

CRITICAL AREAS ORDINANCE: Minority findings and recommendations  
Wednesday, April 26, 2017

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Kitsap County Department of Community Development

The Kitsap County Planning Commission has completed its review of the revisions to Kitsap County Critical Areas Ordinance. The findings and recommendations of the planning commission will now go forward to the Department of Community Development and the Board of County Commissioners. The procedures of the planning commission call for the submission of a minority report if there is significant disagreement among the planning commissioners.

There is significant disagreement.

It is hoped that these majority findings and minority recommendations will receive careful consideration by the DCD and the Board of County Commissioners as they move to complete their work on the Critical Areas Ordinance.

The principle area of disagreement is the inclusion of several allowances for administrative reductions in buffers and the proposed mitigation allowances. These inclusions:

1. Increase development flexibility at the expense of predictability,
2. Place an extra burden on staff to negotiate permit requirements,
3. Threaten to compromise the goals and policies of the Critical Areas Ordinance.

Amendments (attached) were offered to promote achievement of Critical Areas Ordinance goals and policies.

Sincerely,

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Tom Nevins

## ATTACHMENT Amendments

Tom Nevins  
Offered 5/16/17

(D refers to Public Review Draft 3/15/17 )  
[https://spf.kitsapgov.com/dcd/PEP%20Documents/  
Public%20Review%20Draft%20030117\\_Underline\\_Strikeout\\_Final.pdf](https://spf.kitsapgov.com/dcd/PEP%20Documents/Public%20Review%20Draft%20030117_Underline_Strikeout_Final.pdf)

D P3/I 24

### 19.100.110 Applicability

A. Insert at the beginning of item: — —- The CAO is an overlay to the Zoning Ordinance and is focused on the functions and values of ecosystems, not on particular land uses.

(Purpose: to clearly identify this code as concerned with environmental regulation. )

D p 8/I 23

### 19.100.130 Standards for existing development.

A. 3. New construction or related activity connected with an existing single family dwelling shall not ~~be considered~~ further ~~intruding(e)~~ 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 and no portion of the new structure is located closer to the critical area than the existing structure;~~ and ~~provided further that~~ reconstruction or remodeling meets the requirements of Title 15 of the Kitsap County Code (Flood Hazard Areas) and shall only be allowed if it does not create or continue a circumstance where personal or property damage is likely due to the nature of the critical area.

(Purpose: to reduce additional intrusion into critical area buffers)

D p 9/ i 20

#### 9.100.135 Variances

- . A.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 **economic use or value. 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.**

(Purpose: to avoid the cumulative effects of continuing past practices while avoiding takings of private property.)

D p9 / 1 30

- . 4. The granting of the variance is the minimum necessary to accommodate **the (a)** permitted use.

(Purpose: Land use zoning allows a range of use intensity. Not all properties can support a maximum intensity without damage to an associated critical area.)

D p 9 / 1 31

- 5. No other practicable or reasonable alternative exists. (See Definitions, Chapter 19.150.) **Amend definition of Practical alternative, and reasonable alternative. (now or later?)**

D p 34 / 1 9

#### 19.150.500520 Practicable alternative.

“Practicable alternative” means an alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes, and having **less minimal and mitigable** impacts to critical areas. A practicable alternative may include an area not owned by the applicant for which an

easement has been obtained in order to fulfill the basic purpose of the proposed activity.

(Purpose: Limit alternatives to those that have minimal and mitigable impacts to critical areas.

D p 35 / 1 27

### **19.150.54565 Reasonable alternative.**

**Reasonable alternative” means an activity that could feasibly attain an allowed use but without environmental degradation. ~~or approximate a proposal’s objectives, but at a lower environmental cost or decreased level of environmental~~**

(Purpose: Limit alternatives to those uses that avoid environmental degradation.)

D p 10 / 1 (after 6. new item)

**7. All buffer reductions in excess of 25% are variances that require a Type III process.**

(Purpose: to discourage large variances and to allow greater public process.)

Also: Staff recommended changes to the draft in response to public comment that increase the size of wetlands exempt from buffer provisions. See 19.200.210(B)(3) and (4) plus new 19.200.210(C) on pages 19 through 21 of Proposed Code Revisions to Draft Title 19 KCC (Critical Areas Ordinance) matrix. This change increases the likelihood of function and value loss.