



Executive Summary

Department: Department of Community Development

Issue Title: Amendment to Kitsap County Code Title 17 'Zoning' regarding lot sizes in Urban Growth Areas

Meeting Date: January 24, 2018

Time Required: 15 minutes

Attendees: Louisa Garbo, Jim Bolger, Dave Ward, Liz Williams, Darren Gurnee

Action Requested At This Meeting:

Review proposed amendment to the Kitsap County Code prior to the public hearing on February 12, 2018.

Background

The Department of Community Development proposes an amendment to Kitsap County Code Title 17 'Zoning', Section 17.420.060 A.25 regarding **maximum lot size regulations in Urban Growth Areas**. A summary of the proposed code update can be found in **Attachment A**.

The amendment was introduced to the Board of County Commissioners during their briefing on October 4, 2017 and to the Planning Commission during their work study on October 17, 2017.

The current maximum lot size requirement was established in 2016 as a "reasonable measure" which potentially impacts 422 vacant parcels within Kitsap County Urban Growth Areas. The proposed amendment will reduce the number of potentially impacted parcels to 199. This proposed amendment intends to better align with the Kitsap County Comprehensive Plan policies and Kitsap Countywide Planning Policies regarding natural systems protection, livable urban communities and neighborhoods, and responsive government. Detail of the analysis is provided in **Attachment B**.

Consistency with the Kitsap County Comprehensive Plan 2016-2036

The Kitsap County Comprehensive Plan 2016-2036 is a policy document that helps guide decisions on services for a wide-range of critical County programs. The proposed amendment is consistent with the Plan by implementing:

- Land Use Policy 3. Address design variations in multifamily building design features and design variety through lot clustering, flexible setback requirements and mixed attached and detached housing types.
- Land Use Policy 54. In accordance with RCW 36.70A.070(5)(c):
 - to preserve rural character of the County, emphasize controlling rural development; assuring visual compatibility of rural development with the surrounding rural area,
 - reduce the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area,
 - protect critical areas, as provided in RCW 36.70A.060, and surface water and groundwater resources, and,
 - protect against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.
 - This policy is implemented through Comprehensive Plan Land Use designations, zoning designations, and zoning code provisions.
- Environment Policy 7. Regularly review relevant codes, development regulations and implementing programs to assure that the natural environment is being managed as an essential asset. Adaptive management strategies will be part of this regular review.
- Housing, Human Services Policy 12. Identify and remove regulatory barriers that limits access to or the provision of a diverse affordable housing supply.
- Economic Development Policy 12. Continue to develop, revise and provide for periodic review of development standards, the zoning code and related ordinances to build a streamlined, understandable, consistent and predictable building, land use and development application procedure.

Public Outreach

Prior to the Planning Commission public hearing, public outreach was conducted through the following methods:

- a dedicated and up-to-date webpage;
- notification to approximately 22,000 subscribers through a couple of Kitsap County notification systems (GovDelivery & NextDoor);
- postcard handouts; and
- meetings with various interested parties.

A public comment period was made available via an online form on October 19, 2017. The Planning Commission held a public hearing on November 14, 2017 to accept public testimony regarding the proposed amendment. The public comment period was extended to November 30, 2017 to receive additional written public testimony. A summary of the written and verbal testimony received throughout the Planning Commission public process can be found in **Attachment D**.

After the Planning Commission public hearing an additional direct notification to the 22,000 subscribers was delivered and provided an update regarding the progression of the code amendment.

The Planning Commission conducted deliberations on December 19, 2017 and recommended adoption of the proposed code amendment to the Kitsap County Board of Commissioners. The Planning Commission's findings of fact can be found in **Attachment E**.

Recommendation

The Department of Community Development recommends adoption of the Final Draft Ordinance for the proposed code amendment found in **Attachment F**, changes in detail are reflected on page six of the attachment.

Attachments:

Attachment A: Amendments to Kitsap County Development Code: Summary of Changes

Attachment B: Analysis of Maximum Lot Sizes - Summary of the Potential Impact of Amending Kitsap County Code 17.420.060(A)25

Attachment C: Summary of Outreach Before February 12, 2018

Attachment D: Planning Commission Written and Verbal Public Comment Matrix

Attachment E: Planning Commission Findings of Fact

Attachment F: Final Draft Ordinance

ORDINANCE AMENDING TITLE 17 (ZONING) OF KITSAP COUNTY
CODE REGARDING MAXIMUM LOT SIZE REGULATIONS IN URBAN
GROWTH AREAS

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Amendments to Kitsap County Development Code: Summary of Changes

ID	Topic (Subject)	KCC Ref	Action	Goal, Policy, or Explanation
1.	<p>Maximum Lot Size: (Achieving urban density in Urban Growth Areas (UGA))</p>	17.420.060 A.25	Provide exemptions from the subdivision requirements for lots over 18,000 square feet in Urban Growth Areas.	<p>The need to achieve a higher urban density within Urban Growth Areas is a consistent theme throughout the 2016 Comprehensive Plan. Current code requires subdivision of lots over 18,000 square feet within urban growth area and limits the lot size to no more than 9,000 square feet.</p> <p>Exemptions are proposed to increase consistency between the Kitsap County Code and the Comprehensive Plan by:</p> <ol style="list-style-type: none"> 1. increasing the ability to develop multiple housing types that still achieve minimum density requirements; and 2. protecting critical areas by reducing the potential need for reasonable use exemptions.

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Analysis of Maximum Lot Sizes - Summary of the Potential Impact of Amending Kitsap County Code 17.420.060(A)25

Background:

In 2015 the Central Puget Sound Growth Management Hearings Board determined that Kitsap County was not achieving urban densities within designated Urban Growth Areas and must address the issue. Kitsap County responded in 2016 by adopting maximum lot size requirements in Urban Low Residential (UL) and Urban Cluster Residential (UCR) zoning districts. The development regulation requires a vacant parcel over 18,000 square feet located in the UL or UCR zoning districts to subdivide into lots that do not exceed 9,000 square feet prior to issuing a building permit. The development regulation intends to reduce the potential for urban sprawl by ensuring larger parcels within designated Urban Growth Areas achieve higher density as development occurs.

However, the maximum lot size requirement has the potential to create unintended consequences. These consequences include the creation of parcels that are heavily encumbered by critical areas. This can lead to an increase in reasonable use exemptions and development occurring in critical and hazardous areas. Another consequence is reducing flexibility for the development community to propose projects that would otherwise achieve minimum density requirements for the zone. This can lead to a reduction in the type of housing choices available in Kitsap County.

For these reasons, the Department of Community Development (DCD) proposes to amend Section 17.420.060(A)25 of Kitsap County Code (herein referred to as footnote 25). The proposed amendment would exempt development projects from the subdivision requirement if:

1. The net developable area of the existing parcel is less than eighteen thousand square feet; or
2. The project meets minimum density requirements as established by chapter 17.420 'Density, Dimensions, and Design'.

Analysis:

An analysis of vacant parcels within the UL and UCR zoning districts was conducted by DCD staff in October 2017. The analysis focused on the impact the proposed amendment would have on privately-owned vacant parcels within the UL and UCR zones. Publicly-owned vacant parcels were removed from the analysis because they were assumed to provide a public benefit and would not likely be developed. The methodology used to determine net developable area was the same as Kitsap County's Buildable Lands Report. It accounts for stream and critical area setbacks and buffers by applying a 75% reduction for critical areas with buffers and a 50% reduction for lands within geologically hazardous areas that are moderate or areas of concern.



Kitsap County Department of Community Development

Table 1 shows an overview of the number of lots potentially affected before and after the proposed amendment. There were 1,209 privately-owned vacant parcels identified within the UL and UCR zones, of which 422 or 34.9% are greater than 18,000 square feet and subject to the exiting requirements of footnote 25. Next, privately-owned vacant parcels with a net developable area greater than 18,000 square feet were identified to determine the number of parcels that would be potentially impacted after the proposed amendment. Approximately 199 or 16.5% of privately-owned vacant parcels within the UL and UCR zones would still be potentially required to subdivide prior to issuance of a building permit.

Table 2 shows a summary of the ownership types that would be potentially impacted by the proposed amendment. Ownership can be linked to a person or family for 65.3% of the impacted vacant lots. 17.6% are owned by limited liability corporations and 9.5% are owned by trusts or estates. Churches own 6% and private utilities own the remaining 1.5% of vacant lots impacted by the proposed amendment.

Table 3 demonstrates that the proposed amendment still achieves the original intent of footnote 25 through the creation of between 2,332 and 8,416 developable lots which have the potential to accommodate between 5,830 and 21,040 residents.

The proposed amendment better aligns with county-wide planning policies including; natural systems protection, livable urban communities and neighborhoods, and responsive government. The proposed amendment intends to reduce the creation of lots encumbered by critical areas and the potential for reasonable use exemptions and furthers the protection of natural resources. Adding additional flexibility for projects that meet minimum density requirements also helps to ensure livable urban communities and neighborhoods that offer a wide variety of housing choices.

Estimated Impact of Proposed Amendment to KCC 17.420.060.A.25

Table 1: Number of Lots Affected Before and After Proposed Amendment

Row		Urban Growth Area (UGA)								Total
		Bremerton East	Bremerton West	Central Kitsap	Gorst	Kingston	Port Orchard	Poulsbo	Silverdale	
A	# of lots in UL & UCR zones	1,463	1,660	5,009	25	649	4,446		4,959	18,211
B	# of public vacant lots in UL & UCR zones	26	20	2		2	21		19	90
C	# of private vacant lots in UL & UCR zones	91	287	167	13	47	242		362	1,209
D	# of private vacant lots in Row C > 18,000sf*	48	82	78	5	19	97		93	422
E	% of private vacant lots impacted prior to proposed amendment	52.75%	28.57%	46.71%	38.46%	40.43%	40.08%	n/a	25.69%	34.9%
F	# of private vacant lots (Row D) with net buildable area > 18,000sf**	7	22	45		13	56		56	199
G	% of private vacant lots impacted after proposed amendment	7.7%	7.7%	26.9%	n/a	27.7%	23.1%	n/a	15.5%	16.5%

*Number of lots required to subdivide prior to the proposed amendment.

**Number of lots required to subdivide after the proposed amendment.

Table 2: Ownership of Private Vacant Lots Impacted by Proposed Amendment

Ownership Type	Urban Growth Area (UGA)								Total Lots	Percent of Total Lots
	Bremerton East	Bremerton West	Central Kitsap	Gorst	Kingston	Port Orchard	Poulsbo	Silverdale		
Church	1		3			4		4	12	6.0%
LLC/INC	2		7		3	8		15	35	17.6%
Person	4	20	34		7	30		35	130	65.3%
Trust/Estate		2	1		3	11		2	19	9.5%
Private Utility						3			3	1.5%
Total	7	22	45	n/a	13	56	n/a	56	199	100.0%

Table 3: Resulting Lots and Population Capacity Based on Proposed Amendment*

	Urban Growth Area (UGA)								Total Lots*	Population Capacity**
	Bremerton East	Bremerton West	Central Kitsap	Gorst	Kingston	Port Orchard	Poulsbo	Silverdale		
Resulting lots at 9,000sf max lot size	54	97	249		97	512		1,124	2,332	5,830
Resulting lots at 2,400sf min lot size	208	383	983		371	1986		4,286	8,416	21,040

*Net Developable Area was used to determine resulting lots. Resulting lots were rounded up to the nearest whole number.

**Assumes 2.5 persons per lot

Table 4: Summary of Net Developable Area of Vacant Lots Impacted by Proposed Amendment

	Urban Growth Area (UGA)								Total Lots
	Bremerton East	Bremerton West	Central Kitsap	Gorst	Kingston	Port Orchard	Poulsbo	Silverdale	
0.42 acres to 1.00 acre	2	15	28		8	28		24	105
1.01 acre to 5.00 acres	5	7	16		5	25		20	78
5.01 acres to 10.00 acres	0	0	1		0	2		7	10
10.00 + acres	0	0	0		0	1		5	6
TOTAL	7	22	45	0	13	56	0	56	199

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**Kitsap County Code Amendment Process
 Summary of Outreach Before February 12, 2018 Public Hearing**

Week	Audience	Reach	Outreach
10/19/2017 through 11/14/2017	Public	Webpage traffic	<ul style="list-style-type: none"> • Online Open House (project webpage) • “News” headlines and graphic “ads” on DCD homepage
		7,244 + newspaper readership	<ul style="list-style-type: none"> • GovDelivery announcement (email, SMS text, Facebook, Twitter) • Legal Notice in Kitsap Sun
		~ 14,000	<ul style="list-style-type: none"> • Nextdoor.com post
		n/a	<ul style="list-style-type: none"> • Postcards in Permit Center
	Interested Parties & Stakeholders	80 +	Announcement sent to DCD list: <ul style="list-style-type: none"> • Citizen Advisory Committees (CACs) • Tribal leadership • Planning Commission Members • Department Advisory Group (DAG) • Local, state, and federal agencies • Community organizations • Trade/business organizations • Others
4 CACs	n/a	<ul style="list-style-type: none"> • Postcards distributed 	
12/15/2017	Public	9,620	<ul style="list-style-type: none"> • Follow up announcement prior to planning commission deliberations via GovDelivery announcement (email, SMS text, Facebook, Twitter)
		~ 14,000	<ul style="list-style-type: none"> • Nextdoor.com post
1/29/2018 Through 2/9/2018	Public	# Pending + newspaper readership	<ul style="list-style-type: none"> • GovDelivery announcement (email, SMS text, Facebook, Twitter) • Legal Notice in Kitsap Sun
		~ # Pending	<ul style="list-style-type: none"> • Nextdoor.com post
		n/a	<ul style="list-style-type: none"> • Postcards in Permit Center
	Interested Parties & Stakeholders	80 +	Announcement sent to DCD list: <ul style="list-style-type: none"> • Citizen Advisory Committees (CACs) • Tribal leadership • Planning Commission Members • Department Advisory Group (DAG) • Local, state, and federal agencies • Community organizations • Trade/business organizations • Others

Estimated Total Reach:

- ~22,000 direct communications
- Newspaper readership
- 6 Tribes & 2 tribal organizations
- 4 CAC meetings

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Planning Commission Written and Verbal Public Comment Matrix			
Name	Method	Comment	Response to Comment
Mark Isis	In-Person at 11/14/2017 Public Hearing	<ul style="list-style-type: none"> - Proposals appear to be developed in a vacuum - Maximum lot size: how many parcels are affected by current code, how many would be affected by proposed code, staff should be providing this information, entire requirement should be removed - Staff should provide more analysis so that an informed recommendation can be made by planning commission 	<p>Maximum Lot Size Exemption: No change recommended Planning Commission Deliberation: December 19, 2017</p> <p>The maximum lot size requirement was established in 2016 as a "reasonable measure" and impacts approximately 422 vacant parcels within Kitsap County Urban Growth Areas. The proposed code amendment would reduce the number of vacant parcels impacted to 199 and . The analysis suggests that the proposed code amendment better aligns with Kitsap County Comprehensive Plan and county-wide planning policies including; natural systems protection, livable urban communities and neighborhoods, and responsive government. The proposed amendment intends to reduce the creation of lots encumbered by critical areas and the potential for reasonable use exemptions and furthers the protection of natural resources. Adding additional flexibility for projects that meet minimum density requirements also helps to ensure livable urban communities and neighborhoods that offer a wide variety of housing choices.</p>
Kevin	Online	The maximum lot size exemption shouldn't have been implemented to begin with. If I own vacant land, I should be able to build a single-family dwelling without having to go through the process of subdividing. The net result is having to have unnecessary multiple taxable parcels, which are not guaranteed to be built on, but they sure as heck will be taxed like that. Setbacks and other development restrictions will limit the buildable area. There are too many two-story houses in this community and not enough opportunity for property owners to build something that suits them so they can grow old in place. I hope you end up in a nursing home, because you can't climb the stairs in your house, for even thinking this is a good idea.	<p>Maximum Lot Size Exemption: No change recommended Planning Commission Deliberation: December 19, 2017</p> <p>The code requirements were established in 2016 as a "reasonable measure" and impacts approximately 422 vacant parcels within Kitsap County Urban Growth Areas. The proposed code amendment would reduce the number of vacant parcels impacted to 199. The analysis suggests that the proposed code amendment better aligns with Kitsap County Comprehensive Plan and county-wide planning policies including; natural systems protection, livable urban communities and neighborhoods, and responsive government. The proposed amendment intends to reduce the creation of lots encumbered by critical areas and the potential for reasonable use exemptions and furthers the protection of natural resources. Adding additional flexibility for projects that meet minimum density requirements also helps to ensure livable urban communities and neighborhoods that offer a wide variety of housing choices.</p>
Pat Fuhrer	Online Form	<p>I think that this maximum lot size exemption is a carry over from the legacy lot aggregation Staff proposal during the Comp Plan Update last year.....it is NOT a Reasonable Measure to promote density in the UGA, and will affect citizens who own larger parcels in the subject zones adversely if they plan on building a single home, by FORCING them to do an expensive subdivision, which leads to street frontage improvements, additional storm water improvements, extending sewer mains in the streets, etc.</p> <p>It is NOT a reasonable measure because property owners are not going to do be able to pencil these small subdivisions!</p> <p>If Staff feels that this is a MANDATE from the Growth Management Gurus on-on-high and there is no way around the max. lot size.....then lets go back to the pre-plan submittal days of yore, and show how a large parcel MAY be further divided in the future, and require their proposed building to comply with the pre-plan..... and ditch the maximum lot size idea please!</p>	<p>Maximum Lot Size Exemption: No change recommended Planning Commission Deliberation: December 19, 2017</p> <p>The code requirements were established in 2016 as a "reasonable measure" and impacts approximately 422 vacant parcels within Kitsap County Urban Growth Areas. The proposed code amendment would reduce the number of vacant parcels impacted to 199. The analysis suggests that the proposed code amendment better aligns with Kitsap County Comprehensive Plan and county-wide planning policies including; natural systems protection, livable urban communities and neighborhoods, and responsive government. The proposed amendment intends to reduce the creation of lots encumbered by critical areas and the potential for reasonable use exemptions and furthers the protection of natural resources. Adding additional flexibility for projects that meet minimum density requirements also helps to ensure livable urban communities and neighborhoods that offer a wide variety of housing choices.</p> <p>Preplanning or "shadowplanning" was established as part of Kitsap County Code until the development regulations were removed as a reasonable measure "to encourage sewer connection and urban densities sooner" as stated in the Kitsap County August 2007 Buildable Lands Report: Appendix C 'Reasonable Measures'. Changing Kitsap County Code to allow preplanning is not recommended at this time.</p>

Planning Commission Written and Verbal Public Comment Matrix			
Name	Method	Comment	Response to Comment
Chris Ehler	Online Form	I own a .94 acre (UL) 5-9 dwellings per acre lot and would like exceptions. There is no sewer nearby and I have type 4 soils with public water source. There should be exceptions if there is no sewer nearby. The health department requires 18,000 sq. feet minimum for a single family home septic with type 4 soils and a public water source.	<p>Maximum Lot Size Exemption: No change recommended Planning Commission Deliberation: December 19, 2017</p> <p>The code requirements were established in 2016 as a "reasonable measure" and impacts approximately 422 vacant parcels within Kitsap County Urban Growth Areas. The proposed code amendment would reduce the number of vacant parcels impacted to 199. The analysis suggests that the proposed code amendment better aligns with Kitsap County Comprehensive Plan and county-wide planning policies including: natural systems protection, livable urban communities and neighborhoods, and responsive government. The proposed amendment intends to reduce the creation of lots encumbered by critical areas and the potential for reasonable use exemptions and furthers the protection of natural resources. Adding additional flexibility for projects that meet minimum density requirements also helps to ensure livable urban communities and neighborhoods that offer a wide variety of housing choices.</p>
Gary T. Chrey	Online form and Email	<p>Greetings,</p> <p>I am the owner of Kitsap County tax parcel number 032401-3-095-2004 which is zoned Urban Low Residential and is located in the Rocky Point area of Kitsap County. This email is submitted as a comment regarding the consideration by the Kitsap County Planning Commission and the Kitsap County Board of Commissioners of the proposed revision to the Maximum Lot Size language of Section 17.420.060 A.25 of the Kitsap County Code. I have included with this email as an attachment a copy of the Staff Report for the Planning Commission dated November 6, 2017 that was prepared for the hearing that was held on November 14, 2017 for your convenient reference. Please confirm receipt of this email by return email. Kitsap County implemented this Code provision as a Reasonable Measure to induce more building permits to be issued in the Urban Growth Areas. The proposed revision is proposed to clarify issues that have arisen from the implementation of the initial code provision. For example, if the owner proposes an apartment building on a lot in one of these zones that achieved the gross density allowed by the zone (maximum density, gross acreage times maximum density of the zone), the current code does not recognize that the density goals would be achieved in the absence of a subdivision. As far as the addition of the proposed "net developable area" clause is concerned, it is my understanding that this has already been implemented in practicality because the subdivision standards address minimum required density as being based upon the net developable area. Net developable area is defined as the gross parcel area minus critical areas, roads, storm water management tracts, community drainfields, recreational tracts and so forth. Therefore, it appears that the proposed revisions only provide clarification of the requirement without really addressing the problem. As previously stated, Kitsap County proposed this code element as a Reasonable Measure to achieve a higher ratio of building permits issued in the Urban Growth Areas. The GMA goal is that 90% of building permits should be issued in Urban Growth Areas and therefore less than 10% should be issued in rural areas.</p>	<p>Maximum Lot Size Exemption: No change recommended Planning Commission Deliberation: December 19, 2017</p> <p>Confirmation of receipt was provided on November 30, 2017.</p> <p>The code requirements were established in 2016 as a "reasonable measure" and impacts approximately 422 vacant parcels within Kitsap County Urban Growth Areas. The proposed code amendment would reduce the number of vacant parcels impacted to 199. The analysis suggests that the proposed code amendment better aligns with Kitsap County Comprehensive Plan policies and county-wide planning policies including: natural systems protection, livable urban communities and neighborhoods, and responsive government. The proposed amendment intends to reduce the creation of lots encumbered by critical areas and the potential for reasonable use exemptions and furthers the protection of natural resources. Adding additional flexibility for projects that meet minimum density requirements also helps to ensure livable urban communities and neighborhoods that offer a wide variety of housing choices.</p> <p>In August 2016, a maximum lot size was established for Urban Cluster Residential and Urban Low Residential zoning designations to help achieve minimum density requirements. However, recurring issues have emerged that warrant a change in code to refine the language adopted in 2016. As proposed, the method used to calculate whether an 18,000 square foot threshold is met, as identified in 17.420.060 A.25, would change from gross area to net developable area. The 18,000 square foot threshold identifies when a footnote (17.420.060 A.25) applies to a parcel, it is not used in a direct calculation of density.</p>

Planning Commission Written and Verbal Public Comment Matrix			
Name	Method	Comment	Response to Comment
Gary T. Chrey Continued Testimony	Online form and Email	<p>The Kitsap Building Association and the development community have previously argued that this is actually an Unreasonable Measure because the uncertainty, cost, frustration and anxiety of going through a subdivision, short plat or not, is not something a person trying to build one house is going to attempt. That person, who would have happily lived in the Urban Growth Area on an oversized lot (greater than 18,000 SF), will find it easier to buy and build on 5 acres in the non-Urban Growth Areas which is counterproductive to the goal of the provision. It is my understanding that the Department of Community Development has received numerous complaints from the public about this "Reasonable Measure" which indicates to me that the requirement does not have the support of the public. It would be interesting to know how many homes that would have otherwise been built in the Urban Growth Areas have now been built in Rural areas of the County.</p> <p>I just sent in a comment, but not all of it was transmitted. Here is the remainder of my comment which begins at the beginning of the sentence that was truncated. I will also send the complete comment to Dave Ward and Darren Gurnee by email and ask them to include it in the record. Thank you.</p>	Preplanning or "shadowplanning" was established as part of Kitsap County Code until the development regulations were removed as a reasonable measure "to encourage sewer connection and urban densities sooner" as stated in the Kitsap County August 2007 Buildable Lands Report: Appendix C 'Reasonable Measures'. Changing Kitsap County Code to allow preplanning is not recommended at this time.
Gary T. Chrey Continued Testimony	Online form and Email	<p>It is clear that the proposed revisions do not improve this ineffective and counterproductive code provision. Other jurisdiction have addressed this issue through "preplanning" which requires that the home be positioned on the lot so that the minimum density of the zone can be achieved with a future subdivision. Kitsap County once allowed preplanning but did not have a good experience and deleted the option years ago. Perhaps this provision should be brought back with better application by DCD to avoid the previous problems. As an alternative, perhaps Kitsap County should consider allowing 2 or 3 lot short plats as needed to achieve this minimum density pursuant to an over the counter same day permit. Another alternative would be for this provision to recognize elements such as availability of sanitary sewer or othe Another alternative would be for this provision to recognize elements such as availability of sanitary sewer or other infrastructure required to achieve densities related to 9000 SF lot sizes. For example, should the provision be limited to parcels within 200 feet of an existing sanitary sewer? At the end of the day, perhaps the most straightforward solution would be for this provision to be repealed in its entirety.</p> <p>Please do not hesitate to email or call with any questions.</p> <p>Thank you for your consideration.</p> <p>GARY T. CHREY chrey@shierslaw.com</p>	

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KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

1 **Attachment A: Planning Commission Findings of Fact**
2 **FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATIONS OF THE KITSAP COUNTY**
3 **PLANNING COMMISSION, TO THE DEPARTMENT OF COMMUNITY DEVELOPMENT, REGARDING**
4 **ONE PROPOSED CODE AMENDMENT TO KITSAP COUNTY CODE TITLE 17 'ZONING'.**

5
6 The Kitsap County Planning Commission finds as follows:

- 7 1) Kitsap County is subject to the requirements of the Washington State Growth Management
8 Act (GMA), Chapter 36.70A RCW.
- 9 2) The GMA, RCW 36.70A.130(5), mandates that Kitsap County's Comprehensive Plan and
10 development regulations be reviewed and, if needed, revised at least every 8-years. The
11 most recent Kitsap County 8-year update concluded with the adoption of the 2016 Kitsap
12 County Comprehensive Plan on June 27, 2016 by Ordinance 534-2016.
- 13 3) The GMA, RCW 36.70A.130(1), also mandates that Kitsap County's Comprehensive Plan and
14 development regulations be subject to continuing review and evaluation.
- 15 4) The Department of Community Development originally proposed three amendments to
16 Kitsap County Code intended to increase consistency with Comprehensive Plan policies and
17 Countywide Planning policies. After public hearing, two amendments were withdrawn by
18 the Department of Community Development prior to the Planning Commission's
19 deliberation on the proposed amendments.
- 20 5) The amendment process began on October 4, 2017 with a briefing between the Board of
21 County Commissioners and the Department of Community Development.
- 22 6) A public comment period on the proposed amendment to Kitsap County Code was open
23 October 19, 2017 through November 30, 2017. Twelve comments were received through
24 verbal testimony and written comment, five of which pertained to the code amendment
25 regarding maximum lot size regulations.
- 26 7) Public outreach regarding the proposed amendment to Kitsap County Code was conducted
27 through a dedicated and up-to-date web page, direct notification to over 22,000 subscribers
28 to various Kitsap County notification lists (GovDelivery & NextDoor), and meetings with
29 various interested parties.
- 30 8) On October 17, 2017, the Kitsap County Planning Commission held a regularly scheduled
31 and properly noticed work study session to review the proposed amendment to Kitsap
32 County Code.



KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

- 1 9) On November 14, 2017, following effective and timely legal notice, the Kitsap County
2 Planning Commission held a public hearing to accept testimony on the proposed
3 amendment to Kitsap County Code.
- 4 10) The Kitsap County Planning Commission considered the proposed amendment to Kitsap
5 County Code on December 19, 2017, a regularly scheduled meeting and properly noticed,
6 and recommended approval through a commission vote of six in favor and two opposed.
- 7 11) The proposed amendment to Kitsap County Code is consistent with GMA, Kitsap County-
8 wide Planning Polices, the Kitsap County Comprehensive Plan, and other applicable
9 requirements.
- 10 12) The proposed amendment to Kitsap County Code promote the public interest and welfare
11 of the citizens of Kitsap County, and should be approved.

12 **NOW THEREFORE**, the Kitsap County Planning Commission recommends to the Department of
13 Community Development as follows:

14 **RECOMMENDATION:** Adopt the proposed amendments to Kitsap County Code attached
15 hereto as Appendix A and incorporated herein by this reference:

16 **APPROVED BY THE PLANNING COMMISSION OF KITSAP COUNTY, WASHINGTON, AT A REGULAR**
17 **MEETING THEREOF, HELD THIS 16ND DAY OF JANUARY 2018.**

18
19 BY _____
20 **ROBERT BAGLIO, CHAIR**



KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

APPENDIX A

MAXIMUM LOT SIZE

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17.420.060 Footnotes for Tables.

A. Where noted on the preceding tables, the following additional provisions apply:

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; ~~provided, however, that this restriction shall not apply if it conflicts with a condition imposed through subdivision approval.~~ This restriction shall not apply if:

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

a.b. The project application will meet minimum density requirements as established by chapter 17.420 'Density, Dimensions, and Design'.

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ORDINANCE NO. ____ -2018

**ORDINANCE AMENDING TITLE 17 (ZONING) OF KITSAP COUNTY CODE
REGARDING MAXIMUM LOT SIZE REGULATIONS IN URBAN GROWTH AREAS.**

BE IT ORDAINED:

Section 1. **General Findings.** The Kitsap County Board of Commissioners makes the following findings:

1. Kitsap County is subject to the requirements of the Washington State Growth Management Act (GMA), Chapter 36.70A RCW.
2. The GMA, RCW 36.70A.130(5), mandates that Kitsap County's Comprehensive Plan and development regulations be reviewed and, if needed, revised at least every 8-years. The most recent Kitsap County 8-year update concluded with the adoption of the 2016 Kitsap County Comprehensive Plan on June 27, 2016 by Ordinance 534-2016.
3. The GMA, RCW 36.70A.130(1), also mandates that Kitsap County's Comprehensive Plan and development regulations be subject to continuing review and evaluation.
4. RCW 36.32.120(7) provides that the county legislative authorities shall make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law.
5. After review of the Kitsap County Code, the Department of Community Development identified one code amendment that aligns with Kitsap County Comprehensive Plan policies and county-wide planning policies including: natural systems protection, livable urban communities and neighborhoods, and responsive government.

Section 2. **General Procedural Findings.** The Kitsap County Board of Commissioners makes the following findings regarding the public participation process:

1. On October 4, 2017, a briefing between the Board of County Commissioners and the Department of Community Development was held to discuss the proposed code amendment.
2. On October 17, 2017, at a regularly scheduled and properly noticed meeting, the Planning Commission held a work study session to review and discuss the proposed code amendment.
3. Public outreach regarding the proposed code amendment was conducted through a dedicated and up-to-date web page, direct notification to over 22,000 subscribers, and meetings with various interested parties prior to a Planning Commission public hearing.
4. An initial public comment period on the proposed code amendment was held online from October 19, 2017 through November 14, 2017.

5. On October 31, 2017, Kitsap County issued a Notice of Planning Commission Public Hearing in the legal publication of record regarding the content of the proposed code amendment.
6. On November 14, 2017, following timely and effective legal notice, the Planning Commission held a public hearing to consider written and verbal testimony on the proposed code amendment. The public comment period was extended to November 30, 2017 to receive additional written public testimony. Five comments were received through verbal testimony and written comment.
7. Public outreach included a second direct notification to over 22,000 subscribers prior to a Planning Commission deliberation.
8. On December 19, 2017, the Planning Commission considered the proposed code amendment during a regularly scheduled and properly noticed meeting, and recommended approval.
9. On January 16, 2018, the Planning Commission approved Findings of Fact on the proposed code amendment during a regularly scheduled and properly noticed meeting and forwarded them to the Board of Commissioners for consideration.
10. On January 22, Kitsap County, as lead agency for the State Environmental Policy Act (SEPA), issued a Determination of Non-Significance on the proposed code amendment.
11. On January 24, 2018, a work study between the Board of County Commissioners and the Department of Community Development was held to discuss the proposed code amendment.
12. A second public comment period on the proposed code amendment was held January 29, 2018 through February 9, 2018.
13. On February 12, 2018, following effective and timely legal notice, the Kitsap County Board of County Commissioners held a public hearing to accept testimony on the proposed code amendment.
14. On February 26, 2018, the Board of County Commissioners deliberated on the proposed code amendment and, after consideration of public comment and the entire record related to this ordinance, made a final decision to adopt this ordinance.

Section 3. **Substantive Findings.** The Board of County Commissioners makes the following findings with respect to the amendments Title 17 (Zoning) of the Kitsap County Code:

1. The proposed code amendment was developed according to, and are found to comply with, the requirements of the GMA, Chapter 36.70A RCW, the County-wide Planning Polices, the Kitsap County Comprehensive Plan, and other applicable laws and policies.

2. There has been public participation in the review of the proposed code amendment, as required by the GMA, and consistent with the State Environmental Policy Act and Kitsap County Code.
3. The proposed code amendment promotes the public interest and welfare of the citizens of Kitsap County.

Section 4. Kitsap County Code Section 17.420.060 ‘Footnotes for Density, Dimensions, and Design Tables’, last amended by Ordinance 540 (2016), is amended as follows:

17.420.060 Footnotes for tables.

A. Where noted on the preceding tables, the following additional provisions apply:

1. Except for those buildings directly associated with timber production and harvest.
2. Except for silos and other uninhabited agricultural buildings.
3. Properties within the urban restricted (UR) zone and greenbelt (GB) may subdivide at densities below the minimum required for the zone under the following circumstances:
 - a. The reduced density provides a greater protection for critical areas or environmentally sensitive areas; and
 - b. The intent of the short subdivision or subdivision is to keep the property in the ownership of the immediate family members.
4. If a single lot of record, legally created as of April 19, 1999, is smaller in total square footage than that required under this chapter, or if the dimensions of the lot are less than required, said lot may be occupied by any reasonable use allowed within the zone subject to all other requirements of this chapter. If there are contiguous lots of record held in common ownership, each of the lots legally created as of April 19, 1999, and one or more of the lots is smaller in total square footage than required by this chapter, or the dimensions of one or more of them are less than required, said lots shall be combined to meet the minimum lot requirements for size and dimensions.
5. The Design Standards for the Community of Kingston sets forth policies and regulations for properties within the downtown area of Kingston. All development within this area must be consistent with these standards. A copy of the Design Standards for the Community of Kingston may be referred to on the Kitsap County web page or at the department of community development front counter.
6. Building replacements and remodels shall not create in excess of a total of forty percent hard surface for lot area or more than the total existing hard surface area, whichever is greater.
7. Excess area from acreage used to support proposed densities but not devoted to residential lots and public improvements such as streets and alleys shall be permanently dedicated and reserved for community open space, park land, and similar uses. For

developments proposing densities no greater than one dwelling unit per five acres, the minimum and maximum lot sizes shall not apply, except that existing dwelling units shall be allocated lot area between three thousand five hundred and seven thousand five hundred square feet. New proposals may then proceed using the five-acre lot requirements for the rural residential (RR) zone.

8. Hotels may be developed with four above-ground floors and up to a height not exceeding fifty feet with approval of the fire marshal and relevant fire district.

9. May be reduced to ten feet for residential uses through the administrative conditional use or PBD process.

10. Uses allowed through the conditional use process shall provide minimum side setbacks of ten feet and minimum rear setbacks of twenty feet.

11. Any newly created lot within the Suquamish rural village shall be subject to Chapter 16.48, Short Subdivisions, and must meet the lot requirements below:

a. Lot Requirements.

i. Minimum lot size: twenty-one thousand seven hundred eighty square feet.

ii. Minimum lot width: one hundred feet.

iii. Minimum lot depth: one hundred feet.

b. Setbacks.

i. Front: twenty feet.

ii. Side: five feet.

iii. Rear: five feet.

12. Nonconforming Lots.

a. Nonconforming Lots in Single Ownership. If a single lot of record, legally created before the adoption of the Manchester Community Plan, is less than eight thousand seven hundred twelve square feet in size or does not meet the dimensional requirements of its zone, the lot may be occupied by any use allowed within the zone subject to all other requirements of this chapter.

b. Nonconforming Lots in Common Ownership. Contiguous lots of record held in common ownership, each lot legally created before adoption of the Manchester Community Plan, must be combined to meet the minimum lot requirements of its zone if one or more of the lots are less than eight thousand seven hundred twelve square feet in size or do not meet the dimensional requirements of its zone and, at the time of adoption of the Manchester Community Plan (March 18, 2002), either (i) a residential structure encumbered more than one of the contiguous lots or (ii) two or more of the contiguous lots were vacant. If one or more of the lots is sold or otherwise removed from common ownership after the adoption of the Manchester Community Plan, it will not be

considered to meet the minimum lot requirements for nonconforming lots in single ownership. Property with two contiguous lots legally created before adoption of the Manchester Community Plan with a residential structure entirely on one lot may develop the second lot consistent with applicable zoning.

13. Residential structures within the MVC zone may not exceed twenty-eight feet.
14. Within the view protection overlay, the maximum height for buildings and new vegetation shall be twenty-eight feet. Height shall be measured from the average elevation of the property's buildable area to the structure's highest point. Kitsap County will not enforce vegetation height standards. Buildable area is considered all portions of the property except wetlands and/or geologically hazardous areas. Properties within the view protection overlay zone may build or have new vegetation as high as thirty-five feet under the following circumstances:
 - a. There is no existing view of downtown Seattle, the Cascade Mountains, Mt. Rainier or the Puget Sound from the subject property or any adjacent property; or
 - b. The owners of all adjacent properties approve the building height prior to building permit issuance; or
 - c. It can be explicitly shown that the structure will not cause the blockage of existing views from any of the adjacent properties.
15. Clustering residential development is encouraged in all development. When clustering development, if a property owner designates forty percent of the gross acreage as naturally vegetated open space, he or she may create one additional lot for every five lots clustered. The additional lot may not reduce the naturally vegetated open space to an amount less than forty percent of the gross acreage of the development.
16. All properties within the Manchester village must also meet the requirements of the storm water management ordinance, Chapters 12.04 through 12.32.
17. A greater height may be allowed as set forth below and in accordance with the procedures in Title 21. Such approval must be consistent with the recommendations of the fire marshal/fire district and compatible with surrounding uses and zones. Such approval shall result in a decrease in building coverage, an increase in public amenities, and/or a more creative or efficient use of land. The maximum building height approved by the director shall not exceed:
 - a. In the NC and P zones: forty-five feet.
 - b. In the UH and C zones: sixty-five feet.
 - c. In the UM, BP, BC, and IND zones: fifty-five feet.
 - d. Height and density requirements for urban high and regional center reflected in Table 17.420.050(D), Silverdale Regional Center and Design District Density and Dimension Table.

18. The minimum and maximum densities within the range are based upon the net acreage of the property(ies) after the removal of critical areas. In determining a development proposal's actual density within the range, the features of the subject parcel including on-site or adjacent wetlands, streams or steep slopes shall be considered first.
19. Reserved.
20. Reserved.
21. Twenty feet when abutting a residential zone.
22. Maximum height shall be thirty feet when located within the two-hundred-foot shoreline area.
23. The minimum site setback shall be seventy-five feet for any yard abutting a residential zone, unless, based upon a site-specific determination, berming and landscaping approved by the director is provided that will effectively screen and buffer the business park activities from the residential zone that it abuts; in which case, the minimum site setback may be reduced to less than seventy-five feet but no less than twenty-five feet. In all other cases, minimum site setbacks shall be twenty feet.
24. An individual structure intended for future mixed commercial and residential uses may initially be used exclusively for residential use if designed and constructed for eventual conversion to mixed commercial and residential use once the urban village center matures.
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; ~~provided, however, that this restriction shall not apply if it conflicts with a condition imposed through subdivision approval.~~ 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 chapter 17.420 'Density, Dimensions, and Design'.
26. No service road, spur track, or hard stand shall be permitted within required yard areas that abut a residential zone.
27. As approved by the director, wherever an industrial zone abuts a residential zone, a fifty-foot screening buffer area shall be provided. This screening buffer is intended to reduce impacts to abutting residential uses such as noise, light, odors, dust and structure bulk. No structures, open storage, or parking shall be allowed within this area. The director shall only approve screening buffers that improve the compatibility between the proposed use and the residential zone. The director may reduce this buffer to a minimum of twenty-five-foot width only when based upon a site-specific determination that topography, berming or other screening features will effectively screen industrial activities from the residential zone.

Conversely, based upon a similar site-specific determination, the director may increase the buffer width from fifty feet to ensure adequate buffering and compatibility between uses.

28. Unless part of an approved zero-lot-line development.
29. One-hundred-foot setback required for single-family buildings abutting FRL or RW zones.
30. No minimum lot size if property is used only for extraction.
31. Three hundred thirty feet if activity includes any uses in Section 17.170.020.
32. Existing lots developed with existing single-family residences are permitted to be maintained, renovated and structurally altered. Additions to existing residential structures in order to provide commercial uses are also permitted regardless of density.
33. Except for the height and density requirements reflected in Table 17.420.050(D), Silverdale Regional Center and Design District Density and Dimension Table, all development within the Silverdale design district boundaries must be consistent with the Silverdale Design Standards.
34. Development abutting a street for which a standard has been established by the Kitsap County arterial plan shall provide a special setback from the centerline of said street or a distance adequate to accommodate one-half of the right-of-way standard established by the arterial plans for the street. The building setback required by the underlying zone shall be in addition to the special setback and shall be measured from the edge of the special setback line. The special setback area shall be treated as additional required yard area and reserved for future street widening purposes.
35. Reserved.
36. For standards applicable to master planned industrial developments and approved industrial parks, see Sections 17.320.030 and 17.330.030.
37. Adjacent to airports, the director may impose height restrictions and/or other land use controls, as deemed essential to prevent the establishment of air space obstructions in air approaches to protect the public health, safety and welfare consistent with Federal Aviation Regulations (FAR) Part 77.
38. Cornices, canopies, eaves, belt courses, sills or other similar architectural features, or fireplaces may extend up to twenty-four inches into any required yard area.
39. Reserved.
40. Height limitations set forth elsewhere in this title shall not apply to the following: barns, silos, or other farm buildings and structures, provided they are not less than fifty feet from every lot line; chimneys, spires on places of worship, belfries, cupolas, domes, smokestacks, flagpoles, grain elevators, cooling towers, solar energy systems, monuments, fire house towers, masts, aerials, elevator shafts, and other similar projections; and outdoor theater screens, provided said screens contain no advertising matter other than the name of

the theater. The proponent seeking exception to the height limitation shall certify that the object being considered under this provision will not shade an existing solar energy system which, by the determination of the director, contributes substantially to the space or water-heating requirements of a building.

41. The following exceptions apply to front yard requirements for dwellings:

- a. If there are dwellings on both abutting lots with front yards less than the required depth for the zone, the front yard for the lot need not exceed the average front yard of the abutting dwellings.
- b. If there is a dwelling on one abutting lot with a front yard less than the required depth for the zone, the front yard need not exceed a depth of halfway between the depth of the front yard on the abutting lot and the required front yard depth.
- c. If a modification to the front yard requirement is necessary in order to site dwellings in a manner that maximizes solar access, the director may modify the requirement.
- d. On lots with multiple front yards, the front yard setback(s) in which the lot does not receive access may be modified by the director. Based upon topography, critical areas or other site constraints, the director may reduce these front yard setbacks to a minimum of twenty feet for properties requiring fifty feet and ten feet for properties requiring twenty feet. The director may not modify front yard setbacks from county arterials or collectors. Such reductions shall not have an adverse impact to surrounding properties.

42. The following exceptions apply to historic lots:

- a. Building setback lines that do not meet the requirements of this title but were legally established prior to the adoption of this title shall be considered the building line for alterations, remodels, and accessory structures on the lot or parcel; providing, that no structure or portion of such addition may further project beyond the established building line.
- b. Any single-family residential lot of record as defined in Chapter 17.110 that has a smaller width or lot depth than that required by this title, or is less than one acre, may use that residential zoning classification that most closely corresponds to the dimension or dimensions of the lot of record, for the purpose of establishing setbacks from the property lines.

43. Any structure otherwise permitted under this section may be placed on a lot or parcel within a required yard area if the director finds that such a location is necessary because existing sewer systems or roadways make compliance with the yard area requirements of this title impossible without substantial changes to the site.

44. Outside of the Silverdale subarea, densities required only with mixed use development.

45. Density in the KVLRL zone may be increased to three units per acre through a performance-based development (PBD) process pursuant to the regulations cited in Section 17.360A.030(B).

46. Front porch must meet following requirements to qualify for five-foot front setback:
 - a. Porch shall be forty percent open on each of two sides; no enclosed porches.
 - b. Minimum porch dimensions shall be four feet by six feet, or twenty-four square feet.
 - c. Porches shall not be less than four feet in width.
47. The 2007 Manchester Community Plan, Appendix A – Manchester Design Standards sets forth policies and regulations for properties within the Manchester village commercial district (MVC). All developments within the MVC district must be consistent with these standards.
48. Cornices, canopies, eaves, belt courses, sills, bay windows, fireplaces or other similar cantilevered features may extend up to twenty-four inches into any required yard area. In no case shall a habitable area be considered for encroachment into a required yard through any land use process. Additionally, fire escapes, open/uncovered porches, balconies, landing places or outside stairways may extend up to twenty-four inches into any required side or rear yards, and shall not extend more than six feet into any required front yard. This is not to be construed as prohibiting open porches or stoops not exceeding eighteen inches in height, and not closer than twenty-four inches to any lot line.
49. Minimum project size applies to the initial land use application for the property such as master plan, PBD or other mechanism. Subsequent subdivision through platting or binding site plan consistent with scope and conditions of the land use approval is not required to meet this minimum size.
50. New or remodeled structures within the Illahee view protection overlay zone may not exceed twenty-eight feet. Kitsap County will not enforce vegetation height standards.
51. Reserved.
52. No motor vehicle parking allowed within the front yard setback. See also Section 17.400.060 regarding conditions under which maximum setbacks may increase, as well as parking location standards.
53. Within the Gorst urban growth area, density, impervious surface coverage and height may be increased to the maximum listed in the density and dimensions table through compliance with the incentive program described in Section 17.400.080(B).
54. Standard listed applicable to Gorst UGA only.
55. Parcels located within the Silverdale Regional Center shall refer to the design standards identified in Table 17.420.050(D), Silverdale Regional Center and Design District Density and Dimension Table.
56. Height and density may be increased through Chapter 17.450, Performance Based Development, or if a project qualifies as mixed use development and meets modification or waiver request criteria as identified in Section 17.420.035, Additional mixed use development standards.

57. Mixed use projects are not required to meet the minimum density requirements.

Section 5. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid or unconstitutional, the remainder of the ordinance or its application to other persons or circumstances shall not be affected.

Section 6. Scrivener’s Error. Should any amendment to Kitsap County Code that was passed by the Board during its deliberations on this Ordinance be inadvertently left out upon publication, the explicit action of the Board as discussed and passed shall prevail upon subsequent review and verification by the Board.

Section 7. Effective Date. This Ordinance shall take effect immediately.

ADOPTED this ___ day of _____, 2018.

**BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON**

ROBERT GELDER, Chair

EDWARD E. WOLFE, Commissioner

CHARLOTTE GARRIDO, Commissioner

ATTEST:

Dana Daniels, Clerk of the Board

APPROVED AS TO FORM:

Deputy Prosecuting Attorney