

This "Online Public Comments" matrix provides the comments submitted online. These are original (not summarized). The "Comment #" in the first column may be used to identify which submission has commented on a particular topic/section in the "Summary Comment and Response Matrix".

Critical Areas Ordinance (Title 19) Public Comment on Draft (3/1/17 - 3/31/17) ONLINE PUBLIC COMMENTS			
Comment #	Name	Affiliation	Comment
2	Anderson, Hank	Public	Zooming in or out on the maps takes a very long time. Difficult then to be patient enough to review much. I'm finding no way to print just a portion of a map for better review.
3	Morgan, Justin	Public	Requesting that the section of Enetal Creek north of Helm St. in Bremerton be re-designated from Fish Habitat to Non-Fish Habitat.
	Fuhrer, Pat	Other	Why aren't Eagle nests, Aquifer Recharge areas, and Critical Drainage Areas not shown on the Building Limitations Map that is dated 2/25/17 here: https://spf.kitsapgov.com/dcd/PEP920Documents/Building_Limitations_map_current_reduced.pdf Seems to me that those overlays are also "building limitations"...and one could get the wrong idea that there are no limitations on a parcel from this document, when in fact there are other limitations not referenced.
4	Coleman, Tom	State, Federal	I think it is important to emphasize that trail building in KC parks should meet US Forest Service guidelines https://www.fs.fed.us/recreation/programs/trail-management/trailplans/ , which are established through decades of research, and can be learned by park volunteers through county parks sponsored trainings supported by Subaru and the International Mountain Bike Association. Experienced volunteer staff in some of the parks possess this knowledge and years of practical experience in wetland trail construction and should be consulted in decisions regarding trail locations, type, and restrictions. Also, in some cases, it is impossible to keep the public away from sensitive wetland areas. In this case, experienced trail volunteer staff should be consulted to construct positive control points, access to sensitive areas that reduces human impact and stress on the environment.
5	Darnall, Jerry	Other	You are changing the state statutory definition of "existing and ongoing agriculture" to require BMP's and an established farm plan. --- please cite the RCW's that give you (counties) the authority to redefine beyond state statutes "existing and ongoing agriculture"?
6	Gillespie, Ron	Public	Mitigation of a critical area specifically wetlands should not be allowed using the two points of the definition below where you "create" an artificial critical area or wetlands. You do not compensate for a wetlands by creating a new wetlands or critical area where one does not currently exist. Critical areas, including wetlands, exist where it is the product of nature and the environment not because man has decided where they should be.
			The following language should be removed: creation in definition A and all of B. A. Compensatory mitigation: replacing project-induced critical area losses or impacts, including, but not limited to, restoration, creation, or enhancement. B. Creation mitigation: mitigation performed to intentionally establish a critical area (e.g., wetland) at a site where it does not currently exist.
9	Nevins, Tom	Public	Reference Public Review Draft 3/1/17 Comments --- T. Nevins 3/18/17 Page 8 Lines 23-25 Consider restatement. Present text: "3. New construction or related activity connected with an existing single family dwelling shall not be considered further intruding into an associated buffer so long as the footprint of the structure lying within the critical area or its buffer is not increased by more than twenty (20%) percent." Meaning is understood - Kitsap County allows a 20% expansion of structures that were legally built within present buffers if no portion of the new structure is located closer to the critical area than the existing structure; Otherwise, a reader could cynically read the present language as: The builder may intrude into a buffer an additional 20% of the earlier intrusion if no portion of the new structure intrudes no closer to the critical area than the existing intrusion before the additional intrusion is called an intrusion. Page 9 Lines 20-24 "1. Because of special circumstances applicable to the subject property, including size, shape, or topography, the strict application of this title is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity; provided, however, the fact that those surrounding properties have been developed under regulations in force prior to the adoption of this ordinance shall not be the sole basis for the granting of a variance." Consider wording: "in the vicinity" is open to interpretation. Page 9 Lines 27-29 "3. The granting of the variance will not result in substantial detrimental impacts to the critical area, public welfare or injurious to the property or improvements in the vicinity and area in which the property is situated or contrary to the goals, policies and purpose of this title." Consider removing the word "substantial". If the impact to a critical area is detrimental, a net loss of critical area function is implied. "No net loss" is the goal. Page 9 Line 30 "The granting of the variance is the minimum necessary to accommodate the permitted use." Insert the words "minimum" before "permitted use". The owner of developer of a lot frequently desires to make maximum permissible use of the lot. (For example: The developer of a wet 1 acre lot zoned Rural Protection (1-5du/a) may claim to need 4 du in order to 'pencil'. 1 du would be the "minimum permitted use". When the developer's desire is coupled with a DCD philosophy of "Getting to Yes" with the applicant, the protection of the functions and values of critical areas may tend to be compromised. Page 11 Lines 9-10 4. Any alterations permitted to the critical area shall be the minimum necessary to allow for reasonable use of the property. Insert the word "minimum" before "reasonable". Page 12 Lines 12-16 1. Any decision to approve, condition or deny a development proposal, or any disagreement on conclusions, methodology, rating systems, etc. between the department and such person or firm which prepares special reports pursuant to Chapter 19.700 may be appealed by the applicant or affected party to the Kitsap County hearing examiner. 2. Any decision to approve, condition or deny a variance application by the department may be appealed by the applicant or affected party to the Kitsap County hearing examiner. 3. Any decision to require, or not require a special report pursuant to this title may be appealed by the applicant or affected party to the Kitsap County hearing examiner. Who might be considered an "affected party"? Consider removing "by the applicant or affected party" Page 35 Lines 28-29 "Reasonable alternative" means an activity that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation. Replace "lower" with "minimal". Or redefine: "Reasonable alternative" means an activity that could feasibly attain or approximate a proposal's objectives with no net loss of critical area quality, function and values. Page 44 Lines 19-21 1. Category I Wetlands. Category I wetlands include, but are not limited to, are those regulated wetlands that represent rare or unique wetland types, those that are more sensitive to disturbance than most wetlands, ... Remove "or unique". Rare is the larger category that includes all "unique wetland types". Page 75 Lines 3-13 What is the format of the consultation with WDFW, other than the review of the HMP, that would lead to an administrative reduction in buffer width? Page 79 Lines 29-31 "Implementation of a farm resource conservation and management plan agreed upon by the conservation district and the applicant to protect and enhance the fish and wildlife habitat conservation area." This agreement can result in major reductions in buffer protected areas as the conservation district often does not adhere to county/DoE buffer guidelines. The conservation district is not a regulatory body. Their effort is to enhance conditions, not assure no net loss of ecological functions. Page 88 Lines 5&6 "Landslide Hazard Indicators. Project proponents are responsible for determining the actual presence and location of a seismic hazard area." Should not the word "seismic" be replaced with the word "landslide"?
12	Fischer, Terry	Public	I live on property that has been in my family for over 40 years and adjoins the property recently permitted by Kitsap County for the development of the Shadowfax Development in Silverdale. I have personal knowledge of the wetlands that have existed in that area ever since we have owned this property and that a seasonal creek also ran through part of the property. I have brought my concerns to the attention of Kitsap County Community Development personnel only to be told at one point that "no wetlands exist in that parcel" and then to be told that the wetlands only existed in a very small part of the property which has now been diminished to a small 9 tree area with absolutely no buffer zone recognized during construction. The area is used to park construction equipment and store block and other construction materials. The lowlands that supported the "wetlands" have all been filled in with excavation and trucks bringing in tons of dirt. For some peculiar reason, I was a main property owner adjoining this development but received no notifications regarding the plans for this development or I would have definitely been at meetings regarding such a major change to the environment. I am vehemently opposed to what is happening to the natural beauty of the Northwest and the destruction of wetlands crucial for the survival of many of our wildlife.
17	Lyons, Doug		The CAO seems to me to be a total overreach and violation of private property rights both state and federal.

Critical Areas Ordinance (Title 19) Public Comment on Draft (3/1/17 - 3/31/17) ONLINE PUBLIC COMMENTS				
Comment #	Name	Affiliation	Comment	Proposed Language
18	DeWitt, Josh	Public	<p>19.100.125 - "Pre-existing and ongoing agricultural activities on lands containing critical areas. For the purpose of this title, "existing and ongoing" means that the activity has been conducted and/or maintained within the past five years under a farm management plan or other best management practices not resulting in a net loss of critical area functions and values."</p> <p>This change has significant implications.</p> <p>Farm plans and BMPs for the last five years now become a prerequisite to continued use exemption? Up until last august and the adoption of the new Ag Code they were voluntary. How many farms already had a plan or BMPs formally in place 5 years ago? What if they implemented them since the Ad Code was adopted? What if they are adopting them now?</p> <p>Also what if the farm hasn't been under a formal farm plan or formal BMPs but hasn't resulted in a "net loss of critical area functions and values." Shouldn't that be taken into consideration if the spirit of this exemption is to allow continued use without negative impacts.</p> <p>Wouldn't it be better to encourage transition to farm plans and BMPs? If you simple allow for adoption of BMPs and farm plans for existing farms who aren't yet using them that would allow for the goals of the Ag Code and CAO to be met.</p> <p>We want to protect critical areas but we also want to protect existing farms. We need both.</p> <p>See proposed alternative language.</p>	<p>19.100.125 - "Pre-existing and ongoing agricultural activities on lands containing critical areas. For the purpose of this title, "existing and ongoing" means that the activity has been conducted and/or maintained within the past five years and is currently under a farm management plan or other best management practices not resulting in a net loss of critical area functions and values."</p>
19	Hall, Scott	Public	<p>Section 19.100.125 Exemptions- Pre-existing and ongoing agriculture:</p> <p>There are 2 issues of concern with the exemptions associated with agricultural use of land, a "bright line" time interval of 5 years, and, the underlined portions are new and establish a retroactive requirement for agricultural activities to have been conducted using farm plans or BMP's.</p> <p>Generally, the addressing of exemptions for "pre-existing and ongoing agriculture" in Title 19 KCC is an attempt to recognize that although the GMA creates a mandate for counties to protect critical areas (including wetlands) there are some specific federal exemptions applicable to agriculture and Waters Of The United States, including wetlands. These federal exemptions, found at section 404f of the Clean Water Act pre-empt the ability of counties to establish local regulations that would nullify/interfere with the federal exemptions found in the act. The federal exemptions refer to "normal and routine farming operations" and establish that the activities must be part of an "ongoing/established" farming operation. However, the federal exemptions are not tied to any restriction that the activities be conducted to any standard, such as under a farm plan, or in accordance with Best Management Practices. Rather, the exemptions are tied to solely to the TYPES of activities exempted, and whether the TYPES of activities are part of an established farming operation. Therefore, it would be considered a pre-emption to for a local entity, such as a county, to attempt to tie "exempt" status to any quality based standard under which the activities are performed. With respect to the "bright line" time frame of 5 years, this cannot be supported as the federal regulations do not specify a time frame associated with "ongoing" use, nor do they specify that any particular activity must have been engaged in within a set time frame. Rather, federal regulations refer to a farming "operation" having been previously established, and maintained such that extant hydrological regimes do not need to be altered to bring an area back into agricultural production. There mere cessation of active farming activity in an area that was once actively used for farming is not enough to trigger a loss of exemption. Lands lying fallow, or part of an established rotation, or enrolled in a term-based conservation agreement do not lose their exempt status. Lands lying fallow or unused for indefinite time frames, and which do not need alterations to the water regime to return to agricultural use can be put back into part of an established farming operation.</p> <p>19.150.165 Best Management Practices, new paragraph D, "provide standards for proper use of chemical herbicides within critical areas" is redundant. Paragraph A already addresses water quality degradation by several other listed substances, therefore chemical herbicides should be added to paragraph A, and D should be deleted.</p> <p>19.150.265 Draining (related to wetland) Need to ensure the county definition does not misstate how the term is used in federal regulations. Generally, "draining" is associated with a means to convert wetland to uplands in federal regulations. "As used here "draining" is not consistent with the meaning found in the federal regulations.</p> <p>19.150.395 Grazed wet meadows: This entire section needs to be deleted. This is a type of land form/land use that can not be recognized as separate from other recognized agricultural uses.</p> <p>19.200.325 B Agricultural restrictions: Remove all mention of grazed wet meadows, for the reasons stated above. Additionally, the wording of this entire section is confusing as to the outcome desired. Apparently, the impetus is to ensure that activities that would either introduce or expand agricultural activities that might impact wetlands result in no net loss of wetland functions and values. Accordingly, this section is attempting to provide means to assure the retention of wetland functions and values. However, the current language states "wetlands shall be avoided by at least one of the following methods" rather than "Loss of wetland functions and values shall be avoided by at least one of the following methods".</p>	<p>10.100.125 Exemptions: B, Pre-existing and ongoing farming operations on lands containing critical areas. For the purpose of this title "existing and ongoing" means activities associated with farming operations conducted in accordance with the exemptions found in applicable federal regulations, and specifically including those federal regulations relating to wetlands. More specifically, exemption from this title is dependent on adhering to any requirements or conditions for exemptions found in federal regulations governing agricultural uses on lands that contain critical areas, including wetlands, as defined by this title.</p>
20	Dukes, Robert	Other	<p>how are the property owner to be compensated for the "taking" of our land/use of our land, for this ordinance?</p>	