

Submitted @
3-27-17 BCC Mtg by Alan Beam

Mar 27 2017

Kitsap county Critical Areas Ordinance update
Testimony to the County Commissioners

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My question to you last month on the update was: What is the problem that we are trying to solve? How does the current plan fall short? These questions are particularly difficult since there is no monitoring plan to measure the effectiveness of the current Critical Areas ordinance nor one in the future

My question to you now is: Have you read the Update?

Once you get into it you will find that the plan is carefully written to obscure it's purpose. Even the county acknowledges that the landowner is incapable of interpreting the ordinance. As an initial requirement for a permit the county requires a trained and certified wetland specialist survey the property, mark the wetland boundaries and associated buffers, and provide 3 reports (Wetland Delineation Report, Wetland Mitigation Report, and Erosion and Sedimentary controls measures).

19.100.110 Applicability.

Kitsap County shall not grant any permit, license or other development approval to alter the condition of any land, water or vegetation, or to construct or alter any structure or improvement, **nor shall any person alter the condition of any land, water or vegetation, or construct or alter any structure or improvement**, for any development proposal regulated by this title, except in compliance with the provisions of this title. Failure to comply with the provisions of this title shall be considered a violation and subject to enforcement procedures as provided for in this title.

This title applies to all uses and activities within areas **or adjacent to** areas designated as regulated critical areas unless identified as exempt in KCC 19.100.125

Uses and activities in critical areas or their buffers for which no permit or approval is required by any other county ordinance remain subject to the development standards and other requirements of this title. While this title does not require a review or approval process for such uses and activities, they remain subject to the title.

Fish and Wildlife Conservation Areas

There are no wildlife designated areas on the map

Which is good because the definition fits the entire county

19.150.325 Fish and wildlife habitat conservation areas.

"Fish and wildlife habitat conservation areas" are those areas that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. The County may also designate locally important habitats and species. "Fish and wildlife habitat conservation areas" do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

"Kitsap County uses the Washington Department of Ecology Washington State Wetland Rating System for Western Washington, revised 2014 or as hereafter amended. "

- a. This allows the state to revise the state and county requirements without further review.
- b. When one down loads the document from the Ecology Website you only get Vol 1
<https://fortress.wa.gov/ecy/publications/documents/1406029.pdf>
- c. The other 2 needed Volumes require extensive searching on the DOE website
Wetlands in Washington State Volume 2 – Protecting and Managing Wetlands
Ecology Publication No. 05-06-008
<https://fortress.wa.gov/ecy/publications/documents/0506008.pdf>

Appendix 8-C Guidance on Widths of Buffers and Ratios for Compensatory Mitigation for Use with the Western Washington Wetland Rating System
<https://fortress.wa.gov/ecy/publications/parts/0506008part1.pdf>

Standard Buffers make little sense

The CAO says it uses "best available science" provided by the Department of Ecology. This can't possibly be true. Science defines the problem to be addressed. What are we protecting wetlands from, people? livestock? turbidity? water pollution?

We protect against all of these by establishing passive buffers. But each of these "Contaminants " has a different effective buffer width. What amount of the contaminant needs to be removed? How much needs to be removed?

Reduce sedimentation. Vegetation in wetland and riparian buffers helps to slow water down, capturing sediment in runoff from adjoining land uses. In many cases, coarse sediments are removed efficiently in the first 16 to 66 feet of a buffer

Reduce phosphorus pollution. Phosphorus is mostly attached to sediment particles, and so it is captured along with sediment.

Reduce nitrogen pollution. Nitrogen contained in runoff is removed as denitrifying bacteria in the soil convert nitrate to nitrogen gas and plants growing in the buffer take up nitrates through their roots. Nitrogen removal efficiencies of 50, 75, and 90 percent have been reported for buffers approximately 10, 92, and 367 feet wide

Control erosion. Buffers can help to control erosion in wetland and riparian areas by minimizing disturbances by humans and livestock. Trampling by livestock can reduce vegetation cover in riparian areas, leading to bank erosion. Varied vegetation structure (i.e., dense thickets, trees, briars) in a buffer physically blocks livestock access to wetlands and riparian areas.

Improve habitats for multiple species. Wetland and riparian buffers protect and expand vegetation, protecting plants within and alongside these habitats, leading to expanded habitat area for many species.

You require a certified wetland specialist to determine a classification number, the least you could do is have them determine what are the functions we are trying to protect, what we are protecting it from, and what the appropriate buffer should be.

In all these cases you are talking about a regulatory taking exacerbated by imposing buffers of 150 feet to 300 feet around a swamp. For most takings the county is required to buy the property. You might consider not taxing the portion of the property encumbered by buffers and setbacks.



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