operate for less than sixty days is considered a temporary use, and subject to the requirements of K.C.C. 21A.32 of this title. All applicable requirements of this code, or other applicable state or federal requirements, shall govern a use located in unincorporated King County. (Ord. 10870 § 328, 1993).

21A.08.020 Interpretation of land use tables.

A. The land use tables in this chapter determine whether a specific use is allowed in a zone district. The zone district is located on the vertical column and the specific use is located on the horizontal row of these tables.

B. If no symbol appears in the box at the intersection of the column and the row, the use is not allowed in that district, except for certain temporary uses.

C. If the letter "P" appears in the box at the intersection of the column and the row, the use is allowed in that district subject to the review procedures specified in K.C.C. 21A.42 and the general requirements of the code.

D. If the letter "C" appears in the box at the intersection of the column and the row, the use is allowed subject to the conditional use review procedures specified in K.C.C. 21A.42 and the general requirements of the code.

E. If the letter "S" appears in the box at the intersection of the column and the row, the regional use is permitted subject to the special use permit review procedures specified in K.C.C. 21A.42 and the general requirements of the code.

F. If a number appears in the box at the intersection of the column and the row, the use may be allowed subject to the appropriate review process indicated above, the general requirements of the code and the specific conditions indicated in the development condition with the corresponding number immediately following the land use table.

G. If more than one letter-number combination appears in the box at the intersection of the column and the row, the use is allowed in that zone subject to different sets of limitation or conditions depending on the review process indicated by the letter, the general requirements of the code and the specific conditions indicated in the development condition with the corresponding number immediately following the table.

H. All applicable requirements shall govern a use whether or not they are cross-referenced in a section. (Ord. 10870 § 329, 1993).

21A.08.030 Residential land uses.

A. Residential land uses.

KEY P-Permitted Use C-Conditional Use S-Special Use		Z O N E	RESOURCE			RESIDENTIAL				COMMERCIAL/INDUSTRIAL					
			A G R I C U L T U R E	F O R E S T	M I N E R A L	R U R A L	U R B A N	R E S E R V E	U R B A N	R E S I D E N T I A L	N E I G H B O R H O O D	B U S I N E S S	C O M M U N I T Y	B U S I N E S S	R E S I D E N T I A L
SIC #	SPECIFIC LAND USE	A	F	M	RA	UR	R1-8	R12-48	NB	CB	RB	O	I		
	DWELLING UNITS, TYPES:														
*	Single Detached	P C13	P2		P C13	P C13	P C13	P C13	P17						
*	Townhouse				C4	C4	P C12	P	P3	P3	P3	P3			
*	Apartment				C4	C4	P5 C4	P	P3	P3	P3	P3			
*	Mobile Home Park				S14		C8	P							
*	Cottage Housing						C16								
	GROUP RESIDENCES:														
*	Community Residential Facility-I				C	C	P15.a C	P	P3	P3	P3	P3			
*	Community Residential Facility-II						P15.b	P	P3	P3	P3	P3			
*	Dormitory				C6	C6	C6	P							
*	Senior Citizen Assisted Housing					P4	P4	P	P3	P3	P3	P3			
	ACCESSORY USES:														
*	Residential Accessory Uses	P7 P18	P7		P7	P7	P7	P7	P7	P7	P7	P7			
*	Home Occupation	P	P		P	P	P	P	P	P	P	P			
*	Home Industry	C			C	C	C								
	TEMPORARY LODGING:														
7011	Hotel/Motel (1)									P	P	P			
*	Bed and Breakfast Guesthouse	P9 C10			P10	P10	P10	P10	P10	P11	P11				
7041	Organization Hotel/Lodging Houses										P				
GENERAL CROSS REFERENCES:		Land Use Table Instructions, see K.C.C. 21A.08.020 and 21A.02.070; Development Standards, see K.C.C. chapters 21A.12 through 21A.30; General Provisions, see K.C.C. chapters 21A.32 through 21A.38; Application and Review Procedures, see K.C.C. chapters 21A.40 through 21A.44; (*Definition of this specific land use, see K.C.C. chapter 21A.06.													

B. Development conditions.

1. Except bed and breakfast guesthouses.

2. In the forest production district, the following conditions apply:

a. Site disturbance associated with development of any new residence shall be limited to three acres. Site disturbance shall mean all land alterations including, but not limited to, grading, utility installation, landscaping, clearing for crops, on-site sewage disposal systems and driveways. Additional site disturbance for raising livestock, up to the smaller of thirty-five percent of the lot or seven acres, may be approved only if a farm management (conservation) plan is prepared in accordance with K.C.C. chapter 21A.30. Animal densities shall be based on the area devoted to animal care and not the total area of the lot;

b. A forest management plan shall be required for any new residence in the forest production district, that shall be reviewed and approved by the King County department of natural resources and parks prior to building permit issuance; and

c. The forest management plan shall incorporate a fire protection element that includes fire safety best management practices developed by the department.

3. Only as part of a mixed use development subject to the conditions of K.C.C. chapter 21A.14, except that in the NB zone on properties with a land use designation of commercial outside of center (CO) in the urban areas, stand-alone townhouse developments are permitted subject to K.C.C. 21A.12.040, 21A.14.030, 21A.14.060 and 21A.14.180.

4.a. Only in a building listed on the National Register as an historic site or designated as a King County landmark subject to the provisions of K.C.C. 21A.32.

b. In the R-1 zone, apartment units are permitted, provided that:

(1) The proposal shall be subject to a conditional use permit when exceeding base density,

(2) At least fifty percent of the site is constrained by unbuildable critical areas. For purposes of this section, unbuildable critical areas shall include wetlands, streams and slopes forty percent or steeper and associated buffers; and

(3) The density does not exceed a density of eighteen units per acre of net buildable area as defined in K.C.C. 21A.06.797; or

c. In the R-4 through R-8 zones, apartment units are permitted, provided that the proposal shall be subject to a conditional use permit when exceeding base density, and provided that the density does not exceed a density of eighteen units per acre of net buildable area as defined in K.C.C. 21A.06.797.

5. Apartment units are permitted outright as follows:

a. In the R-1 zone when at least fifty percent of the site is constrained by unbuildable critical areas that for purposes of this section, includes wetlands, streams and slopes forty percent or steeper and associated buffers, and provided that the density does not exceed a density of eighteen units per acre of net buildable area as defined in K.C.C. 21A.06.797; or

b. In the R-4 through R-8 zones, provided that the density does not exceed eighteen units per acre of net buildable area as defined in K.C.C. 21A.06.797.

6. Only as an accessory to a school, college, university or church.

7.a. Accessory dwelling units:

(1) Only one accessory dwelling per primary single detached dwelling unit;

(2) Only in the same building as the primary dwelling unit on an urban lot that is less than ten thousand square feet in area, on a rural lot that is less than the minimum lot size, or on a lot containing more than one primary dwelling;

(3) The primary dwelling unit or the accessory dwelling unit shall be owner occupied;

(4)(a) One of the dwelling units shall not exceed a floor area of one thousand square feet except when one of the dwelling units is wholly contained within a basement or attic; and

(b) When the primary and accessory dwelling units are located in the same building, only one entrance may be located on each street side of the building;

(5) One additional off-street parking space shall be provided;

(6) The accessory dwelling unit shall be converted to another permitted use or shall be removed if one of the dwelling units ceases to be owner occupied; and

(7) An applicant seeking to build an accessory dwelling unit shall file a notice approved by the department of executive services, records and licensing services division, that identifies the dwelling unit as accessory. The notice shall run with the land. The applicant shall submit proof that the notice was filed before the department shall approve any permit for the construction of the accessory dwelling unit. The required contents and form of the notice shall be set forth in administrative rules. If an accessory dwelling unit in a detached building in the rural zone is subsequently converted to a primary unit on a separate lot, neither the original lot nor the new lot may have an additional detached accessory dwelling unit constructed unless the lot is at least twice the minimum lot area required in the zone; and

(8) Accessory dwelling units and accessory living quarters are not allowed in the F zone.

b. One single or twin engine, noncommercial aircraft shall be permitted only on lots that abut, or have a legal access that is not a county right-of-way, to a waterbody or landing field, provided there is:

(1) no aircraft sales, service, repair, charter or rental; and

(2) no storage of aviation fuel except that contained in the tank or tanks of the aircraft.

c. Buildings for residential accessory uses in the RA and A zone shall not exceed five thousand square feet of gross floor area, except for buildings related to agriculture or forestry.

8. Mobile home parks shall not be permitted in the R-1 zones.

9. Only as an accessory to the permanent residence of the operator, and:

a. Serving meals to paying guests shall be limited to breakfast; and

b. There shall be no more than five guests per night.

10. Only as an accessory to the permanent residence of the operator, and:
 - a. Serving meals to paying guests shall be limited to breakfast; and
 - b. The number of persons accommodated per night shall not exceed five, except that a structure that satisfies the standards of the Uniform Building Code as adopted by King County for R-1 occupancies may accommodate up to ten persons per night.
11. Only if part of a mixed use development, and subject to the conditions of K.C.C. 21A.08.030.B.10.
12. Townhouses are permitted, but shall be subject to a conditional use permit if exceeding base density.
13. Required before approving more than one dwelling on individual lots, except on lots in subdivisions, short subdivisions or binding site plans approved for multiple unit lots, and except as provided for accessory dwelling units in K.C.C. 21A.08.030.B.7.
14. No new mobile home parks are allowed in a rural zone.
- 15.a. Limited to domestic violence shelter facilities.
- b. Limited to domestic violence shelter facilities with no more than eighteen residents or staff.
16. Only in the R4-R8 zones limited to:
 - a. developments no larger than one acre;
 - b. not adjacent to another cottage housing development such that the total combined land area of the cottage housing developments exceeds one acre; and
 - c. All units must be cottage housing units with no less than three units and no more than sixteen units, provided that if the site contains an existing home that is not being demolished, the existing house is not required to comply with the height limitation in subsection B.25. of this section or the floor area and footprint limits in K.C.C. 21A.14.025.B.
17. The development for a detached single-family residence shall be consistent with the following:
 - a. The lot must have legally existed prior to March 1, 2005;
 - b. The lot has a comprehensive plan land use designation of Rural Neighborhood or Rural Residential; and
 - c. The standards of this title for the RA-5 zone shall apply.
18. Housing for agricultural employees who are employed by the owner or operator of the site year-round as follows:
 - a. Not more than:
 - (1) One agricultural employee dwelling unit on a site under twenty acres;
 - (2) Two agricultural employee dwelling units on a site between twenty acres and fifty acres;
 - (3) Three agricultural employee dwelling units on a site greater than fifty acres and less than one-hundred acres; and
 - (4) On sites one-hundred acres and larger one additional agricultural employee dwelling unit for each additional one hundred acres;
 - b. The primary use of the site shall be agricultural in SIC Industry Group No. 01-Growing and Harvesting Crops or SIC Industry Group No. 02-Raising Livestock and Small Animals. If the primary use of the site changes to a nonagricultural use, all agricultural employee dwelling units shall be removed;
 - c. The applicant shall file with the department of executive services, records and licensing services division, a notice approved by the department that identifies the agricultural employee dwelling units as accessory and that the dwelling units shall only be occupied by agricultural employees who are employed by the owner or operator year-round. The notice shall run with the land. The applicant shall submit to the department proof that the notice was filed with the department of executive services, records and licensing services division, before the department approves any permit for the construction of agricultural employee dwelling units;
 - d. An agricultural employee dwelling unit shall not exceed a floor area of one thousand square feet and may be occupied by no more than eight unrelated agricultural employees;
 - e. One off-street parking space shall be provided for each agricultural employee dwelling unit; and
 - f. The agricultural employee dwelling units shall be constructed in compliance with K.C.C. Title 16. (Ord. 16040 § 3, 2008: Ord. 15974 § 6, 2007: Ord. 15971 § 93, 2007: 15606 § 11, 2006: Ord. 15032 § 10, 2004: Ord. 14279 § 1, 2002: Ord. 14199 § 232, 2001: Ord. 14045 § 10, 2001: Ord. 12786 § 2, 1997: Ord. 12596 § 3, 1997: Ord. 12522 § 3, 1996: Ord. 12273 § 1, 1996: Ord. 12243 § 1, 1996: Ord. 11621 § 135, 1994: 11157 § 11, 1993: Ord. 10870 § 330, 1993).

21A.08.040 Recreational/cultural land uses.

A. Recreational/cultural land uses.

KEY		Z O N E	RESOURCE				RESIDENTIAL				COMMERCIAL/INDUSTRIAL				
P-Permitted Use	C-Conditional Use		A	F	M	RA	UR	R1-8	R12-48	NB	CB	RB	O	I	
S-Special Use			AGRICULTURE	FOREST	MINERAL	URBANA	URBAN	RESIDENTIAL	NEIGHBORHOOD	BUSINESS	COMMUNITY	BUSINESS	RETAIL	OFFICE	INDUSTRIAL
SIC#	SPECIFIC LAND USE		A	F	M	RA	UR	R1-8	R12-48	NB	CB	RB	O	I	
PARK/RECREATION:															
*	Park		P1	P1	P1	P1	P1	P1	P1	P	P	P	P	P13	
	Large Active Recreation and Multiuse Park			P1	P1	P1	P1	P1	P1	P	P	P	P	P13	
*	Trails		P	P	P	P	P	P	P	P	P	P	P	P	
*	Campgrounds			P16 C16 a	P16	P16 C16 a	P16 C16 a							P16 C16 a	
*	Destination Resorts			S		S18	C						C		
*	Marina			C3		C4	C4	C4	C4	P5	P	P	P	P	
*	Recreational Vehicle Park			P19	P19	C2 and 18 P19	C2 P19								
*	Sports Club (17)					C4, 18	C4	C4	C4	C	P	P			
*	Ski Area			S		S18									
*	Recreational Camp			C		P24 C									
AMUSEMENT/ENTERTAINMENT:															
*	Adult Entertainment Business										P6	P6	P6		
*	Theater										P	P	P	P25	
7833	Theater, Drive-in											C			
793	Bowling Center										P	P		P	
*	Golf Facility					C7 and 18	P7	P7	P7						
7999 (14)	Amusement and Recreation Services			P21	P21	P8 P21, C15 and 18	P8, P21 P22 C15	P8, P21 P22 C15	P8, P21 P22 C15	P21 P22	P	P	P21	P21	
*	Shooting Range			C9		C9 and 18						C10		P10	
*	Amusement Arcades										P	P			
7996	Amusement Park											C			
*	Outdoor Performance Center			S		C12 S18		P20	P20			S			
CULTURAL:															
823	Library					P11	P11 C	P11 C	P11 C	P	P	P	P		
841	Museum		C2 3	C23		P11	P11 C	P11 C	P11 C	P	P	P	P	P	
842	Arboretum		P	P		P	P	P	P	P	P	P	P		
*	Conference Center					P11 C12	P11 C12	P11 C	P11 C	P		P	P		
GENERAL CROSS REFERENCES: Land Use Table Instructions, see K.C.C. 21A.08.020 and 21A.02.070; Development Standards see K.C.C. chapters 21A.12 through 21A.30; General Provisions, see K.C.C. chapters 21A.32 through 21A.38; Application and Review Procedures, see K.C.C. chapters 21A.40 through 21A.44; (*Definition of this specific Land Use, see K.C.C. chapter 21A.06.															

B. Development conditions.

1. The following conditions and limitations shall apply, where appropriate:
 - a. No stadiums on sites less than ten acres;
 - b. Lighting for structures and fields shall be directed away from residential areas;
 - c. Structures or service yards shall maintain a minimum distance of fifty feet from property lines adjoining residential zones, except for structures in on-site recreation areas required in K.C.C. 21A.14.180 and 21A.14.190. Setback requirements for structures in these on-site required recreation areas shall be maintained in accordance with K.C.C. 21A.12.030;
 - d. Facilities in the A zone shall be limited to trails and trailheads, including related accessory uses such as parking and sanitary facilities; and
 - e. Overnight camping is allowed only in an approved campground.
2. Recreational vehicle parks are subject to the following conditions and limitations:
 - a. The maximum length of stay of any vehicle shall not exceed one hundred eighty days during a three-hundred-sixty-five-day period;
 - b. The minimum distance between recreational vehicle pads shall be no less than ten feet; and
 - c. Sewage shall be disposed in a system approved by the Seattle-King County health department.
3. Limited to day moorage. The marina shall not create a need for off-site public services beyond those already available before the date of application.
4. Not permitted in the RA-10 or RA-20 zones. Limited to recreation facilities subject to the following conditions and limitations:
 - a. The bulk and scale shall be compatible with residential or rural character of the area;
 - b. For sports clubs, the gross floor area shall not exceed ten thousand square feet unless the building is on the same site or adjacent to a site where a public facility is located or unless the building is a nonprofit facility located in the urban area; and
 - c. Use is limited to residents of a specified residential development or to sports clubs providing supervised instructional or athletic programs.
5. Limited to day moorage.
 - 6.a. Adult entertainment businesses shall be prohibited within three hundred thirty feet of any property zoned RA, UR or R or containing schools, licensed daycare centers, public parks or trails, community centers, public libraries or churches. In addition, adult entertainment businesses shall not be located closer than three thousand feet to any other adult entertainment business. These distances shall be measured from the property line of the parcel or parcels proposed to contain the adult entertainment business to the property line of the parcels zoned RA, UR or R or that contain the uses identified in this subsection B.6.a.
 - b. Adult entertainment businesses shall not be permitted within an area likely to be annexed to a city subject to an executed interlocal agreement between King County and a city declaring that the city will provide opportunities for the location of adult businesses to serve the area. The areas include those identified in the maps attached to Ordinance 13546.
7. Clubhouses, maintenance buildings, equipment storage areas and driving range tees shall be at least fifty feet from residential property lines. Lighting for practice greens and driving range ball impact areas shall be directed away from adjoining residential zones. Applications shall comply with adopted best management practices for golf course development. Within the RA zone, those facilities shall be permitted only in the RA-5 and RA-2.5 zones. Not permitted in designated rural forest focus area, regionally significant resource areas or locally significant resource areas. Ancillary facilities associated with a golf course are limited to practice putting greens, maintenance buildings and other structures housing administrative offices or activities that provide convenience services to players. These convenience services are limited to a pro shop, food services and dressing facilities and shall occupy a total of no more than ten thousand square feet. Furthermore, the residential density that is otherwise permitted by the zone shall not be used on other portions of the site through clustering or on other sites through the transfer of density provision. This residential density clustering or transfer limitation shall be reflected in a deed restriction that is recorded at the time applicable permits for the development of the golf course are issued.
8. Limited to a golf driving range only as:
 - a. an accessory to golf courses; or
 - b. an accessory to a large active recreation and multiuse park.

9.a. New structures and outdoor ranges shall maintain a minimum distance of fifty feet from property lines adjoining residential zones, but existing facilities shall be exempt.

b. Ranges shall be designed to prevent stray or ricocheting projectiles, pellets or arrows from leaving the property.

c. Site plans shall include: safety features of the range; provisions for reducing sound produced on the firing line; elevations of the range showing target area, backdrops or butts; and approximate locations of buildings on adjoining properties.

d. Subject to the licensing provisions of K.C.C. Title 6.

10.a. Only in an enclosed building, and subject to the licensing provisions of K.C.C. Title 6;

b. Indoor ranges shall be designed and operated so as to provide a healthful environment for users and operators by:

(1) installing ventilation systems that provide sufficient clean air in the user's breathing zone, and

(2) adopting appropriate procedures and policies that monitor and control exposure time to airborne lead for individual users.

11. Only as accessory to a park or in a building listed on the National Register as an historic site or designated as a King County landmark subject to K.C.C. chapter 21A.32.

12. Only as accessory to a nonresidential use established through a discretionary permit process, if the scale is limited to ensure compatibility with surrounding neighborhoods. This condition applies to the UR zone only if the property is located within a designated unincorporated rural town.

13. Subject to the following:

a. The park shall abut an existing park on one or more sides, intervening roads notwithstanding;

b. No bleachers or stadiums are permitted if the site is less than ten acres, and no public amusement devices for hire are permitted;

c. Any lights provided to illuminate any building or recreational area shall be so arranged as to reflect the light away from any premises upon which a dwelling unit is located; and

d. All buildings or structures or service yards on the site shall maintain a distance not less than fifty feet from any property line and from any public street.

14. Excluding amusement and recreational uses classified elsewhere in this chapter.

15. Limited to golf driving ranges and subject to subsection B.7. of this section.

16. Subject to the following conditions:

a. The length of stay per party in campgrounds shall not exceed one hundred eighty days during a three-hundred-sixty-five-day period; and

b. Only for campgrounds that are part of a proposed or existing county park, that are subject to review and public meetings through the department of natural resources and parks.

17. Only for stand-alone sports clubs that are not part of a park.

18. Subject to review and approval of conditions to comply with trail corridor provisions of K.C.C. chapter 21A.14 when located in an RA zone and in an equestrian community designated by the Comprehensive Plan.

19. Only as an accessory to a large active recreation and multiuse park.

20. Only as an accessory to a large active recreation and multiuse park with the floor area of an individual outdoor performance center stage limited to three thousand square feet.

21. Only as an accessory to a park, or a large active recreation and multiuse park in the RA zones, and limited to:

a. rentals of sports and recreation equipment; and

b. a total floor area of seven hundred and fifty square feet.

22. Only as an accessory to a large active recreation and multiuse park and limited to:

a. water slides, wave pools and associated water recreation facilities; and

b. rentals of sports and recreation equipment.

23. Limited to natural resource and heritage museums and only allowed in a farm or forestry structure, including but not limited to barns or sawmills, existing as of December 31, 2003.

24. Use is permitted without a conditional use permit only when in compliance with all of the following conditions:

a. The use is limited to camps for youths or for persons with special needs due to a disability, as defined by the American With Disabilities Act of 1990, or due to a medical condition and including training for leaders for those who use the camp;

b. Active recreational activities shall not involve the use of motorized vehicles such as cross-country motorcycles or all-terrain vehicles or the use of firearms. The prohibition on motorized vehicles does not apply to such vehicles that may be necessary for operation and maintenance of the facility or to a client-specific vehicle used as a personal mobility device;

c.(1) Except as provided in subsection B.24.c.(2)(b) of this section, the number of overnight campers, not including camp personnel, in a new camp shall not exceed:

(a) one hundred and fifty for a camp between twenty and forty acres; or

(b) for a camp greater than forty acres, but less than two hundred and fifty acres, the number of users allowed by the design capacity of a water system and on-site sewage disposal system approved by the department of health, Seattle/King County, up to a maximum of three hundred and fifty; and

(2) Existing camps shall be subject to the following:

(a) For a camp established prior to August 11, 2005, with a conditional use permit and is forty acres or larger, but less than one hundred and sixty acres, the number of overnight campers, not including camp personnel, may be up to one hundred and fifty campers over the limit established by subsection B.24.c.(1)(b) of this section.

(b) For a camp established prior to August 11, 2005, with a conditional use permit and is one hundred and sixty acres or larger, but less than two hundred acres, the number of overnight campers, not including camp personnel, may be up to three hundred and fifty campers over the limit established by subsection B.24.c.(1)(b) of this section. The camp may terminate operations at its existing site and establish a new camp if the area of the camp is greater than two hundred and fifty acres and the number of overnight campers, not including camp personnel, shall not exceed seven hundred.

d. The length of stay for any individual overnight camper, not including camp personnel, shall not exceed ninety days during a three-hundred-sixty-five-day period;

e. The camp facilities, such as a medical station, food service hall, and activity rooms, shall be of a scale to serve overnight camp users;

f. The minimum size of parcel for such use shall be twenty acres;

g. Except for any permanent caretaker residence, all new structures where camp users will be housed, fed or assembled shall be no less than fifty feet from properties not related to the camp;

h. In order to reduce the visual impacts of parking areas, sports and activity fields or new structures where campers will be housed, fed or assembled, the applicant shall provide a Type 3 landscape buffer no less than twenty feet wide between the nearest property line and such parking area, field, or structures, by retaining existing vegetation or augmenting as necessary to achieve the required level of screening;

i. If the site is adjacent to an arterial roadway, access to the site shall be directly onto said arterial unless direct access is unsafe due inadequate sight distance or extreme grade separation between the roadway and the site;

j. If direct access to the site is via local access streets, transportation demand management measures, such as use of carpools, buses or vans to bring in campers, shall be used to minimize traffic impacts;

k. Any lights provided to illuminate any building or recreational area shall be so arranged as to reflect the light away from any adjacent property; and

l. A community meeting shall be convened by the applicant prior to submittal of an application for permits to establish a camp, or to expand the number of camp users on an existing camp site as provided in subsection B.24.c.(2)(b) of this section. Notice of the meeting shall be provided at least two weeks in advance to all property owners within five hundred feet (or at least twenty of the nearest property owners, whichever is greater). The notice shall at a minimum contain a brief description of the project and the location, as well as, contact persons and numbers.

25. Limited to theaters primarily for live productions located within a Rural Town designated by the King County Comprehensive Plan. (Ord. 15606 § 12, 2006: Ord. 15245 § 3, 2005: Ord. 15032 § 11, 2004: Ord. 14807 § 4, 2003: Ord. 14185 § 2, 2001: Ord. 14045 § 11, 2001: Ord. 13546 § 3, 1999: Ord. 13278 § 3, 1998: Ord. 13022 § 11, 1998: Ord. 12930 § 1, 1997: Ord. 12596 § 4, 1997: Ord. 12303 § 1, 1996: Ord. 12243 § 3, 1996: Ord. 11821 § 1, 1995: Ord. 11621 § 35, 1994: Ord. 11288 § 1, 1994: Ord. 11177 § 2, 1993: Ord. 10870 § 331, 1993).

21A.08.050 General services land uses.

A. General services land uses.

KEY		ZONE	RESOURCE			RESIDENTIAL				COMMERCIAL/INDUSTRIAL								
P-Permitted Use	C-Conditional Use		A	F	M	RA	UR	R1-8	R12-48	NB	CB	RB	O	I				
S-Special Use			AGRICULTURE	FOREST	MINERAL	RURAL	URBAN	RESERVE	URBAN	RESIDENTIAL	NEIGHBORHOOD	BUSINESS	COMMUNITY	BUSINESS	REGIONAL	BUSINESS	OFFICE	INDUSTRIAL
	PERSONAL SERVICES:																	
72	General Personal Service							C25	C25	P	P	P	P3	P3				
7216	Drycleaning Plants																	P
7218	Industrial Launderers																	P
7261	Funeral Home/Crematory							C4	C4	C4		P	P					
*	Cemetery, Columbarium or Mausoleum					P24 C5 and 31	P24 C5	P24 C5	P24 C5	P24	P24	P24 C5	P24					
*	Day Care I	P6				P6	P6	P6	P	P	P	P	P	P7	P7			
*	Day Care II					P8 C	P8 C	P8 C	P8 C	P	P	P	P	P7	P7			
074	Veterinary Clinic	P9				P9 C10 and 31	P9 C10				P10	P10	P10					P
753	Automotive Repair (1)										P11	P	P					P
754	Automotive Service										P11	P	P					P
76	Miscellaneous Repair	C33				P32 C33	P32	P32	P32	P32	P32	P	P					P
866	Church, Synagogue, Temple					P12 C27 and 31	P12 C	P12 C	P12 C	P	P	P	P					
83	Social Services (2)					P12 C13 and 31	P12 C13	P12 C13	P12 C13	P13	P	P	P					
0752	Animal specialty services					C P35 P36	C				P	P	P	P	P			
*	Stable	P14 C				P14 C31	P14 C	P14 C										
*	Kennel or Cattery	P9				C	C					C	P					
*	Theatrical Production Services											P30	P28					
*	Artist Studios					P28	P28	P28	P28	P	P	P	P29	P				
*	Interim Recycling Facility					P21	P21	P21	P21	P22	P22	P	P21	P				
*	Dog training facility	C34				C34	C34				P	P	P					P
	HEALTH SERVICES:																	
801-04	Office/Outpatient Clinic					P12 C13	P12 C13	P12 C13	P12 C13	P	P	P	P	P				
805	Nursing and Personal Care Facilities								C		P	P						
806	Hospital							C13	C13		P	P	C					
807	Medical/Dental Lab										P	P	P	P				
808-09	Miscellaneous Health										P	P	P					
	EDUCATION SERVICES:																	
*	Elementary School					P15 and 31	P	P	P			P16c	P16c	P16c				
*	Middle/Junior High School					P16 C15 and 31	P	P	P			P16c	P16c	P16c				

	Secondary or High School				P16 C15 and 26 and 31	P26	P26	P26		P16c C	P16c C	P16c	
	Vocational School				P13 C31	P13 C	P13 C	P13 C			P	P17	P
	Specialized Instruction School			P18	P19 C20 and 31	P19 C20	P19 C20	P19 C20	P	P	P	P17	P
	School District Support Facility				P16 C15 and 23 and 31	P23 C	P23 C	P23 C	C	P	P	P	P
GENERAL CROSS REFERENCES:					Land Use Table Instructions, see K.C.C. 21A.08.020 and 21A.02.070; Development Standards, see K.C.C. chapters 21A.12 through 21A.30; General Provisions, see K.C.C. chapters 21A.32 through 21A.38; Application and Review Procedures, see K.C.C. chapters 21A.40 through 21A.44; (*Definition of this specific Land Use, see K.C.C. chapter 21A.06.								

B. Development conditions.

1. Except SIC Industry No. 7534-Tire Retreading, see manufacturing permitted use table.
2. Except SIC Industry Group Nos.:
 - a. 835-Day Care Services, and
 - b. 836-Residential Care, which is otherwise provided for on the residential permitted land use table.
3. Limited to SIC Industry Group and Industry Nos.:
 - a. 723-Beauty Shops;
 - b. 724-Barber Shops;
 - c. 725-Shoe Repair Shops and Shoeshine Parlors;
 - d. 7212-Garment Pressing and Agents for Laundries and Drycleaners; and
 - e. 217-Carpet and Upholstery Cleaning.
4. Only as an accessory to a cemetery, and prohibited from the UR zone only if the property is located within a designated unincorporated Rural Town.
5. Structures shall maintain a minimum distance of one hundred feet from property lines adjoining residential zones.
6. Only as an accessory to residential use, and:
 - a. Outdoor play areas shall be completely enclosed by a solid wall or fence, with no openings except for gates, and have a minimum height of six feet; and
 - b. Outdoor play equipment shall maintain a minimum distance of twenty feet from property lines adjoining residential zones.
7. Permitted as an accessory use. See commercial/industrial accessory, K.C.C. 21A.08.060.A.
8. Only as a reuse of a public school facility subject to K.C.C. chapter 21A.32, or an accessory use to a school, church, park, sport club or public housing administered by a public agency, and:
 - a. Outdoor play areas shall be completely enclosed by a solid wall or fence, with no openings except for gates and have a minimum height of six feet;
 - b. Outdoor play equipment shall maintain a minimum distance of twenty feet from property lines adjoining residential zones;
 - c. Direct access to a developed arterial street shall be required in any residential zone; and
 - d. Hours of operation may be restricted to assure compatibility with surrounding development.
- 9.a. As a home occupation only, but the square footage limitations in K.C.C. chapter 21A.30 for home occupations apply only to the office space for the veterinary clinic, office space for the kennel or office space for the cattery, and:
 - (1) Boarding or overnight stay of animals is allowed only on sites of five acres or more;
 - (2) No burning of refuse or dead animals is allowed;
 - (3) The portion of the building or structure in which animals are kept or treated shall be soundproofed. All run areas, excluding confinement areas for livestock, shall be surrounded by an eight-foot-high solid wall and the floor area shall be surfaced with concrete or other impervious material; and
 - (4) The provisions of K.C.C. chapter 21A.30 relative to animal keeping are met.

- b. The following additional provisions apply to kennels or catteries in the A zone:
 - (1) Impervious surface for the kennel or cattery shall not exceed twelve thousand square feet;
 - (2) Obedience training classes are not allowed except as provided in subsection B.34. of this section; and
 - (3) Any buildings or structures used for housing animals and any outdoor runs shall be set back one hundred and fifty feet from property lines.
- 10.a. No burning of refuse or dead animals is allowed;
- b. The portion of the building or structure in which animals are kept or treated shall be soundproofed. All run areas, excluding confinement areas for livestock, shall be surrounded by an eight-foot-high solid wall and the floor area shall be surfaced with concrete or other impervious material; and
- c. The provisions of K.C.C. chapter 21A.30 relative to animal keeping are met.
- 11. The repair work or service shall only be performed in an enclosed building, and no outdoor storage of materials. SIC Industry No. 7532-Top, Body, and Upholstery Repair Shops and Paint Shops is not allowed.
- 12. Only as a reuse of a public school facility subject to K.C.C. chapter 21A.32.
- 13. Only as a reuse of a surplus nonresidential facility subject to K.C.C. chapter 21A.32.
- 14. Covered riding arenas are subject to K.C.C. 21A.30.030 and shall not exceed twenty thousand square feet, but stabling areas, whether attached or detached, shall not be counted in this calculation.
- 15. Limited to projects that do not require or result in an expansion of sewer service outside the urban growth area, unless a finding is made that no cost-effective alternative technologies are feasible, in which case a tightline sewer sized only to meet the needs of the public school, as defined in RCW 28A.150.010, or the school facility and serving only the public school or the school facility may be used. New public high schools shall be permitted subject to the review process in K.C.C. 21A.42.140.
- 16.a. For middle or junior high schools and secondary or high schools or school facilities, only as a reuse of a public school facility or school facility subject to K.C.C. chapter 21A.32. An expansion of such a school or a school facility shall be subject to approval of a conditional use permit and the expansion shall not require or result in an extension of sewer service outside the urban growth area, unless a finding is made that no cost-effective alternative technologies are feasible, in which case a tightline sewer sized only to meet the needs of the public school, as defined in RCW 28A.150.010, or the school facility may be used.
- b. Renovation, expansion, modernization or reconstruction of a school, a school facility, or the addition of relocatable facilities, is permitted but shall not require or result in an expansion of sewer service outside the urban growth area, unless a finding is made that no cost-effective alternative technologies are feasible, in which case a tightline sewer sized only to meet the needs of the public school, as defined in RCW 28A.150.010, or the school facility may be used.
- c. In CB, RB and O, for K-12 schools with no more than one hundred students.
- 17. All instruction must be within an enclosed structure.
- 18. Limited to resource management education programs.
- 19. Only as an accessory to residential use, and:
 - a. Students shall be limited to twelve per one-hour session;
 - b. All instruction must be within an enclosed structure; and
 - c. Structures used for the school shall maintain a distance of twenty-five feet from property lines adjoining residential zones.
- 20. Subject to the following:
 - a. Structures used for the school and accessory uses shall maintain a minimum distance of twenty-five feet from property lines adjoining residential zones;
 - b. On lots over two and one-half acres:
 - (1) Retail sale of items related to the instructional courses is permitted, if total floor area for retail sales is limited to two thousand square feet;
 - (2) Sale of food prepared in the instructional courses is permitted with Seattle-King County department of public health approval, if total floor area for food sales is limited to one thousand square feet and is located in the same structure as the school; and
 - (3) Other incidental student-supporting uses are allowed, if such uses are found to be both compatible with and incidental to the principal use; and

c. On sites over ten acres, located in a designated Rural Town and zoned any one or more of UR, R-1 and R-4:

(1) Retail sale of items related to the instructional courses is permitted, provided total floor area for retail sales is limited to two thousand square feet;

(2) Sale of food prepared in the instructional courses is permitted with Seattle-King County department of public health approval, if total floor area for food sales is limited to one thousand seven hundred fifty square feet and is located in the same structure as the school;

(3) Other incidental student-supporting uses are allowed, if the uses are found to be functionally related, subordinate, compatible with and incidental to the principal use;

(4) The use shall be integrated with allowable agricultural uses on the site;

(5) Advertised special events shall comply with the temporary use requirements of this chapter; and

(6) Existing structures that are damaged or destroyed by fire or natural event, if damaged by more than fifty percent of their prior value, may reconstruct and expand an additional sixty-five percent of the original floor area but need not be approved as a conditional use if their use otherwise complies with development condition B.20.c. of this section and this title.

21. Limited to drop box facilities accessory to a public or community use such as a school, fire station or community center.

22. With the exception of drop box facilities for the collection and temporary storage of recyclable materials, all processing and storage of material shall be within enclosed buildings. Yard waste processing is not permitted.

23. Only if adjacent to an existing or proposed school.

24. Limited to columbariums accessory to a church, but required landscaping and parking shall not be reduced.

25. Not permitted in R-1 and limited to a maximum of five thousand square feet per establishment and subject to the additional requirements in K.C.C. 21A.12.230.

26.a. New high schools shall be permitted in the rural and the urban residential and urban reserve zones subject to the review process in K.C.C. 21A.42.140.

b. Renovation, expansion, modernization, or reconstruction of a school, or the addition of relocatable facilities, is permitted.

27. Limited to projects that do not require or result in an expansion of sewer service outside the urban growth area. In addition, such use shall not be permitted in the RA-20 zone.

28. Only as a reuse of a surplus nonresidential facility subject to K.C.C. chapter 21A.32 or as a joint use of an existing public school facility.

29. All studio use must be within an enclosed structure.

30. Adult use facilities shall be prohibited within six hundred sixty feet of any residential zones, any other adult use facility, school, licensed daycare centers, parks, community centers, public libraries or churches that conduct religious or educational classes for minors.

31. Subject to review and approval of conditions to comply with trail corridor provisions of K.C.C. chapter 21A.14 when located in an RA zone and in an equestrian community designated by the Comprehensive Plan.

32. Limited to repair of sports and recreation equipment:

a. as an accessory to a large active recreation and multiuse park in the urban growth area; or

b. as an accessory to a park, or a large active recreation and multiuse park in the RA zones, and limited to a total floor area of seven hundred fifty square feet.

33. Accessory to agricultural or forestry uses provided:

a. the repair of tools and machinery is limited to those necessary for the operation of a farm or forest.

b. the lot is at least five acres.

c. the size of the total repair use is limited to one percent of the lot size up to a maximum of five thousand square feet unless located in a farm structure, including but not limited to barns, existing as of December 31, 2003.

34. Subject to the following:

a. the lot is at least five acres.

*	Utility Facility	P29 C28	P29 C28	P29 C28	P29 C28 and 33	P29 C28	P29 C28	P29 C28	P	P	P	P	P
*	Commuter Parking Lot				C 33 P19	C P19	C P19	C 19	P	P	P	P	P35
*	Private Stormwater Management Facility	P8	P8	P8	P8	P8	P8	P8	P8	P8	P8	P8	P8
*	Vactor Waste Receiving Facility	P	P	P	P18	P18	P18	P18	P31	P31	P31	P31	P
BUSINESS SERVICES:													
*	Construction and Trade				P34						P	P9	P
*	Individual Transportation and Taxi									P25	P	P10	P
421	Trucking and Courier Service									P11	P12	P13	P
*	Warehousing, (1) and Wholesale Trade												P
*	Self-service Storage							C14	P37	P	P	P	P
4221 4222	Farm Product Warehousing, Refrigeration and Storage	P15 C36			P15 and 33 C36	P15, C36							P
*	Log Storage	P15	P		P26 and 33								P
47	Transportation Service												P
473	Freight and Cargo Service										P	P	P
472	Passenger Transportation Service									P	P	P	
48	Communication Offices										P	P	P
482	Telegraph and other Communications									P	P	P	P
*	General Business Service								P	P	P	P	P16
*	Professional Office								P	P	P	P	P16
7312	Outdoor Advertising Service										P	P17	P
735	Miscellaneous Equipment Rental									P17	P	P17	P
751	Automotive Rental and Leasing									P	P		P
752	Automotive Parking								P20	P20	P21	P20	P
*	Off-Street Required Parking Lot				P32	P32	P32	P32	P32	P32	P32	P32	P32
7941	Professional Sport Teams/Promoters										P	P	
873	Research, Development and Testing										P2	P2	P2
*	Heavy Equipment and Truck Repair												P
ACCESSORY USES:													
*	Commercial/Industrial Accessory Uses			P	P22				P22	P22	P	P	P
*	Helistop					C23	C23	C23	C23	C23	C24	C23	C24
GENERAL CROSS REFERENCES:	Land Use Table Instructions, see K.C.C. 21A.08.020 and 21A.02.070; Development Standards, see chapters 21A.12 through 21A.30; General Provisions, see K.C.C. chapters 21A.32 through 21A.38; Application and Review Procedures, see K.C.C. chapters 21A.40 through 21A.44; (*) Definition of this specific land use, see K.C.C. chapter 21A.06.												

B. Development conditions.

1. Except self-service storage.
2. Except SIC Industry No. 8732-Commercial Economic, Sociological, and Educational Research, see general business service/office.
- 3.a. Only as a re-use of a public school facility or a surplus nonresidential facility subject to the provisions of K.C.C. chapter 21A.32; or
 - b. only when accessory to a fire facility and the office is no greater than one thousand five hundred square feet of floor area.
4. Only as a re-use of a surplus nonresidential facility subject to K.C.C. chapter 21A.32.
5. New utility office locations only if there is no commercial/industrial zoning in the utility district, and not in the RA-10 or RA-20 zones unless it is demonstrated that no feasible alternative location is possible, and provided further that this condition applies to the UR zone only if the property is located within a designated unincorporated Rural Town.

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- 6.a. All buildings and structures shall maintain a minimum distance of twenty feet from property lines adjoining residential zones;
 - b. Any buildings from which fire-fighting equipment emerges onto a street shall maintain a distance of thirty-five feet from such street;
 - c. No outdoor storage; and
 - d. Excluded from the RA-10 and RA-20 zones unless it is demonstrated that no feasible alternative location is possible.
7. Limited to storefront police offices. Such offices shall not have:
 - a. holding cells,
 - b. suspect interview rooms (except in the NB zone), or
 - c. long-term storage of stolen properties.
8. Private stormwater management facilities serving development proposals located on commercial/industrial zoned lands shall also be located on commercial/industrial lands, unless participating in an approved shared facility drainage plan. Such facilities serving development within an area designated urban in the King County Comprehensive Plan shall only be located in the urban area.
9. No outdoor storage of materials.
10. Limited to office uses.
11. Limited to self-service household moving truck or trailer rental accessory to a gasoline service station.
12. Limited to self-service household moving truck or trailer rental accessory to a gasoline service station and SIC Industry No. 4215-Courier Services, except by air.
13. Limited to SIC Industry No. 4215-Courier Services, except by air.
14. Accessory to an apartment development of at least twelve units provided:
 - a. The gross floor area in self service storage shall not exceed the total gross floor area of the apartment dwellings on the site;
 - b. All outdoor lights shall be deflected, shaded and focused away from all adjoining property;
 - c. The use of the facility shall be limited to dead storage of household goods;
 - d. No servicing or repair of motor vehicles, boats, trailers, lawn mowers or similar equipment;
 - e. No outdoor storage or storage of flammable liquids, highly combustible or explosive materials or hazardous chemicals;
 - f. No residential occupancy of the storage units;
 - g. No business activity other than the rental of storage units; and
 - h. A resident director shall be required on the site and shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval.
- 15.a. The floor area devoted to warehousing, refrigeration or storage shall not exceed two thousand square feet;
 - b. Structures and areas used for warehousing, refrigeration and storage shall maintain a minimum distance of seventy-five feet from property lines adjoining residential zones; and
 - c. Warehousing, refrigeration and storage is limited to agricultural products and sixty percent or more of the products must be grown or processed in the Puget Sound counties. At the time of the initial application, the applicant shall submit a projection of the source of products to be included in the warehousing, refrigeration or storage.
16. Only as an accessory use to another permitted use.
17. No outdoor storage.
18. Only as an accessory use to a public agency or utility yard, or to a transfer station.
19. Limited to new commuter parking lots designed for thirty or fewer parking spaces or commuter parking lots located on existing parking lots for churches, schools, or other permitted nonresidential uses that have excess capacity available during commuting; provided that the new or existing lot is adjacent to a designated arterial that has been improved to a standard acceptable to the department of transportation;
20. No tow-in lots for damaged, abandoned or otherwise impounded vehicles.
21. No dismantling or salvage of damaged, abandoned or otherwise impounded vehicles.
22. Storage limited to accessory storage of commodities sold at retail on the premises or materials used in the fabrication of commodities sold on the premises.
23. Limited to emergency medical evacuation sites in conjunction with police, fire or health service facility. Helistops are prohibited from the UR zone only if the property is located within a designated unincorporated Rural Town.

24. Allowed as accessory to an allowed use.
25. Limited to private road ambulance services with no outside storage of vehicles.
26. Limited to two acres or less.
- 27a. Utility yards only on sites with utility district offices; or
 - b. Public agency yards are limited to material storage for road maintenance facilities.
28. Limited to bulk gas storage tanks that pipe to individual residences but excluding liquefied natural gas storage tanks.
29. Excluding bulk gas storage tanks.
30. For I-zoned sites located outside the urban growth area designated by the King County Comprehensive Plan, uses shall be subject to the provisions for rural industrial uses in K.C.C. chapter 21A.12.
31. Vactor waste treatment, storage and disposal shall be limited to liquid materials. Materials shall be disposed of directly into a sewer system, or shall be stored in tanks (or other covered structures), as well as enclosed buildings.
32. Provided:
 - a. Off-street required parking for a land use located in the urban area must be located in the urban area;
 - b. Off-street required parking for a land use located in the rural area must be located in the rural area; and
 - c. Off-street required parking must be located on a lot that would permit, either outright or through a land use permit approval process, the land use the off-street parking will serve.
33. Subject to review and approval of conditions to comply with trail corridor provisions of K.C.C. chapter 21A.14 when located in an RA zone and in an equestrian community designated by the Comprehensive Plan.
34. Limited to landscape and horticultural services (SIC 078) that are accessory to a retail nursery, garden center and farm supply store. Construction equipment for the accessory use shall not be stored on the premises.
35. Allowed as a primary or accessory use to an allowed industrial-zoned land use.
36. Accessory to agricultural uses provided:
 - a. In the RA zones and on lots less than thirty-five acres in the A zone, the floor area devoted to warehousing, refrigeration or storage shall not exceed three thousand five hundred square feet unless located in a building designated as historic resource under K.C.C. chapter 20.62;
 - b. On lots at least thirty-five acres in the A zones, the floor area devoted to warehousing, refrigeration or storage shall not exceed seven thousand square feet unless located in a building designated as historic resource under K.C.C. chapter 20.62.
 - c. In the A zones, structures and areas used for warehousing, refrigeration and storage shall be located on portions of agricultural lands that are unsuitable for other agricultural purposes, such as areas within the already developed portion of such agricultural lands that are not available for direct agricultural production, or areas without prime agricultural soils;
 - d. Structures and areas used for warehousing, refrigeration or storage shall maintain a minimum distance of seventy-five feet from property lines adjoining residential zones; and
 - e. Warehousing, refrigeration and storage is limited to agricultural products and sixty percent or more of the products must be grown or processed in the Puget Sound counties. At the time of the initial application, the applicant shall submit a projection of the source of products to be included in the warehousing, refrigeration or storage.
37. Use shall be limited to the NB zone on parcels outside of the Urban Growth Area, Rural Towns and Rural Neighborhoods and the building floor area devoted to such use shall not exceed ten thousand square feet. (Ord. 15974 § 8, 2007: Ord. 15606 § 14, 2006: Ord. 15245 § 6, 2005: Ord. 15032 § 13, 2004: Ord. 14254 § 1, 2001: Ord. 14045 § 13, 2001: Ord. 13278 § 5, 1998: Ord. 13190 § 15, 1998: Ord. 13022 § 13, 1998: Ord. 12596 § 6, 1997: Ord. 12243 § 2, 1996: Ord. 12018 § 3, 1995: Ord. 11621 § 37, 1994: Ord. 11157 § 13, 1993: Ord. 10870 § 333, 1993).

21A.08.070 Retail land uses.

A. Retail land uses.

KEY		RESOURCE			RESIDENTIAL				COMMERCIAL/INDUSTRIAL								
P-Permitted Use C-Conditional Use S-Special Use		Z O N E	A G R I C U L T U R E	F O R E S T	M I N E R A L	R U R A L	U R B A N	U R B A N	R E S I D E N T I A L	N E I G H B O R H O O D	B U S I N E S S	C O M M U N I T Y	B U S I N E S S	R E G I O N A L	B U S I N E S S	O F F I C E	I N D U S T R I A L
SIC#	SPECIFIC LAND USE		A	F	M	RA	UR	R1-8	R12-48	NB	CB	RB	O	I (30)			
*	Building Materials and Hardware Stores								P2	P	P						
*	Nursery, Garden Center and Farm Supply Stores	P1 C1			P1 C1				P	P	P						
*	Forest Products Sales	P3 and 4	P4		P3 and 4						P						
*	Department and Variety Stores						C14	C14	P5	P	P						
54	Food Stores						C15	C15	P	P	P	C	P6				
*	Agricultural Product Sales	P7 C7	P4		P7 C7	P3	P3										
*	Motor Vehicle and Boat Dealers										P8		P				
553	Auto Supply Stores									P9	P9		P				
554	Gasoline Service Stations								P	P	P		P				
56	Apparel and Accessory Stores									P	P						
*	Furniture and Home Furnishings Stores									P	P						
58	Eating and Drinking Places				P21 C19		P20 C16	P20 C16	P10	P	P	P	P				
*	Drug Stores						C15	C15	P	P	P	C					
592	Liquor Stores	P13			P13	P13				P	P						
593	Used Goods: Antiques/ Secondhand Shops									P	P						
*	Sporting Goods and Related Stores			P22	P22	P22	P22	P22	P22	P	P	P22	P22				
*	Book, Stationery, Video and Art Supply Stores						C15	C15	P	P	P						
*	Jewelry Stores									P	P						
*	Monuments, Tombstones, and Gravestones										P						
*	Hobby, Toy, Game Shops								P	P	P						
*	Photographic and Electronic Shops								P	P	P						
*	Fabric Shops									P	P						
598	Fuel Dealers									C11	P		P				
*	Florist Shops						C15	C15	P	P	P	P					
*	Personal Medical Supply Stores									P	P						
*	Pet Shops								P	P	P						
*	Bulk Retail									P	P						
*	Auction Houses										P12		P				
*	Livestock Sales	P17	P17		P17	P17	P17 and 18						P				

GENERAL CROSS REFERENCES: Land Use Table Instructions, see K.C.C. 21A.08.020 and 21A.02.070; Development Standards, see K.C.C. chapters 21A.12 through 21A.30; General Provisions, see K.C.C. chapters 21A.32 through 21A.38; Application and Review Procedures, see K.C.C. chapters 21A.40 through 21A.44; (*)Definition of this specific land use, see K.C.C. chapter 21A.06.

B. Development conditions.

- 1.a. As a permitted use, covered sales areas shall not exceed a total area of two thousand square feet, unless located in a building designated as historic resource under K.C.C. chapter 20.62. With a conditional uses permit, covered sales areas of up to three thousand five hundred square feet may be allowed. Greenhouses used for the display of merchandise other than plants shall be considered part of the covered sales area. Uncovered outdoor areas used to grow or display trees, shrubs, or other plants are not considered part of the covered sales area;
 - b. The site area shall be at least four and one-half acres;
 - c. Sales may include locally made arts and crafts; and
 - d. Outside lighting is permitted if no off-site glare is allowed.
2. Only hardware stores.
- 3.a. Limited to products grown on site.
 - b. Covered sales areas shall not exceed a total area of five hundred square feet.
4. No permanent structures or signs.
5. Limited to SIC Industry No. 5331-Variety Stores, and further limited to a maximum of two thousand square feet of gross floor area.
6. Limited to a maximum of two thousand square feet of gross floor area.
- 7.a. As a permitted use, the covered sales area shall not exceed two thousand square feet, unless located in [a] building designated as [a] historic resource under K.C.C. chapter 20.62. As a conditional use, up to three thousand five hundred square feet of covered sales area may be allowed;
 - b. The site area shall be at least four and one-half acres;
 - c. Forty percent or more of the gross sales of agricultural product sold through the store must be sold by the producers of primary agricultural products;
 - d. Sixty percent or more of the gross sales of agricultural products sold through the store shall be derived from products grown or produced in the Puget Sound counties. At the time of the initial application, the applicant shall submit a reasonable projection of the source of product sales;
 - e. Sales shall be limited to agricultural products and locally made arts and crafts;
 - f. Storage areas for agricultural products may be included in a farm store structure or in any accessory building; and
 - g. Outside lighting is permitted if no off-site glare is allowed.
8. Excluding retail sale of trucks exceeding one-ton capacity.
9. Only the sale of new or reconditioned automobile supplies is permitted.
10. Excluding SIC Industry No. 5813-Drinking Places.
11. No outside storage of fuel trucks and equipment.
12. Excluding vehicle and livestock auctions.
13. Only as accessory to a winery or SIC Industry No. 2082-Malt Beverages, and limited to sales of products produced on site and incidental items where the majority of sales are generated from products produced on site.
14. Not in R-1 and limited to SIC Industry No. 5331-Variety Stores, limited to a maximum of five thousand square feet of gross floor area, and subject to K.C.C. 21A.12.330.
15. Not permitted in R-1 and limited to a maximum of five thousand square feet of gross floor area and subject to K.C.C. 21A.12.230.
16. Not permitted in R-1 and excluding SIC Industry No. 5813-Drinking Places, and limited to a maximum of five thousand square feet of gross floor area and subject to K.C.C. 21A.12.230, except as provided in subsection B.20. of this section.
17. Retail sale of livestock is permitted only as accessory to raising livestock.
18. Limited to the R-1 zone.

19. Only as:
 - a. an accessory use to a permitted manufacturing or retail land use, limited to espresso stands to include sales of beverages and incidental food items, and not to include drive-through sales; or
 - b. an accessory use to a large active recreation and multiuse park, limited to a total floor area of three thousand five hundred square feet.
20. Only as:
 - a. an accessory to a large active recreation and multiuse park; or
 - b. an accessory to a park and limited to a total floor area of one thousand five hundred square feet.
21. Accessory to a park, limited to a total floor area of seven hundred fifty square feet.
22. Only as an accessory to:
 - a. a large active recreation and multiuse park in the urban growth area; or
 - b. a park, or a large active recreation and multiuse park in the RA zones, and limited to a total floor area of seven hundred and fifty square feet. (Ord. 15974 § 9, 2007: Ord. 15606 § 15, 2006: Ord. 15032 § 14, 2004: Ord. 14807 § 6, 2003: Ord. 14781 § 1, 2003: Ord. 14045 § 14, 2001: Ord. 13546 § 4, 1999: Ord. 13022 § 14, 1998: Ord. 12596 § 7, 1997: Ord. 10870 § 334, 1993).

21A.08.080 Manufacturing land uses.

A. Manufacturing land uses.

KEY		RESOURCE			RESIDENTIAL				COMMERCIAL/INDUSTRIAL									
P-Permitted Use C-Conditional Use S-Special Use		Z O N E	A G R I C U L T U R E	F O R E S T	M I N E R A L	R U R A L	U R B A N	R E S E R V E	U R B A N	R E S I D E N T I A L	N E I G H B O R H O O D	B U S I N E S S	C O M M U N I T Y	B U S I N E S S	R E G I O N A L	B U S I N E S S	O F F I C E	I N D U S T R I A L
SIC #	SPECIFIC LAND USE		A	F	M	RA	UR	R1-8	R12-48	NB	CB	RB	O	I(11)				
20	Food and Kindred Products	P1 C1	P1		P1 C1	P1								C				P2C
*2082	Winery/Brewery	P3 C12			P3 C12	P3								C				P
*	Materials Processing Facility	P13	P14 C	P15 C16	P17 C													P
22	Textile Mill Products																	C
23	Apparel and other Textile Products													C				P
24	Wood Products, except furniture	P4	P4 C5		P4, C5	P4								C6				P
25	Furniture and Fixtures													C				P
26	Paper and Allied Products																	C
27	Printing and Publishing									P7	P7	P7C	P7C					P
28	Chemicals and Allied Products																	C
2911	Petroleum Refining and Related Industries																	C
30	Rubber and Misc. Plastics Products																	C
31	Leather and Leather Goods													C				P
32	Stone, Clay, Glass and Concrete Products										P6	P9						P
33	Primary Metal Industries																	C
34	Fabricated Metal Products																	P
35	Industrial and Commercial Machinery																	P
351-55	Heavy Machinery and Equipment																	C
357	Computer and Office Equipment													C	C			P
36	Electronic and other Electric Equipment													C				P
374	Railroad Equipment																	C
376	Guided Missile and Space Vehicle Parts																	C
379	Miscellaneous Transportation Vehicles																	C
38	Measuring and Controlling Instruments													C	C			P
39	Miscellaneous Light Manufacturing													C				P
*	Motor Vehicle and Bicycle Manufacturing																	C
*	Aircraft, Ship and Boat Building																	P10C
7534	Tire Retreading													C				P
781-82	Movie Production/Distribution													P				P

GENERAL CROSS REFERENCES:

Land Use Table Instructions, see K.C.C. 21A.08.020 and 21A.02.070;
 Development Standards, see K.C.C. chapters 21A.12 through 21A.30;
 General Provisions, see K.C.C. chapters 21A.32 through 21A.38
 Application and Review Procedures, see K.C.C. chapters 21A.40 through 21A.44;
 (*)Definition of this specific land use, see K.C.C. chapter 21A.06

B. Development conditions.

- 1.a. Excluding wineries and SIC Industry No. 2082-Malt Beverages;
 - b. In the A zone, only allowed on sites where the primary use is SIC industry Group No. 01-Growing Harvesting Crops or No. 02-Raising Livestock and Small Animals.
 - c. In the RA and UR zones, only allowed on lots of at least four and one-half acres and only when accessory to an agricultural use;
 - d.(1) Except as provided in subsection B.1.d.(2) and B.1.d.(3) of this section, the floor area devoted to all processing shall not exceed three thousand five hundred square feet, unless located in a building designated as historic resource under K.C.C. chapter 20.62;
 - (2) With a conditional use permit, up to five thousand square feet of floor area may be devoted to all processing; and
 - (3) In the A zone, on lots thirty-five acres or greater, the floor area devoted to all processing shall not exceed seven thousand square feet, unless located in a building designated as historic resource under K.C.C. chapter 20.62;
 - e. Structures and areas used for processing shall maintain a minimum distance of seventy-five feet from property lines adjoining residential zones, unless located in a building designated as historic resource under K.C.C. chapter 20.62;
 - f. Processing is limited to agricultural products and sixty percent or more of the products processed must be grown in the Puget Sound counties. At the time of initial application, the applicant shall submit a projection of the source of products to be produced;
 - g. In the A zone, structures used for processing shall be located on portions of agricultural lands that are unsuitable for other agricultural purposes, such as areas within the already developed portion of such agricultural lands that are not available for direct agricultural production, or areas without prime agricultural soils; and
 - h. Tasting of products produced on site may be provided. The area devoted to tasting shall be included in the floor area limitation in subsection B.1.d. of this section.
2. Except slaughterhouses.
 - 3.a. Limited to wineries and SIC Industry No. 2082-Malt Beverages;
 - b. In the A zone, only allowed on sites where the primary use is SIC Industry Group No. 01-Growing and Harvesting Crops or No. 02-Raising Livestock and Small Animals;
 - c. In the RA and UR zones, only allowed on lots of at least four and one-half acres;
 - d. The floor area devoted to all processing shall not exceed three thousand five hundred square feet, unless located in a building designated as historic resource under K.C.C. chapter 20.62.
 - e. Structures and areas used for processing shall maintain a minimum distance of seventy-five feet from property lines adjoining residential zones, unless located in a building designated as historic resource under K.C.C. chapter 20.62;
 - f. Sixty percent or more of the products processed must be grown in the Puget Sound counties. At the time of the initial application, the applicant shall submit a projection of the source of products to be produced; and
 - g. Tasting of products produced on site may be provided. The area devoted to tasting shall be included in the floor area limitation in subsection B.3.c. of this section.
 4. Limited to rough milling and planing of products grown on-site with portable equipment.
 5. Limited to SIC Industry Group No. 242-Sawmills. For RA zoned sites, limited to RA-10 on lots at least ten acres in size and only as accessory to forestry uses.
 6. Limited to uses found in SIC Industry No. 2434-Wood Kitchen Cabinets and No. 2431-Millwork, (excluding planing mills).
 7. Limited to photocopying and printing services offered to the general public.
 8. Only within enclosed buildings, and as an accessory use to retail sales.
 9. Only within enclosed buildings.
 10. Limited to boat building of craft not exceeding forty-eight feet in length.
 11. For I-zoned sites located outside the urban growth area designated by the King County Comprehensive Plan, uses shown as a conditional use in the table of K.C.C. 21A.08.080.A. shall be prohibited, and all other uses shall be subject to the provisions for rural industrial uses as set forth in K.C.C. chapter 21A.12.

12. Limited to wineries and SIC Industry No. 2082-Malt Beverages;

b.(1) Except as provided in subsection B.12.b.(2) of this section, the floor area of structures for wineries and breweries and any accessory uses shall not exceed a total of eight thousand square feet. The floor area may be increased by up to an additional eight thousand square feet of underground storage that is constructed completely below natural grade, not including required exits and access points, if the underground storage is at least one foot below the surface and is not visible above ground; and

(2) On Vashon-Maury Island, the total floor area of structures for wineries and breweries and any accessory uses may not exceed six thousand square feet, including underground storage;

c. Wineries and breweries shall comply with Washington state Department of Ecology and King County board of health regulations for water usage and wastewater disposal. Wineries and breweries using water from exempt wells shall install a water meter;

d. Off-street parking is limited to one hundred and fifty percent of the minimum requirement for wineries or breweries specified in K.C.C. 21A.18.030;

e. Structures and areas used for processing shall be set back a minimum distance of seventy-five feet from property lines adjacent to residential zones, unless the processing is located in a building designated as historic resource under K.C.C. chapter 20.62;

f. The minimum site area is four and one-half acres. If the total floor area of structures for wineries and breweries and any accessory uses exceed six thousand square feet, including underground storage:

(1) the minimum site area is ten acres; and

(2) a minimum of two and one-half acres of the site shall be used for the growing of agricultural products;

g. The facility shall be limited to processing agricultural products and sixty percent or more of the products processed must be grown in the Puget Sound counties. At the time of the initial application, the applicant shall submit a projection of the source of products to be processed; and

h. Tasting of products produced on site may be provided. The area devoted to tasting shall be included in the floor area limitation in subsection B.12.b of this section.

13. Limited to source separated organic waste processing facilities at a scale appropriate to process the organic waste generated in the agricultural zone.

14. Only on the same lot or same group of lots under common ownership or documented legal control, which includes, but is not limited to, fee simple ownership, a long-term lease or an easement:

a. as accessory to a primary forestry use and at a scale appropriate to process the organic waste generated on the site; or

b. as a continuation of a sawmill or lumber manufacturing use only for that period to complete delivery of products or projects under contract at the end of the sawmill or lumber manufacturing activity.

15. Only on the same lot or same group of lots under common ownership or documented legal control, which includes, but is not limited to, fee simple ownership, a long-term lease or an easement:

a. as accessory to a primary mineral use; or

b. as a continuation of a mineral processing use only for that period to complete delivery of products or projects under contract at the end of mineral extraction.

16. Continuation of a materials processing facility after reclamation in accordance with an approved reclamation plan.

17. Only a site that is ten acres or greater and that does not use local access streets that abut lots developed for residential use. (Ord. 16028 § 1, 2008: Ord. 15974 § 10, 2007: 15032 § 15, 2004: Ord. 14781 § 2, 2003: Ord. 14045 § 15, 2001: Ord. 12596 § 8, 1997: Ord. 11621 § 38, 1994: Ord. 10870 § 335, 1993).

9. Limited to mineral extraction and processing:
- a. on a lot or group of lots under common ownership or documented legal control, which includes but is not limited to, fee simple ownership, a long-term lease or an easement;
 - b. that are located greater than one-quarter mile from an established residence; and
 - c. that do not use local access streets that abut lots developed for residential use.
10. Agriculture training facilities are allowed only as an accessory to existing agricultural uses and are subject to the following conditions:
- a. The impervious surface associated with the agriculture training facilities shall comprise not more than ten percent of the allowable impervious surface permitted under K.C.C. 21A.12.040;
 - b. New or the expansion of existing structures, or other site improvements, shall not be located on class 1, 2 or 3 soils;
 - c. The director may require reuse of surplus structures to the maximum extent practical;
 - d. The director may require the clustering of new structures with existing structures;
 - e. New structures or other site improvements shall be set back a minimum distance of seventy-five feet from property lines adjoining residential zones;
 - f. Bulk and design of structures shall be compatible with the architectural style of the surrounding agricultural community;
 - g. New sewers shall not be extended to the site;
 - h. Traffic generated shall not impede the safe and efficient movement of agricultural vehicles, nor shall it require capacity improvements to rural roads;
 - i. Agriculture training facilities may be used to provide educational services to the surrounding rural/agricultural community or for community events. Property owners may be required to obtain a temporary use permit for community events in accordance with K.C.C. chapter 21A.32;
 - j. Use of lodging and food service facilities shall be limited only to activities conducted in conjunction with training and education programs or community events held on site;
 - k. Incidental uses, such as office and storage, shall be limited to those that directly support education and training activities or farm operations; and
 - l. The King County agriculture commission shall be notified of and have an opportunity to comment upon all proposed agriculture training facilities during the permit process in accordance with K.C.C. chapter 21A.40.
11. Continuation of mineral processing and asphalt/concrete mixtures and block uses after reclamation in accordance with an approved reclamation plan.
- 12.a. Activities at the camp shall be limited to agriculture and agriculture-oriented activities. In addition, activities that place minimal stress on the site's agricultural resources or activities that are compatible with agriculture are permitted.
- (1) passive recreation;
 - (2) training of individuals who will work at the camp;
 - (3) special events for families of the campers; and
 - (4) agriculture education for youth.
- b. Outside the camp center, as provided for in subsection B.12.e of this section, camp activities shall not preclude the use of the site for agriculture and agricultural related activities, such as the processing of local food to create value-added products and the refrigeration and storage of local agricultural products. The camp shall be managed to coexist with agriculture and agricultural activities both onsite and in the surrounding area.
- c. A farm plan shall be required for commercial agricultural production to ensure adherence to best management practices and soil conservation.
- d.(1) The minimum site area shall be five hundred acres. Unless the property owner has sold or transferred the development rights as provided in subsection B.12.c.(3) of this section, a minimum of five hundred acres of the site must be owned by a single individual, corporation, partnership or other legal entity and must remain under the ownership of a single individual, corporation, partnership or other legal entity for the duration of the operation of the camp.
- (2) Nothing in subsection B.12.d.(1) of this section prohibits the property owner from selling or transferring the development rights for a portion or all of the site to the King County farmland preservation program or, if the development rights are extinguished as part of the sale or transfer, to a nonprofit entity approved by the director;

e. The impervious surface associated with the camp shall comprise not more than ten percent of the allowable impervious surface permitted under K.C.C. 21A.12.040;

f. Structures for living quarters, dining facilities, medical facilities and other nonagricultural camp activities shall be located in a camp center. The camp center shall be no more than fifty acres and shall be depicted on a site plan. New structures for nonagricultural camp activities shall be clustered with existing structures;

g. To the extent practicable, existing structures shall be reused. The applicant shall demonstrate to the director that a new structure for nonagricultural camp activities cannot be practicably accommodated within an existing structure on the site, though cabins for campers shall be permitted only if they do not already exist on site;

h. Camp facilities may be used to provide agricultural educational services to the surrounding rural and agricultural community or for community events. If required by K.C.C. chapter 21A.32, the property owner shall obtain a temporary use permit for community events;

i. Lodging and food service facilities shall only be used for activities related to the camp or for agricultural education programs or community events held on site;

j. Incidental uses, such as office and storage, shall be limited to those that directly support camp activities, farm operations or agricultural education programs;

k. New nonagricultural camp structures and site improvements shall maintain a minimum setback of seventy-five feet from property lines adjoining residential zones;

l. Except for legal nonconforming structures existing as of January 1, 2007, camp facilities, such as a medical station, food service hall and activity rooms, shall be of a scale to serve overnight camp users;

m. Landscaping equivalent to a type III landscaping screen, as provided for in K.C.C. 21A.16.040, of at least twenty feet shall be provided for nonagricultural structures and site improvements located within two hundred feet of an adjacent residential zoned property not associated with the camp;

n. New sewers shall not be extended to the site;

o. The total number of persons staying overnight shall not exceed three hundred;

p. The length of stay for any individual overnight camper, not including camp personnel, shall not exceed ninety days during a three-hundred-sixty-five-day period;

q. Traffic generated by camp activities shall not impede the safe and efficient movement of agricultural vehicles nor shall it require capacity improvements to rural roads;

r. If the site is adjacent to an arterial roadway, access to the site shall be directly onto the arterial unless the county road engineer determines that direct access is unsafe;

s. If direct access to the site is via local access streets, transportation management measures shall be used to minimize adverse traffic impacts;

t. Camp recreational activities shall not involve the use of motor vehicles unless the motor vehicles are part of an agricultural activity or are being used for the transportation of campers, camp personnel or the families of campers. Camp personnel may use motor vehicles for the operation and maintenance of the facility. Client-specific motorized personal mobility devices are allowed; and

u. Lights to illuminate the camp or its structures shall be arranged to reflect the light away from any adjacent property. (Ord. 15909 § 2, 2007; Ord. 15032 § 16, 2004; Ord. 14045 § 16, 2001; Ord. 12691 § 3, 1997; Ord. 12596 § 9, 1997; Ord. 11938 § 1, 1995; Ord. 11621 § 39, 1994; 11157 § 14, 1993; Ord. 10870 § 336, 1993).

21A.08.100 Regional land uses.

A. Regional land uses.

KEY		RESOURCE			RESIDENTIAL				COMMERCIAL/INDUSTRIAL								
P-Permitted Use C-Conditional Use S-Special Use		Z O N E	A G R I C U L T U R E	F O R E S T	M I N E R A L	R U R A L	U R B A N R E S E R V E	U R B A N	R E S I D E N T I A L	N E I G H B O R H O O D	B U S I N E S S	C O M M U N I T Y	B U S I N E S S	R E G I O N A L	B U S I N E S S	O F F I C E	I N D U S T R I A L
SIC#	SPECIFIC LAND USE		A	F	M	RA	UR	R1-8	R12-48	NB	CB	RB	O	I(15)			
*	Jail						S	S	S	S	S	S	S	S			
*	Jail Farm/Camp	S	S		S	S											
*	Work Release Facility				S19	S19	S	S	S	S	S	S	S	S			
*	Public Agency Animal Control Facility		S		S	S							S				P
*	Public Agency Training Facility		S		S3					S3	S3	S3	S3				C4
*	Hydroelectric Generation Facility		C14 S		C14 S	C14 S	C14 S										
*	Non-hydroelectric Generation Facility	C12 S	C12 S	C12 S	C12 S	C12 S	C12 S	C12 S	C12 S	C12 S	C12 S	C12 S	C12 S	C12 S	C12 S	C12 S	P12 S
*	Communication Facility (17)	C6c S	P		C6c S	C6c S	C6c S	C6c S	C6c S	C6c S	P	P	P	P	P	P	P
*	Earth Station	P6b C	P		C6a S	C6a S	C6a S	C6a S	P6b C	P	P	P	P	P	P	P	P
13	Oil and Gas Extraction	S	C	P	S	S	S	S	S	S	S	S	S	S	S	S	C
*	Energy Resource Recovery Facility		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
*	Soil Recycling Facility		S	S	S												C
*	Landfill		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
*	Transfer Station			S	S	S	S	S	S	S	S	S	S	S	S	S	P
*	Wastewater Treatment Facility				S	S	S	S	S	S	S	S	S	S	S	S	C
*	Municipal Water Production	S	P13 S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
*	Airport/Heliport	S7	S7		S	S	S	S	S	S	S	S	S	S	S	S	S
*	Rural Public Infrastructure Maintenance Facility				C23												
*	Transit Bus Base						S	S	S	S	S	S	S	S	S	S	P
*	School Bus Base				C5 S20	C5 S	C5 S	C5 S	S	S	S	S	S	S	S	S	P
7948	Racetrack				S8	S8	S8	S8	S8	S8	S8	S8	S8	S8	S8	S8	S
*	County Fairgrounds Facility				P21 S22												
*	Fairground									S	S						S
8422	Zoo/Wildlife Exhibit(2)		S9		S9	S	S	S		S	S						
7941	Stadium/Arena										S						S
8221-8222	College/University(1)	P10	P10		P10 C11 S18	P10 C11 S18	P10 C11 S	P10 C11 S	P10 C11 S	P10 C11 S	P	P	P	P	P	P	P
*	Zoo Animal Breeding Facility	P16	P16		P16												

GENERAL CROSS REFERENCES: Land Use Table Instructions, see K.C.C. 21A.08.020 and 21A.02.070; Development Standards, see K.C.C. chapters 21A.12 through 21A.30; General Provisions, see K.C.C. chapters 21A.32 through 21A.38; Application and Review Procedures, see K.C.C. chapters 21A.40 through 21A.44; (*)Definition of this specific land use, see K.C.C. chapter 21A.06.

- B. Development conditions.
1. Except technical institutions. See vocational schools on general services land use table, K.C.C. 21A.08.050.
 2. Except arboretum. See K.C.C. 21A.08.040, recreation/cultural land use table.
 3. Except weapons armories and outdoor shooting ranges.
 4. Except outdoor shooting range.
 5. Only in conjunction with an existing or proposed school.
 - 6.a. Limited to no more than three satellite dish antennae.
 - b. Limited to one satellite dish antenna.
 - c. Limited to tower consolidations.
 7. Limited to landing field for aircraft involved in forestry or agricultural practices or for emergency landing sites.
 8. Except racing of motorized vehicles.
 9. Limited to wildlife exhibit.
 10. Only as a reuse of a public school facility subject to K.C.C. chapter 21A.32.
 11. Only as a reuse of a surplus nonresidential facility subject to K.C.C. chapter 21A.32.
 12. Limited to cogeneration facilities for on-site use only.
 13. Excluding impoundment of water using a dam.
 14. Limited to facilities that comply with the following:
 - a. Any new diversion structure shall not:
 - (1) exceed a height of eight feet as measured from the streambed; or
 - (2) impound more than three surface acres of water at the normal maximum surface level;
 - b. There shall be no active storage;
 - c. The maximum water surface area at any existing dam or diversion shall not be increased;
 - d. An exceedance flow of no greater than fifty percent in mainstream reach shall be maintained;
 - e. Any transmission line shall be limited to a:
 - (1) right-of-way of five miles or less; and
 - (2) capacity of two hundred thirty KV or less;
 - f. Any new, permanent access road shall be limited to five miles or less; and
 - g. The facility shall only be located above any portion of the stream used by anadromous fish.
 15. For I-zoned sites located outside the urban growth area designated by the King County Comprehensive Plan, uses shown as a conditional or special use in K.C.C. 21A.08.100A, except for waste water treatment facilities, shall be prohibited. All other uses, including waste water treatment facilities, shall be subject to the provisions for rural industrial uses in K.C.C. chapter 21A.12.
 16. The operator of such a facility shall provide verification to the department of natural resources and parks or its successor organization that the facility meets or exceeds the standards of the Animal and Plant Health Inspection Service of the United States Department of Agriculture and the accreditation guidelines of the American Zoo and Aquarium Association.
 17. The following provisions of the table apply only to major communication facilities minor communication facilities shall be reviewed in accordance with the processes and standard outlined in K.C.C. chapter 21A.26.
 18. Only for facilities related to resource-based research.
 19. Limited to work release facilities associated with natural resource-based activities.
 20. Limited to projects which do not require or result in an expansion of sewer service outside the urban growth area, unless a finding is made that no cost-effective alternative technologies are feasible, in which case a tightline sewer sized only to meet the needs of the school bus base and serving only the school bus base may be used. Renovation, expansion, modernization or reconstruction of a school bus base is permitted but shall not require or result in an expansion of sewer service outside the urban growth area, unless a finding is made that no cost-effective alternative technologies are feasible, in which case a tightline sewer sized only to meet the needs of the school bus base.

21. Only in conformance with the King County Site Development Plan Report, through modifications to the plan of up to ten percent are allowed for the following:

- a. building square footage;
- b. landscaping;
- c. parking;
- d. building height; or
- e. impervious surface.

22. A special use permit shall be required for any modification or expansion of the King County fairgrounds facility that is not in conformance with the King County Site Development Plan Report or that exceeds the allowed modifications to the plan identified in subsection B.21 of this section.

23. The facility shall be primarily devoted to rural public infrastructure maintenance and is subject to the following conditions:

- a. The minimum site area shall be ten acres, unless the facility is a reuse of a public agency yard;
- b. Type 1 landscaping as provided in K.C.C. chapter 21A.16 shall be provided between any stockpiling or grinding operations and adjacent residential zoned property;
- c. Type 2 landscaping as provided in K.C.C. chapter 21A.16 shall be provided between any office and parking lots and adjacent residential zoned property;
- d. Access to the site does not use local access streets that abut residential zoned property, unless the facility is a reuse of a public agency yard;
- e. Structural setbacks from property lines shall be as follows:

(1) Buildings, structures and stockpiles used in the processing of materials shall be no closer than:

(a) one hundred feet from any residential zoned properties, except that the setback may be reduced to fifty feet when the grade where the building or structures are proposed is fifty feet or greater below the grade of the residential zoned property;

(b) fifty feet from any other zoned property, except when adjacent to a mineral extraction or materials processing site;

(c) the greater of fifty feet from the edge of any public street or the setback from residential zoned property on the far side of the street; and

(2) Offices, scale facilities, equipment storage buildings and stockpiles shall not be closer than fifty feet from any property line except when adjacent to M or F zoned property. Facilities necessary to control access to the site, when demonstrated to have no practical alternative, may be located closer to the property line;

f. On-site clearing, grading or excavation, excluding that necessary for required access, roadway or storm drainage facility construction, shall not be permitted within fifty feet of any property line except along any portion of the perimeter adjacent to M or F zoned property. If native vegetation is restored, temporary disturbance resulting from construction of noise attenuation features located closer than fifty feet shall be permitted; and

g. Sand and gravel extraction shall be limited to forty thousand yards per year. (15938 § 2, 2007: Ord. 14808 § 3, 2003: Ord. 14199 § 233, 2001: Ord. 14045 § 17, 2001: Ord. 13129 § 13, 1998: Ord. 13022 § 15, 1998: Ord. 12709 § 2, 1997: Ord. 12596 § 10, 1997: Ord. 11621 § 40, 1994: Ord. 10870 § 337, 1993).

21A.08.900 Applicability – Ordinance 13694. Complete applications for segregation submitted prior to January 1, 2000, shall continue to be governed by those ordinances in effect on the date the complete application was submitted. (Ord. 13694 § 93, 1999).

21A.08.901 Severability – Ordinance 13694. If any provision of Ordinance 13694 or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected. (Ord. 13694 § 94, 1999).

Chapter 21A.12
DEVELOPMENT STANDARDS - DENSITY AND DIMENSIONS

Sections:

- 21A.12.010 Purpose.
- 21A.12.020 Interpretation of tables.
- 21A.12.030 Densities and dimensions - residential zones.
- 21A.12.040 Densities and dimensions - Resource and commercial/industrial zones.
- 21A.12.050 Measurement methods.
- 21A.12.060 Minimum urban residential density.
- 21A.12.070 Calculations - allowable dwelling units lots or floor area.
- 21A.12.080 Calculations - site area used for base density and maximum density floor area calculations.
- 21A.12.085 Calculations - Site area used for minimum density calculations.
- 21A.12.087 Minimum density adjustments for moderate slopes.
- 21A.12.090 Lot area - Prohibited reduction.
- 21A.12.100 Lot area - Minimum lot area for construction.
- 21A.12.110 Measurement of setbacks.
- 21A.12.120 Setbacks - Specific building or use.
- 21A.12.122 Setbacks - Livestock buildings and manure storage areas.
- 21A.12.130 Setbacks - Modifications.
- 21A.12.140 Setbacks - from regional utility corridors.
- 21A.12.150 Setbacks - From alley.
- 21A.12.160 Setbacks - Required modifications.
- 21A.12.170 Setbacks - projections and structures allowed.
- 21A.12.180 Height - Exceptions to limits.
- 21A.12.190 Height - Limits near major airports.
- 21A.12.200 Lot or site divided by zone boundary.
- 21A.12.210 Sight distance requirements.
- 21A.12.220 Nonresidential land uses in residential zones.
- 21A.12.230 Personal services and retail uses in R-4 through R-48 zones.

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21A.12.010 Purpose. The purpose of this chapter is to establish basic dimensional standards for development relative to residential density and as well as specific rules for general application. The standards and rules are established to provide flexibility in project design, and maintain privacy between adjacent uses. (Ord. 10870 § 338, 1993).

21A.12.020 Interpretation of tables.

A. K.C.C. 21A.12.030 and 21A.12.040 contain general density and dimension standards for the various zones and limitations specific to a particular zone(s). Additional rules, exceptions, and methodologies are set forth in K.C.C. 21A.12.050 through 21A.12.210.

B. The density and dimension tables are arranged in a matrix format on two separate tables and are delineated into two general land use categories:

1. Residential; and
2. Resource and Commercial/Industrial.

C. Development standards are listed down the left side of both tables, and the zones are listed at the top. The matrix cells contain the minimum dimensional requirements of the zone. The parenthetical numbers in the matrix identify specific requirements applicable either to a specific use or zone. A blank box indicates that there are no specific requirements. If more than one standard appears in a cell, each standard will be subject to any applicable parenthetical footnote following the standard. (Ord. 10870 § 339, 1993).

21A.12.030 Densities and dimensions - residential zones.

A. Densities and dimensions - residential zones.

STANDARDS	RESIDENTIAL													
	Z O N E S	RURAL				URBAN RE- SERVE	URBAN RESIDENTIAL							
		RA- 2.5	RA-5	RA-10	RA-20	UR	R-1 (17)	R-4	R-6	R-8	R-12	R-18	R-24	R-48
Base Density: Dwelling Unit/Acre (15)	0.2 du/ac	0.2 du/ac	0.1 du/ac	0.05 du/ac	0.2 du/ac (21)	1 du/ac	4 du/ac (9)	6 du/ac	8 du/ac	12 du/ac	18 du/ac	24 du/ac	48 du/ac	
Maximum Density: Dwelling Unit/Acre (1)	0.4 du/ac (20)						6 du/ac (22)	9 du/ac	12 du/ac	18 du/ac	27 du/ac	36 du/ac	72 du/ac	
Minimum Density: (2)							85% (12) (18) (23)	85% (12) (18)	85% (12) (18)	80% (16)	75% (18)	70% (18)	65% (18)	
Minimum Lot Area (13)	1.875 ac	3.75 ac	7.5 ac	15 ac										
Minimum Lot Width (3)	135 ft	135 ft	135 ft	135 ft	35 ft (7)	35 ft (7)	30 ft	30 ft	30 ft	30 ft	30ft	30 ft	30 ft	
Minimum Street Setback (3)	30 ft (9)	30 ft (9)	30ft (9)	30 ft (9)	30 ft (7)	20 ft (7)	10 ft (8)	10 ft (8)	10 ft (8)	10 ft (8)	10 ft (8)	10ft (8)	10 ft (8)	
Minimum Interior Setback (3) (16)	5 ft (9)	10ft (9)	10 ft (9)	10 ft (9)	5 ft (7)	5 ft (7)	5 ft	5 ft	5 ft	5 ft (10)	5 ft (10)	5 ft (10)	5 ft (10)	
Base Height (4)	40 ft	40 ft	40 ft	40 ft	35 ft	35 ft	35 ft (25)	35 ft 45 ft (14) (25)	35 ft 45 ft (14) (25)	60 ft	60 ft 80 ft (14)	60 ft 80 ft (14)	60 ft 80 ft (14)	
Maximum Impervious Surface: Percentage (5)	25% (11) (19) (26)	20% (11) (19) (26)	15% (11) (19) (24) (26)	12.5% (11) (19) (26)	30% (11) (26)	30% (11) (26)	55% (26)	70% (26)	75% (26)	85% (26)	85% (26)	85% (26)	90% (26)	

B. Development conditions.

1. This maximum density may be achieved only through the application of residential density incentives in accordance with K.C.C. chapter 21A.34 or transfers of development rights in accordance with K.C.C. chapter 21A.37, or any combination of density incentive or density transfer. Maximum density may only be exceeded in accordance with K.C.C. 21A.34.040.F.1.g. and F.6.

2. Also see K.C.C. 21A.12.060.

3. These standards may be modified under the provisions for zero-lot-line and townhouse developments.

4. Height limits may be increased if portions of the structure that exceed the base height limit provide one additional foot of street and interior setback for each foot above the base height limit, but the maximum height may not exceed seventy-five feet. Netting or fencing and support structures for the netting or fencing used to contain golf balls in the operation of golf courses or golf driving ranges are exempt from the additional interior setback requirements but the maximum height shall not exceed seventy-five feet, except for large active recreation and multiuse parks, where the maximum height shall not exceed one hundred twenty-five feet, unless a golf ball trajectory study requires a higher fence.

5. Applies to each individual lot. Impervious surface area standards for:

a. Regional uses shall be established at the time of permit review;
 b. Nonresidential uses in residential zones shall comply with K.C.C. 21A.12.120 and 21A.12.220;

c. Individual lots in the R-4 through R-6 zones that are less than nine thousand seventy-six square feet in area shall be subject to the applicable provisions of the nearest comparable R-6 or R-8 zone; and

d. A lot may be increased beyond the total amount permitted in this chapter subject to approval of a conditional use permit.

6. Mobile home parks shall be allowed a base density of six dwelling units per acre.

7. The standards of the R-4 zone apply if a lot is less than fifteen thousand square feet in area.

8. At least twenty linear feet of driveway shall be provided between any garage, carport or other fenced parking area and the street property line. The linear distance shall be measured along the center line of the driveway from the access point to such garage, carport or fenced area to the street property line.

9.a. Residences shall have a setback of at least one hundred feet from any property line adjoining A, M or F zones or existing extractive operations. However, residences on lots less than one hundred fifty feet in width adjoining A, M or F zones or existing extractive operations shall have a setback from the rear property line equal to fifty percent of the lot width and a setback from the side property equal to twenty-five percent of the lot width.

b. Except for residences along a property line adjoining A, M or F zones or existing extractive operations, lots between one acre and two and one-half acres in size shall conform to the requirements of the R-1 zone and lots under one acre shall conform to the requirements of the R-4 zone.

10.a. For developments consisting of three or more single-detached dwellings located on a single parcel, the setback shall be ten feet along any property line abutting R-1 through R-8, RA and UR zones, except for structures in on-site play areas required in K.C.C. 21A.14.190, which shall have a setback of five feet.

b. For townhouse and apartment development, the setback shall be twenty feet along any property line abutting R-1 through R-8, RA and UR zones, except for structures in on-site play areas required in K.C.C. 21A.14.190, which shall have a setback of five feet, unless the townhouse or apartment development is adjacent to property upon which an existing townhouse or apartment development is located.

11. Lots smaller than one-half acre in area shall comply with standards of the nearest comparable R-4 through R-8 zone. For lots that are one-half acre in area or larger, the maximum impervious surface area allowed shall be at least ten thousand square feet. On any lot over one acre in area, an additional five percent of the lot area may be used for buildings related to agricultural or forestry practices. For lots smaller than two acres but larger than one-half acre, an additional ten percent of the lot area may be used for structures that are determined to be medically necessary, if the applicant submits with the permit application a notarized affidavit, conforming with K.C.C. 21A.32.170A.2.

12. For purposes of calculating minimum density, the applicant may request that the minimum density factor be modified based upon the weighted average slope of the net buildable area of the site in accordance with K.C.C. 21A.12.087.

13. The minimum lot area does not apply to lot clustering proposals as provided in K.C.C. chapter 21A.14.

14. The base height to be used only for projects as follows:

a. in R-6 and R-8 zones, a building with a footprint built on slopes exceeding a fifteen percent finished grade; and

b. in R-18, R-24 and R-48 zones using residential density incentives and transfer of density credits in accordance with this title.

15. Density applies only to dwelling units and not to sleeping units.

16. Vehicle access points from garages, carports or fenced parking areas shall be set back from the property line on which a joint use driveway is located to provide a straight line length of at least twenty-six feet as measured from the center line of the garage, carport or fenced parking area, from the access point to the opposite side of the joint use driveway.

17.a. All subdivisions and short subdivisions in the R-1 zone shall be required to be clustered if the property is located within or contains:

- (1) a floodplain;
- (2) a critical aquifer recharge area;
- (3) a regionally or locally significant resource area;
- (4) existing or planned public parks or trails, or connections to such facilities;
- (5) a category type S or F aquatic area or category I or II wetland;
- (6) a steep slope; or
- (7) an urban separator or wildlife habitat network designated by the Comprehensive Plan or a community plan.

b. The development shall be clustered away from critical areas or the axis of designated corridors such as urban separators or the wildlife habitat network to the extent possible and the open space shall be placed in a separate tract that includes at least fifty percent of the site. Open space tracts shall be permanent and shall be dedicated to a homeowner's association or other suitable organization, as determined by the director, and meet the requirements in K.C.C. 21A.14.040. On-site critical area and buffers and designated urban separators shall be placed within the open space tract to the extent possible. Passive recreation, with no development of recreational facilities, and natural-surface pedestrian and equestrian trails are acceptable uses within the open space tract.

18. See K.C.C. 21A.12.085.

19. All subdivisions and short subdivisions in R-1 and RA zones within the North Fork and Upper Issaquah Creek subbasins of the Issaquah Creek Basin (the North Fork and Upper Issaquah Creek subbasins are identified in the Issaquah Creek Basin and Nonpoint Action Plan) and the portion of the Grand Ridge subarea of the East Sammamish Community Planning Area that drains to Patterson Creek shall have a maximum impervious surface area of eight percent of the gross acreage of the plat. Distribution of the allowable impervious area among the platted lots shall be recorded on the face of the plat. Impervious surface of roads need not be counted towards the allowable impervious area. Where both lot- and plat-specific impervious limits apply, the more restrictive shall be required.

20. This density may only be achieved on RA 2.5 zoned parcels receiving density from rural forest focus areas through a transfer of density credit pursuant to K.C.C. chapter 21A.37.

21. Base density may be exceeded, if the property is located in a designated rural city urban growth area and each proposed lot contains an occupied legal residence that predates 1959.

22. The maximum density is four dwelling units per acre for properties zoned R-4 when located in the Rural Town of Fall City.

23. The minimum density requirement does not apply to properties located within the Rural Town of Fall City.

24. The impervious surface standards for the county fairground facility are established in the King County Fairgrounds Site Development Plan, Attachment A to Ordinance 14808 on file at the department of natural resources and parks and the department of development and environmental services. Modifications to that standard may be allowed provided the square footage does not exceed the approved impervious surface square footage established in the King County Fairgrounds Site Development Plan Environmental Checklist, dated September 21, 1999, Attachment B to Ordinance 14808, by more than ten percent.

25. For cottage housing developments only:

a. The base height is eighteen feet.

b. Buildings have pitched roofs with a minimum slope of six and twelve may extend up to twenty-five feet at the ridge of the roof.

26. Impervious surface does not include access easements serving neighboring property and driveways to the extent that they extend beyond the street setback due to location within an access panhandle or due to the application of King County Code requirements to locate features over which the applicant does not have control. (Ord. 15245 § 6, 2005: Ord. 15051 § 126, 2004: Ord. 15032 § 17, 2004: Ord. 14808 § 4, 2003: Ord. 14807 § 7, 2003: Ord. 14429 § 2, 2002: Ord. 14190 § 33, 2001: Ord. 14045 § 18, 2001: Ord. 13881 § 1, 2000: Ord. 13571 § 1, 1999: Ord. 13527 § 1, 1999: Ord. 13274 § 10, 1998: Ord. 13086 § 1, 1998: Ord. 13022 § 16, 1998: Ord. 12822 § 6, 1997: Ord. 12549 § 1, 1996: Ord. 12523 § 3, 1996: Ord. 12320 § 2, 1996: Ord. 11978 § 4, 1995: Ord. 11886 § 5, 1995: Ord. 11821 § 2, 1995: Ord. 11802 § 3, 1995: Ord. 11798 § 1, 1995: Ord. 11621 § 41, 1994: Ord. 11555 § 5, 1994: Ord. 11157 § 15, 1993: Ord. 10870 § 340, 1993).

21A.12.040 Densities and dimensions - resource and commercial/industrial zones.

A. Densities and dimensions - resource and commercial/industrial zones.

ZONES	RESOURCE				COMMERCIAL/INDUSTRIAL				
	AGRICULTURE	F O R E S T	M I N E R A L	NEIGHBORHOOD BUSINESS	COMMUNITY BUSINESS	REGIONAL BUSINESS	O F F I C E	I N D U S T R I A L	
STANDARDS	A-10	A-35	F	M	NB	CB	RB	O	I
Base Density: Dwelling Unit/Acre	0.1 du/ac	.0286 du/ac	.0125 du/ac		8 du/ac (2)	18 du/ac (2)	36 du/ac (2)	36 du/ac (2)	
Maximum Density: Dwelling Unit/Acre					12 du/ac (3)	24 du/ac (3)	48 du/ac (3)	48 du/ac (3)	
Minimum Lot Area	10 acres	35 acres	80 acres	10 acres					
Maximum Lot Depth/Width Ratio	4 to 1	4 to 1							
Minimum Street Setback	30 ft (4)	30 ft (4)	50 ft (4)	(12)	10 ft (5)	10 ft (5)	10 ft (5)	10 ft	25 ft
Minimum Interior Setback	10 ft (4)	10 ft (4)	100 ft (4)	(12)	20 ft (7) (14)	20 ft (7)	20 ft (7)	20 ft (7)	20 ft (7) 50 ft (8)
Base Height (10)	35 ft	35 ft	35 ft	35 ft	35 ft 45 ft (6)	35 ft 60 ft (6)	35 ft 65 ft (6)	45 ft 60 ft (6)	45 ft
Maximum Floor/Lot Ratio: Square Feet					1/1 (9)	1.5/1 (9)	2.5/1 (9)	2.5/1 (9)	2.5/1
Maximum Impervious Surface: Percentage (13)	15% 35% (11)	10% 35% (11)	10% 35% (11)		85%	85%	90%	75%	90%

B. Development conditions.

1. Reserved.
2. These densities are allowed only through the application of mixed-use development standards and for stand-alone townhouse development in the NB zone on property designated commercial outside of center in the urban area.
3. These densities may only be achieved through the application of residential density incentives or transfer of development rights in mixed-use developments and for stand-alone townhouse development in the NB zone on property designated commercial outside of center in the urban area. See K.C.C. chapters 21A.34 and 21A.37.

4.a. in the F zone, scaling stations may be located thirty-five feet from property lines. Residences shall have a setback of at least thirty feet from all property lines.

b. for lots between one acre and two and one half acres in size, the setback requirements of the R-1 zone shall apply. For lots under one acre, the setback requirements of the R-4 zone shall apply.

c. for developments consisting of three or more single-detached dwellings located on a single parcel, the setback shall be ten feet along any property line abutting R-1 through R-8, RA and UR zones.

5. Gas station pump islands shall be placed no closer than twenty-five feet to street front lines.

6. This base height allowed only for mixed-use developments and for stand-alone townhouse development in the NB zone on property designated commercial outside of center in the urban area.

7. Required on property lines adjoining residential zones.

8. Required on property lines adjoining residential zones for industrial uses established by conditional use permits.

9. The floor-to-lot ratio for mixed use developments shall conform to K.C.C. chapter 21A.14.

10. Height limits may be increased if portions of the structure building that exceed the base height limit provide one additional foot of street and interior setback for each foot above the base height limit, provided the maximum height may exceed seventy-five feet only in mixed use developments. Netting or fencing and support structures for the netting or fencing used to contain golf balls in the operation of golf courses or golf driving ranges are exempt from the additional interior setback requirement provided that the maximum height shall not exceed seventy-five feet.

11. Applicable only to lots containing less than one acre of lot area. Development on lots containing less than fifteen thousand square feet of lot area shall be governed by impervious surface standards of the nearest comparable R-4 through R-8 zone.

12. See K.C.C. 21A.22.060 for setback requirements in the mineral zone.

13. The impervious surface area for any lot may be increased beyond the total amount permitted in this chapter subject to approval of a conditional use permit.

14. Required on property lines adjoining residential zones unless a stand-alone townhouse development on property designated commercial outside of center in the urban area is proposed to be located adjacent to property upon which an existing townhouse development is located. (Ord. 14190 § 34, 2001: Ord. 14045 § 19, 2001: Ord. 13086 § 2, 1998: Ord. 13022 § 17, 1998: Ord. 12929 § 2, 1997: Ord. 12522 § 4, 1996: Ord. 11821 § 3, 1995: Ord. 11802 § 4, 1995: Ord. 11621 § 42, 1994: Ord. 10870 § 341, 1993).

21A.12.050 Measurement methods. The following provisions shall be used to determine compliance with this title:

A. Street setbacks shall be measured from the existing edge of a street right-of-way or temporary turnaround, except as provided by K.C.C. 21A.12.150;

B. Lot widths shall be measured by scaling a circle of the applicable diameter within the boundaries of the lot, provided that an access easement shall not be included within the circle;

C. Building height shall be measured from the average finished grade to the highest point of the roof. The average finished grade shall be determined by first delineating the smallest square or rectangle which can enclose the building and then averaging the elevations taken at the midpoint of each side of the square or rectangle, provided that the measured elevations do not include berms;

D. Lot area shall be the total horizontal land area contained within the boundaries of a lot; and

E. Impervious surface calculations shall not include areas of turf, landscaping, natural vegetation or flow control or water quality treatment facilities. (Ord. 15051 § 127, 2004: Ord. 13190 § 16, 1998: Ord. 10870 § 342, 1993).

21A.12.060 Minimum urban residential density. Minimum density for residential development in the urban areas designated by the Comprehensive Plan shall be based on the tables in K.C.C. 21A.12.030, adjusted as provided in 21A.12.070 through 21A.12.080.

A. A proposal may be phased, if compliance with the minimum density requirement results in noncompliance with of K.C.C. chapter 21A.28, if the overall density of the proposal is consistent with this section.

B. Minimum density requirements may be waived by King County if the applicant demonstrates one or more of the following:

1. The proposed layout of the lots in a subdivision or the buildings in a multiple dwelling development will not preclude future residential development consistent with the minimum density of the zone;
2. The non-sensitive area of the parcel is of a size or configuration that results in lots that cannot meet the minimum dimensional requirements of the zone;
3. In the R-12 through R-48 zones, the area of the parcel required to accommodate storm water facilities exceeds ten percent of the area of the site;
4. The site contains a national, state or county historic landmark.

C. A proposal to locate a single residential unit on a lot shall be exempt from the minimum density requirement provided the applicant either preplans the site by demonstrating that the proposed single residence would be located in a manner compatible with future division of the site in a manner that would meet the minimum density requirements, or locates the dwelling within fifteen feet of one or more of the site's interior lot lines.

D. Alternative minimum density requirements may be imposed through county-approved property-specific development standards (P-suffix), a special district overlays in accordance with K.C.C. chapter 21A.38 or a subarea plan. (Ord. 14045 § 20, 2001: Ord. 11555 § 6, 1994: 10870 § 343, 1993).

21A.12.070 Calculations - allowable dwelling units, lots or floor area. Permitted number of units, or lots or floor area shall be determined as follows:

A. The allowed number of dwelling units or lots (base density) shall be computed by multiplying the site area specified in K.C.C. 21A.12.080 by the applicable residential base density number;

B. The maximum density (unit or lot) limits shall be computed by adding the bonus or transfer units authorized by K.C.C. chapters 21A.34 and 21A.37 to the base units computed under subsection A of this section;

C. The allowed floor area, which excludes structured or underground parking areas and areas housing mechanical equipment, shall be computed by applying the floor-to-lot area ratio to the project site area specified in K.C.C. 21A.12.080;

D. If calculations result in a fraction, the fraction shall be rounded to the nearest whole number as follows, except as provided in subsection E of this section:

1. Fractions of 0.50 or above shall be rounded up; and
2. Fractions below 0.50 shall be rounded down; and

E. For subdivisions and short subdivisions in the RA and A zones, rounding up of the number of development units or lots is not allowed. (Ord. 14190 § 35, 2001: Ord. 14045 § 21, 2001: Ord. 11927 § 1, 1995: Ord. 10870 § 344, 1993).

21A.12.080 Calculations - site area used for base density and maximum density floor area calculations.

A. All site areas may be used in the calculation of base and maximum allowed residential density or project floor area.

B. For subdivisions and short subdivisions in the RA zone, if calculations of site area for base density result in a fraction, the fraction shall be rounded to the nearest whole number as follows:

1. Fractions of 0.50 or above shall be rounded up; and

2. Fractions below 0.50 shall be rounded down. (Ord. 15051 § 128, 2004: Ord. 14045 § 22, 2001: Ord. 11621 § 43, 1994: Ord. 11555 § 3, 1994: Ord. 10870 § 345, 1993).

21A.12.085 Calculations - Site area used for minimum density calculations. Minimum density shall be determined by:

A. Multiplying the Base Density (Dwelling Units/Acre) as set forth in K.C.C. 21A.12.030.A by the net buildable area of the project site; and then

B. Multiplying the resulting product by the Minimum Density percentage set forth in K.C.C. 21A.12.030.A or as adjusted pursuant to the provisions of K.C.C. 21A.12.087. (Ord. 12549 § 2, 1996: Ord. 11798 § 2, 1995: Ord. 11555 § 4, 1994).

Chapter 21A.32
GENERAL PROVISIONS - NONCONFORMANCE, TEMPORARY
USES, AND RE-USE OF FACILITIES

Sections:

- 21A.32.010 Purpose.
- 21A.32.020 Nonconformance - Applicability.
- 21A.32.025 Nonconformance - Creation, continuation, and forfeiture of nonconformance status.
- 21A.32.040 Nonconformance - Abatement of illegal use, structure or development.
- 21A.32.045 Nonconformance - Re-establishment of discontinued nonconforming use, or damaged or destroyed nonconforming structure or site improvement.
- 21A.32.055 Nonconformance - modifications to nonconforming use, structure or site improvement.
- 21A.32.065 Nonconformance - expansions of nonconforming uses, structures, or site improvements.
- 21A.32.075 Nonconformance - Required findings.
- 21A.32.085 Nonconformance - Residences.
- 21A.32.100 Temporary use permits - Uses requiring permits.
- 21A.32.110 Temporary use permits - Exemptions to permit requirement.
- 21A.32.120 Temporary use permits - duration and frequency.
- 21A.32.130 Temporary use permits - Parking.
- 21A.32.140 Temporary use permits - Traffic control.
- 21A.32.145 Homeless encampments - prohibited. (Effective January 1, 2015, and thereafter.)
- 21A.32.150 Temporary construction buildings.
- 21A.32.160 Temporary construction residence.
- 21A.32.170 Temporary mobile home for medical hardship.
- 21A.32.180 Temporary real estate offices.
- 21A.32.190 Temporary school facilities.
- 21A.32.200 Re-use of facilities - General standards.
- 21A.32.210 Re-use of facilities - Re-establishment of closed public school facilities.
- 21A.32.220 Re-use of facilities - Standards for conversion of historic buildings.
- 21A.32.230 Public nuisance - prohibited activities.

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21A.32.010 Purpose. The purposes of this chapter are to:

- A. Establish the legal status of a nonconformance by creating provisions through which a nonconformance may be maintained, altered, reconstructed, expanded or terminated;
- B. Provide for the temporary establishment of uses that are not otherwise permitted in a zone and to regulate such uses by their scope and period of use; and
- C. Encourage the adaptive re-use of existing public facilities which will continue to serve the community, and to ensure public review of redevelopment plans by allowing:
 1. Temporary re-use of closed public school facilities retained in school district ownership, and the reconversion of a temporary re-use back to a school use;
 2. Permanent re-use of surplus nonresidential facilities (e.g. schools, fire stations, government facilities) not retained in school district ownership; or
 3. Permanent re-use of historic structures listed on the National Register or designated as county landmarks. (Ord. 10870 § 538, 1993).

21A.32.020 Nonconformance - Applicability.

- A. With the exception of nonconforming extractive operations identified in K.C.C. 21A.22, all nonconformances shall be subject to the provisions of this chapter.
- B. The provisions of this chapter do not supersede or relieve a property owner from compliance with:
 1. The requirements of the Uniform Building and Fire Codes; or
 2. The provisions of this code beyond the specific nonconformance addressed by this chapter. (Ord. 10870 § 539, 1993).

21A.32.025 Nonconformance - Creation, continuation, and forfeiture of nonconformance status. Once created pursuant to K.C.C. 21A.06.800, a nonconformance may be continued in a manner consistent with the provisions of this chapter. However, nonconformance status is forfeited if the nonconformance is discontinued beyond the provisions of K.C.C. 21A.32.045. Once nonconformance status is forfeited, the nonconformance shall not be re-established. (Ord. 13130 § 2, 1998).

21A.32.040 Nonconformance - Abatement of illegal use, structure or development. Any use, structure or other site improvement not established in compliance with use and development standards in effect at the time of establishment shall be deemed illegal and shall be discontinued or terminated and subject to removal pursuant to the provisions of K.C.C. Title 23. (Ord. 10870 § 541, 1993).

21A.32.045 Nonconformance - Re-establishment of discontinued nonconforming use, or damaged or destroyed nonconforming structure or site improvement. A nonconforming use which has been discontinued or a nonconforming structure or site improvement which has been damaged or destroyed, may be re-established or reconstructed if:

- A. The nonconforming use, structure, or site improvement which previously existed is not expanded;
- B. A new nonconformance is not created; and
- C. The use has not been discontinued for more than twelve months prior to its re-establishment, or the nonconforming structure or site improvement is reconstructed pursuant to a complete permit application submitted to the department within twelve months of the occurrence of damage or destruction. (Ord. 13130 § 3, 1998).

21A.32.055 Nonconformance - modifications to nonconforming use, structure or site improvement. Modifications to a nonconforming use, structure or site improvement may be reviewed and approved by the department pursuant to the code compliance review process of K.C.C. 21A.42.030 provided that:

- A. The modification does not expand any existing nonconformance; and
- B. The modification does not create a new type of nonconformance. (Ord. 15606 § 22, 2006: Ord. 13130 § 4, 1998).

21A.32.065 Nonconformance - expansions of nonconforming uses, structures, or site improvements. A nonconforming use, structure, or site improvement may be expanded as follows:

A. The department may review and approve, pursuant to the code compliance process of K.C.C. 21A.42.030, an expansion of a nonconformance only if:

1. The expansion conforms to all other provisions of this title, except that the extent of the project-wide nonconformance in each of the following may be increased up to ten percent:

- a. building square footage,
- b. impervious surface,
- c. parking, or
- d. building height; and

2. No subsequent expansion of the same nonconformance shall be approved under this subsection if the cumulative amount of such expansion exceeds the percentage prescribed in subsection A.1;

B. A special use permit shall be required for expansions of a nonconformance within a development authorized by an existing special use or unclassified use permit if the expansions are not consistent with subsection A. of this section;

C. A conditional use permit shall be required for expansions of a nonconformance:

1. Within a development authorized by an existing planned unit development approval; or
2. Not consistent with the provisions of subsections A. and B. of this section; and

D. No expansion shall be approved that would allow for urban growth outside the urban growth area, in conflict with King County Comprehensive Plan rural and natural resource policies and constitute impermissible urban growth outside an urban growth area. (Ord. 15606 § 23, 2006; Ord. 13130 § 5, 1998).

21A.32.075 Nonconformance - Required findings. Modifications or expansions approved by the department shall be based on written findings that the proposed:

Modification or expansion of a nonconformance located within a development governed by an existing conditional use permit, special use permit, unclassified use permit, or planned unit development shall provide the same level of protection for and compatibility with adjacent land uses as the original land use permit approval. (Ord. 13130 § 6, 1998).

21A.32.085 Nonconformance - Residences. Any residence nonconforming relative to use may be expanded, after review and approval through the code compliance process set forth in K.C.C. 21A.42.010, subject to all other applicable codes besides those set forth in this chapter for nonconformances. (Ord. 13130 § 12, 1998).

21A.32.100 Temporary use permits - Uses requiring permits. Except as provided by K.C.C. 21A.32.110, a temporary use permit shall be required for:

A. Uses not otherwise permitted in the zone that can be made compatible for periods of limited duration and/or frequency; or

B. Limited expansion of any use that is otherwise allowed in the zone but which exceeds the intended scope of the original land use approval. (Ord. 10870 § 547, 1993).

21A.32.110 Temporary use permits - Exemptions to permit requirement.

A. The following uses shall be exempt from requirements for a temporary use permit when located in the RB, CB, NB, O, or I zones for the time period specified below:

1. Uses not to exceed a total of thirty days each calendar year:
 - a. Christmas tree lots;
 - b. Fireworks stands; and
 - c. Produce stands.
2. Uses not to exceed a total of fourteen days each calendar year:
 - a. Amusement rides, carnivals, or circuses;
 - b. Community festivals; and
 - c. Parking lot sales.

2009 SEP 28 PM 4:00

No. 63619-7- I

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

CEDAR HILLS RURAL)
PRESERVATION ALLIANCE, a)
Washington nonprofit corporation,)
)
Respondent,)

CERTIFICATE OF SERVICE

vs.)

KING COUNTY, a charter county;)
YOUNG WOMEN'S CHRISTIAN)
ASSOCIATION OF SEATTLE-)
KING COUNTY-SNOHOMISH)
COUNTY, a Washington nonprofit)
corporation; and PASSAGE POINT)
HOUSING LIMITED)
PARTNERSHIP, a Washington)
Limited Partnership)
)
Appellants.)

I, Maggie Flickinger, hereby certify and declare under
penalty of perjury under the laws of the state of Washington as follows:

1. I am a legal secretary employed by King County Prosecutor's
Office, am over the age of 18, am not a party to this action and

am competent to testify herein.

2. On September 28, 2009, I did cause to be delivered via Legal Messenger a true copy of the Brief of Appellant King County with Appendix A and this Certificate of Service to:

Jeffrey M. Eustis
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Seattle, WA 98104-1860

Molly A. Lawrence
GordonDerr, LLP
2025 1st Avenue, Ste. 500
Seattle, WA 98121-3140

I declare under penalty of perjury under the laws of Washington that the foregoing is true and correct.

Dated this 28th day of September, 2009 at Seattle, Washington.

DANIEL T. SATTERBERG
Prosecuting Attorney


Maggie Flickinger, Legal Secretary to
MICHAEL J. SINSKY, WSBA #19073
Senior Deputy Prosecuting Attorney
Attorneys for Appellant King County