



## KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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January 19, 2007

To: Kitsap County Planning Commission

From: Patty Charnas, Natural Resources Manager

Subject: **Kitsap County Critical Areas Ordinance remand: materials for January 23, 2007 deliberations**

This is to follow up to the January 9, 2007 Planning Commission public hearing with materials to assist the deliberations scheduled to begin Tuesday, January 23, 2007. These materials include:

- I. Proposed revisions recommended by staff for deliberation by the Planning Commission.
  - a. These proposed code revisions remain essentially the same as what were attached to the December 28, 2006 memo to the Planning Commission. There are modifications located in the provisions for decreasing shoreline buffer widths. One modification relates to urban shoreline environments and lakes. The other re-instates the buffer reduction provision for water dependent activities. All buffer reductions require a site-specific Habitat Management Plan.
- II. Copies of Key CAO Index Items referenced in the remand order.
  - a. These documents are those that were **specifically referenced** in the remand order that relate to the record of best available science.

Given the formal close of the Planning Commission public comment period as January 19, 2007, we are preparing a comments matrix as well, which we expect to have to you soon.

As you are all aware, the deadline for action to be taken to achieve compliance is February 23, 2007. The Board of County Commissioners is tentatively scheduling their public hearing on the CAO revisions for February 12, 2007. We expect a productive session on Tuesday, January 23, 2007. For your information, the Commissioner Chambers Room has been reserved for Wednesday, if needed.

Thank you for your attention to this matter.

## I. Proposed Revisions

### 1. Wetlands exemption.

Title 19 Chapter 200 addresses **wetland regulations**. The remand directs specific attention to Section 19.200. 210 that includes subsection **C. Non-regulated Wetlands**. It is proposed that the following revisions be made to the ordinance, as follows:

#### **19.200.210 Wetland Identification and Functional Rating**

##### **B. Regulated Wetlands.** (See Chapter 19.800 Appendix A for more detailed description).

1. **Category I Wetlands:** Category I wetlands are those regulated wetlands that include but are not limited to rare, unique wetland types that are more sensitive to disturbance than most wetlands and that contain ecological attributes that are impossible to replace within a human lifetime. Category I wetlands score 70 points or more out of 100 on the wetlands ratings systems.
2. **Category II Wetlands:** Category II wetlands are those regulated wetlands that score between 51-69 points out of 100 on the wetlands ratings system.
3. **Category III Wetlands:** Category III wetlands are those regulated wetlands, ~~2,500 square feet or greater,~~ that score between 30-50 points on the wetlands ratings system.
4. **Category IV Wetlands:** Category IV wetlands are those regulated wetlands, ~~7,500 square feet or greater,~~ that score less than 30 points out of 100 on the wetlands ratings system.
5. Wetlands intentionally created from non-wetland areas to mitigate conversion of other wetlands.
6. Mosaic wetlands as defined at 19.150.695.

##### **C. Non-Regulated Wetlands.**

- ~~1. Category III Wetlands: Isolated wetlands less than 2,500 square feet.~~
- ~~2. Category IV Wetlands: Isolated wetlands less than 7,500 square feet.~~

2. Shoreline Buffers.

Title 19 Chapter 300 addresses **fish and wildlife habitat conservation areas**. Section 19.300.315 identifies the buffer areas for designated fish and wildlife habitat conservation areas, which include streams, lakes and saltwater shorelines. The buffer width for shorelines is guided by the type of **shoreline environment designation** of the Kitsap County Shoreline Management Master Program (Kitsap County Code Title 22). Based on the remand order, it is proposed that the following revisions be made to the ordinance, as follows:

<b>Table 19.300.315: Fish and Wildlife Habitat Conservation Area Development Standards</b>			
<b>Saltwater Shorelines and Lakes</b>			
<b>Shoreline Designation<sup>1</sup></b>	<b>Buffer Width</b>	<b>Setback</b>	<b>Other Development Standards</b>
<b>Urban, Semi-Rural and Rural shorelines and Lakes less than 20 acres</b>	35 feet <u>150 feet</u>	15 feet beyond buffer	Where applicable, refer to the development standards in Chapters 19.200 (Wetlands) and 19.400 (Geologically Hazardous Areas). Where such features occur on site, the more restrictive buffer or building setback shall apply.
<b>Conservancy</b>	50 feet	15 feet beyond buffer	
<b>Natural</b>	100 feet	15 feet beyond buffer	

4. Provision for Decreasing Buffer.

- a. In lieu of going through the formal variance process, an administrative reduction to buffer widths for streams may be granted subject to the requirements of this section. Where an applicant demonstrates pursuant to the variance criteria that buffer widths cannot be met, a habitat management plan (HMP) will be required that shall meet the requirements as described in Chapter 19.700 (Special Reports). The department may decrease the buffer if, after consultation with the Washington State Department of Fish and Wildlife, and review of the HMP, the department determines that conditions are sufficient to protect the affected fish and wildlife habitat conservation area. The department may reduce the buffer width by up to fifty percent for construction of a single-family dwelling or up to twenty-five percent for all other development, but the buffer shall not be less than twenty-five feet. Administrative buffer reductions of greater than fifty percent may be allowed for urban shoreline environments and lakes where a vacant parcel has a common property line with two or more lots which abut the ordinary high water line and which are developed with structures. In these cases, the standard buffer may be reduced to the greater of 50 feet or the average of the standard buffer and setbacks of the structures on the adjacent properties. All other reductions of greater than twenty-five percent for single-family dwellings will be a Type II decision and require notification (see Chapter 19.800 Appendix F). Granting of a reduced buffer shall be the minimum necessary for the permitted use.

When applicable, the order of sequence for buffer reductions shall be as follows:

- i. Use of buffer averaging, maintaining one hundred percent of the buffer area under the standard buffer requirement;
  - ii. Reduction of the overall buffer area by no more than twenty-five percent of the area required under the standard buffer requirement;
  - iii. Enhancement of existing degraded buffer area and replanting of the disturbed buffer area;
  - iv. Use of alternative on-site wastewater systems in order to minimize site clearing. Infiltration of stormwater where soils permit; and,
  - vi. Retention of native vegetation on other portions of the site in order to offset habitat loss from buffer reduction.
- b. ~~Only stream buffers are eligible for administrative buffer reductions.~~

10. Buffer and Building Setbacks for Water Dependent Activities: The department may allow an administrative alteration to the required buffer and building setback for water dependent activities when no other reasonable or practicable alternative exists and the development is consistent with the Kitsap County Shoreline Management Master Program. Any alteration of a buffer or building setback shall be the minimum necessary and shall require an approved habitat management plan which identifies and adequately protects any affected fish and wildlife habitat conservation area.

We are happy to answer any questions or provide additional information. Inquiries may continue to be directed to:

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Cc: Board of County Commissioners w/o attachment  
Interested Parties w/o attachment