



Kitsap Environmental Coalition  
People for a Safe and Healthy Environment

TO: Eric Baker (cc: County Commissioners, Colin Poff, Kathlene Barnhart)

FROM: KEC Ad Hoc Group on Tree Canopy Regulations

RE: Feedback on July 22 Tree Canopy Meeting

DATE: August 12, 2024

Thanks again for inviting KEC folks to have a Zoom discussion of tree canopy regulations. Since our ad hoc KEC group met with you on July 22 we have:

- a. had extensive discussion among ourselves.
- b. found info from other cities/counties about tree retention/canopy regulations.
- c. met with a staff person from another jurisdiction who is considering tree canopy regulations.
- d. learned about your plans for a virtual workshop on 8/15.

We have gone through several revisions of this memo to you as we learned more. For example, after learning about the virtual workshop later this week, we added a section with thoughts specific to the workshop. This memo is a work in process. We know that many more discussions and drafts are needed.

With this orientation in mind, here is a summary of our comments in this memo:

1. Stage of Development of Regulations: Clarify the development process for this regulation.
2. Intent of Regulations: Differentiate the benefit of tree canopies from the intent of this regulation.
3. Comparison to Pierce County: Go beyond Pierce County's regulations.
4. Learning with Other Cities/Counties: Join in a learning process with other cities/counties who are also establishing tree retention/canopy regulations.
5. Best Available Science: Establish Kitsap County as a leader in using best available science.
6. Tree Credits: Give evidence for the appropriateness of the credits given to retained and replacement trees.
7. Trees in Critical Areas: Do not include trees in critical areas as part of tree credits.
8. Requirements for Higher Density Zones: Strengthen tree canopy requirements in high density zones.
9. Protect Kitsap's Natural Environment and Beauty: Focus on gains in tree protection drawing on the public's interest in Kitsap's natural environment and beauty.



10. Suggestions for Virtual Workshop: Conduct the workshop in a way that mobilizes the public's support for tree retention.

1. **Stage of Development of Regulations:** Following the July 22 session with you, we became more aware of how early you are in the process of creating a tree canopy regulation for Kitsap County and especially how limited the examples from other jurisdictions are.

We realize that the first step in developing a regulation in a new area is often the hardest as you figure out how to frame it. We want you to know that while we have a lot of suggestions, they are presented not as critical of the staff's work but rather as our wanting to support you and the staff to craft a version for the commissioners and general public that both recognizes the diversity of perspectives in the county (e.g., public, developers, environmentalists, urban/rural constituents and more) AND sets us on a path toward an exemplary and powerful tree canopy regulation that protects our unique and amazingly beautiful county.

2. **Intent of Regulations:** We realize you have developed these regulations with awareness of the many benefits of tree canopy to protect our environment and the health of all living beings as well as respond to climate changes and environmental goals. However, *the intent of the regulations* themselves is not apparent. Is it to:
  - a. be similar to nearby jurisdictions?
  - b. comply with someone's request for inclusion of the topic?
  - c. make a significant difference in tree canopies in UGAs? In the county as a whole?

We strongly encourage regulations that truly will stop excessive tree removal. We understand that regulations need to evolve along with the experiences of their use in various situations. However, evolving policy development based on experience is different from starting with regulations that allow large developers to keep going on their existing path.

Please make this a meaningful tree retention/canopy regulation. The version of regulations that you now have gives the impression that the county is more concerned about not inconveniencing developers than protecting our environment and people. We need a higher starting point than expressed in this draft. We want to support you in putting forth an improved version.

Here's a core concern we have. These draft regulations, as they currently stand, may actually do more harm than good. By telling the public you have a tree canopy regulation, the public is led to believe that these regulations are going to make a significant difference in protecting our environment. Yet, we're concerned that the actions in this version are so



timid that they can easily be viewed as “greenwashing” rather than a meaningful tree canopy regulation for the protection of people and our natural environment.

There are more and more people in this county who are calling attention to the ways in which developers, especially large ones, are dominating the decision-making about environmental protections for people and nature in this county. There’s a term for this: “regulatory capture.” It means that some groups, in our case, large developers/land owners (especially those whose corporate headquarters are out of state), are controlling the very governing bodies and processes that are intended to protect the public. We must move away from the dominance in Kitsap County of benefiting developers over the health of the natural environment that supports and protects us all. People move to Kitsap County to *get away from* this type of development that is currently and speedily happening elsewhere.

3. **Comparison to Pierce County:** It appears Kitsap has taken the Pierce County Code and watered down the language, possibly to make it more palatable to developers. (This comment is based on a member of our group reviewing the Pierce County code. Here are examples they saw upon review of Pierce County code.)
  - a. Pierce County calls the code chapter *Tree Conservation* with a stronger verbal intent to conserve existing trees. Pierce says: *“The purpose of this Section is to retain and/or restore the overall tree canopy in the County”*. Kitsap says: *“...promote the incorporation of trees into future development.”*
  - b. Pierce’s *section E. Design Objective* states: *“It is intended that the tree density requirements will be met primarily through the conservation of existing trees. However, in order to provide for continued flexibility in the design of new development, in those situations where an applicant's design would preclude the retention of the required number of trees, the use of replacement or supplemental tree planting is authorized. It is also recognized that some sites may not contain enough existing trees to meet the tree density standards. In those situations, additional trees are to be planted as necessary to achieve the minimum tree density requirements.”*

In contrast, Kitsap’s Tree Canopy requirement states: *“... can meet the required minimum tree density through planting of replacement trees and/ or by retaining existing on site trees (17.495.030 D).”*
  - c. Pierce County’s *section F3. Significant Trees.* states: *“At a minimum, 30 percent of significant trees on site shall be retained, preferably reflective of the diversity of species and age within the stand, up to the minimum tree density requirements.”* ‘*Shall be*’ is enforceable whereas “*encouraged*” as in Kitsap code is not.

Consequently, the Kitsap draft code appears to have a very weak intention of conservation of existing trees. Members of our group ask: *Why would we want a watered-down, toothless version of regulations from the second-most-populous county in the state — which includes*



*the urban sprawl of Tacoma and the industrialized maritime port — to guide Kitsap County? If developers in Pierce County can live with that, why would we need something even more lenient — unless Pierce County is the direction the county leadership and big developers are trying to take Kitsap?*

- 4. Learning with Other Cities/Counties:** A few days ago, we were told by a planner in another jurisdiction that there is no state regulation requiring counties to have tree canopy/retention policies, yet it seems that several cities/counties are recognizing the importance of such regulations. We would encourage the County to seek out other jurisdictions that are moving in this direction to increase shared learning. A recent [Seattle Times article](#) stated: “Another action calls on King County to continue its work developing a ‘tree code tool kit’ to help cities craft and revise their tree regulations. King County is analyzing existing codes across the county and developing best practices for tree regulations, Iyaz said. After years of discussion and draft proposals, Seattle revised its tree code last year.”

As we were finishing this memo, one member of our group found King County’s [Guide to Developing Effective Urban Tree Regulations on Private Property](#). It contains extensive and helpful information for establishing tree regulations. It would be very helpful to use a guide such as this to frame our thinking here in Kitsap County about the regulations on tree canopies. Also, this document includes a case study of Olympia’s approach that is especially useful.

- 5. Best Available Science:** Ensure that best available science is used in determining these regulations. While there may be no statutory requirement to use best available science, that is no excuse for not using it. We need to go beyond minimums and draw on best available science to establish a foundation for regulations.

One of the most important features of Kitsap County is its natural environment and beauty. We want to retain such an environment, the environment that has drawn so many people here. State statutory requirements should not be our minimums. Many other jurisdictions have already degraded their environment so much that minimums may be a useful baseline but let’s stop the increasingly rapid degradation of our natural environment before it is too late to turn it around and move to well-being for all of life.

- 6. Tree Credits:** The equivalence of one replacement tree for one existing healthy tree between 1” and up to 8” DBH is very concerning. This is not likely to slow down developers from removing trees. Where did this equivalence in tree credit come from? What scientific evidence exists for such an equivalent? Who would agree that a 1” diameter nursery-stock tree could replace the beauty, quality of life, shade, habitat, and environmental positives of a generations-old tree? The county seems to be thinking in mechanistic ways



about trees and, even then, does not seem to replace 5,000 board feet of legacy trees with the equivalent volume of thin young trees. This ignores the complexity of our natural systems.

7. **Trees in Critical Areas:** We question the inclusion of trees in critical areas being counted in the tree density. Tree canopy regulations need to apply to developments with critical areas and buffers but don't allow use of trees in critical areas to fulfill the requirements.

One member of our group did calculations using the Arborwood situation and found that if trees located in critical area buffers are counted as credits for the required number of trees per acre of development the conservation easement with wetlands and buffers would meet the requirement for the whole development. Thus, they could clear cut every square inch of the remaining 240 acres of non-buffer-averaged land. This is unacceptable.

8. **Requirements for Higher Density Zones:** We contend that these regulations should be as high as those for single-family zones to reduce the potential for "heat islands" and improve the attractiveness and value of multi-unit development. The requirements should not be less for the higher density (i.e., apartments or townhomes) developments as is proposed. It is important to make higher-density housing more appealing if we want to encourage them to be built rather than just single-family houses. In fact, it should be easier in many cases to meet the requirement using clustering of the development. We agree with the use of carefully chosen incentives as another way to encourage builders to go beyond just the minimum. Can the county possibly hire an arborist or someone with expertise about trees and how to protect and maintain them? This is a skill often lacking and unappreciated by builders.

9. **Protect Kitsap's Natural Environment and Beauty:** With this overarching orientation please consider the following:

- a. ensure that a grove of stable trees is not reduced to a minimum cluster that could easily die or blow down.
- b. have a maximum acreage/percentage for "tree-free" areas.
- c. provide incentives for increasing tree canopy in existing development such as shade islands in a parking lot or a trade of some parking space for planting trees.
- d. address possible changes to existing housing developments that have minimum trees.
- e. consider different regulations depending on the conditions on a site such as the size and relationship of trees to various type of critical areas that are not currently recognized in the CAO.
- f. provide regulations for the full range of land use zones including those outside of urban areas. The Seattle Times article mentioned above foretells what's ahead for Kitsap if we allow developers to sprawl into our rural areas and don't stop clearcutting in the



county. How about a regulation requiring KC timber property owners to practice selective thinning instead of clearcutting?

10. **Suggestions for Virtual Workshop:** Here are several thoughts about what to include in the virtual workshop on August 15.
- a. Clarify for the public why the tree canopy regulations are being developed and how it relates to state requirements. In particular highlight the connection to climate change (now included in the Comprehensive Plan Updates). Help them see that you are seeking to bring in missing elements that are essential for dealing with the systemic changes that are needed. Help people go beyond piecemeal thinking about separate regulations to see the whole.
  - b. When presenting the tree canopy draft for public review, please include information on what is required through the current landscaping requirements and buffers so reviewers can see a fuller picture of what is being proposed.
  - c. Provide for discussion of protecting and sustaining wildlife populations and how they connect to the importance of trees across all land uses in the county. Wildlife doesn't recognize human boundaries such as UGAs, parks, zoning and private property. Bring holistic thinking to how we live and work together with all forms of life in Kitsap. What is the County doing to protect and sustain wildlife populations whose homes are being degraded and eradicated due to the allowance developers have from the County related to trees and other issues?

All in all, we would argue that this draft of tree canopy regulations takes too small of a step beyond what current regulations and landscaping codes require. Such small steps are inadequate in this time of increasing temperature rise and other climate conditions. Simply put: Be bolder. We are here to support you.

*(The July 22 meeting was the result of Eric Baker inviting KEC to convene a few members to hear an early presentation of the Tree Canopy Regulations under development by Kitsap County. Those in attendance and/or providing input for this memo were: Marion Allen, Martha Burke, Joe Forsthoffer, Doug Hayman, Kathie Lustig, Bruce McCain, Beth Nichols, Beverly Parsons, Kelly Roberts, April Ryan, Robin Salthouse, Margaret Tufft)*