



## MEMORANDUM

DATE: March 5, 2020

TO: Record

FROM: Jeff Rimack, Director, DCD

RE: Similar Use Determination, KCC 17.100.040

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### Request

DCD has recently received two separate requests to consider a 'forest preschool' and an 'outdoor daycare/preschool (forest school).' The commonality for both uses is that they would be rural outdoor activities and there is no occupiable structure associated with the proposals. The uses are otherwise educational, using the land to teach children and provide physical activity. The uses propose four-hour sessions (neither request makes it completely clear if there is an AM and/or PM session). Both experience traffic drop-off and pick-up, presumably for the majority of kids at roughly the same times for each session (40 to 50 cars for the first request; up to 20 trips for the second request, though an additional session would double this traffic). The 'forest preschool' does not reference the actual number of kids per session or employees, though it is reasonable to assume at least two employees would manage what appears to be up to 25 kids; the daycare/preschool request notes a maximum of ten kids and two teachers on site.

### Similar Use Determination Process

When DCD receives a request for a use that does not appear to at least 'substantially' fit a use in the Zoning Use Table, DCD must perform a 'similar use determination' complete with findings: Kitsap County Code (KCC) 17.100.040 Allowed Uses.

Except as provided in Chapter [17.420](#), when a use is not specifically listed in this title, it shall be understood that the use may be allowed if it is determined by the director that the use is similar to other uses listed. It is further recognized that every conceivable use cannot be identified. In anticipation that new uses will evolve over time, this section establishes the director's authority to compare a proposed use and measure it against those listed in this title for determining similarity. In determining similarity, as well as when considering all other uses, the director shall make all of the following findings:

- A. The proposed use shall meet the intent of, and be consistent with the goals, objectives and policies of the Kitsap County Comprehensive Plan;
- B. The proposed use shall meet the stated purpose and general intent of the Comprehensive Plan land use designation and zoning classification in which the use is proposed to be located;
- C. The proposed use shall not adversely impact the public health, safety and general welfare of the residents of the county; and
- D. The proposed use shall share characteristics in common with, and not be of greater intensity, density or generate more environmental impact than, those uses listed in the land use zone in which it is to be located.

If determined similar, the unspecified use shall meet all of the code requirements and follow approval process prescribed for the listed use.

#### Most Similar Uses

The similar uses contemplated are:

1. Private or Public Schools (undefined, but commonly understood); Use 408 of the Use Table
2. KCC 17.110.200 Day-care center. "Day-care center" means a primary dwelling in which seven or more individuals, or a building other than a primary dwelling in which any number of individuals, are cared for during some portion of a twenty-four-hour period.

Each use requires a Conditional Use Permit (CUP) in the Rural Residential (RR) and Rural Protection (RP) zones, and neither are permitted in Rural Wooded (RW), Forest Resource Lands (FRL), and Mineral Resource Overlay (MRO) zones.

#### Analysis toward Use Determination

It appears the primary function of each model is 'free-range' education and activity. The uses all show characteristics of small private preschools—a commercial operation, specific hours of operation, and concentrated drop-off and pick-up times and (presumably) parking lot areas. It is not unusual for a daycare to be a component of a school operation, which appears to be the case of the second request, and since the school is the higher order of operation (and the daycare acts as a feeder to the preschool), it appears that both requests are closest to the use of 'Private or Public Schools'. Because each session would not exceed four hours no 'early learning program' inspection and licensing by the state Dept of Children, Youth and Families would be required.

#### Similar Use Determination (KCC 17.100.040 Allowed Uses)

Subject to the below criteria, if an unspecified use is determined as similar to an existing identified use within the Use Table (KCC 17.410), the use being considered shall meet all of the code requirements and follow the approval process prescribed for the use listed in the Use Table. DCD is applying the tests of the unspecified use to 'Private or Public Schools' (Use 408).

- A. The proposed use shall meet the intent of, and be consistent with the goals, objectives and policies of the Kitsap County Comprehensive Plan;

*The proposal supports Economic Development Goal 1 to "Promote a healthy and diverse economy that provides for a strong and diverse tax base, encourages business formation, retention, and expansion;..."*

*The proposal supports Environment Goal 4 that "the County will continue to provide opportunities for stewardship, education and public dialogue regarding the management and protection of the natural environment."*

- B. The proposed use shall meet the stated purpose and general intent of the Comprehensive Plan land use designation and zoning classification in which the use is proposed to be located;

*DCD understands the proposals are being considered for the Rural Residential (RR) zone:*

*This zone promotes low-density residential development and agricultural activities that are consistent with rural character. It is applied to areas that are relatively unconstrained by environmentally sensitive areas or other significant landscape features. These areas are provided with limited public services. (KCC 17.130.010)*

*DCD understands the RR zone supports a limited range of Institutional Uses (KCC 17.410.042), and the proposed use would not have a dissimilar impact in the zone than 'Private or Public Schools.'*

- C. The proposed use shall not adversely impact the public health, safety and general welfare of the residents of the county; and

*DCD cannot demonstrate the proposed use would have an adverse impact on 'public health, safety and general welfare of the residents of the county', and the CUP process ensures that conditions will mitigate identified impacts.*

- D. The proposed use shall share characteristics in common with, and not be of greater intensity, density or generate more environmental impact than, those uses listed in the land use zone in which it is to be located.

*The proposed use shares all characteristics of a typical school, except that the 'classroom' and play/exercise area is outdoors. The other impacts—eg, traffic, noise, hours of operation—are commonly associated with schools, and the proposed use is not of greater intensity and does not generate more environmental impact than the school use 408 listed in the RR zone (density is not applicable).*

Determination


DCD determines the proposed 'forest preschool' and 'outdoor daycare/preschool (forest school)' to be most similar to 'Private or Public Schools', Use 408 of the Use Table, and the use shall be permitted under the same review process as Use 408. In the RR zone, this is a Conditional Use Permit application process.



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Author of the Determination  
Scott Diener  
Manager, DSE, DCD

3-5-2020

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Date

  
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Approved by  
Jeff Rimack  
Director, DCD