

Comment No.	Author	Volume	Section	Comment	County Response	Edit
1	Kitsap Building Association (KBA)	I	4.2.5	We appreciate the addition of this clarification regarding compliance with Minimum Requirement #5: <b>"If all BMPs in the list are infeasible, then the designer must document the site conditions and infeasibility criteria used to deem each BMP infeasible. This documentation will demonstrate compliance with Minimum Requirement #5."</b>	We wish we could take credit, but this is an addition in the 2019 Ecology manual (Volume I, Section 3.4.5 MR#5: On-site Stormwater Management).	No change
2	KBA	I	4.1.2	This language makes redevelopment more difficult. In addition, how is interior improvement value calculated - this can become quite subjective. <b>"For all other projects: the valuation of the proposed improvement, including interior improvements, exceeds 50% of the assessed value of the existing site improvements."</b>	This is an addition in the 2019 Ecology manual (Volume I, Section 3.3: Applicability of the Minimum Requirements).	No change
3	KBA	I	4.2.6 4.2.7 4.2.8	Threshold Discharge Areas: We would like to note for the record that Kitsap County is more restrictive than DOE by not allowing the use of TDAs. This is not in the best interest of Kitsap County, particularly in the affordable housing arena and on road construction/maintenance projects. We believe that TDAs are recognized by Ecology because they understand that small sites can't be designed down to the nth degree. Suggested Change: Continue to use the KCSDM as written in regards to restrictions on TDAs but allow engineers to submit requests to be allowed to use TDAs as specified by the WDOE Manual for projects when the engineer believes it makes sense. This process would occur for a test period. At the end of the test period, perhaps until the next update, assessment can be made whether or not to include TDA's in the manual.	The 2007 NPDES permit issued by the Department of Ecology contained a provision in section S5, item 4 that stated, "Permittees shall not repeal existing local requirements to control stormwater that go beyond the requirements of this permit for new development and redevelopment sites." This required Kitsap County to continue the practices implemented since that initial permit. In 2009, The Board of Commissioners adopted the Water is a Resource Policy in 2009 and reaffirmed the policy in 2016. This policy was the guiding document behind not allowing sites to be divided into smaller TDAs that could lead to higher discharge flow rates than would be allowed under the current site application method. In particular, the policy directs DCD in its creation of development regulations, to use the guiding principles of the policy. The guiding principles that directs minimizing runoff are: - Preserve natural hydrology -First, preserve natural hydrology by preventing the creation of stormwater runoff -Where runoff is unavoidable, ensure it is free of pollutants - Maintain Natural Low Energy Flow Regime -Reduce Runoff's pollutant carrying capacity -Reduce Runoff's destructive potential.	No change. This item will be highlighted in the training.
4	KBA	II	3.5.1	Vol 2 pg 47 Source Control: Are covered dumpster enclosures back? Didn't Kitsap County abandon the implementation of this requirement?	This is a clarification of the requirement per the 2019 Ecology Manual, Volume IV, Chapter 4, S427 Source Control BMPs.	No change. This item will be highlighted in the training.
5	KBA	II	5.3.2	Vol 2 Pg 91 Full Dispersion: It is disappointing that buffers cannot be used for dispersion flow path lengths. This seems to go against the promotion of LID and MR#5. This will limit the ability to utilize dispersion. Suggestion: Allow dispersion to occur within a wetland buffer given proper determination by the project biologist that the wetland itself already provides water quality treatment function and using dispersion will be superior and promote the overall system function compared to using another BMP. Update the CAO to allow for greater than 25% administrative buffer reductions if the reduction is to be used for dispersion flow path.	Kitsap County is following the limitations set forth by Ecology, specifically in the 2019 Ecology manual, Volume V, Chapter 3, Section V-3.1, BMP TS.30, where it states: "The dispersion area is not allowed in critical area buffers or on slopes steeper than 20%."	No change
6	KBA	II	1.1.4	Does the UIC requirement apply to bioretention facilities with underdrains or only to infiltration trenches with perforated pipe? What is the purpose of this requirement? It feels like just another hoop with little added benefit. What is the process – does the engineer need to contact DOE every time an infiltration trench is proposed prior to submitting an SDAP? Is this required for SFRs, too?	Per Ecology's UIC program requirements (Volume I, Section I-2.14 Underground Injection Control [UIC] Program), bioretention facilities with underdrains are considered a UIC if "intending to infiltrate water from a perforated pipe below the treatment soil". This program stems from the federal Safe Drinking Water Act and Ecology implemented this program on behalf of the US EPA. All UIC wells must be registered except "wells at single-family homes (or duplexes) receiving only residential roof runoff used to collect stormwater runoff from roof surfaces on an individual home (or duplex) or for basement flooding control". Refer to Volume I, Chapter 1-4 of the 2019 Ecology manual for more information.	No change. This item will be highlighted in the training.
7	KBA	Appendix G	G.3.4	What is the purpose for requiring large PITs to be documented and staked by a licensed land surveyor? Locations can be estimated by measuring or on handheld devices - requiring a land surveyor adds unnecessary costs.	This is a requirement per the 2019 Ecology manual, Volume V, Section V-5.4 Determining the Design Infiltration Rate of the Native Soils.	No change
8	KBA	Appendix G	N/A	Why is grain size analyses no longer an option for determining infiltration rates? Suggestion: KC continue to use the policy, outside the manual, to allow gradation for infiltration in soils not glacially consolidated (note, DOE allows this). Allow that policy to continue to be utilized when the engineer can make the argument site should qualify. Simply don't throw out the policy that was created because it makes sense.	No change from 2016 Kitsap manual.	No change
9	KBA	N/A	N/A	We would like to understand which figures and charts changed and what the changes are. We were not provided the "file for Public Draft figures"	The updated figure packet is provided on the Stormwater Manual Update website ( <a href="http://www.kitsapgov.com/dcd/Pages/Stormwater_Design_Update.aspx">www.kitsapgov.com/dcd/Pages/Stormwater_Design_Update.aspx</a> ). A list of new and updated figures can be found in the Key Changes Matrix (also posted on the Stormwater Manual Update website).	No change. This item will be highlighted in the training.
10	KBA	N/A	N/A	We would like to note that KPUD has rainfall gauges all over Kitsap County, yet WWHM has zero information from Kitsap County. While this is beyond the scope of the current manual revisions, we would like to see WWHM be updated to include rainfall data from Kitsap versus being forced to use rain gauges in Quilcene, Seatac and Everett.	Comment noted	No change
11	KBA	I	4.2.5	Table 4.3 doesn't cover greater than 5 acres sites inside a UA	If the sites falls into this category, the list approach cannot be used; the designer must use Table 4.2.	No change. This item will be highlighted in the training.

Comment No.	Author	Volume	Section	Comment	County Response	Edit
12	KBA	I	4.2.5	List 2B doesn't allow full dispersion on downspouts, why?	This is a carry over from the 2016 Kitsap manual; Table 4.2 shows that new and redevelopment projects have the option to do Full Dispersion; or LID Performance Standard; or List #2B. If we had added Full Dispersion to the list, for example in List #2A, users would then be required to evaluate it first and use it if not demonstrated to be infeasible. This provides more flexibility.	No change. This item will be highlighted in the training.
13	KBA	I	4.2.5	Why is permeable pavement #1 on the hard surface table for rural areas. Why is rural more stringent than UGA/UA?	This is a carry over from the 2016 Kitsap manual; same response as above.	No change. This item will be highlighted in the training.
14	KBA	II	Chapter 8	The critical drainage area maps were recently updated, but are now reverting back to the previous maps. Can the county better show and define on the maps the problem areas/culverts/systems? In addition, have any county stormwater SWMM upgrade projects addressed any of the critical drainage area concerns – e.g., Manchester, Koch Creek update at the ACE pond etc.? If so, the critical drainage areas should be updated accordingly.	Specific assets cannot be shown due to the scaling of the maps. The CDAs identify the problem areas or areas that are environmentally sensitive. Yes, Manchester and Koch Creek both have had capital projects constructed to address known stormwater issues. However, most of Manchester still is considered a CDA; Koch Creek was not designated as a CDA in the 2016 Kitsap manual. The maps have been updated accordingly and have removed the Gamblewood, Edgewater and Miller Bay Estates areas as well as a portion of Manchester that was addressed by the stormwater park.	Maps have been updated. Changes will be covered in the training.
15	KBA	N/A	N/A	Can bioswales be added as a runoff treatment option?	Water quality data still suggests that biofiltration swales and filter strips do not consistently perform at a level equal to the basic treatment standard.	No change
16	KBA	II	1.5.3	Why can't a performance surety be accepted in lieu of construction completion for subdivisions with private roads?	Historically performance sureties have been difficult to collect and therefore not able to be used to finish improvements that the developer did not complete.	No change
17	KBA	II	5.3.2	Section 5.3.2 – why aren't small PITs allowed for projects with >=1 acre of impervious? Did DOE make this change?	The 2016 Kitsap manual did not match 2019 Ecology manual for this size project. Edited to comply with the 2019 Ecology manual.	No change. Infiltration feasibility assessment will be covered in the training.
18	KBA	II	5.4.8	Section 5.4.8 – why is infiltration under impermeable pavements not allowed in lieu of permeable pavement?	Sentence was revised to clarify that infiltration under impermeable pavements is only allowed outside of public rights of way.	Rejected deletion and revised sentence to read, "While not explicitly addressed in this section, infiltration may be allowed under impermeable pavements, outside of public rights of way, in lieu of permeable pavement."
19	KBA	N/A	N/A	Were changes made to the "Site Assessment and Planning Packet"? It was not included in the appendices.	No changes were made to Appendix C. See the full PDF Manual posted on the Stormwater Manual Update website ( <a href="http://www.kitsapgov.com/dcd/Pages/Stormwater_Design_Update.aspx">www.kitsapgov.com/dcd/Pages/Stormwater_Design_Update.aspx</a> ).	No change. This item will be highlighted in the training.
20	KBA	Appendix A	Glossary	The definition of steep slopes needs to have a sentence added that manmade slopes aren't covered under the definition. If a slope was designed at 2:1, then a future development shouldn't require another Geotech just because it exceeds 30% and shows up on the map.	All slopes are included due to site conditions changing over time.	No change
21	Kitsap Alliance of Property Owners (KAPO)	N/A	N/A	What is the problem we are trying to solve?	Compliance with state and federal law, as well as ease of use by practitioners. Update of stormwater design requirements and code (collectively the Stormwater Design Manual (SDM) and KCC Title 12 Stormwater Drainage) will bring Kitsap County Code into compliance with the Department of Ecology's Western Washington Phase II Municipal Stormwater Permit (National Pollutant Discharge Elimination System (NPDES) permit) in accordance with state and federal law, specifically RCW 90.48 and the Clean Water Act. <b>Response from KAPO:</b> So, in effect that response is saying that "whatever the State DOE (in this case) wants, it gets" and the citizens of Kitsap County have nothing to say about it and we are stuck with the consequences regardless. When KAPO inquires about the problem that requires a solution we are not asking for whether or not there is an issue of noncompliance with a regulation, we want to know what the problem really is with the regulations that are failing to control storm water runoff. That is a "mechanical assessment" if you please, of what is going on in the real world of Kitsap County's actual environment. Also, if there is a documented problem, how pervasive is it to require an 8" thick book of regulatory measures? No such data has been provided.	No change
22	KAPO	N/A	N/A	How are existing regulations failing to address the problem?	The current edition of the SDM and portions of T 12's code are not consistent with provisions of its state permit. The existing County SDM and code does not include all the required provisions listed in Appendix I of the NPDES permit. <b>Response from KAPO:</b> Again, in effect that response is saying that "whatever the State DOE (in this case) wants, it gets" and the citizens of Kitsap County have nothing to say about it and we are stuck with the consequences regardless. Perhaps it is obvious, but when KAPO inquires about whether or not our existing regulations are ineffective, we want to know "how" they are failing to address the actual environmental conditions manifest [sic] in Kitsap County where there may be flooding or damage to downstream property as a result, i.e. a direct result of the lack of or ineffective regulation(s). By the way, we highly question any purported study DOE may have conducted, with maybe one or two exceptions, that agency studies nothing, but writes regulations (in the Washington Administrative Code) base on suspected issues.	No change

Comment No.	Author	Volume	Section	Comment	County Response	Edit
23	KAPO	N/A	N/A	What is the cost to the public and private sectors to implement new regulations?	<p>With limited exception for commercial projects (ie, both commercial and industrial), the costs are expected to be the same as current costs of development. Specifically, with the exception of commercial projects that meet the newly required redevelopment standards of the proposed KCC 12.20, we expect the cost compared to current regulations to be the same. Since each residential or commercial development project is often different (eg, scale of development, topography, soils conditions, proximity to critical areas), it is impossible to give an accurate cost estimate for this change. However, DCD is providing a range of its current costs for better understanding of stormwater regulations implementation—see the following DCD Fee Schedule Excerpt and Examples for more information. <b>Response from KAPO:</b> This comment misses the point of KAPO's now long-standing request for cost consideration of ordinance development and implementation. What we want are the costs associated with the amount of staff time required to perform the staff reviews of individual permit applications, what the engineers who design the systems according to the guidelines have to charge clients to design in accordance with the design guidelines both in the preliminary and final design phases, the cost of delayed project reviews (because of understaffing) and what the developer, i.e. the consumer has to pay for these new design compliant regulations. To try to argue that current costs will be the same as future, is a gross underestimation of even the next few year's costs or those five - ten years hence. If there need to be a witness to costs compare 1990 with 2010. In short, where is the cost vs. benefit analysis? The reference to DCD's fee schedule is a "misdirection." First it assumes that developers / project proponents should pay all fee costs. Yet, when ordinances are adopted, they are so, presumably for the "greater good of the County's citizens." Yet, it is not the citizens who are paying the tab as would be the case if permitting were a part of the General Fund. If this were the case, perhaps the Board of County Commissioners would think long and hard about what it costs to implement regulations they adopt. Once-upon-a-time there was that consideration of ordinance implementation cost in the General Fund. And back in those days the elected officials fought hard for local control.</p>	No change
24	KAPO	N/A	N/A	No discussion of need for stormwater regulations, including by DOE.	<p>DOE has provided rationale for each of its milestone updates. Each update has built on a better understanding of the importance of management of stormwater runoff. The latest Fact Sheet is available as a Supporting Document at <a href="https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Stormwater-general-permits/Municipal-stormwater-general-permits/Western-Washington-Phase-II-Municipal-Stormwater">https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Stormwater-general-permits/Municipal-stormwater-general-permits/Western-Washington-Phase-II-Municipal-Stormwater</a>. <b>Response from KAPO:</b> So, in effect that response is saying that "whatever the state DOE (in this case) thinks is best, the citizens of Kitsap County have nothing to say about it and we are stuck with the consequences regardless. KAPO is not asking for what the "state thinks is best," we already know their decision-making process is not based on actual studies or assessments of the environment. That agency justifies much of what they come up with based on the experience of others or possible even studies conducted in "Timbuktu" or somewhere besides Kitsap County or even Western Washington. We are asking what steps Kitsap County has taken to document a need for new stormwater regulations with regard to our own environment. So, far we have not seen such justification, [sic]</p>	No change
25	KAPO	N/A	N/A	Kitsap County failed to review 1990's EPA regulations that DOE based its regulations upon.	<p>Kitsap County cannot speak to the 1990's review, but appealed the 2007 permit. Kitsap County joined 30 cities in an appeal on the basis that it went beyond the federal standard of "Maximum Extent Practicable". This appeal included extensive research and testimony by Kitsap County, the 30 cities, and the law firm of Foster-Pepper. <b>Response from KAPO:</b> Based on this response KAPO and we suppose other interested parties, is or would be interested in the outcome of that appeal. Is there a court case record that can be reviewed?</p>	No change
26	KAPO	N/A	N/A	No review of stormwater problems prior to 2010 or whether proposed regulations were too broad.	<p>In the context of stormwater impact, Kitsap County and its streams, wetlands, and marine waters have been studied extensively, and historical developments have been documented to have deficient stormwater facilities and treatment. Extensive research has been conducted by University of Washington since the early 1990's regarding the impacts of urbanization on the environment of the Puget Sound lowlands. Much of that work has included Kitsap County streams, wetlands, and marine waters. Additionally, urbanized areas of Kitsap County such as Silverdale have been subject of repeated flooding due to inadequacy of storm systems built in the mid 1980's to handle runoff created during large storms. Rural residential areas developed prior to modern stormwater regulations such as Driftwood Keys, Gamblewood, Miller Bay Estates and portions of Manchester have required extensive investments of public dollars to reduce flooding and improve water quality in these areas. <b>Response from KAPO:</b> In KAPO's June 16th letter on page 2 at point number 3, the assertion our organization made is that the County made no analysis of the regulations in effect prior to 2010 as to whether there were problems arising out of a deficiency in the regulations in effect in the 1990 era. We did not ask if there were any problems of stormwater management in the County. Since that more generalized subject was raised by staff, it is necessary to make a distinction between development that occurred prior to the adoption of stormwater regulations. So, let us revisit history for a moment. Back in 1979, I was still the sitting Director of the Department of Community Development. Kitsap County had no stormwater management requirements to impose on proposed subdivisions and commercial projects in that era. I brought with me from Snohomish County a model ordinance that we had developed in the Planning Department with the help of consultants to address issues in Snohomish County. Without belaboring the point, I introduced those regulations to Kitsap County to include local engineers because it was time Kitsap County addressed the stormwater problems manifest [sic] here and I knew the kind of groundwork that had been laid in Snohomish County to underpin the regulations. Incidentally, we defined the problem that needed a resolution. Staff mentioned in their comments, Manchester, Driftwood Keys, Gamblewood and Miller Bay Estates as being areas of the county where stormwater problems exist and where Kitsap County has had to spend money to solve those problems after the fact. In context, none of those developments, which were platted at then allowed "rural densities," were subject to any kind of stormwater management controls. Thus, this is not the situation KAPO asked to be addressed. Pertinent to Silverdale, one has to ask which part of Silverdale has had "repeated flooding as a result of the inadequacy of stormwater controls? Part of Silverdale were [sic] developed with again not stormwater control systems having been required. The Kitsap Mall came into being before Kitsap County had adopted even the first set of regulations. In short, it is not fair to say flooding problems existing without further specifying which portions or in what era development took place. Regarding studies by the University of Washington, no reference was given, but according to results of their analysis published in the newspapers circa 2015-2016 one of their conclusions is that runoff from streets and roads maintained by local jurisdictions contributes more to the pollution of streams and creeks than does other types of development. Kitsap County thus has more a problem with its extensive road system than is presented by a Driftwood Keys or a Miller Bay Estates. Also mentioned by staff was the exemption passed via Ordinance 448-2010. Presumably that is reference to the 1-acre small project exemption. When staff was questioned in oral testimony on July 11th, it appears there is no longer a 1-acre exemption for small projects. More clarity is required.</p>	No change
27	KAPO	N/A	N/A	No minimum required regulations that would meet DOE requirements were considered.	<p>The 2007 appeal focused on minimum requirements and was centered on the minimum requirements set forth in the NPDES permit vs state and federal law.</p>	No change
28	KAPO	N/A	N/A	Citizens have not been given 'legal reference points' to be informed of proposed changes.	<p>It is unclear what this comment refers to, but the legal requirements have been noted previously and are widely available to those who wish to be more informed.</p>	No change
29	KAPO	N/A	N/A	No cost estimates have been provided for proposed ordinances and the SDM.	<p>Kitsap County has previously provided cost estimates: Kitsap County Public Works provided the Board of County Commissioners several cost estimates of the impact of the proposed regulations on existing road projects at several public work sessions. Additionally (and again in 2016), the County made the DOE cost study widely available to the public to review the impact of the proposed regulations. The most impacted type of development was the small commercial development. As a result of this large projected cost impact, the Board made an exception for these types of development to reduce the cost of development. The exemption was passed with ordinance 448-2010. For more perspective on DCD's fee and review costs see the following DCD Fee Schedule Excerpt and Examples.</p>	No change

Comment No.	Author	Volume	Section	Comment	County Response	Edit
30	KAPO	N/A	N/A	No analysis of 'compounding regulations' was provided.	By state law and in compliance with NPDES permit requirements, projects must vest to the code/SDM in effect at time of submittal. Projects vested to an earlier standard are able to build under those prior standards. <b>Response from KAPO:</b> That is an answer that completely misses the point. Also, in the for what its worth department, the City of Port Orchard, has taken the position that when it comes to stormwater control regulations nothing vests to the time it was approved. KAPO's [sic] point in raising this issue is that Kitsap County keeps adopting new and supposedly "more better" regulations without ever examining the impact of one regulation on the individual required to comply. This individual be he or she a homeowner, a builder, a developer or anyone who has to comply with the regulation, when that or those same people have to satisfy a multitude of other regulations there is a problem and a lot of added expenses to be borne. Two areas of obvious compounding is the person who is subject to the Critical Areas Ordinance provisions, the Shoreline Master Program, Zoning regulations and Stormwater Design regulations.	No change
31	KAPO	N/A	N/A	What is the effect of stormwater design regulations on the cost of housing and housing supply? This is an issue that deserved be addressed [sic], if for no other reason it is an issue that faces our military personnel and their families as well as at least 50-percent [sic] of the County's population.	See response #23. As required update for the 2019-2024 NPDES permit issuance, these proposed amendments are minimal in scope with the exception for commercial and industrial projects that must meet the newly required redevelopment standards, costs remain the same as required in the current manual established in 2016. Additionally, the Washington Department of Ecology who is the responsible agency for establishing the NPDES permit and design requirements in accordance with the Federal Clean Water Act has public opportunities prior to developing revisions to permits and the associated design manual. As a Phase II permittee, Kitsap County must comply with these rules for water quality to discharge of surface waters into waterbodies of the state.	No change
32	Pat Fuhrer Map Limited	N/A	N/A	<p>There are two major areas in the Kitsap County code and Storm drainage Manual that are more restrictive than the regulatory guidelines found in the Dept of Ecology Manual:</p> <ol style="list-style-type: none"> <li>1. Threshold Discharge Areas, and,</li> <li>2. Applicability to Rural Areas.</li> </ol> <p>Threshold Discharge Areas are best explained by example. Say you have a 1-acre project, and half of the site naturally drains to a downstream receiving water and the other half naturally drains to a separate downstream receiving water. If these two downstream drainages do not combine within a ¼ mile, then each of the basins on your site are considered separate for the purpose of determining which Minimum Requirements are applicable for mitigation. Kitsap County treat each project as a single threshold discharge for determining what minimum requirements apply.</p> <p>It is my understanding that NPDES permit from Ecology for Kitsap County only applies to Urban Areas and Census-Urbanized Areas, not to Rural areas. The County leadership years ago must have decided that the stormwater regulations must be shared equally amongst all the property owners in the County.</p> <p>Every 3 or 4 years, Kitsap County has to update their Storm Drainage Manual and Code "because DOE does".....why do we continue to spend taxpayer monies to fund this? Every other jurisdiction in Kitsap County had adopted the Ecology Manual outright. When we private sector engineers review these new changes every 3 or 4 years, and ask Staff why we have to be more stringent than DOE's guidelines, the answer is usually that "DOE will not let us backslide the regulation". I and a few others sat in a meeting with Ecology representatives a couple of years ago at the KBA and we were told that DOE would let the regulations backslide as long as they were still consistent with their guidelines.</p> <p>Lastly, I would like to point out to the Planning Commissioners Item #10 in the matrix. The Western Washington Hydrology Model that we are required to utilize to model storm water in Kitsap County utilizes rain gages in Everett, Quilcene, and Sea-Tac. How is that considered Best Available Science?</p>	<p>1. Threshold Discharge Areas (TDAs) - Historically, Kitsap County has regulated the whole project site. The 2007 NPDES permit update contained a provision in section 55, item 4 that stated, "Permittees shall not repeal existing local requirements to control stormwater that go beyond the requirements of this permit for new development and redevelopment sites." This required Kitsap County to continue the practices implemented since that initial permit and not adopt TDAs as the Ecology manual did. This was affirmed through the Water as a Resource policy established in 2009 and reaffirmed in 2016 (Resolutions 109-2009 &amp; 134-2016), realizing that the waterbodies and drainage systems in Kitsap County are all interconnected.</p> <p>2. Applicability to Rural Areas - As mentioned above, the goal of the Board of County Commissioners and the Public Works Stormwater Division was to recognize that the waterbodies and drainage systems within the County are all interconnected. Water does not respect the boundaries that are established through zoning and other regulations and watersheds cross many of them. In an effort to minimize the cumulative effects of development and standardize the maintenance requirements, the decision was made to apply the NPDES regulations across the County.</p> <p>RE WWHM model: Per the Ecology manual Volume III, section III-2.2, a local government may petition Ecology to include additional precipitation data if that government believes the data they possess is more accurate. The Departments agree this is worth exploring with Ecology.</p>	Explore use of local data
33	Kitsap County Association of Realtors (KCAR)	N/A	N/A	<p>On behalf of Kitsap County Association of REALTORS® (KCAR) and it's more than 650 members, I welcome the opportunity to comment on the Kitsap County's Stormwater Design Manual Updated Code (2020 SDM).</p> <p>KCAR is committed to ensuring REALTORS® work to actively advocate on behalf of homeowners and individual property owners. In doing so, we are constantly evaluating areas of concern in local government and municipal codes, taxes, and changes, that could affect real estate, the industry, and property owners. Recently, Kitsap County has submitted changes to the 2016 Kitsap SDM. Many of the changes, while seemingly harmless, such as website updates and updated link and references to the Ecology Manual and modeling requirements for consistency, are operational and have little to no effect on the consumer and make the flow and overall user end experience more beneficial to the consumer. The individual rights of the homeowners and property owners in Kitsap County will always be first and foremost on our minds. The proposal and 2020 DSM have so many measures that just produce cost busting measures that imply that the regulations are imposed to increase additional burden on the citizens of this county. While there may need to be changes made to comply with ecological regulations, it does not have to pose the financial implications to the builders, which in turn, are passed down to the consumers and property owners. Ecological and environmental issues are expensive, and we recognize the importance of protecting our beautiful county and the land we live on and want to continue to make sure we are protecting it for generations to come. While variations of the manual have been suggested, the volumes have become excessive going from the general revisions that allow us to recognize the need for changes required based on ecological requirements, to adopting additional measures to add strain to the community, builders, and property owners. Here we are, in a recession, 11.1% national unemployment rate, low housing inventory, housing affordability in the state of Washington abysmal, yet we continue to drive up additional costs to property owners which could make the ability for homeownership nearly impossible for the demographic of the typical working family in Kitsap County. This does not protect our citizens or their interests.</p> <p>It would be the recommendation of our association and our members, that you consider reviewing the overall cost to the consumer and how that would impact affordable housing in smaller communities that could be developed (increasing housing affordability) and perhaps consider a tiered cost approach as previously mentioned in volume 1 comments about TDA's by the KBA? We would respectfully ask if environmental guidelines have been met and meet the requirements in other counties, why Kitsap is imposing additional criteria?</p> <p>Kitsap County Association of REALTORS® is in opposition of the changes and updates to the 2020 DSM. We appreciate your time and consideration on the matter.</p>	<p>We are understanding of the local, statewide and nationwide circumstances experienced with current unemployment rates and the need for housing units of all price ranges. The causes and factors are multi-faceted. The proposed amendments to the stormwater code and design manual are directly associated with meeting federal and state law requirements of the National Pollutant Discharge Elimination System. As a Phase II jurisdiction, Kitsap County must comply with NPDES permit requirements and associated design manual developed by the Washington State Department of Ecology. As a permittee, we must comply with the standards for water quality to discharge surface waters in the state. Prior to issuing new revisions to the NPDES permit and design requirements, the Department of Ecology conducts a public participation process which invites associations, interested parties and stakeholders to comment on the proposed rules and their impact. Kitsap County often participates in these efforts, but ultimately Ecology renders the decision on the standards which must be implemented at a local level. In regards to comments regarding TDAs, see comment #32.</p>	No change

## DCD FEE SCHEDULE EXCERPT AND PROJECT EXAMPLES

### FEE SCHEDULE EXCERPT

The permit application types shown below are representative of the most common stormwater reviews that occur within DCD’s Development Services and Engineering Division. The table shows the proportionate share of stormwater review.

Permit App Type	What is the Permit for?	Total Permit Fee*	Avg DCD Stormwater Review Portion in Hours/\$**
Site Development Application Permit (SDAP) – Single Family Residence	Single family residence	\$2645.20	11 / \$1450
SDAP – Commercial	Commercial/industrial development	\$5657.10	23.6 / \$3070
SDAP – Land Subdivision	Final grading and infrastructure for a subdivision >9 lots	\$5591.00	33.7 / \$4380
SDAP – Grading 3 (largest grading permit)	Large grading permit >5000 cubic yards	\$3716.40	19.3 / \$2500
Preliminary Plat	Preliminary approval of subdivision >9 lots	\$8530.60	16.9 / \$2202

\* Includes 2020 fees for: Health District, Public Works, technology, and for Preliminary Plats also Hearing Examiner costs

\*\* The hours shown, from analysis of 2019 hours, do not include land use review nor environmental review (ie, the difference between the total fee costs and the stormwater review costs). Costs shown are averages. Costs can increase or decrease depending on quality of submittals, size and complexity of project, project alterations, proposed method of stormwater treatment, and site constraints (including critical areas, topography and soils permeability).

### PROJECT EXAMPLES

While the above Fee Schedule items represent DCD costs to review, the examples below represent the permit application requirements needed for their review to be declared complete for review. These are typically provided by the applicant’s consultants, for example a certified engineer.

Note the items mentioned below are only stormwater review submittal items. There are other items and reports needed for complete Kitsap County Code review of an application by other divisions, and the following is generally a comprehensive list of submittal items. Of course, specific requirements depend on several variables, including permit type, project type and scope, site constraints, complexity and other conditions:

*Kitsap County Department of Community Development  
Stormwater Design Manual and Title 12 Update  
June 26, 2020*

SEPA questionnaire, Traffic Impact Analysis, Landscape Plan, Wetland report or certification, Geotech report, Hydrogeological report, Water and Sewer Availability documents, Septic BSA or Building Clearance, Parking Analysis, bonding documents, covenant documents, architectural documents (typically for design districts).

Examples include:

### Urban Commercial

- SDAP-COMM, 20 02192, Clear Creek Apartments (large project, 148 units)
  - Stormwater Review Items: Engineering stormwater & drainage report, project narrative, stormwater worksheets, stormwater pollution prevention plan (SWPPP) & narrative, permit questionnaire, maintenance covenant, Operations & Maintenance (O & M) manual
  
- SDAP-COMM, 20-00441, Coppertop Storage - Self Storage and Vehicle Self Storage
  - Stormwater Review Items: Engineering stormwater & drainage report, project narrative, stormwater worksheets, SWPPP & narrative, permit questionnaire, post construction soil quality worksheet, maintenance covenant, Operation & Maintenance (O&M) manual

### Urban Residential

- R-SFR-BP, 16-00817, Mills Single Family Residence (small project)
  - Stormwater Review Items: Residential stormwater worksheet, SWPPP plan & narrative
  
- SDAP-LSUB, 14-03053, Woodbridge Phase 1 (major development, 42 lots)
  - Stormwater Review Items: Engineering storm & drainage report, project narrative, stormwater worksheets, SWPPP & narrative, permit questionnaire, maintenance covenant, O & M manual

### Rural Residential (*Outside Census Urbanized Area*)

- SDAP-GRADING 3, 18-01898, Bennett's Addition, Phase 1 (large project, 30 lots)
  - Stormwater Review Items: Engineering storm & drainage report, project narrative, stormwater worksheets, SWPPP plan & narrative, permit questionnaire, maintenance covenant, O & M manual

# Angie Silva

**From:** Berni Kenworthy <berni.kenworthy@axislandconsulting.com>  
**Sent:** Monday, May 18, 2020 12:59 PM  
**To:** Angie Silva  
**Cc:** Russ Shiplet; Norman Olson; 'Pat Fuhrer'; Mark Eisses; Levi Holmes; ellrosscardoso@gmail.com  
**Subject:** Stormwater Comments

Hi Angie,

Thank you for the updated matrix and first draft redlines– those were helpful to understand the changes that were made. Please see our stormwater comments/questions below and forward along:

**1. We appreciate the addition of this clarification regarding compliance with Minimum Requirement #5:**

is necessary for that surface

If all BMPs in the list are infeasible, then the designer must document the site conditions and infeasibility criteria used to deem each BMP infeasible. This documentation will demonstrate compliance with Minimum Requirement #5.

Feasibility shall be determined by evaluation against:

1. Design criteria, limitations, and infeasibility criteria identified for each BMP in Volume II, Chapter 5 of this manual; and
2. Competing Needs Criteria listed in [Volume I, Section 3.4.5 of the Ecology Manual](#).

**2. This language makes redevelopment more difficult. In addition, how is interior improvement value calculated – this can become quite subjective.**

• For all other projects: the valuation of the proposed improvements, including interior improvements, exceeds 50% of the assessed value of the existing site improvements.

If runoff from new hard surfaces, converted vegetation areas, and replaced hard surfaces is not separated from runoff from other existing surfaces within the project site or the site, the guidance in [Volume III, Section 2.4 of the Ecology Manual Appendix III-B of the Ecology Manual](#) for off-site inflow shall be used to size the detention facilities.

**4.1.3 Regional Facilities**

Regional facilities may be allowed as an alternative method to meet Minimum F #6, #7, and/or #8. The County will require an engineering report to be submitted if the regional facility meets the Minimum Requirements for the sites that drain to [Appendix I-D of the Ecology Manual for details](#).

**4.2 Minimum Requirements**

This is so subjective....will lead to disputes. Is this the Assessor's "Land Value", or what other valuation exists for "existing site improvements"?

**3. Threshold Discharge Areas: We would like to note for the record that Kitsap County is more restrictive than DOE by not allowing the use of TDAs. This is not in the best interest of Kitsap County, particularly in the affordable housing arena and on road construction/maintenance projects. We believe that TDAs are recognized by Ecology because they understand that small sites can't be designed down to the nth degree. Suggested Change: Continue to use the KCSDM as written in regards to restrictions on TDAs but allow engineers to submit requests to be allowed to use TDAs as specified by the WDOE Manual for projects when the engineer believes it makes sense. This process would occur for a test period. At the end of the test**

period, perhaps until the next update, assessment can be made whether or not to include TDA's in the manual.

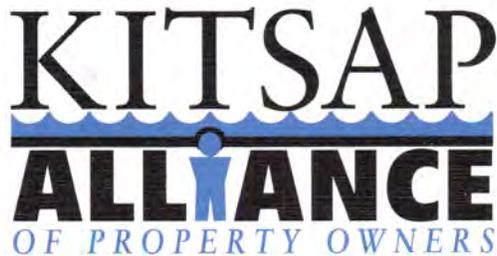
4. Vol 2 pg 47 Source Control: Are covered dumpster enclosures back? Didn't Kitsap County abandon the implementation of this requirement?
5. Vol 2 Pg 91 Full Dispersion: It is disappointing that buffers cannot be used for dispersion flow path lengths. This seems to go against the promotion of LID and MR#5. This will limit the ability to utilize dispersion. Suggestion: Allow dispersion to occur within a wetland buffer given proper determination by the project biologist that the wetland itself already provides water quality treatment function and using dispersion will be superior and promote the overall system function compared to using another BMP. Update the CAO to allow for greater than 25% administrative buffer reductions if the reduction is to be used for dispersion flow path.
6. Does the UIC requirement apply to bioretention facilities with underdrains or only to infiltration trenches with perforated pipe? What is the purpose of this requirement? It feels like just another hoop with little added benefit. What is the process – does the engineer need to contact DOE every time an infiltration trench is proposed prior to submitting an SDAP? Is this required for SFRs, too?
7. What is the purpose for requiring large PITs to be documented and staked by a licensed land surveyor? Locations can be estimated by measuring or on handheld devices - requiring a land surveyor adds unnecessary costs.
8. Why is grain size analyses no longer an option for determining infiltration rates? Suggestion: KC continue to use the policy, outside the manual, to allow gradation for infiltration in soils not glacially consolidated (note, DOE allows this). Allow that policy to continue to be utilized when the engineer can make the argument site should qualify. Simply don't throw out the policy that was created because it makes sense.
9. We would like to understand which figures and charts changed and what the changes are. We were not provided the "file for Public Draft figures".

The Developer may choose to perform Steps 2 through 5 concurrently, or in series. Larger projects may benefit from consulting with a licensed professional early in project development. Refer to [\(See separate file for Public Review Draft figures\)](#) Figure 5.1 Figure 5.4 for a flowchart illustrating these steps for completing an infiltration feasibility assessment.

**Step 1: Evaluate Horizontal Setbacks and Site Constraints**

10. We would like to note that KPUD has rainfall gauges all over Kitsap County, yet WWHM has zero information from Kitsap County. While this is beyond the scope of the current manual revisions, we would like to see WWHM be updated to include rainfall data from Kitsap versus being forced to use rain gauges in Quilcene, Seatac and Everett.
11. Table 4.3 doesn't cover greater than 5 acres sites inside a UA.
12. List 2B doesn't allow full dispersion on downspouts, why?
13. Why is permeable pavement #1 on the hard surface table for rural areas. Why is rural more stringent than UGA/UA?

- 14. The critical drainage area maps were recently updated, but are now reverting back to the previous maps. Can the county better show and define on the maps the problem areas/culverts/systems? In addition, have any county stormwater SWMM upgrade projects addressed any of the critical drainage area concerns – e.g., Manchester, Koch Creek update at the ACE pond etc.? If so, the critical drainage areas should be updated accordingly.**
- 15. Can bioswales be added as a runoff treatment option?**
- 16. Why can't a performance surety be accepted in lieu of construction completion for subdivisions with private roads?**
- 17. Section 5.3.2 – why aren't small PITs allowed for projects with  $\geq 1$  acre of impervious? Did DOE make this change?**
- 18. Section 5.4.8 – why is infiltration under impermeable pavements not allowed in lieu of permeable pavement?**
- 19. Were changes made to the "Site Assessment and Planning Packet"? It was not included in the appendices.**
- 20. The definition of steep slopes needs to have a sentence added that manmade slopes aren't covered under the definition. If a slope was designed at 2:1, then a future development shouldn't require another Geotech just because it exceeds 30% and shows up on the map.**



June 16, 2020

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

**SUBJECT: Kitsap County Stormwater Design Manual - Volume I - Project Minimum Requirements and Site Planning - KAPO'S Opposition To Such Regulations**

Honorable Commissioners:

KITSAP ALLIANCE OF PROPERTY OWNERS (KAPO) over the years has maintained a vigil against over regulation and regulation for regulation sake. We have been consistent in continually bringing the question - "what is the problem we are trying to solve? to the forefront. The next question to be examined in the public debate is: "how are the existing regulations failing to address the problem? While answering these questions we want to know what types of studies have been performed to document problem(s) or the ineffective measures applied in the past. And equally important is: "what is the cost to the public and private sectors to implement new regulations."

Any regulation, existing or proposed that is crafted without first answering the above basic questions, is by definition "regulation for regulation sake." Volume 1 of the Stormwater Design Manual fits that definition. It is that fact and other issues as outlined in this review response, that explains why KAPO is opposed to these new stormwater design regulations.

KAPO knows it is costly to actually study the environment (to include the regulatory environment) and it is much easier to just propose regulations because somebody thinks it might be a good idea. The problem with that approach is that regulations get piled on top of other regulations and nobody ever takes the time to make the analysis of whether we even need all of the regulations a county or city has adopted.

Speaking first to this last point consider if you will, the fact that Kitsap County has had stormwater regulations in effect since the early 1980s. The first ordinance was about 150 pages in length. In the early 1990s that first ordinance was amended to become more restrictive than the first. Still, between 1992-93 and February 2010, there were many, many projects approved - residential, commercial, industrial and institutional.

---

*"The small landholders are the most precious part of a state." - Thomas Jefferson*

Post Office Box 1861, Poulsbo, Washington 98370 • [www.kapo.org](http://www.kapo.org)

All of these projects and developments have functioning storm water control systems with water quality controls. Between the years 1985 and 2009, there were only two documented instances in which stormwater infrastructure failed to perform as designed. One such failure was in the Chico area and the failure in that system was attributed to improper maintenance. The other was in South Kitsap where the “K-Mart Shopping Center” is found. In this instance, the issue was not design failure, it was a “procedure problem.” County Public Works staff would not let the developer make the final connection to his storm pond, in the midst of a huge storm event. Had the developer been allowed to hook his storm collection system to his already improved pond, serious adverse damage to downstream properties could have been avoided.

All storm water design parameters were contained in the stormwater regulations and by any serious analysis they were not just effective for that time period but continue to function without adverse impacts to downstream properties or the “environment” even twenty-four years later. So why was it necessary in February 2010 to adopt a “Stormwater Design Manual?” The simple answer is/was, “the State made us do it.”

Even with that anathema response from the County’s elected officials, the design guidelines were adopted without the following analysis having been a part of the decision-making process:

1. Obviously, there was no discussion of the “actual need” for more regulations being the antecedent reason for the regulations. Even the State Department of Ecology made no such assessment prior to adopting their regulations and forcing local jurisdictions to do the same. DOE even ignored the testimony to that effect during their own public hearings. No, that department had another agenda.
2. Other than a summary reference to the regulations adopted for the nation by the Environmental Protection Agency (EPA) that supposedly DOE took as a mandate for their own regulations, virtually nobody in Kitsap County saw or evaluated the EPA regulations. Worse yet, nobody in Kitsap County made analysis of the EPA regulations to see if the 1990’s ordinance was in or out of compliance with those regulations.
3. No analysis was performed to determine whether or not a.) Kitsap County had problems with stormwater controls in effect prior to 2010 that were not being addressed or b.) whether Kitsap County’s environmental conditions would satisfy the “one size fits all” conditions in other counties in the state assumed by DOE’s in their ordinance compliance guidelines.
4. No analysis was performed by Kitsap County staff to determine the “minimum required” regulations that would conform to either EPA or DOE’s adopted ordinance provision guidelines.
5. Kitsap County citizens and property owners having been given no “legal reference points,” could not provide “informed critique” of the then promulgated regulations.

6. Neither Kitsap County staff, appointed nor elected officials made any cost estimates for what either the price tag would be to the County or those in the private sector to actually implement, not just the new stormwater control ordinance but the design guidelines attached thereto. As an incidental note, even DOE knew as early as 2002-2003 that the costs associated with stormwater infrastructure compliant with their guidelines would be some 2-4 times the cost of workable systems designed in accordance with 1990 ordinances. Clearly, neither DOE nor Kitsap County cared a whit about such increased costs.
7. Kitsap County officials made no “compounding regulations” assessment to determine how other ordinances would be impacted by the adoption of the design guidelines. For example, in the building permit process even proposed single-family dwellings on existing lots cannot be approved without providing 4-5 exhibits addressing stormwater control issues and performing the on-site soils analysis and percolation rate data necessary to demonstrate compliance with stormwater design controls, none of which was necessary in the 1990s.

Sadly, the citizens of Kitsap County to include the property owners represented by KAPO are without the benefit of the analysis outlined in the above seven items in this review of the 2020 Stormwater Design Manual - Volume I. Further, the “red text” and “blue text” is lacking in any reference data as to “who” proposed the changes and “why.” Pertinent to the “why” question: what is the need for the red or blue text regulatory measures? Is it for example, so that the Design Regulations can be more in compliance with DOE regulations, to facilitate development of property in the County or to bring more clarity to the regulations?

Regarding the questions about what prompts the changes in the Design Guidelines, it is clear the proposed ordinance changes will not facilitate the development of property in Kitsap County - more about this in a moment. The red or blue text is not about bringing more clarity to regulations. At the end of the day there are 200+ pages of regulatory measures to be implemented and that is only Volume I. Clarity is achieved by eliminating, not adding to or replacing one requirement with another.

Pertinent to the issue of impeding not facilitating development, consider the fact that our private sector engineers spend on the average 1 ½ - 2-months in storm drainage facility design (also including utility systems) for any given subdivision or commercial/industrial development proposal; and that is just to get to “preliminary design proposals.” The cost of their work is approximately \$16,000.00. Then Kitsap County’s review time (overlooking for the moment permit application fees) along with that of other planning staff is some 4 - 6-months if one is lucky (often it is longer for reasons that can be explained later).

Once preliminary approval is obtained, then the final design work can commence. Final design work is performed under the auspicious of Site Development Activity Permit (SDAP) approval. The private sector cost for “final storm drainage facility design” (to include provisions for other utilities) will range from a low of \$25,000 for simple systems to \$100,000 - \$200,000 for larger projects and more complicated

systems. Again, there is a minimum of 2 - 3-months design work to prepare “design manual” compliant facility proposals.

Following submittal of the SDAP, Kitsap County rarely finishes their “first redline” review in less than 8-weeks. Then it is back to the engineer for revisions. This “resubmittal” process can take any where from a couple of weeks to two-months depending on the revisions requested and the time available by the engineer to address the issues or provide supplemental information. So, a “best case scenario” for final storm drainage design and approval is 4 - 6-months and that is on top of the 4-6 months already spent in the “preliminary plan review process.”

More than one project has been “stopped cold” because of the “design requirements” for stormwater infrastructure. In the aggregate the costs of compliance with Kitsap County’s Stormwater Design Manual are staggering and way beyond the means of most citizens in Kitsap County. But coupled with permit processing delays, especially in the spring of the year, more than just a few developers and project proponents have had to delay their developments from one year to the next, sometimes losing their financing in the intervening months or years - just due to this one aspect of project approval - stormwater design manual compliance.

One might ask, “who cares” about the cost of regulation implementation or the costs a project proponent has to assume? The answer seems to be “nobody” involved in County government and in some city governments as well. When jurisdictions adopt regulations for the sake of having a set of regulations like everybody else or because the “state made me do it,” costs of regulation implementation, to include lost projects, is a by-product of “oh well, so be it.”

Does that attitude about regulation implementation exist in Kitsap County? Clearly it does. One testimony is the fact that even when the “lie” of the “no cost to regulation adoption is exposed, the County has steadfastly refused to undertake such an assessment and/or analysis. Aside from the upfront costs the developer or project proponent assumes, the real costs are born by the consumer when he, she or they go to by a house or goods and services in the commercial marketplace.

Consider these two aspects of just the housing market - the average price of a new home in unincorporated Kitsap County is \$370,000.00 and the average rent for a home or apartment is \$1,773.00 (data source, Realtor.Com). Compared to the “medium household income” of the County which is \$71,610 (2018 dollars) (data source US Census Bureau QuickFacts: Kitsap County, Washington). According to the Affordable & Fair Housing Analysis provided the Planning Commission by KAPO on February 4<sup>th</sup> of this year, approximately 50% of the households in Kitsap County cannot afford to buy a new or used homes (with similar features). Also, the demographics for rent indicate that the same scenario is applicable to renters as well.

On aspect of the “supply and demand” equation has to do with the number of housing units available in the marketplace. Too few and the price per house goes up. Too

many and the housing costs drop. Likely, balance is never quite reached, but supply of housing seems to be way short of demand in the County. According to ECONorthwest's findings in their City of Bremerton & Kitsap County Affordable Housing Recommendations Report published May 2020, they cite the fact on Page 11, that Kitsap County together with its cities need an additional 25,147 total housing units by 2036 or 1,480 new units per year to serve the project population increase.

Current production of housing units per year per new residents is about 42 homes per 100 residents. In the period between 2010 - 2017 only 3,600 new dwelling units were made available (an adjusted number). So, in that seven-year time period 514 units per year were produced compared to a need of 1,400 per year, yielding perhaps as many as 10,360 in that same seven-year period rather than only 3,600.

Typically, all government sponsored studies like ECONorthwest's, recommend only "government solutions" and most often for increased speed in permit processing. In some instances, the "government solution" is for "innovative programs" of one kind or another. Neither these so-called solutions have worked well in other jurisdictions and they ignore a reality that means they cannot possibly have any significant impact on housing supply. Why you ask? Because of the requirements of all other existing regulations. In the case of "innovative programs," new regulations have to be created, thereby increasing the regulatory environment. And the "new regulations," when created neither suspend nor repeal the other impinging regulations.....like storm drainage facility design. Also relevant are zoning and critical area ordinances.

Back to who is bearing the cost burden staff, appointed and elected officials do not even want to consider. Of course, it is the consumer. But the impact is really on the whole populism of county born most poignantly by the people in income groups with less than median levels of household income.

For many of the reasons highlighted in this letter, KAPO recommends against adopting the June 2020 2<sup>nd</sup> Draft set of regulations until the three questions laid out in the first paragraph of this letter and the seven items outlined on pages 2 & 3 are addressed as they should have been in the 2009-2010 era. KAPO is well aware that suspension of adoption of these set of design regulations, may not be well received by the State Department of Ecology personnel, but what matters is what is best for the citizens of this County. Adopting regulations for the sake of regulation is not in the best interests of either the property owners or the citizens of Kitsap County.

Respectfully submitted,



William M. Palmer, President  
KITSAP ALLIANCE OF PROPERTY OWNERS.

## Angie Silva

---

**From:** Pat Fuhrer <patf@map-limited.com>  
**Sent:** Monday, July 13, 2020 12:04 PM  
**To:** Angie Silva  
**Subject:** Planning Commission SDM follow-up responses

Hi Angie:

I meant to get this message to you Friday, but I think the PC left the record open for comments through the end of the day today?

There are two major areas in the Kitsap County code and Storm drainage Manual that are more restrictive than the regulatory guidelines found in the Dept of Ecology Manual:

1. Threshold Discharge Areas, and,
2. Applicability to Rural Areas.

Threshold Discharge Areas are best explained by example. Say you have a 1-acre project, and half of the site naturally drains to a downstream receiving water and the other half naturally drains to a separate downstream receiving water. If these two downstream drainages do not combine within a ¼ mile, then each of the basins on your site are considered separate for the purpose of determining which Minimum Requirements are applicable for mitigation. Kitsap County treat each project as a single threshold discharge for determining what minimum requirements apply.

It is my understanding that NPDES permit from Ecology for Kitsap County only applies to Urban Areas and Census-Urbanized Areas, not to Rural areas. The County leadership years ago must have decided that the stormwater regulations must be shared equally amongst all the property owners in the County.

Every 3 or 4 years, Kitsap County has to update their Storm Drainage Manual and Code “because DOE does” .....why do we continue to spend taxpayer monies to fund this? Every other jurisdiction in Kitsap County had adopted the Ecology Manual outright. When we private sector engineers review these new changes every 3 or 4 years, and ask Staff why we have to be more stringent than DOE’s guidelines, the answer is usually that “DOE will not let us backslide the regulation”. I and a few others sat in a meeting with Ecology representatives a couple of years ago at the KBA and we were told that DOE would let the regulations backslide as long as they were still consistent with their guidelines.

Lastly, I would like to point out to the Planning Commissioners Item #10 in the matrix. The Western Washington Hydrology Model that we are required to utilize to model storm water in Kitsap County utilizes rain gages in Everett, Quilcene, and Sea-Tac. How is that considered Best Available Science?

Thank you for your review and consideration.

Pat Fuhrer, P.E., Principal

### MAP, Ltd.

PO Box 720 (Mailing)  
10045 Old Frontier Rd NW (Street)  
Silverdale, WA 98383  
360-692-5525 x-116 Office  
[patf@map-limited.com](mailto:patf@map-limited.com)  
[www.map-limited.com](http://www.map-limited.com)

WHENEVER I FEEL MYSELF GROWING GRIM ABOUT THE MOUTH; WHENEVER IT IS A DAMP DRISSELY NOVEMBER IN MY SOUL - THEN I ACCOUNT IT IS HIGH TIME TO GET TO SEA AS SOON AS I CAN. (HERMAN MELVILLE)



July 13, 2020

KITSAP COUNTY  
PLANNING COMMISSION  
619 Division Street, MS-36  
Port Orchard, Washington 98366

SUBJECT: Response To Staff Comments In The Matrix For Issues Raised By  
Kitsap Alliance of Property Owners On June 16, 2020

Honorable Commissioners:

Before addressing the Staff comments in the matrix, KITSAP ALLIANCE OF PROPERTY OWNERS (KAPO) wants to emphasize something to correct an impression that might be held by some. Besides our mission of working to see that the protections in our US and State Constitutions are not abridged for people who own property, we are advocates for "local control and decision making" and not for State or Regional Control of Kitsap County. Thus, we want our local legislators and their supporting staff to have as their primary concern, what is best for Kitsap County and not what a state agency thinks is best or implements through their funding guidelines. In short, we reject the premise that says in effect, "the state made me do it" to include adoption of this or that regulation.

Even when our State law makers impose regulations on Kitsap County without our (the people of Kitsap County's) consent, we want to see evidence that our local legislators have exerted every effort possible to oppose regulations that adversely affect the residents and property owners of Kitsap County or the County's budget in a vigorous line of defense.

Quite frankly what we have witnessed in the last 20-years of involvement in the plans and ordinance development process is either no strong advocacy for local control or passive resistance only. The net result being that abdominal admission....."we have no choice.....the State mandates it." All that does is call into question, "who do our elected and staff actually represent, the State or Kitsap County?"

Now to the issues posed in our June 16<sup>th</sup> letter.

1.) "What is the problem we are trying to solve?"

Staff answer: "Compliance with state and federal law."

---

*"The small landholders are the most precious part of a state." - Thomas Jefferson*

Post Office Box 1861, Poulsbo, Washington 98370 • [www.kapo.org](http://www.kapo.org)

**COMMENT:** So, in effect that response is saying that “whatever the State DOE (in this case) wants, it gets” and the citizens of Kitsap County have nothing to say about it and we are stuck with the consequences regardless.

When KAPO inquires about the problem that requires a solution we are not asking for whether or not there is an issue of noncompliance with a regulation, we want to know what the problem really is with the regulations that are failing to control storm water runoff. That is a “mechanical assessment” if you please, of what is going on in the real world of Kitsap County’s actual environment. Also, if there is a documented problem, how pervasive is it to require an 8” thick book of regulatory measures? No such data has been provided.

2.) *“How are the existing regulations failing to address the problem (the real problem)?”*

Staff answer: “Our current edition of the SDM and portions of T 12 code are not consistent with required provisions of NPDES permit.”

**COMMENT:** Again, in effect that response is saying that “whatever the State DOE (in this case) wants, it gets” and the citizens of Kitsap County have nothing to say about it and we are stuck with the consequences regardless.

Perhaps it is obvious, but when KAPO inquires about whether or not our existing regulations are ineffective, we want to know “how” they are failing to address the actual environmental conditions manifest in Kitsap County where there may be flooding or damage to downstream property as a result, i.e. a direct result of the lack of or ineffective regulation(s). By the way, we highly question any purported study DOE may have conducted, with maybe one or two exceptions, that agency studies nothing, but writes regulations (in the Washington Administrative Code) based on suspected issues.

3.) *“What is the cost to the public and private sector to implement new regulations?”*

Staff answer: “Future costs will be the same as current costs of development.”

**COMMENT:** This comment misses the point of KAPO’s now long-standing request for cost consideration of ordinance development and implementation. What we want are the costs associated with the amount of staff time required to perform the staff reviews of individual permit applications, what the engineers who design the systems according to the guidelines have to charge clients to design in accordance with the design guidelines both in the preliminary and final design phases, the cost of delayed project reviews (because of understaffing) and what the developer, i.e. the consumer has to pay for these new design compliant regulations. To try to argue that current costs will be the same as future, is a gross underestimation of even the next few year’s costs or those five - ten years hence. If there needs to be a witness to costs compare 1990 with 2010. In short, where is the cost vs. benefit analysis?

The reference to DCD's fee schedule is a "misdirection." First it assumes that developers / project proponents should pay all fee costs. Yet, when ordinances are adopted, they are so, presumably for the "greater good of the County's citizens." Yet, it is not the citizens who are paying the tab as would be the case if permitting were a part of the General Fund. If this were the case, perhaps the Board of County Commissioners would think long and hard about what it costs to implement regulations they adopt. Once-upon-a-time there was that consideration of ordinance implementation cost in the General Fund. And back in those days the elected officials fought hard for local control.

4.) *"What is need for new stormwater regulations?"*

Staff answer: "DOE has provided rationale for each milestone update."

**COMMENT:** So, in effect that response is saying that "whatever the state DOE (in this case) thinks is best, the citizens of Kitsap County have nothing to say about it and we are stuck with the consequences regardless.

KAPO is not asking for what the "state thinks is best," we already know their decision-making process is not based on actual studies or assessments of the environment. That agency justifies much of what they come up with based on the experience of others or possibly even studies conducted in "Timbuktu" or somewhere besides Kitsap County or even Western Washington. We are asking what steps Kitsap County has taken to document a need for new stormwater regulations with regard to our own environment. So, far we have not seen such justification,

5.) *"What was the defense of Kitsap County's 1990s' era ordinance vs. the regulations purported to be needed by the early 2000's era EPA regulations?"*

Staff answer: "No assessment of the County's 1990 regulations but a joint appeal in 2007 along with cities regarding the issue of 'maximum extent possible.'"

**COMMENT:** Based on this response KAPO and we suppose other interested parties, is or would be interested in the outcome of that appeal. Is there a court case record that can be reviewed?

6.) *"What stormwater problems existed prior to 2010?"*

Staff answer: "Extensive research has been studied extensively and problems were found."

**COMMENT:** In KAPO's June 16<sup>th</sup> letter on page 2 at point number 3, the assertion our organization made is that the County made no analysis of the regulations in effect prior to 2010 as to whether there were problems arising out of a deficiency in the regulations in effect in the 1990 era. We did not ask if there were any problems of stormwater management in the County.

Since that more generalized subject was raised by staff, it is necessary to make a distinction between development that occurred prior to the adoption of stormwater regulations. So, let us revisit history for a moment. Back in 1979, I was still the sitting Director of the Department of Community Development.

Kitsap County had no stormwater management requirements to impose on proposed subdivisions and commercial projects in that era. I brought with me from Snohomish County a model ordinance that we had developed in the Planning Department with the help of consultants to address issues in Snohomish County. Without belaboring the point, I introduced those regulations to Kitsap County to include local engineers because it was time Kitsap County addressed the stormwater problems manifest here and I knew the kind of groundwork that had been laid in Snohomish County to underpin the regulations. Incidentally, we defined the problem that needed a resolution.

Staff mentioned in their comments, Manchester, Driftwood Keys, Gamblewood and Miller Bay Estates as being areas of the county where stormwater problems exist and where Kitsap County has had to spend money to solve those problems after the fact. In context, none of those developments, which were platted at then allowed "rural densities," were subject to any kind of stormwater management controls. Thus, this is not the situation KAPO asked to be addressed.

Pertinent to Silverdale, one has to ask which part of Silverdale has had "repeated flooding as a result of the inadequacy of stormwater controls? Part of Silverdale were developed with again no stormwater control systems having been required. The Kitsap Mall came into being before Kitsap County had adopted even the first set of regulations. In short, it is not fair to say flooding problems exist without further specifying which portions or in what era development took place.

Regarding studies by the University of Washington, no reference was given, but according to results of their analysis published in the newspapers circa 2015-2016 one of their conclusions is that runoff from streets and roads maintained by local jurisdictions contributes more to the pollution of streams and creeks than does other types of development. Kitsap County thus has more a problem with its extensive road system than is presented by a Driftwood Keys or a Miller Bay Estates. Then too, worthy of mention is the exemption sought by the Public Works Department for trails built along side roads - particularly in the rural areas. More detail on that can be provided as necessary.

Also mentioned by staff was the exemption passed via Ordinance 448-2010. Presumably that is reference to the 1-acre small project exemption. When staff was questioned in oral testimony on July 11<sup>th</sup>, it appears there is no longer a 1-acre exemption for small projects. More clarity is required.

7.) *"No analysis of 'compounding regulations was provided"*

Staff answer: "Vesting occurs to the code/SDM in effect at the time of submittal."  
*COMMENT:* That is an answer that completely misses the point. Also, in the for what its worth department, the City of Port Orchard, has taken the position that when it comes to stormwater control regulations nothing vests to the time it was approved.

KAPO's point in raising this issue is that Kitsap County keeps adopting new and supposedly "more better" regulations without ever examining the impact of one regulation on the individual required to comply. This individual be he or she a homeowner, a builder, a developer or anyone who has to comply with the regulation, when that or those same people have to satisfy a multitude of other regulations there is a problem and a lot of added expenses to be borne. Two areas of obvious compounding is the person who is subject to the Critical Areas Ordinance provisions, the Shoreline Master Program, Zoning regulations and Stormwater Design regulations.

8.) *"What is the effect of stormwater design regulations on the cost of housing and housing supply?"*

Staff answer: "Staff did not address KAPO's question in the comment matrix"

**COMMENT:** This is an issue that deserved be addressed, if for no other reason it is an issue that faces our military personnel and their families as well as at least 50-percent of the County's population.

Thank you for the opportunity to address what DCD staff has put in the Comment Matrix regarding KAPO's concerns. Also, we found it of interest that none of the comments submitted by others, namely those of the Kitsap Builders Association resulted in any recommended changes to the Design Guidelines. One has to wonder, whose interests are more important, Kitsap County's or those of the State Department of Ecology. KAPO argues that they are not the same.

Respectfully submitted,



William M. Palmer, President  
KITSAP ALLIANCE OF PROPERTY OWNERS.



July 13, 2020

Kitsap County Planning Commission  
619 Division Street  
Port Orchard, Washington 98366

Re: Comments in Response to the Stormwater Design Manual and Code (2020 SDM)

On behalf of Kitsap County Association of REALTORS® (KCAR) and it's more than 650 members, I welcome the opportunity to comment on the Kitsap County's Stormwater Design Manual Updated Code (2020 SDM).

KCAR is committed to ensuring REALTORS® work to actively advocate on behalf of homeowners and individual property owners. In doing so, we are constantly evaluating areas of concern in local government and municipal codes, taxes, and changes, that could affect real estate, the industry, and property owners. Recently, Kitsap County has submitted changes to the 2016 Kitsap SDM. Many of the changes, while seemingly harmless, such as website updates and updated link and references to the Ecology Manual and modeling requirements for consistency, are operational and have little to no effect on the consumer and make the flow and overall user end experience more beneficial to the consumer.

The individual rights of the homeowners and property owners in Kitsap County will always be first and foremost on our minds. The proposal and 2020 DSM have so many measures that just produce cost busting measures that imply that the regulations are imposed to increase additional burden on the citizens of this county. While there may need to be changes made to comply with ecological regulations, it does not have to pose the financial implications to the builders, which in turn, are passed down to the consumers and property owners. Ecological and environmental issues are expensive, and we recognize the importance of protecting our beautiful county and the land we live on and want to continue to make sure we are protecting it for generations to come. While variations of the manual have been suggested, the volumes have become excessive going from the general revisions that allow us to recognize the need for changes required based on ecological requirements, to adopting additional measures to add strain to the community, builders, and property owners.

Here we are, in a recession, 11.1% national unemployment rate, low housing inventory, housing affordability in the state of Washington abysmal, yet we continue to drive up additional costs to property owners which could make the ability for homeownership nearly impossible for the demographic of the typical working family in Kitsap County. This does not protect our citizens or their interests.

It would be the recommendation of our association and our members, that you consider reviewing the overall cost to the consumer and how that would impact affordable housing in smaller communities that could be developed (increasing housing affordability) and perhaps consider a tiered cost approach as previously mentioned in volume 1 comments about TDA's by the KBA? We would respectfully ask if environmental guidelines have been met and meet the requirements in other counties, why Kitsap is imposing additional criteria?



Kitsap County Association of REALTORS® is in opposition of the changes and updates to the 2020 DSM. We appreciate your time and consideration on the matter.

We thank you for your time and will continue to be involved in the ongoing conversation on this matter.

Respectfully Submitted,

Tiffany Claxton

**CHIEF EXECUTIVE OFFICER**  
**KITSAP COUNTY ASSOCIATION OF REALTORS®**  
**P: 360-692-8852**  
**E: [tiffany@kitsaprealtor.org](mailto:tiffany@kitsaprealtor.org)**  
**W: [kitsaprealtor.org](http://kitsaprealtor.org)**  
**A: 3689 Munson Street, Silverdale WA 98383**