

Text Amendment

The text amendment is proposed to eliminate the minimum density requirement for cluster residential subdivisions in the Suburban Residential (SR) and R-1 zoning districts. We have identified land use problems associated with this standard as described in this narrative. The specific amendments being proposed are of YCC 19.12.010(1)(a)(vii) and YCC 19.12.010(2)(c) of the Urban Residential Districts Chapter (YCC 19.12) and to an entry in Table 19.34.035-1 in the Land Divisions Chapter.

The amendments are proposed as follows:

1. Amend YCC 19.12.010(1)(a)(vii), part of the intent statement of the Urban Residential Districts Chapter:

Encourage residential cluster development prior to achieving maximum density, with a density or number of residential units ~~of between four and seven dwelling units per acre~~ on the developed portion sufficient to facilitate future urban development on adjacent sites, in areas with a public water supply and a community or regional public sewer system;

2. Amend YCC 19.12.010(2)(c) of the development standards for the SR and R-1 zones in the Urban Residential Districts Chapter to more strongly require cluster development to facilitate future urban development:

(c) Where the Reviewing Official authorizes development on systems other than area-wide public water and regional sewer, the development shall ~~must~~ provide for full urbanization of the property when urban utility services become available. An urban conversion plan or other measures to achieve this may be required when development site does not meet a minimum average of four dwelling units per acre.

3. Amend the following entry of **Table 19.34.035-1 Lot Requirements – Cluster Development**:

Replace: ***4.0 to 7.0 units per acre within the developed portion***

With: ***Maximum of 7.0 units per acre within the developed portion.***

Why the amendment is needed and proposed

As these code provisions are written and being implemented, subdivisions and short subdivisions in unincorporated areas zoned Suburban Residential and R-1 that don't have available either urban domestic water or sewer service¹ are being required to meet minimum density requirements as part of the cluster provisions of YCC 19.34.035. Minimum density is not imposed

¹ To simplify this narrative and avoid having to distinguish among the various defined types of sewer and domestic water providers, the use of "urban domestic water and sewer service" refers to the type of systems identified in Table 19.12.020-1 as Area-Wide Public Water Supply and Regional Public Sewer System. This is consistent with the use of the term "urban services" in Horizon 2040 Policy LU-U 2.3.

on subdivisions and other development when both urban sewer and domestic water service is available. The effect of this is to require higher net residential density in outlying areas of urban growth areas than is being required for development with full urban services closer to the city center. Also, SR and R-1 zoned properties are not always suitable for the lot sizes required by the density minimum, even when clustered.

The following land use problems have been identified as resulting from this requirement:

1. Required minimum density for clustered development is in some cases, inconsistent and may even be incompatible with the character of surrounding residential areas developed at much lower densities resulting in potential conflicts, adverse effect on property values and forcing development of a type that is inconsistent with the market or the highest and best use of a particular property.
2. While “minimum density” standard applies to clustering, it is not a requirement of either the R-1 or Suburban Residential zones where clustering is not required because of the availability of urban water and sewer systems. Since most, if not all of the Cities and Towns in Yakima County do not themselves impose minimum density standards, there is a tendency to require higher net densities in more outlying areas where sewer or water service is less likely to be available than are being required within the cities themselves.
3. Areas with Suburban Residential and R-1 zoning are unsuitable for the density and lot sizes required by these standards due to factors such as slope and critical areas, in particular flood hazard areas. Many of these areas are not suitable at all for the required lot size.

Implementation of the proposed amendments

The applicant owns about 80 acres of R-1 zoned property at the southeast corner of Estes Road and Tieton Drive in the West Valley area which was the subject of early assistance under EAS 2021-00029. Nob Hill Water service is available to the property, but public sewer is still too far away to be extended feasibly. The lot configuration that was proposed for early assistance met the four-dwelling unit per acre minimum density as required by Code. If the applicant had not been required to meet this density, the lot configuration that would have been proposed would be similar but with fewer lots and a larger lot size (lower density). Elements of project configuration that would not have changed with a lower density design include internal improved streets, an open space area large enough to accommodate a community sewage disposal system but designed to allow for further subdivision into comparably sized lots, with frontage on internal streets and possibly utility hookups. The site does not have steep slopes or critical areas, so that is not an issue here as it is in other locations.

If permitted to develop the property to a lower density, this proposal would have still been consistent with YCC 19.12.010(2)(c) and Plan Policy LU-U 2.3. It would have provided for full urbanization when urban utility services become available, feasibility of (in this case) an interim

community sewer system would have had to be shown and the preliminary plat as described could have served as a conversion plan identifying how the balance of the property could urbanize when all services are available.

The proposed amendment puts more emphasis on YCC 19.12.010(2)(c) to facilitate future urban development and prevent uses/densities that cannot be urbanized as prescribed by Policy LU-U 2.3. Because it is a development standard, whereas YCC 19.12.010(1)(a)(vii) is part of an intent statement, it better implements the policy. The standard would require, when the minimum density drops below four dwelling units per acre, an urban conversion plan or other measures. The code already prohibits individual water or sewer systems in the R-1 and Suburban Residential zones. The lot layout in a site plan, preliminary plat or other graphically portrayed plan could serve as an urban conversion plan. Examples of other measures that could be taken to the standard are as follows. They are not being recommended as code standards, because they should be considered on a case-by-case basis, but they should address the concerns that have been raised while allowing for more flexibility in development and density:

1. Require a minimum number of lots
2. Require the lots (except for remainder lots) to have a more or less uniform lot size (with exceptions for slopes and critical areas as noted below) with the remainder lot limited to no larger than necessary to accommodate community services plus a buildable area no larger than the average lot size being proposed.
3. Allow exceptions from lot size or density requirements for lots that contain or partially contain slopes, critical areas, flood hazard areas and also road or utility corridors that may need to be configured to avoid these sensitive areas. In some steep slope areas, the minimum lot size and maximum density may need to be higher to account for the slopes.
4. Require large lots, including remainder lots to show future lots or buildable areas.
5. Require large lots, including remainder lots to be configured with frontage on existing or future roads in a manner that would facilitate their future development.
6. Require connection of the community system to public sewer or water when it becomes available.
7. Require, where appropriate, service line connections for future improvement of remainder lots.

Incompatibility with the character of surrounding residential neighborhoods: Property to the east of the 80 acres owned by the applicant in West Valley, also zoned R-1, is developed with lots at an average density of about 0.6 units per acre (slightly over 1.5-acre average lot size). The desire

for lower density development in this location was based in part to maintain consistency with the character of that neighborhood.

Unsuitability due to slopes and critical areas: Areas with R-1 and Suburban Residential zoning that are unsuitable for this density due to slope include areas of the Yakima Urban Growth Area such as around Scenic Drive, overlooking Cowiche Canyon and north of Summitview Avenue. Also, between Lookout Point and Southern Avenue and along McGonagle Road in Selah, Parcels 211022-31006 and 42006 on Bagley Road in Granger, on Ahtanum Ridge south of Meadowbrook Road in Union Gap and on Sand Hill Road in Grandview. These areas are not necessarily in designated geologic hazard areas but in some cases a density of four or more dwelling units per acre would be inappropriate even with full urban services.

Sites that have critical areas can also be inappropriate for a density of four or more units per acre. While it may be possible in some cases to contain critical areas in the open space tract and exclude them from the density calculations, this can be difficult to accomplish, especially for flood hazard areas, but also other types of critical areas that branch throughout the site and where roads and other unbuildable areas may need to cross them. This is keeping in mind County Code standards that include a minimum lot size of one acre in flood hazard areas (YCC 16C.03.27(3)(b)(iv)), 5,000 square feet of buildable area outside of floodplains (YCC 19.54.050 (5)(vi)(A)) and requiring certain critical areas to be located on a single tract or lot (YCC 16C.03.27(3)(b)(ii)(A)).

For example, the following comment from an Early Assistance meeting for a development proposal in the R-1 zoning district:

“...there was discussion...that possibly the County would allow a lower density on this parcel if the floodplain were void of development. But the County code (Title 19) does not offer a transfer of development rights with regard to floodplains, therefore, the applicant would be required to comply with the existing code under Titles 19 and 16C.” (EAC 2021-00009, April 22, 2021).

Inconsistency with City and other density standards: No development code standards or comprehensive plan policies have been identified in any of the Cities or Towns that require residential development at a minimum density with or without urban services. Also, under Title 19 there is no limitation on density in the R-1 or Suburban Residential zones where both urban sewer and water service is available. The City of Yakima requires a *minimum* lot size of one-half acre where neither urban sewer or water is available, and one acre in flood hazard areas. Zillah has a one-acre minimum lot size where either public sewer or public water is not available. The City of Selah requires a five-acre minimum lot size where urban services are not available and minimums of up to five acres in residential zones with steep slopes even where there are urban services. In Yakima County, a minimum density of one dwelling unit per one half acre (2 units per acre) is required in areas that are subject to the Shoreline Master Program.

Consistency with YCC 16B.10.095(5)

We have not identified any goals or policies in the Growth Management Act, County-wide Planning Policies or the comprehensive plan that specifically requires imposing a minimum density standard in Yakima County. While Comprehensive Plan Policy LU-U 2.3 arguably supports such a standard, it does not require it. Policy LU-U 2.3 requires the use of land use controls that prevent the conversion of land to uses or densities that cannot be urbanized, but it is not specific as to what these densities are nor does it state that this must necessarily be accomplished using a minimum density standard.

Review of other planning policies does not indicate a clear preference for or against the proposed amendment. As proposed, it remains generally in conformance with policies of the Growth Management Act, County-wide Planning Policies and Horizon Plan 2040 goals and policies. Review of City comprehensive plans likewise do not indicate a minimum density requirement. The City plans and development regulations that we researched only limit maximum density (minimum lot size).

Horizon Plan 2040 policies along with other City plan policies provide for neighborhood compatibility and preserving existing neighborhoods. Countywide Planning Policy B.3.3. encourages (but does not require) higher density, smaller lot sizes where services have been provided and in areas planned for urban services within the next 20 years (i.e., urban growth areas). YCC 19.12.010(2)(c), amended as proposed does this, especially given that none of these terms (higher density, smaller lot sizes) are defined and the level of development that would be allowed is consistent with that being allowed by the Cities within their jurisdiction and by the County where public services are available and clustering not mandatory.

Horizon Plan 2040 Goals and policies that support the proposed text amendments:

LU-U 6.2 Develop neighborhood design compatibility standards to assure that urban infill projects will not reduce property values in existing neighborhoods.

GOAL YKLU-U 3: Preserve Existing Neighborhoods.

YKLU-U 3.2 Ensure that new development is compatible in scale, style, density, and aesthetic quality to an established neighborhood

GOAL H 6: Encourage the preservation and protection of existing neighborhoods and design and/or plan future development in a manner which promotes neighborhood settings and environments.

OBJECTIVE: Encourage the preservation and protection of existing neighborhoods.

Countywide Planning Policies and the Growth Management Act:

B.3.3. Infill development, higher density zoning and small lot sizes should be encouraged where services have already been provided and sufficient capacity exists and in areas planned for urban services within the next 20 years.

RCW 36.70A.110(2) – in part: “...An urban growth area determination may include a reasonable land market supply factor and shall permit a range of urban densities and uses”.

Horizon Plan 2040 Policy LU-U 2.3:

LU-U 2.3 Through land use controls, prevent conversion of land in urban growth areas to uses/densities that cannot be urbanized by:

1. Requiring cluster development where it is clear that urban services are not immediately available and when it is feasible to approve interim community water and/or sewer systems.
2. Requiring connection to public water and sewer systems where available, including interim systems or facilities where feasible
3. Providing a conversion plan identifying how the balance of the property could urbanize when all services are available.

Policy LU-U 2.3 requires that where urban services are not immediately available, cluster development must be used and interim community water systems, sewer systems or both must be feasible. It also requires a conversion plan, a requirement that would be implemented by YCC 19.12.010(2)(c) if amended as proposed, but not as it is currently, because where urban domestic water or sewer service is not available the conversion plan is only required when at least four units per acre cannot be achieved. The code provisions now being proposed for amendment nullify this ever occurring because the four unit per acre density is always required.

Two questions in considering how to implement Policy LU-U 2.3 are what land uses or densities cannot be urbanized and how to determine the feasibility of interim water and sewer systems. Based on early assistance, the objection appears to be that development which allows individual on-site systems precludes the incentive to extend sewer and water lines to outlying parts of the urban growth area and that is what prevents them from being urbanized. On-site systems are already not permitted in the R-1 or Suburban Residential zones and with the proposed amendments, smaller community systems can be required to provide for future connections when urban services become available.

A sidebar issue appears to be what level of density should be considered “urbanizing”. While we have not been able to find any specific parameters in the Growth Management Act, Comprehensive Plan and other sources for what densities should be considered urban versus rural, an indication of this is available from the densities allowed by Title 19 and the comprehensive plan. Excluding LAMIRDs² the lowest average density allowed outside of Urban Growth Areas is one dwelling unit per 2.5 acres in the Rural Transitional Zone. This would indicate that one dwelling unit per acre or even one unit per two acres would be considered “urban” because they are not allowed outside of urban growth areas or LAMIRDs on a gross density basis.

² Limited Areas of More Intensive Rural Development

Effect of the amendment on resource lands of long-term commercial significance, shorelines and critical areas

There are no material effects of the proposed amendments on resource lands of long-term commercial significance. If anything, lower density would have less impact on resource lands, but the distinction is not significant given that the proposed amendments are limited to urban growth areas and any effect on resource lands would be around its edges, where the impacts, to the extent that there are any, are existing anyway.

This narrative explains how the proposed amendments would make it easier to accommodate critical areas, especially steep slopes, with which the existing 4 dwelling unit per acre limit can be inconsistent. While resolving this issue could make it easier to develop within or around critical areas, it would do so within urban growth areas where higher density is expected and does not reduce other standards for critical area development. As already stated, the current minimum density standard is inconsistent with the maximum density standard in Shoreline Management areas, and inconsistency that would be resolved by the proposed amendments.

How the proposed change serves the interest of the public and the public health, safety and welfare

The proposed amendment serves the public interest by allowing for residential densities that conform to the constraints of slopes and critical areas, allowing for development that is more consistent with existing low-density neighborhoods and by increasing the flexibility in the use and development of private property. It provides land use controls to prevent the conversion of land urban growth areas to land use or densities that cannot be urbanized.