



Kitsap County Department of Community Development

2025 Administrative Code Edits
Planning Commission Public Comment Response Matrix

Comments Received Through April 26, 2025.

This Comment Response Matrix includes public comments received to date. The comments are organized by commenter, summary of comments received, and Department response. Column one is the number of the comment. Column two indicates the name and organization, if applicable, of the commenter. The Summary of Comment column includes a summary of each public comment. The Department Response column indicates whether a change to the proposed code amendment is recommended and associated rationale. The full written comment letters will be transmitted to the Planning Commission.

Planning Commission Public Comment Matrix: DETAILED COMMENTS				
Ref #	Name (Org)	Type	Summary of Comment	Staff Response (Changes Made <u>OR</u> No Changes Made.)
1	Bruce Weiskotten (Skokomish Tribe)	Email Attachment	The Skokomish Natural Resources Dept. supports the proposed administrative code edits, in particular, those related to tree canopy and the environmental benefits of tree canopy.	Comment noted.
2	Bill Palmer	Email Attachment	Suggest addressing liability for property damage caused by tree canopy requirements.	No change. The County does not generally accept liability for development projects. Projects may use a mix of tree retention and/or replacement to meet requirements. Retained trees must be windfirm. Replacement trees may be number of species in locations that include tracts, open space, roadways, etc.
"	"	"	Suggest adding "event facilities" (use #208) as a Conditional Use Permit in the Rural Wooded Zone	No change.
"	"	"	Comment questions if "high risk secured facilities" (use 402) should be permitted in different zones.	No change.
"	"	"	Suggest changing "Storage, Vehicles and Equipment" (NEW use 549) from a Conditional Use Permit to an Administrative Conditional Use Permit for Rural Industrial zones and Rural Commercial zone. Comment also relates to the provision that	Staff recommends changing from CUP to <u>P</u> in Rural Industrial Zone. This suggestion is related to a change that is already part of this project. Staff recommends no change to the provisions for heavy equipment. Out of scope.

			only one piece of heavy equipment may be stored on RR or RP property.	
“	”	“	Suggest adding provisions for heliports, as well as airports.	No change. Heliports are already mentioned in Allowed Use Standards of Airports KCC 17.450.045 .
“	”	“	Comment relates to a Director’s Interpretation issued on March 31, 2020 regarding minimum density requirements in the UL and UCR zones.	Comment noted. A memo will be provided regarding this issue.



Skokomish Indian Tribe

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Skokomish Nation, WA 98584

Submitted Electronically:
codeupdates@kitsap.gov

April 14, 2025

Scott Diener: Manager
Kitsap County
Department of Community Development
Planning and Environmental Programs
614 Division Street
Port Orchard, WA 98366

Subject: Skokomish Tribe Comments on Kitsap County 2025 Administrative Code Edits

Dear Mr. Diener,

The Skokomish DNR has reviewed the proposed Kitsap County 2025 Administrative Code Edits, and we support the changes proposed by Kitsap County Department of Community Development Planning and Environmental Programs. In particular, we applaud the intention to caretake the development of canopy development in the public forestry and landscape. Mature canopy cover provides many environmental services including greater habitat for a plurality of species, microclimate stability, stormwater retention and a more unique sense of place.

Thank you for the opportunity to comment. If you have any questions or concerns regarding these comments please contact Bruce Weiskotten, Environmental Planner, at 360-877-5213 Ext 2207 or at bweiskotten@skokomish.org

Respectfully,

Joseph Pavel; Director of Natural Resources
Skokomish Tribe



April 25, 2025

KITSAP COUNTY
Planning Commission
619 Division Street, MS-36
Port Orchard, Washington 98366

SUBJECT: Proposed Edits To Ordinance No: XXX-2025 – Zoning &
Subdivision Codes

Honorable Commissioners:

Please find attached to this letter the recommendations for instances in the Proposed Ordinance No: XXX-2025 whereby either the Land Development Code, i.e., KCC Title 16 or KCC Title 17 would be amended either by the elimination of existing code language or the addition of new provisions.

To make my recommendations as clear as possible, I have quoted the text, for which there is additional language that should be added or language that should be eliminated. In a couple of instances, questions are presented for Department of Community Development staff to provide further clarification.

Besides the issue of recommending changes to the document now under consideration by the Planning Commission, I have addressed the issue of the March 2020 Director's Interpretation pertaining to minimum and maximum densities in Urban Low and Urban Cluster Zones. The issue of why this Director's Interpretation should have been included in Proposed Ordinance No: XXX-2025 is well illustrated by the numerical calculations set forth in the comments about this "Interpretation."

Clearly, the issue is significant and deserves public hearing consideration if not by the Planning Commission, certainly by the Board of County Commissioners.

Thank you for the opportunity to submit these comments.

William M. Palmer
W.M. PALMER CONSULTANTS

PROPOSED EDITS TO ORDINANCE NO. XXX-2025

Page 5

F. Landscaping Requirements.

If applicable, consistency with Tree Canopy Standards shall be demonstrated in accordance with KCC 17.495.

ADD: Kitsap County agrees to accept all liability for trees required to be preserved or left standing that later fall and create damage to property, structures, personal injury to individuals with vehicles or traversing the Parking facilities.

Page 9

Chapter 16.24, Land Segregation Standards

18. A Landscaping Plan as applicable per KCC 17.500. If applicable, a Tree Canopy Protection Plan shall be provided as part of the Landscaping Plan in accordance with KCC 17.495.

ADD: Kitsap County agrees to accept all liability for trees required to be preserved or left standing that later fall and create damage to property, structures, personal injury to individuals who later occupy the subdivided land.

Page 11

Section 6 KCC 16.48.020, Preliminary Short Subdivisions

16.24.C

15. A Landscaping Plan as applicable per KCC 17.500. If applicable, a Tree Canopy Protection Plan shall be provided as part of the Landscaping Plan in accordance with KCC 17.495.

ADD: Kitsap County agrees to accept all liability for trees required to be preserved or left standing that later fall and create damage to property, structures, personal injury to individuals who later occupy the subdivided land.

Page 14

Section 9 KCC 17.410.042 – Use Table Subsection 208

Add: “C” to Rural Wooded Column 17.150

Page 18

Section 9 KCC 17.410.042 – Use Table Subsection 403

QUESTION: Why is it that a “high risk secured facility,” which typically provides housing for sex offenders released back to society and other people with violent records, are excluded from rural areas? If such facilities cannot be located in an industrially zoned area, then maybe a rural area is an alternative?

Page 30

Section 9 KCC 17.410.042 – Use Table Subsection 549 (New)

Add: “ACUP” to Rural Commercial column 17.290 & Rural Industrial Column 17.330 instead of a “C”, a conditional Use that has to go to public hearing.

Page 40

Section 9 KCC 17.410.042 – Use Table Subsection 500

Add: Heliports to Airport category. Per the Permitted uses in 17.360 – RHTC, RHTR & RHTW, the question is, is there any space for an airport? It is doubtful, but there would or could be space for a heliport. The broader question is.....why is there no provision for heliports?

Page 44

New Section 12 KCC 17.415 – Use Table Standards

Eliminate: 17.415.527 Storage, Vehicles and Equipment.

A. In the Rural Residential (RR) or Rural Protection (RP) zone, one piece of heavy equipment may be stored; provided that it is either enclosed within a permitted structure or screened to the satisfaction of the director.

This conflicts with the historic allowance for “contractor storage yards” in rural areas. Contractors often have multiple vehicles and equipment used in their businesses. Typically, there will be a garage structure for the repair of a vehicle or equipment, but the rest of their vehicles and equipment are stored outside on the property. Having only one piece of equipment is an undo penalty on the contractor’s ability to conduct a profitable business.

Page 55

Section 16 KCC 17.500.020 – Landscape Plans

D. If applicable, the landscaping plan shall show trees to be retained and replaced, as well as tree density and credit calculations, in accordance with KCC 17.495 Tree Canopy.

Add: : Kitsap County agrees to accept all liability for trees required to be preserved or left standing that later fall and create damage to property, structures or personal injury to individuals who later occupy the property subject to this provision or as required by KCC 17.495 Tree Canopy.

**SUBJECT MATTER NOT INCLUDED IN THE CODE EDITS –
DIRECTOR'S ZONING CODE
INTERPRETATION REGARDING MINIMUM / MAXIMUM
DEVELOPMENT DENSITY AS ISSUED ON MARCH 31, 2020 AND
SIGNED BY THEN DIRECTOR JEFF RIMACK.**

Background: This Director's decision, when it was issued, was at a time when many, many people were sequestered in their homes due to the fear of the spread of COVID. A-14-day appeal period was allotted, which came and went before anyone was aware that the Director had made this determination. (SEE ATTACHED DECISION)

It should have been scheduled for public hearing consideration as had been the case when KCC 17.420.060.(A)(25) first became a part of the Zoning Ordinance. That footnote specifies that in Urban Low and Urban Cluster Zones the minimum size lot upon which a single-family home can occupy is 9,000 S.F. Meaning that if a person has a lot in excess of 18,000 square feet in area that the property must be subdivided into two parcels if the objective is to construct a single-family residence on the property.

In 2016 when Footnote 25 to the Density and Dimensions Table was added, the Board of County Commissioners held public hearings to make people aware of this code provisions. It was a "requirement" of "reasonable measures" supposedly necessary to implement the 2016 Comprehensive Plan Update adopted in June of that year. The Board received lots of testimony at the time, including from one party that had been planning to build on their property, but abandoned their project due to the subdivision requirements.

Regarding the Minimum / Maximum Density issue pertinent to Footnote 25 here is the substance of what I sent to Scott Diener in December of 2020 on behalf of one of my builder clients:

“.....According to the permit review, there seems to be a mis-application of the density provisions of the Urban Low and Urban Cluster Zones with respect to the three permits listed above. The so-called “requirement” that parcels with less than 18,000 square feet of area be subdivided ***is not, in fact,*** a requirement. Neither is the attempt to force an individual or builder to build duplexes or multi-family units on a lot of lessor size than 18,000 square feet.

Clearly, there is a minimum density requirement in an Urban Low or Urban Cluster Zone. However, such requirement only applies to the instance where the property owner or developer wishes to subdivide his or her land. For emphasis it seems necessary to repeat this statement.....minimum density provisions only apply to the instance when a property owner is proposing to subdivide his or her land. Besides the fact there is nothing in Kitsap County Code Title 17 to make another requirement, this is how codes with minimum density requirements have been written and applied since the advent of Euclidian Zoning in the early 1900s. Of note too, there is no qualifying provision in the footnotes to Table 17.420 to stipulate that any other provision or interpretation of this density requirement has to be considered. Nor should there be!!!!

With the advent of the 2016 Comprehensive Plan and Zoning Amendments, came this ***patently stupid*** “maximum density requirement” that is only applicable to Urban Low and Urban Cluster Zoned areas. The requirement is found in footnote No. 25, which reads as follows: “25. *For new building permit applications on vacant lots over eighteen thousand square feet located in urban low residential (ULR) and urban cluster residential (UCR) zones, the maximum lot size shall not exceed nine thousand square feet. This restriction shall not apply if: a. The net developable area of the existing parcel is less than eighteen thousand square feet; or b. the project application will meet minimum density requirements as established by this chapter.*”

Now when such a parcel is proposed to accommodate a home, one of two actions must take place. Either it is necessary to subdivide the property to place two or more homes thereon or such a plot of ground could support either a duplex or multifamily unit (depending on the overall size of the land area).

For emphasis, if a parcel has less area than 18,000 square feet, this provision of code, i.e. footnote No. 25 does not apply. And clearly, there is no “requirement” to either subdivide or place a duplex or multifamily unit on such property.

One of the reasons the “maximum density” provisions in footnote No. 25 is described as a ***“stupid requirement,”*** and it is, relates to those Urban Low or Urban Cluster Zoned areas that are not served by sanitary sewer. According to Health District

requirements, the minimum lot size wherein septic systems are necessary is 20,000 square feet. Once upon a time it was 9,000 square feet and that was increased to 12,500 square feet by the mid-1980s. Both Kitsap and Mason Counties allow for a “Method II” septic system designs, which make it possible with the right soil conditions to place a septic system on a 9,000 square foot parcel. But if the “conditions” cannot be met, then the County has effectively “taken” the land from the property owner and his or her only remedy is a court action to regain the right to use their land.

Another “**stupid factor**” is that if a property owner does not have the \$16,000 - \$25,000.00 to afford the cost of subdividing his or her land, they will not build anything and the land will continue in an “unused” or “underutilized” condition, thereby negating the forced infill objective of the so-called “reasonable measure.”

For further clarification, based on the March 2020 Director’s interpretation, if an individual has a parcel sized, let’s say 17,500 S.F., if footnote 25 was the consideration then it could support a single-family home. However, with the Director’s Code interpretation, “minimum density” in Urban Low and Urban Cluster Zones is the new rule. Here is how it works out. The minimum density in both these zones is 5-dwelling units per acre. An acre (43,560 S.F.) when divided by 5 yields a parcel size of 8,712 S.F. Now divide that into 17,500 S.F. and one now has a requirement to either subdivide the property into 2-lots or at a minimum build a duplex on the property.

NOTE FOR EMPHASIS, with the Director’s March 2020 Interpretation, the only way one can utilize property for a single-family home in either of these two zones is if it contains a lessor area than 17,000 S.F. really about 12,150 S.F. Note: between parcel sizes of 12,150 S.F. & 17,500 S.F. there is a “rounding up” issue of lot sizes divided by 8,712 S.F., which gets one to the magic “2” even though, clearly, 8,712 S.F. does not divide evenly into a parcel size between 12,150 and 17,500 S.F.

All of the foregoing comments are to illustrate what property owners and builders face with this Director’s Interpretation verses Footnote 25. Since the “Code Edits” are now in the public hearing process, this should be a part of that consideration and the **RECOMMENDATION is put it on the table so that the March 2020 Director’s Interpretation can be voided.** If Kitsap County wants to bring it back in another public hearing setting then so be it.



Kitsap County Department of Community Development

FORMAL DIRECTOR'S INTERPRETATION

Date: March 31, 2020

Location: Applicable to development within Kitsap County

Permit: Directors Interpretation-Formal

Subject of Interpretation

The subject of this interpretation is the relationship of density requirements of Kitsap County Code (KCC) and Footnote 25 of the Zoning Density, Dimensions, and Design Table and it answers the question of whether the footnote exempts density requirements for residential development in certain zones.

KCC 17.420.020(A), under the heading of *Density, Dimensions, and Design; Measurement Methods*, sets forth how density is to be calculated in zones where density is prescribed. It states in full:

Density. Except as provided in Section 17.420.060(A)(18),¹ density shall be calculated as follows: In all zones where a maximum or base density is identified, maximum or base density is calculated on gross acreage of the site. In all zones where a minimum density is required, minimum density is calculated on net developable acreage. If a calculation results in a partial dwelling unit, the partial dwelling unit shall be rounded to the nearest whole number. Less than one-half shall be rounded down. Greater than or equal to one-half shall be rounded up.

KCC 17.420.052 is the *Rural, resource, and urban residential zones density and dimensions table* and the first two rows of the table identify the minimum and maximum densities required in each of the subject zones. In the Urban Low (UL) and Urban Cluster Residential (UCR) zones a minimum density of 5 dwelling units per acre and a maximum density of 9 dwelling units per acre is required. There are no footnotes to the UL or UCR density requirements that identify limitations or other requirements.

KCC 17.420.060(A)(25), under the heading of *Density, Dimensions, and Design; Footnotes for Tables*, is a footnote to the 9,000 square foot maximum lot size requirement for the Urban Low (UL) and Urban Cluster Residential (UCR) zones and requires, with limited exceptions, that vacant lots over 18,000 square feet be subdivided. It states in full:

For new building permit applications on vacant lots over eighteen thousand square feet located in urban low residential (ULR) and urban cluster residential (UCR) zones, the maximum lot size shall not exceed nine thousand square feet. This restriction shall not apply if:

- a. The net developable area of the existing parcel is less than eighteen thousand square feet; or

¹ Footnote 18 calculates all densities in the Urban Restricted and Greenbelt zones on net density.

- b. The project application will meet minimum density requirements as established by this chapter.

KCC 17.100.030 is a general section requiring compliance for all buildings, structures, and uses of buildings and structures with Title 17. It states in full:

No building or other structure shall be constructed, improved, altered, enlarged, or moved; nor shall any use or occupancy of premises within the county be commenced or changed; nor shall any condition of or upon real property be caused or maintained, after the effective date of this title, except in conformity with conditions prescribed for each of the several zones established hereunder. It shall be unlawful for any person, firm, or corporation to erect, construct, establish, move into, alter, enlarge, use or cause to be used, any buildings, structures, improvements, or use of premises contrary to the provisions of this title; provided, however, conditions of approval as referred to in the changes to zones, amendments and alterations section, and the existing uses referred to in the interpretations and exceptions section, shall be allowed to continue in the manner and extent provided for therein. Where this title imposes greater restrictions than those imposed or required by other rules, regulations, or ordinances, the provisions of this title shall control.

Cause for Interpretation

This interpretation is prompted by concerns about determining density in residential zones and the 2016 requirement, adopted as a reasonable measure by Ord. 538-2016 and modified in 2018 by Ord. 559-2018, that Footnote 25 imposes on the ULR and UCR zones to divide 'parent parcels' that are over 18,000 sf once net developable area is removed from the area calculation. Some have urged that the usual density requirements of chapter 17.420 do not apply if Footnote 25 is met, but this is not the intent nor the department's interpretation of the code.

This interpretation re-iterates the codified requirements of ensuring density is met in zones where density is prescribed and harmonizes the understanding between the code references noted above. This interpretation is solely related to density requirements under chapter 17.420 under Kitsap County Code and does not modify legalities under state law. Furthermore, this interpretation may not be construed as an authorization to circumvent or violate state or federal laws.

Interpretation

Title 17 *Zoning* guides development within Kitsap County. It discusses density ranges, both minimum and maximum, that are based on original parcel size (maximum) and a reduced developable size based on net developable area (minimum). There is no demonstrated confusion that land use and building permits must comply with the density of the relevant zone described in the density rows of the Density and Dimension Tables of chapter 17.420 KCC. All uses must meet the density proscribed for the relevant zone, unless exempted by a specific density footnote. However, there is confusion about meeting density as it relates to Footnote 25 for the UL and UCR zones because subdivision is not required when density can otherwise be met. *This Footnote, however, does not and cannot provide a waiver to usual density requirements.*

First, Footnote 25 is specifically and solely a footnote associated with the maximum lot size requirements of KCC 17.420.052. It thus does not affect the usual maximum and minimum density requirements of the first two rows of the table. These density tables contain only one exception to the application of minimum density, and it is in the Urban Restricted and Greenbelt zones and only for limited circumstances. There is no other density exception.

Second, the 2018 exception to the subdivision requirement was intended to recognize and reduce the potential or perceived hardship of subdividing urban properties when the intended benefit of subdividing would not be realized. This was found to occur when environmental constraints of the parcel were such that subdivision would result in a smaller lot than the maximum that could be required. It was also found to occur when the property owner sought to develop the parcel at densities already required (i.e., 5-9 du/a). These exceptions were not intended to generally exempt permits from usual density requirements.

Third, all buildings and structures must comply with all of Title 17 requirements. While specific types of residences, such as single-family residences, may be allowed in a particular zone, this allowance does not negate the requirement to meet all applicable requirements, including density. Many of the questions from the public regarding Footnote 25 arose from building permits for single-family residences. There is no specific exception for building permits that would allow a building permit to be issued where the project does not comply with the density requirements.

Conclusion

When proposing residential development of any kind, density, as prescribed by KCC 17.420 *Density, Dimensions, and Design*, must be met. The requirement of KCC 17.420.060.A.25 to divide parcels in certain circumstances, does not dismiss density requirements, nor override density requirements of Kitsap County Code.

This decision is a final Type 1 decision of DCD and may be appealed within 14 days of the mailing date noted above pursuant to KCC 21.04.290.



March 31, 2020

Author of the Interpretation
Scott Diener
Manager, DSE, DCD

Date



Approved By
Jeff Rimack
Director, DCD