

2024 Critical Areas Ordinance Update Comment and Response Matrix (through 5/21/24 Planning Commission Hearing)

5/28/2024

<b>Comment #</b>	<b>Date Received</b>	<b>Name</b>	<b>Topic</b>	<b>Summary</b>	<b>County Response</b>
1	3/21/23	James Kelly	Code Change Matrix	A code change matrix should be included with the draft update to make changes more apparent and accessible to the public.	A change matrix has been prepared.
2	4/30/23	Deborah Vedin	Development and Environmental Hazards	The County needs to consider the impacts of development on our aquifers. Development projects can divert runoff which exacerbates the likelihood of landslides and flooding.	The Critical Aquifer Recharge Areas chapter addresses impacts from development which may impact water quality and quantity in these specific areas. The Geologically Hazardous Areas chapter requires a geotechnical engineer to address any infiltration or engineered stormwater needs at or near potential erosion and landslide hazard areas. Title 12 Kitsap County Code addresses stormwater control, infiltration requirements, etc.
3	5/1/23	Deborah Vedin	Development near HWY 16	The County should not permit projects that will result in dead-ends to HWY 16 as improvements to the highway are limited to maintenance and culvert restoration/restoration projects only.	Comment noted.
4	5/3/23	Judy Fulford	Slide Area Code Enforcement	The County is not adequately enforcing critical slide area rules.	Comment noted. Without specific information, a more detailed response is not possible.
5	1/8/24	Thomas Garrett (DEIS Comment)	Aquifer Depletion	Many aquifers are being depleted by over-pumping. The County should facilitate a contingency fund for parcel owners who lose their private wells due to over-pumping and saltwater intrusion. The County should also install water pipelines in rights-of-way to support rural parcel owners who have lost their wells. These topics should be addressed in the CAO.	Comment noted. The County is not a provider of water, but DCD may consider additional policies or development standards to address water quantity / recharge concerns.
6	1/18/24	Kathie Lustig (Comp Plan Comment)	CAO Enforcement	Strengthen CAO regulations and enforce the CAO.	Comment noted.
7	1/22/24	Port Gamble S'Klallam Tribe (DEIS Comment)	No Net Loss	The County cannot rely on NNL policies to mitigate significant unavoidable adverse impacts to the environment. Additional mitigation measures are needed.	The County already requires that projects mitigate their specific impacts to a critical area; it is not possible to mitigate for unknown impacts. Nevertheless, additional mitigation options are being proposed and off-site options may also become available in the near future. Further, standards have been added to the 3/8/24 draft which require a 'fully functioning buffer' per Ecology guidance.
8	1/23/24	Doug Hayman (DEIS Comment)	Variances	The county needs to make variances an exception, they should not be a routine practice.	All approved buffer reductions and variances must be consistent with mitigation sequencing requirement in KCC 19.100.155.D and variance criteria in KCC 19.100.135.A, and language is proposed to clarify this. The buffer reduction and variance permit thresholds are also being reviewed at this time, as well as the County is developing a tracking and monitoring program to inform future critical area protections.

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9	2/3/24	Beth Nichols (DEIS Comment)	Variations	The CAO is not an effective environmental protection mechanism because the County issues variances. The CAO needs to be strengthened by limiting routine variances and allowing no administrative approval decision options.	All approved buffer reductions and variances must be consistent with mitigation sequencing requirement in KCC 19.100.155.D and variance criteria in KCC 19.100.135.A, and language is proposed to clarify this. The buffer reduction and variance permit thresholds are also being reviewed at this time, as well as the County is developing a tracking and monitoring program to inform future critical area protections.
10	2/14/24	Betsy Cooper (DEIS Comment)	CAO in relation to the DEIS	The CAO is under revision and there are many changes that are still being considered. The fact that this regulation is in flux should be stated clearly in the EIS and perhaps a summary of the changing aspects of the CAO should be presented to more accurately indicate what aspects of these regulation can affect impacts to water resources, sensitive areas, etc.	The contents of the Comprehensive Plan DEIS are conservative with regard to protection of critical areas and the proposed CAO changes at the time of the draft. The buffers presented in the 3/8/24 Preliminary Draft CAO will be utilized in the analysis for the Final EIS later in 2024. Further, the CAO has had its own SEPA review and a Determination of Nonsignificance was issued on 3/8/24.
11	2/19/24	Doug Hayman (Comp Plan Comment)	Variations	The County often leans towards protecting property owners and developers by granting variances and undermining CAO buffers.	Comment noted.
12	2/19/24	Beth Nichols (Comp Plan Comment)	CAO Comments		
		a	Net Ecological Gain and Variations	The County often leans towards protecting property owners and developers by granting variances and undermining CAO buffers. Buffers need to be consistent with BAS and NNL, preferably NEG.	Net Ecological Gain is not yet required by state law and the state has funded efforts to further define NEG and develop an implementation framework. Until then, Kitsap County will continue to focus on enhancing our tracking and monitoring efforts to ensure compliance with BAS and NNL.
		b	Conservation of Critical Areas	Whenever possible Kitsap County should explore purchase and conservation of sensitive lands to prevent development on critical areas	County goals and policies direct UGA expansions away from critical areas when possible. The Open Space program provides tax relief for properties with critical areas and the Transfer of Development Rights (TDR) program transfers development rights away from property with critical areas to allow for higher densities in urban areas. Purchase of such areas is explored on a case-by-case basis in coordination with Kitsap County Parks.
		c	Critical Areas on Small Parcels	There should be data on "grandfathered in small lots" that contain critical areas and explore how these lots could be protected by conservation efforts or tax incentives.	Comment noted; see above. Expansion of the Open Space program to include smaller parcels would need to be explored through a different code update process (Title 18).
		d	Buffer Widths	Riparian buffers need to be the same whether Alternative 2 or 3 is chosen, those buffers need to meet Best Available Science with Riparian Management Zones and Site Potential Tree Height.	The Comprehensive Plan Final EIS will analyze the Board-selected Preferred Alternative using the buffers presented in the 3/8/24 Preliminary Draft CAO.

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13	2/20/24	Doug Hayman	Riparian Management Zones	SPTH is a wise choice for buffer management. The County can look to the City of Anacortes as they have embraced this alternative to stream buffers while Clark County to our South has implemented a hybrid of riparian management zones and standard stream buffers.	The 3/8/24 Preliminary Draft has utilized the 'hybrid' approach for riparian buffers. The buffers are predictive and use the existing stream-typing method, but are proposed to be increased to be consistent with the Best Available Science used in development of the SPTH Model.
14	2/26/24	Carol Price (DEIS Comment)	Net Ecological Gain and Variances	Net ecological gain should be adopted as the County standard. The CAO needs to be enforced, buffer variances are not appropriate.	Net Ecological Gain is not yet required by state law and the state has funded efforts to further define NEG and develop an implementation framework. Until then, Kitsap County will continue to focus on enhancing our tracking and monitoring efforts to ensure compliance with BAS and NNL.
15	2/26/24	Suquamish Tribe (DEIS Comment)	CAO in relation to the DEIS		
		a	CAO Update Timing	Updates to the CAO and the Comprehensive Plan should either be on substantially the same time path or the CAO updates should already be completed so reviewers are aware of the potential impacts resulting from what is being proposed.	The contents of the Comprehensive Plan DEIS are conservative with regard to protection of critical areas. Changes to the CAO, which are still under development, are likely to be more protective of environmental resources and reduce impacts. The buffers presented in the 3/8/24 Preliminary Draft CAO will be utilized in the analysis for the Final EIS later in 2024.
		b	Mass Wasting Runout Zones	Mass wasting runout zones are not adequately addressed in the CAO.	Runout zones have been added as indicators of landslide hazard areas in the 3/8/24 Preliminary Draft CAO.
		c	Thermal Refugia	Groundwater can be an impact source of cooler water to the stream channel during the warmer months and provide areas of thermal refugia that will become more important with climate change. Thermal refugia is not considered in the CAO	Concur. While the existing definition for 'functions and values' is not currently, or intended to be, an exhaustive list of all the possible ecosystem functions provided by critical areas and their buffers, an addition to the definition may be considered to recognize thermal refugia.
		d	Impervious Surface Coverage	The CAO does not include quantification of the impact of impervious surface area coverage.	New impacts to critical areas and buffers are considered, especially new impervious surfaces. Detailed hydrogeological analysis is not required as part of habitat or wetland reports, however clarifications and/or additions to the review and report criteria may be considered to emphasize the importance of aquifer recharge and quantification of impacts.
		e	Critical Aquifer Recharge Areas (CARAs)	Sections of the CAO that deal with CARAs typically consider impacts to quality and quantity of the human water supply and not impacts to aquatic life.	Comment noted.
16	2/26/24	Kitsap Building Association (KBA) (DEIS Comment)	CAO in Relation to the DEIS	Any discussion regarding UGA boundaries and buildable lands cannot be had until the Critical Areas Ordinance Update has been finalized and adopted. The land use portion of the comprehensive plan process hinges on an update to critical areas code that is not complete. The KBA, and the Kitsap community at large, are being done a disservice by being asked to comment on a comprehensive plan before the Critical Areas Ordinance process has been completed.	The contents of the Comprehensive Plan DEIS are conservative with regard to protection of critical areas. Changes to the CAO, which are still under development, are likely to be more protective of environmental resources and reduce impacts. A draft CAO was released on March 8, 2024, prior to Planning Commission deliberations and Board of Commissioners hearing on the preferred alternative.

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17	2/26/24	David Vliet (DEIS Comment)	Buffer Variations for Agriculture	County should expand and enforce the CAO, but should provide exceptions for farmland. County should implement something like a 50% variance of setback in the CAO to support local farms.	The contents of the DEIS are conservative with regard to protection of critical areas. For the CAO, the County must adhere to Best Available Science to protect critical area functions and values. A standard 'variance' of that magnitude would not be supportable. The CAO, however, does currently include provisions for existing and ongoing agriculture and the use of Farm Management Plans to help meet standards for expanded agriculture. No changes have been proposed.
18	2/26/24	Berni Kenworthy (DEIS Comment)	CAO in Relation to the DEIS	How is this version of the draft Comprehensive Plan EIS anticipating changes that may occur as a result of the new CAO?	The contents of the DEIS are conservative with regard to protection of critical areas. Changes to the CAO, which are still under development, are likely to be more protective of environmental resources and reduce impacts. The buffers presented in the 3/8/24 Preliminary Draft CAO will be utilized in the analysis for the Final EIS later in 2024.
19	2/26/24	Kitsap Environmental Coalition (DEIS Comment)	CAO in Relation to the DEIS	The DEIS refers to the CAO numerous times as a key mitigation measure, however that ordinance is currently under review. It will only be as effective as the strength of its final requirements. If it has too many opportunities for variances and waivers, this mitigation measure will be weak and useless.	The Final EIS will analyze the Board-selected Preferred Alternative using the buffers and standards presented in the 3/8/24 Preliminary Draft CAO.
20	3/2/24	David Onstad (Comp Plan Comment)	CAO in Relation to the Environmental Element		
		a	Contradicting Goals and Protections	Those in the CAO working groups organized by the County have difficulty improving or adding the rational environmental protections needed in this fundamental set of rules. These difficulties seem to contradict the platitudes and lofty goals expressed in this chapter.	Comment noted. Strategies will be considered in the revised Comprehensive Plan to further strengthen future CAO updates and drive forward these goals and policies.
		b	Insufficient BAS	BAS is lacking in current studies and science.	The BAS review completed in support of the 2024 CAO update provides a number of references from available sources. Many of these sources themselves include extensive literature reviews completed by state agencies.
		c	No Net Loss	No net loss is an insufficient method to measure impact.	Net Ecological Gain is not yet required by state law and the state has funded efforts to further define NEG and develop an implementation framework. Until then, Kitsap County will continue to focus on enhancing our tracking and monitoring efforts to ensure compliance with BAS and NNL. Further, additional mitigation options are being proposed and off-site options may also become available in the near future. Further, standards have been added to the 3/8/24 draft which require a 'fully functioning buffer'.
		d	Vague Language	The Comp Plan and the new CAO should be honest and transparent about how the County truly deals with the environment and critical areas. Have only two policies: one stating something about property rights and development and another that describes protecting critical areas.	GMA includes a set of 15 policy goals each of which are important to implementing GMA and any one is not a priority over the other.

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21	3/3/24	Thomas Doty (Comp Plan Comment)	Protection of Amphibian Habitat	The CAO does not focus on amphibian habitat as much as it does salmon habitat. Amphibian friendly provisions should be added to the CAO.	The focus on salmon is directly from the legislative directive, as are protections for other priority (listed) species. Additional BMPs to protect amphibians when present may be considered in revisions of the 3/8/24 preliminary draft. In addition, note that the Ecological Assessment component of wetland reports (19.700.715) require "Description of any animals (including amphibians) using the wetland being affected or its buffer."
22	3/8/24	Tecla Legge	Calculating Slope Percentage Broken Links CAO Map	A diagram for slope percentage calculation should be included. Some links to RCWs in the March 8th emailed publication do not function properly. The Critical Areas Map is difficult to use at its current resolution.	Comments noted. Thank you for the feedback, adjustments to maps/links have been made.
23	3/10/24	Laurie Sterling	Adoption of Sustainable Building Code Gentrification Livability	Sustainable building code should be implemented to mitigate climate change. These codes should include water reclamation and alternative energy provisions. Community needs and livability should be considered in regard to new development projects. The community needs a YMCA, and does not need duplication of businesses like office supply stores and pharmacies.	Comments noted. Building, energy codes and zoning codes are beyond the scope of the CAO. The comprehensive plan and CAO have begun incorporating climate change and these will likely evolve into the future as the County is able to incorporate studies currently underway, specifically regarding GHG emissions and sea level rise.
24	3/22/24	Suquamish Tribe SEPA Comment	SEPA Environmental Checklist		
		a	Site-Specific Impacts	The CAO cannot currently address site specific impacts due to its failure to consider caveats and limitations in supporting manuals. Further, special reports are insufficient as they do not collect information essential to an analysis nor are required to analyze information in a manner to ascertain and quantify many known impacts.	The CAO update SEPA is a non-project action and therefore is not required or able to address site-specific impacts. Additional SEPA decisions and site-specific impacts will be addressed at the project-level. Regarding the special reports, the goal is to consider site-specific information and the impacts of the proposed project on critical areas and to require experts to propose specific options for mitigation sequencing (avoidance, minimization, and mitigation). Additions or clarifications to the special report criteria may be considered.
		b	DNS Issuance	The DNS issuance is premature since the CAO update and Comp Plan EIS are not yet finalized. Therefore the DNS should be withdrawn and revisited until; public and Tribal proposals have been submitted for the CAO; the CAO updates are finalized; and the FEIS is issued.	SEPA threshold determinations are to be issued at the earliest possible opportunity when there is sufficient information to analyze the probable adverse environmental impacts. The CAO DNS was issued with the first draft. If changes occur as a result of comments and those changes result in new or different probable significant adverse environmental impacts, the DNS can be revised.
		c	Comp Plan DEIS	The County is including the DEIS in the checklist which fails to adequately discuss/incorporate impacts and feedback from the tribes. Therefore the DEIS does not provide accurate environmental information.	The DEIS will be revised into a FEIS and incorporate the revised CAO, based on comments provided through the non-project action SEPA process and general comment periods. The CAO's purpose is to protect critical areas. The proposed changes in the 3/8/24 Preliminary Draft will present no likely significant adverse environmental impacts and will not be decreasing protections for critical areas, therefore a Programmatic DNS is appropriate.

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		d	Impacts of Impervious Surfaces	RE: 3.1.3.4 of the DEIS: The CAO does not attempt to quantify the impacts of impervious surfaces on things such as infiltration. The County has not addressed this through Hydrogeological Reports which is insufficient.	New impacts to critical areas and buffers are considered, especially new impervious surfaces, as these would impact the ecological functions. Detailed hydrogeological analysis is not required as part of habitat or wetland reports. For some uses, hydrogeological reports are required to be completed by the appropriate specialist.
		e	Impacts of Impervious Surfaces	Despite BAS implications, neither the CAO or stormwater manual address changes to subsurface drainage, stream recharge, and associated impacts to aquatic life due to development.	It is expected that HMPs and wetland reports will address ALL critical area functions and values at a site-specific level. The County may consider adding groundwater recharge to the definition of 'functions and values' as a point of clarity, but that list is also not intended to be exhaustive.
		f	19.700.730	The information that the CAO requires a Special Report to collect is insufficient to document impacts. The wording -"The report shall address the impact the proposed land use will have on both the quality and quantity of the water transmitted to the aquifer" (19.700.730) - does not go far enough to quantify changes in infiltration.	Comment noted. If development standards are added, 19.700.730 (special reports) will also be revised.
		g	19.600.	The CARA sections focus on impacts to potable water and overlooks groundwater stream flows. Therefore the Hydrogeological reports do not provide sufficient information needed to assess impacts to "essential natural functions and processes" and "maintaining critical fish and wildlife habitat conservation areas" (19.600.506D).	While it is expected the HMPs and wetland reports will address all critical area functions and values at a site-specific level (including hydrology and maintaining stream flows), additions may be considered to the definitions, to this chapter and special reports.
		h	19.700.730.A3	19.700.730A3 limits discussion of surface water bodies and springs within 1,000 feet of the site with recharge potential which is an insufficient metric as ground water can travel much further to reach streams and wetlands.	Comment noted. If development standards are added, 19.700.730 (special reports) will also be revised.
		i	19.700.730.A8	19.700.730A8 does not require discussion of impacts of proposed development on stream base flow, increased seasonality of streams, temperatures etc.	Comment noted. If development standards are added, 19.700.730 (special reports) will also be revised.
		j	19.600.615.B2	According to the CAO it is up to County discretion whether a hydrogeological report is necessary in category II CARAs. The department can make this decision without site-specific ground/surface water interaction information.	The decision to require a hydrogeological report is determined by DCD, Kitsap Public Health and affected water purveyor(s) together based on each entity's concerns with the scope of work and that entity's knowledge of and existing data for the area in question.
		k	19.600.	CAO wording does not consider water infiltration impacts in CARAs.	Comment noted.
		l	County Stormwater Manual	Wording in Ecology's SWMMWW conflicts with statements in the County's stormwater manual that guidance provided from the manual alone should not be used to mitigate all stormwater impacts to aquatic biota.	Comment noted. These resources are outside the scope of this update.

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		m	County Stormwater Manual	Both State and County stormwater manuals do not consider potential impacts of development on stream flows with velocities that adversely impact aquatic life in the absence of flow events that could cause channel erosion. They also fail to address cumulative impacts of projects that are exempt from flow duration controls.	Comment noted. These resources are outside the scope of this update.
		n	19.700.705	Special Reports are not required to quantify the time period to reach the same structural capacity as the impacted vegetation. Using replacement ratios does not address this issue.	Comment noted.
		o	WDFW Riparian Management Tech Memo	The curves shown in Figure 1 are derived from the FEMAT report which is 30 years old and outdated. More recent studies have suggested that these curves are not as linear.	Comment noted. FEMAT curves have not been the only source utilized to establish the County's proposed 'predictive' stream / riparian buffers.
		p	19.300.	The CAO does not require HMP to conduct a quantitative analysis of impacts to functions and values.	Comment noted. Clarification of expectation for quantitative analysis will be considered.
		q	19.700.	Special Reports, as currently presented, cannot ascertain whether a net loss will occur. Also, NNL reports are based on buffer width specifications in County Code and not BAS.	Comment noted. No net loss analysis is based on the existing ecological functions, not just the buffer width.
		r	Buffer Variation between SMP and CAO	SMP and CAO buffers differ which leads to illogical outcomes when similar or adjacent proposals, specifically when one area is subject to the SMP and one is not.	The SMP and CAO have different legislative requirements and different BAS to support them. The buffers for each are based on the science available for those ecosystems and at the time of code updates. When critical areas occur within the SMP jurisdiction, the largest buffer will apply.
		s	Proposed Buffers	The proposed buffers are technically incapable of achieving NNL. Type N streams will not be fully protected because the proposed buffers are set for pollutant removal.	Kitsap County is proposing buffers that are consistent with Best Available Science and state recommended guidance. Kitsap County has also proposed additional standards for addressing situations where wetlands buffers are not adequately vegetated. This is more protective of critical areas than the current CAO.
		t	Shortcomings of Buffers	The SEPA document does not discuss shortcomings of the current and proposed buffer widths ability to achieve NNL. Discussion of lost buffer functions must be included in the decision making process.	The SEPA and programmatic DEIS evaluates new significant adverse environmental impacts of the proposed code edits. The County may choose to better track and monitor buffer functions over time, but this is not a requirement of SEPA.
25	3/25/24	Kitsap Alliance of Property Owners (KAPO)	Development		
		a	CAO update is unnecessary	No proof has been cited that there are any problems with the 2017 CAO which require solutions. Therefore this update is unnecessary and will introduce prohibitive regulations.	GMA requires jurisdictions to review and, if necessary, revise development regulation and, with regard to critical area regulations, requires that code be updated based on the latest Best Available Science (BAS) as provided in chapter 365-195 WAC. This CAO was reviewed along with updated BAS from state agencies and others and it was determined that edits were necessary or warranted.

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		b	Lack of Analysis for Non-Project Actions	Using the same EIS for the Comp Plan and the CAO is insufficient as it does not evaluate the riparian habitat zones, larger buffer zones, and environmental features in the CAO.	SEPA encourages the use of available environmental review documents and the draft Comp Plan EIS is one considered in the CAO review; however, a stand-alone non-project Determination of Non-Significance (DNS) was issued here because it was determined that the CAO itself would not likely have any significant adverse environmental impacts.
		c	Lack of Analysis for Non-Project Actions	The introduction of "Type O" stream classifications will have major impacts and cannot be adequately summarized by a SEPA checklist.	The new "Type O" classification is by definition limited in applicability. These systems are not currently mapped and application would be on a site-specific basis.
		d	Tree Clearing/Retention	Tree and understory growth is a potential fire hazard and should be addressed as such in the CAO. Retained trees can pose a liability to the County when a property is subdivided or when a home is built. Retained trees can be hazardous to drivers.	A new goal proposed in the Comp Plan, along with policies and strategies, is to address regulations and incentives to protect development against wildfire risks. If regulations are appropriate for the CAO, it will be updated at that time. Additionally, there are danger tree provisions in the current and proposed CAO and while tree retention in buffers is preferred, trees can be limbed or thinned to accommodate safety through these provisions.
		e	Lack of Property Rights Analysis	The County has failed to include discussion of property rights in the CAO. Although there is a provision for Reasonable Use Exception (19.100.140) , staff decided that this was not to be used and has not provided proper explanation.	Property rights are included among the policy goals of the CAO, which is consistent with GMA (KCC 10.100.100(B)(4)). In line with this non-exclusive goal, the CAO provides multiple provisions for the protection property rights while also protecting the functions and values of critical areas. These include administrative buffer reductions, exemptions to existing development, variances, and reasonable use exception. The Reasonable Use Exception is an available but rarely needed provision to avoid takings prohibited by the state and federal constitution because the CAO draft has been reviewed against the Washington State Attorney General's Advisory Memorandum and Recommended Process of Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property as well as more recent case law.
		f	Permit Processing System	The CAO update will lead to further regulation that will slow the permitting process further. This will violate the GMA. The Gap analysis recommends further regulation without study of how the regulations will impact the permitting process.	The proposed revisions to the CAO were carefully drafted to specifically include provisions for decreasing permitting burden (process exemptions) and incentives for redevelopment within our Urban Growth Areas. The proposal provides more provisions for decreasing permitting burden than the current code.
		g	Affordable Housing	Permitting costs are antithetical to GMA Goal 4 - Housing Affordable to all Income Groups. An analysis must be done to determine how the County can impose more restrictive regulations and meet Goal 4 requirements.	The planning goals of the Growth Management Act (RCW 36.70A.020) include both Environment and Property rights. Kitsap County must balance these goals, of which neither has priority over the other. The current CAO and these proposed changes have accomplished this.
		h	State Agency Involvement	Certain State agencies (WDFW, Ecology and Commerce) do not hold veto power over local government, therefore County elected officials are not obliged to defer decision-making to State agencies.	Comment noted. Under GMA, state agencies are an acceptable source of BAS and so they were among the sources the County relied on.
		i	Best Available Science	Regardless of its adoption by the State, BAS should not be used as a metric in Kitsap County because the initial study was not conducted in the county, it was not conducted by a qualified expert, and there	State law requires that we protect the functions and values of the five critical area types identified by the legislature. We are required to periodically update the code by incorporating new

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				have been no scientific studies done in the County to contravene the science that was used in the 2017 update.	BAS since the last update. Case law recognizes that critical area protections are necessarily a scientific process that needs to be reviewed and updated as new science becomes available.
		j	Climate Change	Climate Change does not have merit and Climate change provisions should not be incorporated in the CAO.	Comment noted. Climate change is now a stated planning goal of GMA and must be incorporated into the County's planning framework.
		k	Maps	Habitats of Local Importance (19.150.470) are not mapped in the CAO and should be made publicly available.	Habitats and species of local importance have not been identified for Kitsap County, and therefore are not applied. This element is included in the CAO since it is a provision allowed by GMA and could be applied in the future should the County identify any. Identified habitats and species of local importance would be included in this section and maps during future updates, after going through a separate, public process to designate them as such.
		l	Definitions	The terms "habitat", "functions and values", "no net loss" are vague and undefined.	There are many terms used in GMA that are not defined in the Act or regulations and some are not easily reduced to a specific, as opposed to general, definition. Kitsap County has determined that terms like "functions and values" or "loss" are better understood in reference to the scientific literature about the specific critical area. Clarification to existing, general terms may be added as appropriate.
		m	No Net Loss	There is no determined baseline for NNL therefore "loss" can not be reliably quantified.	The baseline for no-net-loss is assessed at the time of the project proposal and compares the existing conditions to the conditions with proposed development. Projects that meet the standard buffers and conditions in the CAO are assumed to be meeting 'no net loss' based on BAS.
		n	Buffer Mitigation Process	Buffer mitigation should be administered on a site-specific basis only in areas where the buffers serve a meaningful purpose. In addition, this process should not require collaboration with State or Federal agencies unless absolutely necessary. Language regarding this collaboration should be removed from the document.	Buffer mitigation is administered on a site-specific basis and the extent to which is determined necessary to meet the 'no net loss' standard or safety needs. Buffers serve multiple purposes, with even minimal vegetated buffers in highly developed settings still providing some functions to the critical area. The collaboration with state and federal agencies is to ensure that a project proposal will be consistent with each agencies standards, preventing the need to revise projects as each agency reviews through their own permitting processes.
		o	Buffer Increases	If the County increases buffer widths they must: 1. Pay the property owner for the reduction in their ability to build on the property. 2. Make all property encumbered by the increased buffer width a non-taxable area. 3. Purchase or make exceptions for building on property without a type I or II permit process if increased buffers allow for no sites to be built. The increased buffer widths for the type O streams are extreme and will lead to a host of complications and inefficiencies.	Just compensation is a remedy for a regulation that has been determined to be a taking, and the draft CAO had been evaluated and determined not to be a taking. Open Space tax-relief program and TDR program are options available to provide relief when properties are encumbered by critical areas.
		p	Cost of CAO Provisions	The CAO update should be suspended until a "shared impact expense program" is developed for the public to partially fund property owners for the expenses associated with CAO provisions.	Comment noted. This is not required by RCW 36.70A.

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26	4/8/24	Suquamish Tribe (Comp Plan Comment)	CAO in Relation to the Comp Plan		
		a	Type N Streams	The proposed buffer widths for Type N streams are generally half the width as called for by Best Available Science and only meet the base minimum width to meet the pollution removal function.	The proposed buffers are consistent with the ranges provided in the scientific literature review completed in WDFW's <i>Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications</i> . The minimum 100-foot buffer will achieve 100% of the function of pollutant removal as well as provide 85% of in-stream wood recruitment and erosion control (bank stability root strength at 33-feet). Further, the tree heights (recommended buffers ranging from 100-240') are based on old-growth forest conditions. The 100-foot buffer is still within that range and takes into account the existing landscape of Kitsap County.
		b	Buffer Reduction Variances	Non-conforming lots are a frequent source of requests for RUE or variances resulting in buffer reductions and failing to deal with this issue reduces environmental protections. Potential measures to deal with this legacy issue include, but are not limited to policies that require the ultimate landowner to aggregate adjacent lots to extent possible to bring substandard lots to conforming status in terms of size. Additionally, when variances to buffer requirements are sought, the Special Reports must quantitatively describe buffer impacts and proposed mitigation, and the time required for the mitigation to achieve the same values and functions prior to the disturbance.	Comment noted. However, please also note that Reasonable Use Exceptions are provided to avoid depriving a property of all reasonable use of their property, as protected by the state and federal constitutions.
		c	CAO Maps	A Land Use Policy that requires DCD to manage and maintain the CAO maps to ensure they reflect the most recent information is required. Additionally, prior to adopting this Comp Plan, the County should review all existing Special Reports, stream type reports, etc., and revise the Critical Area Maps as necessary to implement Environment Policy 2.4.	This comment is specific to the Comprehensive Plan and not the CAO. Full responses will be addressed through that process. Maps are updated as part of the CAO process when updated or new source data is also available. However, it is up to the landowner to verify the presence of critical areas, which can expand or change over time. On-site verification can be done through hiring of specialists or consulting with DCD prior to purchase or development application. Goals and Policies within the Comprehensive Plan address ongoing mapping priorities, however these are currently limited by staffing and resources.

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		d	Public CAO Database	The County's publicly accessible CAO database should be kept current so people making decisions to site small rural based business are not surprised during an application for a permit to discover Critical Areas that could have influenced earlier decisions.	Maps are updated as part of the CAO process when updated or new source data is also available. However, it is up to the landowner to verify the presence of critical areas, which can expand or change over time. On-site verification can be done through hiring of specialists or consulting with DCD prior to purchase or development application. Section 19.100.160 KCC states that, "The approximate location and extent of mapped critical areas within Kitsap County are shown on the maps adopted as part of this title, and incorporated herein by this reference. These maps shall be used only as a general guide for the assistance of the department and the public; the type, extent and boundaries may be determined in the field by a qualified specialist or staff person according to the requirements of this title. In the event of a conflict between a critical area location shown on the county's maps and that of an on-site determination, the on-site determination will apply."
		e	Air and Water Quality	The Draft Comp Plan and the current CAO, SMP, Stormwater Ordinance do not achieve the "enhance" part, but cater to a slow decline. See the Tribe's comments the DEIS for details.(Referring to GMA goal "Protect the environment and enhance the State's high quality of life, including air and water quality, and the availability of water."	This GMA goal is achieved not only through regulatory requirements, but through policies and strategies that support conservation and restoration efforts, both by the County and through voluntary programs.
		f	Site Visits	The location of many critical areas and the correct stream type for many streams is unknown. The County must have this information to assess potential impacts. Desktop review is a helpful, but does not replace site visits.	It is up to the landowner to verify the presence and extent of critical areas, which can expand or change over time. On-site verification can be done through hiring of specialists or consulting with DCD prior to purchase or development application.
		g	CAO Monitoring	The County should implement a program to monitor and evaluate the effectiveness of the CAO and SMP, with close attention paid to the number of variances, buffer reductions, buffer averaging, etc. as well as the area (both project specific and by sub-basin) in which they intrude into a critical area or its buffer.	DCD is in the process of developing a more robust tracking and monitoring program.
		h	Species not Listed in the CAO	The extent to which County Code will protect species or their habitats not specifically listed in the CAO is suspect.	Like other resources utilized by the County as referenced in the CAO, it is considered best practice to not list specifics from within those sources. Referencing the source rather than the content allows for a more seamless integration of changes, should updates be made at the state or federal levels. Kitsap County does not currently have official 'species of local concern', so none are listed. If that changes, they would be listed in an updated CAO.
		i	Type N Stream Buffers	The County has not used Best Available Science to set stream buffers for Type N or ) streams, or to include riparian areas as a critical area.	See 26.a; Kitsap County has proposed to maintain the same terminology of referring to the riparian area surrounding a stream as a 'buffer'. This does not alter how these areas are protected, both for their functions to the stream, but also as an area with its own functions and values. Further, critical areas are designated by the legislature in WAC 365-196-485. This list does not yet include Riparian Areas as critical areas on their own, nor any WAC guidelines on how they are to be addressed, unless

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					these same areas are otherwise covered as having been identified as a Class I FWHCA (such as a 'priority habitat').
		j	Quantifying Impacts	The methods to quantify impacts to ensure effective mitigation is proposed are absent from the Comprehensive Plan, the DEIS, and the CAO.	DCD is in the process of developing a more robust tracking and monitoring program for the CAO.
		k	Critical Areas Location and Impact	To meet Environmental Goal 3 the location of critical areas need to be accurately known, new or revised locations updated, and a method to quantify the impacts prescribed. Quantification must extend between comparison of the square footage of impacted area to square footage of proposed mitigation with a scaler not based on current science.	Comment noted. It is up to the landowner to verify the presence and extent of critical areas, which can expand or change over time. On-site verification can be done through hiring of specialists or consulting with DCD prior to purchase or development application.
		l	CAO Mapping and Permit Review	The out of date status of the critical area mapping detracts from the ability to streamline the permit review process	Comment noted. It is up to the landowner to verify the presence and extent of critical areas, which can expand or change over time. On-site verification can be done through hiring of specialists or consulting with DCD prior to purchase or development application.
		m	CAO Database and Special Reports	The County must routinely update the critical area database and include an overlay that shows what special reports have been prepared for each parcel to enable consultants to see what other reports might influence their conclusions and suggest additional work be conducted early rather than later.	Kitsap County is required to update our maps when new information exists. Jurisdictions are not required to create, compile or analyze new data for the periodic updates. Resources are also a limiting factor.
27	4/10/24	Thomas Doty	Protecting Amphibians	Amphibious species are dying and they are incredibly important to habitat and ecosystem health. Some of these species may bring biochemical solutions to medical ailments that we are not yet aware of.	The CAO (19.700.715- Wetland mitigation report) does require the wetland biologist to identify existing amphibian species and mitigate for any known impacts from the proposed development. Other sections incentivize or require habitat corridors to provide connectivity between and to critical areas, in part due to the varied life-stage needs of amphibian and other species. Kitsap County will consider adding more specific language in the mitigation plan requirements to address temporary or long-term impacts of disconnecting these corridors.
28	4/10/24	Beth Berglund (Comp Plan Comment)	Ecosystem Restoration for Ecological Services	Where in the Comp Plan is it reflected that we value protection and restoration of lowland streams, marshes, estuaries, and diverse and healthy forest ecosystems because we recognize they provide critical ecological services? Are those values only addressed in the CAO?	These values are reflected throughout the Plan, but are particularly expressed in the Environment, Climate Change and Parks Chapters. The goals, policies and strategies are expressed through several avenues, including regulatory (code) and support or incentivization of restoration and protection efforts.
29	4/11/24	Doug Hayman	Buffer Widths		

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		a	Buffer Reduction	Allow no greater than 25-percent buffer reduction or variance.	A set percentage for limiting buffer reductions would not likely adequately address site-specific conditions. All buffer reductions and variances must demonstrate that the proposal is avoiding and minimizing impacts, and then mitigating for any impacts. Applications must also be consistent with the variance criteria in 19.100.135.A. Without these buffer reduction processes, Kitsap County would need to rely on the 'reasonable use exception' process to avoid a legal 'taking' of private property.
		b	Public Notice	Require public notice whenever any buffer reduction is being considered.	Public notice is currently required for Type II and Type III buffer reductions and variances, but not for Type I. Requiring notice for Type I buffer reductions is not proposed as this time.
		c	CAO Communications	Provide public notice via the Kitsap government website and add a government email option along with the varied notifications citizens can receive.	Comment noted; see above.
30	4/11/24	Kitsap Environmental Coalition (Comp Plan Comment)	Variances and Riparian Management Zones	The Critical Areas Ordinance will only be as effective as the strength of its final requirements. If it has too many opportunities for variances and waivers.  Kitsap Environmental Coalition supports the recommendation by Washington Department of Fish and Wildlife to use (RMZs) as a replacement for the standard stream buffer widths currently used in the Kitsap County Critical Areas Ordinances.	Comment noted. The County has proposed a "predictive" model which keeps predictable buffer widths, but proposes increasing widths to better protect functions and values consistent with Best Available Science.
31	4/12/24	Department of Ecology - Emily Atkins	Wetlands	<a href="#">Comment includes a number of code suggestions in "strikeout underline" form. See link to document.</a>	Comments noted. Consideration will be particularly given to reduction of the size of 'buffer-exempt' wetlands from 4,000 square feet to 1,000 square feet and clarification that no further buffer reductions permitted if buffer averaging is utilized. The County will consider other suggested code edits in development of a revised draft.
32	4/15/24	Roger Gay	Accessibility and Mapping	The Map on the project website does is not at a high enough resolution to view specific parcels. It is cost prohibitive to determine allowed uses on property and this process needs to be more transparent to property owners and taxpayers.	Comment noted. There are no changes proposed to the Critical Areas map. The mapping is available online through Kitsap County Parcel Search, allowing multiple layers - including critical areas- to be viewed at multiples scales, including parcel-level.
33	4/16/24	John Pelliciotta	Removal of wetland designation	Is there a process available to have a wetland designation removed?	Kitsap County's wetland maps are based on the National Wetland Inventory without any local modifications. Any development regulations would be applied only to what is actually on-the-ground and at the time of application. As such, a wetland designation would not be removed from the map (which are "used only as a general guide"- KCC 19.100.160), but a letter from a wetland specialist may be provided with development application to verify presence/absence or location.
34	4/18/24	Deborah Vedin	Development and Critical Wetlands	During planning for Sinclair Ridge (Now called McCormick North after the passing of Rob O'Neill). Areas of Critical Wetlands are being ignored so that construction companies can profit.	Comment noted. This is a project specific comment.

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35	4/23/24	Raymond Craig	Critical Areas Enforcement	The property at 10603 SE Cisco Road has had several landslides, has never had a Geotech and was supposed to be vacated in 2003. DCD seems to be unwilling to force compliance.	Comment noted. This is a project specific comment.
36	4/23/24	Beth Nichols	Code Language		
		a	Accessibility and Effectiveness	Code language is vague and ineffective throughout. The County should reference Bainbridge Island's CAO as a guide.	Comment noted. Efforts have been made, within the scope of this update, to revise code sections for clarity and effectiveness.
		b	19.100.105.B11	Change "consider adverse impacts" to "prevent adverse impacts".	Comment noted. Concur.
		c	Critical Areas Description	Describe more completely the functions of critical areas and why they need to be protected. See Bainbridge Island Code 16.20.010 C for example.	Functions and values are defined in KCC 19.150.345: as "generally those natural processes and benefits performed or provided by critical areas that are required to be protected by the GMA. These include, but are not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, reducing flooding and erosive flows, water attenuation, historical or archaeological importance, educational opportunities, and recreation." Further detail can be found the supporting BAS and addressed in KCC 19.700 for the report requirements.
		d	19.100.105.B13	Change "Encourage applicants to consider the potential impacts of climate change and sea level rise, particularly if development is near marine shorelines, adjacent flood hazard areas, or low-lying areas." to something such as "Guide and provide assistance for applicants to thoroughly evaluate and explore data regarding the potential impacts and hazards of climate change on development."	Comment noted.
		e	Addition of a Precautionary Principle	Inclusion of a precautionary principle is important and the CAO should incorporate a precautionary principle. See Bainbridge Island Code 16.20.030 B.	The precautionary principal, or "no risk approach" is required by WAC 365-195-920(1) when there is uncertainty about impacts based on a lack of/incomplete scientific information". In addition, during review, staff must apply the most protective provision whenever there is a discrepancy or uncertainty (19.100.115).
		f	19.100.130 B and 19.150.230	Change "danger trees" language to "hazard trees" and provide more guidance and detail for hazard tree removal. See Bainbridge Island Code 16.20.090 C2.	"Danger Tree" is a specifically defined term from WAC 296-54-505, addressing forest practice and logging operations and is an industry standard term. The specifics regarding danger tree removal are found in Chapter 18.16 KCC as danger trees are found in places other than critical areas.
		g	Definition of "No Net Loss"	Include a definition for no net loss. See Bainbridge Island Code for example.	Comment noted. A generalized definition for 'no net loss' may be added, similar to that found in the Kitsap Shoreline Master Program.
		h	19.150.345	Consider changing: "functions and values" to "ecological functions and values". Add "protection and enhancement of water quality and quantity" to the definition. Include groundwater recharge and discharge as another function and value. See Bainbridge Island Code for example.	Comment noted.

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		i	Notice to Title	County should be requiring notice to title for all critical areas for long term reporting. See Bainbridge Island Code 16.20.070 G.	The County has proposed adding a recorded covenant requirement for any critical area mitigation areas to ensure their long-term maintenance. A more robust tracking and monitoring program is in the works as well, but there is currently no requirement for long term reporting on critical areas outside of mitigation, which is also limited in duration.
37	4/23/24	Doug Hayman	CAO Comments		
		a	Limiting Buffer Reductions	Recently buffer reductions have been too large, ranging from 50-89-percent in some cases. Buffer reductions higher than 25-percent should not be allowed in any scenario.	Comment noted. The buffer reduction and variance permit thresholds are being reviewed at this time. Kitsap County will need to focus on fully developing a tracking and monitoring program to effectively determine how these standards may need to be revised.
		b	Public Noticing	The County needs to be more transparent about permits requesting a buffer reduction. Current noticing methods are insufficient and the County should: 1.Post these in a dedicated, easily found location on the Kitsap County DCD official web site with links to the permit, parcel number and other relevant information. 2.Create a new checkbox and email notification to go along with what is commonly used for many issues in the county citizens can sign up for via: <a href="https://public.govdelivery.com/accounts/WAKITSAP/subscriber/new">https://public.govdelivery.com/accounts/WAKITSAP/subscriber/new</a>	Kitsap County issues notices as legally required. Any changes to increase notification processes are policy decisions, not code-related updates.
		c	Tribal Consultation	Any buffer reduction should require consultation with tribes.	Comment noted. Type II and III permit applications are noticed to the tribes for comment. In addition, any project requiring SEPA is noticed to tribes.
		D	BAS as Expert Guidance in the Hearing Process	The absence of particular experts (those involved in the development of BAS) in hearings should not be ignored by the hearing examiner where reductions in Critical Areas Ordinance buffers are concerned. The county DCD planning staff should make this clear in the presentation to the hearing examiner.	The submittal of critical area reports for buffer reductions, by the nature of the reporting requirements in 19.700, must demonstrate why the deviation from the County's CAO (ie. Best Available Science) can be supported. The reports do not serve to somehow counter what the BAS and associated experts have determined, only how the site-specific conditions and proposal will be able to address any impacts. This is understood and is addressed in KCC 19.100 Introduction and Approval Procedures.
		e	Allowing Opposing Experts to Access Properties where Buffer Reductions have been Requested	Not allowing physical access by opponents creates a biased situation when opponents are not allowed to have their experts also evaluate the parcel(s) in question to make a thorough counter view to present to the hearing examiner. If the hearing examiner makes his or her determinations and approves buffer reductions based on expert opinion, they should allow a fair and balanced process to carry this out.	If there is disagreement with the findings of the applicant's special report, Kitsap County does have the authority to require third party review when independent review is deemed necessary (KCC 21.04.140 and 19.100.120.E). The County does not have the authority to grant access to private property to third parties.
		f	Vested Developments	There should be no further allowance for developers or individuals to rely upon older CAO regulation standards. Permits initiated more than 2-years ago should be required to comply with the latest Critical Areas Ordinance.	KCC 21.04 addresses permit vesting. Land use (subdivision, etc.) applications are vested throughout the permitting process from Preliminary Plat to Final Plat, so long as the applications do not expire. However, after land use is completed, subsequent building permit may require additional review under current standards per KCC 19.100.120(C) "where the department determines, based on review of current information that the prior

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					<i>conditions will result in a detrimental impact to a critical area.</i> This is especially likely to be necessary for development proposed within an older plat, but it will depend on the conditions recorded on the plat.
		g	File Naming Conventions	DCD files shared with the public currently follow no naming standard. Looking at Kitsap Parcel search documents it is reasonable to follow a standard like: <ul style="list-style-type: none"> <li>•Siteplan.pdf</li> <li>•Siteplan-amended.pdf</li> <li>•Siteplan-final.pdf</li> <li>•SepticDrainfield.pdf</li> <li>•SepticDrainfield-amended.pdf</li> </ul>	Comment noted.
		h	Providing Documents	All documents regarding buffer reduction should be publicly available without the need for a public records request.	Comment noted. Kitsap County issues notices/publishes as legally required. Any changes to increase notification or publication processes are policy decisions, not code-related updates. Current resources only provide notifications for Type II and III applications within a certain radius, and then any legal notices (notice of hearing, notice of SEPA decision, notice of decision, etc.) to interested parties. This does not include notices for each revision or resubmittal. Initial application documents and special reports are available for review in the public portal with an associated permit number.
		i	Code Language	Language is vague and unclear, the County should survey citizens to identify content that needs clarification.	Comment noted. Efforts have been made, within the scope of this update, to revise code sections for clarity and effectiveness.
		j	No Net Loss Metrics	The County should request guidance from Ecology and WDFW to measure key indicators of current ecological functions as a baseline for no net loss.	Kitsap County is working with the Department of Ecology on any further metrics that may be acceptable to utilize in the Kitsap CAO regarding standard metrics and thresholds.
		k	CAO Buffer Delineation	Critical area boundaries should have permanent durable signs to delineate their location. These should be maintained by the property owner and be maintained by all subsequent renters or owners. Notification of such boundaries should remain with deeds and online property records so that future owners or users of the land may also protect these critical areas.	Kitsap County already requires permanent buffer signs be placed along the outer buffer edge in most cases, either stand-alone or in conjunction with split-rail fencing. The 3/8/24 Preliminary Draft includes added recorded covenant for mitigation areas as a long-term protective mechanism.
38	4/25/24	Elena Vasilyeva	CAO and Housing Affordability	Most available lots in the County have Critical Areas and are purchased by "investment buyers" who build unaffordable homes because they can afford to develop these areas. The County should implement a tax-funded, site-specific approach to critical areas delineation for each unique parcel free of cost to the owner. More limiting regulations will lessen affordability in an already difficult economy. There does not appear to be a description of a problem that prompted these CAO changes.	Kitsap County is required under the Growth Management Act to periodically review and revise the CAO as necessary, using Best Available Science and implementing any legislative changes since the previous update. Kitsap County is not required to evaluate a 'problem' or demonstrate how existing provisions may not be working. Efforts have been made to reduce the impacts to property owners from these changes to the extent that resources and the law allows.
39	4/25/24	Thomas Doty	Protecting Amphibians	Temporary ponds and intermittent streams are critical to the survival of amphibians and yet do not seem to meet Kitsap county's wetland preservation criteria.  Amphibious species are dying and they are incredibly important to habitat and ecosystem health. Some of these species may bring	Comment noted. The addition of "Type O" streams was, in-part, to help address this concern. It recognizes that these seasonal streams which may not meet the strict definitions under the WAC Forest Practice stream typing rules for a Ns/Np stream, still have critical watershed and life-stage functions for many species. While amphibians are called out in the reporting requirements

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				biochemical solutions to medical ailments that we are not yet aware of.	for a wetland mitigation plan, Kitsap County may consider adding additional Best Management Practices to ensure amphibians have access during the construction process.
40	4/26/24	David Onstad	CAO Comments		
		a	19.100.105 A	Does Policy #4 overwrite the other policy goals?	The planning goals of the Growth Management Act (RCW 36.70A.020) include both Environment and Property rights, as well as 13 other goals. Kitsap County must balance these goals, of which none have priority over the other. The policy goals of this Title (Title 19-CAO) do focus on the intent/goal of this particular title, "It is the goal of Kitsap County that the beneficial functions and values of critical areas be preserved, and potential dangers or public costs associated with the inappropriate use of such areas be minimized by reasonable regulation of uses within, adjacent to or directly affecting such areas, for the benefit of present and future generations." In addition, the CAO is supplemental to other development codes and together they must balance all GMA goals, without preference.
		b	No Net Loss Vs. Net Ecological Gain	The County should adopt NEG over NNL because; there is no baseline measurement for NNL; there is not enough scientific understanding around site specific ecosystem function degradation; there is insufficient monitoring of NNL standards; There is a lack of accountability and enforcement.	Net Ecological Gain is not yet required by state law and the state has funded efforts to further define NEG and develop an implementation framework. Until then, Kitsap County will continue to focus on enhancing our tracking and monitoring efforts. Additionally, the Department of Ecology has provided recent guidance that the recommended buffer widths are only acceptable when 'fully vegetated'. Therefore, the 3/8/24 Preliminary Draft includes provisions for enhancing wetland buffer vegetation in certain cases.
		c	Variances	Variances in the County are permitted too often with required mitigation procedures that rarely produce equal or better ecological function.	The buffer reduction and variance permit thresholds are being reviewed at this time. Kitsap County will need to focus on developing a tracking and monitoring program to effectively determine how these standards may need to be revised.
		d	Wildlife Corridors and Sediment Management	The County must not allow the use of silt fencing without techniques that allow crossing by small wildlife such as amphibians and reptiles. Extra requirements should be required for sediment management for projects lasting more than 1 year.	While amphibians are called out in the reporting requirements for a wetland mitigation plan, Kitsap County may consider adding additional Best Management Practices to ensure amphibians have access during the construction process.
		e	Buffer Reduction and Mitigation	Buffer averaging removes riparian area and replaces it with non-riparian area. Native vegetation planted in upland is not the same as native vegetation in lowland and does not usually have the same function.	Comment noted.
		f	19.300.305.D	Wildlife corridors are mentioned as positive features (page 78). The CAO must realize that the large buffers needed by amphibians and other animals moving to and from wetlands are essentially corridors. Thus, a definition of corridors and large buffers that defines these similarities should be published in the CAO.	Wildlife corridors are noted as important features that should be maintained and protected (prioritized) when possible. There are provisions to reduce buffer widths, for example, when these corridors are protected. A general definition may be considered, but a corridor will look and provide different functions in each location and detailed definition may become too restrictive. While acknowledging their importance, the CAO cannot establish or require buffers or restrictive covenants on property outside of the subject parcel(s) requesting a land use or development

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					permit. Larger habitat corridors are going to be most effective through voluntary or incentive-based approaches or acquisitions.
		g	19.300.315.G	A definition of performance based development process must be given in the CAO.	The 'Performance Based Development' noted in 19.300.315.G is in reference to a type of land use permit, the process for which is described in KCC 17.450. While the performance based development described in KCC 17.450 may allow for flexibility and innovative design on constrained sites, it does not exempt from the requirements of the CAO. Performance based development is also already defined in KCC 17.110.572.
		h	19.300.315.I	Point 5 should not be amended by Point 6. The current CAO makes destruction of critical areas, with no net loss, acceptable.	The provisions for allowing trails in the buffers are differentiated by type to allow for greater public benefit on regional-use trails systems. These trails are typically reviewed and approved through a public process prior to any development permit review as well. This provision does NOT state that such trails do not have to demonstrate mitigation sequencing. Provision remains to avoid and minimize before any buffer impacts would be permitted and then mitigated. Regional trails often have requirements for ADA and emergency accessibility associated with them that may need to be accommodated after all other reasonable alternative locations have been considered.
		i	Pesticides and Fertilizers	The current exemption for pesticide use is too broad. Pesticides should be a technique of last resort.  The prohibition should apply equally to wetlands and their buffers. Amphibians, who use wetlands for reproduction and growth, are particularly sensitive to pesticides.	Comment noted. Partially concur that the existing provision should be applied in both 19.200 and 19.300.
		j	19.200.220	Recommendation for new section:  "19.200.220.F. Fertilizers and Pesticides. No fertilizers may be used in wetlands or their buffers. Pesticides, which includes herbicides, cannot be used in wetlands or their buffers, except under the following three conditions. First, only those pesticides approved by the U.S. EPA or Washington Department of Ecology for use in wetland environments and applied by a licensed applicator in accordance with the safe application practices on the label can be used. Second, use of pesticides is only to be allowed against invasive species. Third, the pesticides can only be used when other control measures are not possible or other measures would cause more damage to habitat and animals than the pesticides."	Comment noted.
		k	19.300.315.F	Revision: "19.300.315.F. Fertilizers and Pesticides. No fertilizers may be used in fish and wildlife habitat conservation areas or their buffers. Pesticides, which includes herbicides, cannot be used in fish and wildlife habitat conservation areas or their buffers, except under the following three conditions. First, only those pesticides approved by the U.S. EPA or Washington Department of Ecology for use in fish and wildlife habitat conservation area environments and applied by a licensed applicator in accordance with the safe application	See above

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				practices on the label can be used. Second, use of pesticides is only to be allowed against invasive species. Third, the pesticides can only be used when other control measures are not possible or other measures would cause more damage to habitat and animals than the pesticides."	
		l	Development In or Near Buffers	Time limits are only mentioned for road-related activities. General housing or commercial plot development also needs time limits as the disaster at the silt fence installed at the Arborwood sub-division demonstrated in 2022.	Kitsap County may consider adding additional Best Management Practices to ensure amphibians have access during the construction process.
		m	Mitigation Timeline	A major concern about mitigation highlighted in the WDFW report (Davis et al. 2022) "Mitigation required by local and state agencies does not have a long-term requirement beyond the initial monitoring period, meaning that when properties are sold, the new owners can degrade the mitigation." Neither structure nor function can be measured over short term and declared sufficient. Serious and effective monitoring must be required and maintained for 10 years (as described on Ecology's web site) after restoration and mitigation to ensure sustainable conditions.	The County has proposed adding a recorded covenant requirement for any critical area mitigation areas to ensure their long-term maintenance. A more robust tracking and monitoring program is in the works as well.
		n	Updating Resources	Upgrade park plans, county handbooks and ordinances to include the latest scientific understanding of wildlife and critical areas.	Comment noted.
		o	Harm to Animal Populations	DCD and the CAO should focus more on direct harm to animal populations and recognize that many species are harmed directly during development.	Comment noted.
		p	Larger Buffers for Amphibians	The draft CAO fails to consider both the importance of amphibians but also the WA Department of Ecology's own evaluation of BAS concerning buffers for amphibians. This and several other studies need to be considered by DCD. (See pages for studies)	The classifications for critical areas are defined by the state. Fish and Wildlife Habitat Conservation Areas are defined as Class I and II, and determined by a species listed status (federal or state), areas targeted for preservation and local species of importance. Kitsap County has not yet identified a species of local importance. The state (WDFW) only provides management recommendations for species that are listed at the state level. There are some amphibian species which are addressed by the state, but they would generally as a group, not be granted special (additional) buffer or protections outside of those required for their associated wetland or stream habitat. As noted, additional BMPs may be considered to protect during the construction process.
41	4/26/24	Kitsap Building Association (KBA)	CAO Comments		
		a	19.100.155.D	<p>The word "avoid "should not be in the opening paragraph as currently presented in the code revisions.</p> <p>At a minimum section D mitigation sequence should be removed from Geo Hazards and Critical Aquifer.</p> <p>Avoidance of Critical Aquifer is confusing,</p>	Mitigation sequencing, by definition, must include first avoiding the impacts to critical areas, followed by minimization and finally compensatory mitigation. This has not changed, only moved to this chapter to clarify that mitigation sequencing applies to all critical areas. Geohazards and CARAs must also be avoided and minimized. This would include avoiding placement of a structure or use within the critical area or buffer, followed by minimizing any necessary impacts (less grading or selecting a use that has less potential impact to the aquifer). These are demonstrated through project narratives or special reports (geotech, etc.).

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		b	19.200.210.B	Why should the scoring system points be removed?	Scores have been removed from direct reference in code to avoid any confusion should the state update the rating system. When this occurs, it may be several years before the County is able to update them and this can create confusion as to which applies (and has in the past with the 2014 rating system update).
		c	19.200.220.B.1	<p>WDFW and tribal biologists are not typically certified to conduct wetland delineations.</p> <p>Too vague and not specific enough for specialists to make the determination.</p> <p>What happens when they are outside the standard buffer but it is invasive or minimum vegetation cover do they have to increase the buffer or plant it? Above and beyond for something that is existing conditions.</p> <p>How can WDFW or the Tribe confirm the rest of this section (protect wetland functions/values for no net loss; in a landslide area or the standard buffer has minimum vegetation cover) if they don't have the training to complete wetland functions assessments or delineations?</p> <p>Would it be more suitable for the wetland specialist to make that determination and the county confirm particularly when they are on the approved wetland specialist list?</p>	<p>Concur; reference should be consultation with Dept. of Ecology, not WDFW. Staff are working with Ecology staff to determine if more specificity can be provided on what a 'fully vegetated buffer' might be quantified as. The Department of Ecology has indicated that their recommended buffers (based on BAS) assume a buffer is functional when fully vegetated. Therefore, even when a proposal is meeting the buffer width, the buffer functions would not be met unless fully vegetated. The intent is that this would apply mostly to new development, and not likely to small projects and additions. Clarification may be proposed.</p>
		d	19.200.220.B.2	<p>Section is difficult to understand and will be difficult to implement particularly since this will cause delays in permitting and multiple return of reports for update or clarification.</p> <p>How is this determined?</p> <p>Are there guidelines for specialists to follow so they don't get reports back repeatedly?</p> <p>If the specialist has determined that a wider buffer is not required, and the project is designed but the tribe and WDFW say that a wider buffer is needed how is this protecting the resource and keeping the review process consistent?</p>	<p>Staff are considering the addition of a table to clearly indicate what the 'next highest buffer' would default to. Staff are also working with Ecology to better clarify what a 'fully functioning buffer' would be defined as.</p>
		e	19.200.220.B.3	<p>How is this determined and when required?</p> <p>Is this a mitigation plan that requires a monitoring period?</p>	<p>Buffer enhancement would be needed when the buffer is not 'fully vegetated'. A mitigation plan by a wetland specialist would be required to develop an appropriate planting/mitigation plan.</p>
		f	19.200.220.C.2.a	<p>Change Wetland Mitigation Plan to Buffer Mitigation Plan because wetland implies fill of the wetland for which compensatory mitigation is required.</p>	<p>Wetland Mitigation Plans encompass both direct impacts as well as buffer mitigation. This has not been a change in terminology.</p>
		g	19.200.220.E	<p>What is considered a minor intrusion? Can the code add some examples of potential acceptable minor intrusions, i.e. driveways, roads, patios?</p>	<p>This is not a new section. Staff may proposed additions to clarify, consistent with Title 17 zoning.</p>

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		h	19.200.220.C.7	Section mentions Type III variances for development that cannot meet the buffer averaging or administrative buffer reduction criteria. Should it be a Type II variance then a Type III? Define variance levels.	Concur. While Type II buffer reductions are still considered 'administrative', clarification may be proposed to 19.200.220.C that a separate application is required.
		i	Table 19.200.220(F)	Lights: there will be backlash because safety issues are becoming a significant concern and having lights working all night and in dark areas are necessary. Noise: fencing could cut off the corridor connection to other habitats as required for functions. Toxic Runoff: only stormwater in the previous code, why is this added now? Stormwater runoff: Aren't all of the items in the table included in the stormwater manual requirements? Pets and human disturbance: Most pets can get through anything so there are no effective means of keeping them out. New subdivisions typically locate low intensity uses adjacent to buffers.	This table represents EXAMPLES of measures to minimize and are directly from the Dept. of Ecology guidance. Part of demonstrating mitigation sequencing is explaining what is being done to minimize or why certain types of measures may not be feasible or appropriate.
		j	Table 19.200.230	Should remove wetlands that we don't have in Kitsap (i.e., interdunal).	Kitsap County has previously been advised to include all wetland types.
		k	19.200.230.E.3	How is this determined? A suggestion is to add that if the project gets a federal or state permit that allows the lower preference method it should be to the department's satisfaction. Need to identify criteria.  This section should only apply to wetlands because the listed mitigation methods are not used for buffer impacts.  If mitigation projects are not in order of Kitsap CAO preference, is approval at federal or state level sufficient for approval at the county level?	The methods for compensatory mitigation can apply to both direct wetland impacts and buffer impacts. For direct impacts, the ratios/methods applied are up to the applicant biologist to provide in any appropriate combination. Please also note the alternatives in 19.200.230.G, whereby state or federal approved alternatives would also be considered. Concurrent review with all involved agencies is ideal, to allow for collaboration and discussion of appropriate mitigation measures, as well as to allow SEPA process to incorporate the appropriate plans. This, however, is a policy decision and not directed by code or legislation.
		l	19.300.310.B.3	Suggested Wording Revision: "There exist isolated streams in the County that have no surface connection to Type S, F, or N waters, are non-fish-bearing, channelized (meeting the Type N definition), and infiltrate entirely (does not enter a Type S, F, or N water in an above or below ground channel). In addition to the DNR stream types above, a Type O stream classification shall be included as Fish and Wildlife Habitat Conservation Areas when verified on-site by a qualified habitat biologist."  Suggest a lower buffer width for Type O waters to create differentiation between Type N and O waters.	Partially concur. This definition is proposed for clarification with revision. Revision may clarify that Type O waters "include all segments that are not type S, F or N waters and that are not physically connected to type S, F, or N water by an above ground channel system, pipe or culvert, stream or wetland. Such streams infiltrate entirely and are critical to downstream flows and overall watershed health".
		m	19.300.315.A.2	Suggested wording: "The buffer width shall be increased where streamside wetland buffers exceed the stream buffer width. The greater buffer width shall apply when critical area buffer widths overlap."	Concur. This section to be clarified that the greater of the stream or wetland buffer shall apply when both are present.
		n	Stream Buffer Widths	Using BAS seems inconsistent throughout the update. Why was this revised to increase buffer widths, however, in other areas different portions of the BAS criteria are used. For example, the UGA	The Alternative UGA buffer allowance recognizes that some buffers in the UGAs would not reasonably be able to achieve full riparian function due the surrounding built environment. This allows for certain redevelopment and infill to occur, when

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				alternative buffer width for a Type N stream is 75 feet. This is below the recommended buffer width in the WDFW guidance.	specific criteria are met and incentivizes ecosystem restoration. These criteria are key for allowing lower buffer. Additional analysis to be provided separately. The proposed UGA alternative was also proposed, in part, to explore options for urban areas to meet GMA goals, such as reduced sprawl and provision of affordable housing.
		o	Table 19.300.315	Table shows the UGA buffer for a Type F stream will be 150 feet, which is consistent with the current buffer width. Can the UGA buffer for Type N streams be consistent with the current buffer width as well and be 50 feet? The alternative buffer width is proposed to be 75 feet for a Type N stream. This below the 100 feet recommended in the guidance. In addition, if stormwater manual requires clean water couldn't the buffer width remain 50 feet within the UGA?	The UGA Alternative buffer widths were selected based on what would be a 25% reduction to the proposed standard buffer widths. Buffer functions beyond water quality must still be considered. The recommended guidance of 100-feet is the minimum to address pollutant removal. The Alternative at 75' is already taking into account that the stormwater manual will have required water quality treatment in these urban areas. It is also attempting to maintain or allow enhancement of other buffer functions to the greatest extent feasible.
		p	19.300.315.A.3	Section needs additional clarification.	Concur. This process for utilizing the Alternative UGA buffer width may be addressed through policy, similar to the Engineered Waiver process used for stormwater review. We would expect to see a modified report or letter from the biologist outlining why this alternative can be applied. This would be approved 'over the counter', without a permit application. The form would likely be a cross between this engineered waiver and wetland certification form.
		q	Single-Family Certificate for Streams	The County could develop a form similar to the wetland certification for projects outside of buffers for expediting single family projects that do not propose buffer impacts.	Comment noted. Email or letter from biologist submitted with the permit application verifying stream location and buffer is sufficient and no additional form is needed.
42	4/26/24	Hood Canal Environmental Council (HCEC)	No Net Loss and Buffer Widths	<p>No net loss adequately maintains the quality of life in Kitsap County while allowing for some development and much needed housing.</p> <p>It is paramount that buffer widths on wetlands and streams are increased and that significant trees are protected as recommended in the CAO update.</p> <p>Wildlife and habitat corridors need to be incorporated whenever possible.</p> <p>HCEC strongly supports incorporation of the proposed code amendments of the CAO update into the Kitsap County Comprehensive Plan update.</p>	Comment noted.
43	4/26/24	Kitsap Environmental Coalition (KEC)	CAO Comments		

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				<p>KEC Code Criteria:</p> <ol style="list-style-type: none"> <li>The code should be specific, consistent, clear, and easily readable by the public. Specialist knowledge should not be required. The code should require adherence by staff and limit excessive discretion, as recently acknowledged by the Hearing Examiner in an appeal.</li> <li>The code should not rely on aspirational clauses to address policy issues.</li> <li>Public notification and a reasonable appeal time should be required for any buffer modification.</li> <li>The code should protect buffers for wetlands, streams, and wildlife areas. The best available science is that buffers are necessary, multi-functional, and of moderate width. The ecological functions of buffers must be identified.</li> <li>Effectiveness of the code requires permanent status of boundaries and effective protection against transgression.</li> <li>Set a minimum setback of 15' from structures and impervious surfaces for maintenance and use in order to avoid transgressions of buffers.</li> <li>The code should require that evaluation of different ecological functions be performed by appropriate specialists or professionals. Items in a specialist report may only be relied upon when within a specialist's area of expertise.</li> <li>Specialist reports must be subject to verification.</li> <li>The criterion of "no net loss of ecological functions" lacks definition and methodology. Specialist reports should not rely on 'hand-waving', but be based on objective scientific analysis and be subject to verification. The "no adverse impact" requirement in buffer averaging should be retained. Monitoring requirements must address all ecological functions, not just vegetation, and the County must provide for effective review of monitoring reports.</li> <li>Minimization of impact to wetlands should be in accord with Washington State agency guidance. Consider both large and small spatial scales during evaluation of wildlife corridors.</li> <li>The Code shall recognize amphibians and reptiles as two of the five classes of vertebrate 'wildlife' that are most endangered, locally and globally, and that they deserve protection and preservation. Vernal pools and intermittent streams are the lifeblood of larval amphibians. Additionally, endemic juvenile amphibians and all reptiles shall have unimpeded access to extensive forested uplands.</li> <li>Regional trails and shared-use-paths should be regulated with roads, not trails.</li> <li>Fertilizers and pesticides should generally be prohibited in critical areas and buffers.</li> <li>The lower width for riparian buffer widths in UGAs is scientifically unsupported.</li> <li>Clarifications are requested for Type I and special use review procedures.</li> </ol>	<ol style="list-style-type: none"> <li>Comment noted. To clarify 'standard' vs. 'reduced' buffer widths; Cat. III wetlands will not have a 'high level of function'.</li> <li>Comment noted.</li> <li>Comment noted. Kitsap County currently notices all permits as required by state law.</li> <li>Comment noted. Functions and values are generally defined in 19.150.345 KCC. This general definition may be elaborated on, but will be specific to the location and type of critical area.</li> </ol>
		a	Code Criteria		<ol style="list-style-type: none"> <li>Fencing and/or signage is already required. Proposal adds recorded covenant requirement for all mitigation areas. Per 19.100.110 KCC, the standards in the CAO apply even when no permit is required and 19.100.165 addresses enforcement.</li> <li>A 15-foot setback for impervious surfaces and structures is already required. Minor intrusions are permitted when the biologist can demonstrate avoidance of the buffer can still be achieved (fencing, etc.) and it will not impact buffer function.</li> <li>Kitsap Code already requires that each type of critical area / report be completed by the appropriate qualified professional (wetland specialist; wildlife biologist; geologist; etc.).</li> <li>Special reports are reviewed by Kitsap County staff or contracted third-party reviewer, and are available as public record for review by the others, including state agencies and tribes.</li> <li>Comment noted.</li> <li>Comment noted.</li> <li>The classifications for critical areas are defined by the state. Fish and Wildlife Habitat Conservation Areas are defined as Class I and II, and determined by a species listed status (federal or state), areas targeted for preservation, and local species of importance. Kitsap County has not yet identified a species of local importance. The state (WDFW) only provides management recommendations for species that are listed at the state level. There are some amphibian species which are addressed by the state, but they would generally as a group, not be granted special (additional) buffer or protections outside of those required for their associated wetland or stream habitat. As noted, additional BMPs may be considered to protect during the construction process.</li> <li>Comment noted.</li> <li>Comment noted.</li> </ol>

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					14. Comment noted. See previous replies. 15. Comment noted.
		b	Standard Buffer Widths	Tables 19.200.220(B) through (D) and Table 19.300.315 should be identified as "Widths of Standard Buffers" or "Standard Buffer Widths."	Comment noted. Clarity may be added where appropriate.
		c	Table 19.200.220(C)	Category III wetlands is missing the row for 'high level of function.' Even though a footnote is present, the missing row is confusing to the reader and makes the table difficult to read. Delete the footnote and insert the row for 'high level of function.'	Category III wetlands will not have a 'high level of function' based on the wetland rating system scoring criteria. It is not missing because it would not exist.
		d	19.200.220.B.2	Revise §B.1 to read "The standard buffer widths..." Delete the first line of §B.1 ,2nd¶, to start "The department shall increase..." The second ¶ §B.2 is awkward.	Comment noted. Clarity may be added where appropriate.
		e	Buffer Reduction Language	"Modification, Increase, Reduce, Reduction, & Decrease" terms are not always clear and frequently require prior knowledge or	Comment noted. Clarity may be added where appropriate.

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				<p>inferences by the reader.</p> <p>The terms “reduction and reduce” are used to refer to buffer decreases in general, as well as to specific methods. The choice of words has been confusing in both the 2007 and 2017 versions and frequently requires the reader to make inferences.</p> <p>We suggest “administrative buffer reduction” be given a new name, such as “Buffer Decrease.” Such a convention would allow occasional use of “reduce or reduction” as non-specific words. Other solutions are possible.</p>	
		f	19.200.220.C and 19.300.315	<p>The structure of §C is confusing and lacks specificity. Staff have stated the intent is to retain the current three mitigation options of Type I buffer averaging, Type II reduction, and Type III variance. However, proposed §C.1 details a four-option structure and §C.2 and C.3 separate buffer averaging from a Type I/II reduction. Theoretically, a third-party could force the department to allow buffer averaging outside of departmental decision, notification, or public review.</p> <p>The identical problem also exists in proposed 19.300.315.A.4.</p>	Comment noted. Clarity may be added where appropriate.
		g	Language	Terms, such as “consider, encourage, or may,” have no enforceable meaning.	Comment noted. Terms are carefully selected to acknowledge that the provision may not be applicable in all cases.
		h	19.100.105.B.11	Reject the insert and deletion.	Comment noted. Revision to be considered.
		i	19.100.105.B.13	Rephrase as "Applicants shall address the impact of climate change and sea level rise if the proposed development is near a marine shoreline, flood hazard area, or low-lying area"	Comment noted.
		j	19.200.220.B.1	<p>Replace second paragraph:                      “For degraded buffers, the department must require enhancement of buffer functionality and/or increase the buffer above the required standard buffer width in Tables 19.200.220(B) through (E). The department shall consult with the Washington Department of Fish and Wildlife and affected Tribe(s).”</p>	Comment noted.
		k	19.200.220.B	<p>Revise:                      §B.1 “The department shall increase buffer widths...”                      §B.2 “...the buffer width shall be increased...”</p>	Comment noted.
		l	Public Noticing	<p>Any buffer modification should require public notification. Therefore, the Type I process should not be used.</p> <p>The County should enhance electronic notification system to include a recipient list for "zoning, stormwater, and critical area decisions and approvals".</p>	Comment noted. Kitsap county provides public notice as legally required.
		m	19.200.220.B	<p>KEC supports elimination of the bad buffer bonus in proposed 19.200.220.B by requiring restoration and enhancement of degraded buffers.</p> <p>Amend §B.1 as follows:                      “For degraded buffers, the department must require enhancement</p>	Comment noted.

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				or restoration of buffer functionality and/or increase the buffer area or width above the required standard buffer width in Tables 19.200.220(B) through (E). The department shall consult with the Washington Department of Fish and Wildlife and affected Tribe(s).” And: “Enhancement or restoration of an existing buffer shall not count as mitigation.”	
		n	Buffer Integrity	Buffer integrity has been compromised by DCD practices, which have allowed use of buffers for development activities. These activities include clearing, excavation, grading, and placement of permanent compacted fill.	Comment noted.
		o	19.150.170	Revise the definition of buffer: “Buffer” includes riparian areas and means a well-vegetated area that is intended to protect the functions and values of critical areas. Buffers also provide their own ecological functions. Protecting functions and values of critical areas requires identifying, retaining, and protecting the ecological functions of buffers. These include, but are not limited to, wildlife habitat including use areas, connectivity, and food resources; erosion prevention; passive runoff and stormwater control via slowing, micro-detention, absorption, and infiltration; removal of sediment, nutrients, and toxics; improvement of water quality via biofiltration by fungal, bacterial, and plant communities in the upper soil horizons; maintenance of wetland hydrology and plant communities; increased residence time of water in the subsurface, minimization of peak stream flows, reduction of stream temperatures, and maintenance of seasonal low flows; and groundwater infiltration, both deep and near-surface. Protecting functions and values includes the preservation of existing native and nonnative vegetation, except where a degraded buffer is enhanced or restored.”	Comment noted. These additions may better supplement 'functions and values' definition.
		p	19.200.220.D	Insert new §D.1 under 19.200.220.D: “Buffers. Buffers shall remain undisturbed natural vegetation areas. Buffers shall be maintained along the perimeter of wetlands. Refuse, fill, yard-waste or other debris shall not be placed in buffers. No clearing, excavation, grading, filling, staging, storage, or other development activities shall occur in buffers. Degraded buffers may be enhanced to improve functional attributes according to a restoration plan.”	Comment noted.
		q	19.300.305.D	Revise 19.300.305.D to read: “Avoid or minimize human and wildlife conflicts by identifying, preserving, and/or restoring wildlife corridors.”	Comment noted. The proposed language is not a 'purpose' of the FWHCA chapter, which must address development standards rather than planning-level functions. It may be applicable as a policy/strategy within the Comprehensive Plan, however.
		r	19.300.315.A.1	Delete existing text and insert the following: “Buffers. Buffers shall remain undisturbed natural vegetation areas. Buffers shall be maintained along the perimeter of streams and habitat areas Refuse, fill, yard-waste or other debris shall not be placed in buffers. No clearing, excavation, grading, filling, staging,	Comment noted.

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				storage, or other development activities shall occur in buffers. Degraded buffers may be enhanced to improve functional attributes according to a restoration plan.”	
		s	19.300.315.A.6	Delete “Refuse shall not be placed in buffers.” due to redundancy with §A.1	Comment noted.
		t	Buffer Reduction	Do not use Type I or Type II process, but require Type III for any buffer decrease.	Comment noted.
		u	19.200.220 and 19.300.315	Amend 19.200.220.C.2.b, 19.200.220.3.c, 19.300.315.A.4.b.iv, & 19.300.315.A.4.c.iv by appending “The applicant shall demonstrate that no net loss of ecological functions will occur.” to the currently proposed text.	Comment noted.
		v	19.200.220 and 19.300.305	Amend 19.200.220.C.6 & 19.300.305 to require use of Best Management Practices that are not harmful to small animals.	Comment noted.
		w	19.200.220.C.6.a	Amend 19.200.220.C.6.a.i to require a 300-foot wide corridor. Insert a definition for ‘wildlife corridor.’	Comment noted. This would significantly reduce the number of locations where habitat corridors could be established as most properties will not have authority over widths of that size.
		x	Boundary Marking and Memorialization	Boundaries must be identified with non-degradable and locatable markers, as well as temporary signs or wood markers. The boundary line and buffer limitations must be memorialized with a Notice to Title or equivalent legal instrument. The code should include a single definition of a legal encumbrance, and have subsequent code sections reference that definition.	Kitsap County already requires permanent buffer signs be placed along the outer buffer edge in most cases, either stand-alone or in conjunction with split-rail fencing. The 3/8/24 Preliminary Draft includes added recorded covenant for mitigation areas as a long-term protective mechanism.
		y	19.150.567	Define setback as follows: “19.150.567. For the purposes of Title 19, “setback” is an area measured from a buffer boundary within which a structure or impervious surface is prohibited. The position of a structure shall be measured to the nearest wall or vertical element.”	Comment noted. Definitions are retained to be consistent across code titles.
		z	19.200.220.E	Revise as: “A structure or impervious surface setback of not less than fifteen feet is required from the edge of a wetland buffer, including exempt wetlands in 19.200.210.C. The fifteen-foot setback is considered a minimum for practical use and maintenance and may not be decreased.”	Comment noted. Setbacks may be reduced when appropriate and demonstrated to retain 'no net loss' by the habitat/wetland biologist.
		aa	19.300.315.A.7	“A structure or impervious surface setback of not less than fifteen feet is required from the edge of a fish and wildlife habitat conservation area buffer. The fifteen-foot setback is considered a minimum for practical use and maintenance and may not be decreased. The setback shall be identified on a site plan.”	Comment noted.
		bb	19.300.315A.2	Revise by deletion of “...and building setbacks...” in ¶12.	Comment noted.
		cc	19.700.715.A.2 & 19.700.720.C.6	Rewrite the requirements for authors in 19.700.715.A.2 & 19.700.720.C.6. Prohibit determinations outside of an author’s specific area of expertise. Require evaluations by soil scientist, professional geologist, professional hydrogeologist, or professional engineer as appropriate.	Comment noted. If a habitat biologist or wetland specialist does not have the skills or expertise to adequately address the functions as required in 19.700, then they will need to obtain that expertise to address it in their report. Several companies will have in-house experts that they are able to draw from in preparation of their reports. Likewise, coordination between wetland specialists and geologists is often necessary and expected for both professionals to complete their analysis.

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		dd	19.700.720.C.2	Delete the first "and". Revise first sentence to read "ecological quality, and functions and values." "Ecological quality" requires definition. Second sentence, what does "This" refer to?	Concur. 'This' refers to the analysis.
		ee	19.700.720.C	Mentions only vegetation. Add a requirement to evaluate all important ecological functions of buffers including hydrology and hydrogeology.	Comment noted.
		ff	19.700.705	The following subsections be appended to: F. Access for on-site investigations. A third-party may request access to a site for the purpose of conducting an investigation by a professional of their choosing. The third-party shall present a professionally sound reason for additional investigation. Should the owner or Applicant refuse access, the Review Authority (21.04.100) shall not rule against or devalue the third-party's professional opinions on the basis that the third-party did not conduct site investigations. G. Integrity of reports. No special report shall be edited or amended by the department.	Comments noted. Kitsap County does not have legal authority to allow access by a third party.
		gg	19.200.220.C.2.a & 2.b	19.200.220.C.2.a & 2.b provide two criteria of 'great or greater' and 'no net loss' to be met. Applying these clauses requires an understanding of the difference between the two criteria, which are not defined elsewhere. The two criteria approach may not be the department's intent. Clarification is required.	Comment noted. Clarity may be added.
		hh	Buffer Averaging	Restore the requirement of "no adverse impact" to buffer averaging.	Concur. This provision appears to have been inadvertently left out.
		ii	Monitoring Requirements	Monitoring requirements must identify and address all ecological functions for both critical areas and buffers, and include collection of baseline data. Also, the County must provide for effective review of monitoring reports.	Monitoring requirements are not new, but definition added for clarity. The requirements include evaluation of all functions and values. As buffers are an integral part of maintaining those function, they are by definition included. The County continues to focus on development of tracking and monitoring effectiveness.
		jj	Table 19.200.220(F)	Add additional elements from Ecology's Wetland Avoidance and Minimization Checklists. Include the Ecology suggestions for low impact development techniques, construction techniques, and construction timing.	Comment noted.
		kk	19.200.210.B.3	delete "...can often be replaced with mitigation."	Comment noted. This definition is from Ecology, but can be refined to exact definition: "...can often be adequately replaced with a well-planned mitigation project."
		ll	19.200.210.C	Delete this section entirely.	Comment noted.
		mm	19.300.310.B.3.a.iv	Insert as new section: "Most amphibians are migratory species while most local reptiles are more parochial. Both use wetland and upland habitats for food resources and/or reproductive purposes. Amphibians depend on fishless wetlands and wet areas of all sizes and durations, from temporary to permanent, to carry larval forms through metamorphosis followed by unimpeded migratory movement to wooded uplands for growth to maturity. Habitat management plans shall address impacts to amphibians and reptiles, including	Comment noted, but location reference to code does not appear correct as 19.300.310 is establishing FWHCA categories and area descriptions. . If the intent is to create a species of local importance under 19.300.310.B.4.a.iii, this would require a separate public process and also require development of standards specific to the new category. It should be noted that amphibians are specifically called out in the reporting requirements. Additional BMPs may be considered.

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				obstructive construction techniques (including stormwater management and timing of landscape modification)."	
		nn	SUPs and Roads	Move 19.200.225.F.6 to new subsection 19.200.225.C.5. Move 19.300.315.I.6 to new subsection 19.300.315.M.6.	Non-motorized, regional trails must still avoid and minimize critical areas. Like other trail systems, these sections serve to acknowledge that regional trails will often need to exceed the width and material standards required of other trails. These projects will have undergone a public review process as part of inclusion in a trail plan and will also require Special Use Review when no other permit requires a hearing. It would not be appropriate to include these trails under the 'roads' section as the development standards are not applicable. However, additional language may be added to these sections to clarify that mitigation may still be required for new impacts to buffers or critical areas.
		oo	19.200.220.F	Revise section as: " Fertilizers and Pesticides. No fertilizers may be used in fish and wildlife habitat conservation areas or their buffers. Pesticides, which includes herbicides, cannot be used in fish and wildlife habitat conservation areas or their buffers, except under the following three conditions. First, only those pesticides approved by the U.S. EPA or Washington Department of Ecology for use in fish and wildlife habitat conservation area environments and applied by a licensed applicator in accordance with the safe application practices on the label can be used. Second, use of pesticides is only to be allowed against invasive species. Third, the pesticides can only be used when other control measures are not possible or other measures would cause more damage to habitat and animals than the pesticides."	Comment noted.
		pp	19.300.315	KEC does not support the lower riparian buffer. Staff offered a rationale that buffers in more developed areas, such as UGAs, are more likely to be degraded. That proposition has not been supported and should, in any case, be addressed on a case-by-case basis.	Comment noted.
		qq	Type I and Type II Processes	Proposed code refers to Type I and Type II processes as "administrative." Per Title 21, a Type I is a ministerial process, whereas Type II is an administrative process. KEC understands a ministerial process allows no discretion in making a decision and that this distinction is important from an administrative law point-of-view. Correct where mis-stated.	A ministerial is typically one that does not involve discretion; however, it appears that KCC 21.04 has included discretionary permits in the Type 1 category so the description of Type 1 permits as ministerial is no longer fully accurate. The County will propose updates to KCC 21.04 in the future for clarity; the CAO descriptions are accurate.
		rr	19.100.145	Section states a "special use review" is an administrative process that may be appealed. However, the section fails to identify a decision process per Title 21 and fails to require public notification. This section should require public notification and identify the decision process.	The special use review is not a separate permit but an added review for certain uses identified in code to be subject to this chapter. All typical notices will apply to the underlying permit.
44	4/26/24	Washington Department of Fish and Wildlife (WDFW)	CAO Comments		

Comment #	Date Received	Name	Topic	Summary	County Response
		a	19.100.105 B.11.	Change "consider " to "prevent".	Comment noted. Concur.
		b	19.100.125 C.	Add "artificial waterways" and "riparian or aquatic areas"	Comment noted. Concur.
		c	19.150.150	Include reference to streams and shorelines.	Comment noted. Concur.
		d	19.150.195	Add "riparian areas, aquatic areas, fish and wildlife habitat conservation areas, priority habitats, etc." to the definition of critical areas.	Comment noted.
		e	19.150.265	Change "wetland" to "any critical area". Add "Enhancement activities could include <i>but are not limited to</i> ". Change "hydroperids in existing wetlands" to "critical areas"	Comment noted. Concur.
		f	19.150.411	WAC 220-660-030 (78) should be cited directly for the definition of "hydraulic project"	Comment noted. Concur.
		g	19.150.466	WDFW requests that the definition of "preservation" be revised to encompass any critical area instead of being limited to wetlands.	Comment noted. Concur.
		h	19.150.470	WDFW advises Kitsap County to consider expanding the habitat criteria list to match the priority areas listed on page 9 of WDFW's Priority Habitats and Species List.	Comment noted. The definition currently references the PHS database.
		i	19.150.525	WDFW requests that the definition of "reestablishment" be revised to encompass any critical area instead of being limited to wetlands.	Comment noted. Concur.
		j	19.150.540	WDFW requests that the definition of "restoration" be revised to encompass any critical area instead of being limited to wetlands.	Comment noted. Concur.
		k	19.150.630	Add "wind power" in the list.	Comment noted. Concur.
		l	Table 19.300.315	At a minimum, WDFW recommends the Np, Ns, and O typed streams within the proposed UGA alternative buffer increase to at least 100 feet. WDFW encourages Kitsap County to use SPTH200 values indicated in the SPTH200 GIS mapping tool for all stream buffers with deviations from this BAS detailed with a reasoned justification. As a possible alternative, we encourage Kitsap County to indicate that SPTH200 could be used as an alternative buffer width in its development standards	The 3/8/24 Preliminary Draft has utilized the 'hybrid' approach for riparian buffers. The buffers are predictive and use the existing stream-typing method, but are increased to be consistent with the Best Available Science used in development of the SPTH Model. Type N buffers have been doubled from 50 to 100 feet, and Type F buffers have been increased from 150 to 200 feet. SPTH values in the County range from 100-235 feet, and the Type F buffers were derived using a GIS analysis of SPTH values to approximate a SPTH in the upper-mid range. The County's consultant has prepared a memo addressing BAS and new WDFW Riparian Management Guidance and provided this analysis and recommended use of predictive buffers. Additional analysis will be provided in a separate document. The County may consider adding the SPTH method as a voluntary alternative.
		m	19.300.315 A. 3.	Add "...In these cases, any necessary buffer decreases will use the alternative buffer width as the starting, standard buffer width <i>and no further buffer width decreases will be permitted</i> ..."	If a project meets the criteria set forth to use the alternative UGA buffer width, it is possible that they could still apply for buffer averaging, buffer reduction, or variance using that alternative width as the starting point. However, that project would still need to meet all criteria that applies to a buffer reduction, which includes being able to provide as great or greater critical area functions and values as determined by a licensed professional and consultation with WDFW.
		n	19.300.315 A. 5.	WDFW encourages Kitsap County to indicate that SPTH200 is an appropriate target width for achieving full riparian function. The SPTH200 GIS mapping tool should be used as the source for SPTH200 buffer widths.	Comment noted.

Comment #	Date Received	Name	Topic	Summary	County Response
		o	19.300.315 A. 8. a.	The language in this sub-policy needs to be clarified to define how a watercourse would not be feasible for future restoration or daylighting of the stream. This language is currently vague and may limit future restoration work of a stream.	Comment noted. Concur. Clarifying criteria will be proposed for revision.
		p	19.300.315 D.	Consider Incorporating hydrologic climate impacts into the design of water crossing structures (i.e., climate smart culverts and bridges) for fish passage and habitat quality. Use the WDFW Designing climate-change resilient water crossing culverts webpage & the Culverts and Climate Change Web App as informational resources for incorporating climate resilience into new and redeveloped water crossing structures.	Comment noted.
		q	19.300.315 J. 5. a.	Add "New utility corridors shall be aligned to avoid cutting <i>significant trees</i> ."	Comment noted. Concur.
		r	19.300.315 J. 5. a. iii.	Utilities can be placed under streams that do not have culverts. We suggest adding a new subsection here that states that new utility conduits will be placed well below the scour depth of the watercourse to prevent natural scouring of the stream bed from exposing the pipeline or cable per WAC 220-660-270 (4) (a).	Comment noted. Concur.
		s	19.300.315 K. 4	The last sentence should be updated to an "and" instead of "or" since an HPA will be required for bank stabilization projects.	Comment noted. Concur.
		t	19.300.315 N. 1	Change to " <i>Activities undertaken</i> ..."	Can change to "and/or" to account for projects that require an HPA but not a Site Development Activity Permit.
		u	19.700.720 A	Change to " <i>Current WDFW Priority Habitats and Species (PHS) Management Recommendations</i> ..." Remove "dated May 1991, or as amended".	Comment noted. Concur.
		v	19.700.720 B. 7.	Add "Identification of any species of local important, priority species, <i>priority habitats</i> , or endangered, threatened, sensitive, or candidate species... A WDFW PHS database search that is no older than one year from the project submittal."	Comment noted; concur.
		w	19.700.720 C. 2.	Specify that the area adjacent to a project area and its buffer is within three hundred feet, similar to the distance for wetlands outlined in KC 19.700.710 B. 2. a.	Comment noted. However, it is not clear what basis is used for the 300-foot recommendation. For wetlands reporting, it is because 300-feet is the largest potential wetland buffer. The area adjacent to the project area may be larger than 300-feet when evaluating for certain cumulative impacts or watershed-scale functions.
		x	19.700. 720 C. 4. a.	We would like to see this enhanced by also outlining how these sites will be protected. Adding a section similar to KC 19.700.715 B. 12 for wetland site protections to this section of the code would be benefit site protections.	Comment noted; concur.
		y	19.700.720 C. 5. b.	Add "...greater protections than standard buffers, i.e. <i>SPTH200</i> ..."	Comment noted.
		z	19.700.720 C. 6.	Ensure that a qualified fish or wildlife biologist within the department will be responsible for preparing a habitat management plan under this circumstance.	Comment noted; concur. May be revised to clarify that , "the department may complete the plan as resources and qualified staff allow."
		aa	Appendix B	Update the GIS data from WDFW to state "Priority Habitats and Species Database" in the fish and wildlife habitat conservation areas.  Add the GIS data from the "Washington Natural Heritage Program" to the list of WA. Dept. of Natural Resources in the fish and wildlife	Comment noted. Concur with first three suggested changes.

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Comment #	Date Received	Name	Topic	Summary	County Response
				<p>habitat conservation areas.</p> <p>Update the information source for the LiDAR mapping GIS data from Puget Sound LiDAR Consortium to WA. Dept. of Natural Resources LiDAR portal for the geological hazard areas.</p> <p>WDFW suggests combining the “streams and shorelines” and “wildlife conservation areas” into one group under the heading “Fish and Wildlife Conservation Areas.” We also suggest adding an “X” under Type II for a Habitat Management Plan Approval.</p>	
45	4/26/24	Suquamish Tribe	CAO Comments	<p><a href="#">Comment includes a number of code suggestions in "strikeout underline" form. See link to document.</a></p>	A number of the suggested edits are being considered for incorporation. Comment letter content is similar to previous comments provided as part of the Comprehensive Plan process and CAO SEPA comment letter (3/22/24) and responded to above.
				<p>The CAO as proposed will not enable the County to meet its WAC 365-195-925 requirement for the “Conservation or protection measures necessary to preserve or enhance anadromous fisheries include measures that protect habitat important for all life stages of anadromous fish...” The County’s proposed changes improve the protection of FHWC over the existing CAO, but additional changes are required to comply with the intent of special consideration towards anadromous fish.</p>	Comment noted.
				<p>Through Comprehensive Plan and CAO update process, though the County might weigh housing requirements versus environmental protection, the County should acknowledge that buffers less than called for by Best Available Science cannot be presumed to conserve, let alone enhance anadromous fisheries.</p>	
				<p>Buffers: What remains is not enough to support full functions and 200’ buffers do not support full function; legacy lot concerns; administrative buffer reductions not supported.</p>	
				<p>Stormwater and infiltration not adequately addressed.</p>	
				<p>Special Reports: Insufficient analysis to support NNL; do not account for temporal loss; reports need summary table including measurable attributes.</p>	
46	4/28/24	Jan Wold	Wildlife Corridors		
		a	Wildlife Corridor Designation	<p>The County needs to find a way to show the location of wildlife corridors, or at a minimum the Johnson Creek Wildlife Corridor in North Kitsap near Poulsbo</p>	Comment noted. Wildlife or habitat corridor identification outside of case-by-case analysis, is outside the scope of this code update.
		b	Johnson Creek Wildlife Corridor	<p>The Johnson Creek Wildlife Corridor Provides crucial environmental benefits and serves as quality habitat for a plethora of fish and wildlife species. The Corridor should become a Kitsap Heritage Park</p>	Comment noted; outside scope of this code update.
47	4/28/24	Futurewise	CAO Comments		

Comment #	Date Received	Name	Topic	Summary	County Response
		a	No Net Loss Vs. Net Ecological Gain	Adopting NEG over NNL would help to reverse ecological damage.	Net Ecological Gain is not yet required by state law and the state has funded efforts to further define NEG and develop an implementation framework. Until then, Kitsap County will continue to focus on enhancing our tracking and monitoring efforts to ensure compliance with BAS and NNL.
		b	19.100.105	Futurewise supports proposed additions to Policy Goal 19.100.105 but suggests the new language should be in addition to, not instead of, the previously used language and that “no net loss” language be replaced with “net ecological gain”.	Comment noted; concur in part. No Net Loss proposed to remain the regulatory standard.
		c	19.100.105.11	Futurewise supports staff recommendations to consider watershed scale processes in decision making as described under the Statement of Purpose in 19.100.105.11 with the addition of language regarding the need to be aware of, consider, and plan for tribal cultural landscapes and with retention of the original language to “prevent cumulative adverse environmental impacts to water...”	Comment noted; concur.
		d	Degraded Lands	The current condition of degraded lands must not be used as a justification for allowing further impacts to Critical Areas and Critical Area buffers. Instead, we must continue to focus on the protection, recovery, and restoration.	Comment noted.
		e	Fragmentation of Critical Areas and Buffers	Buffers and Critical Areas intersected and fragmented by roads and other infrastructure must still be managed as critical areas both inside and outside the UGA.	Comment noted.
		f	19.100.130. 3. E	Futurewise supports changes to the Standards for Existing Development 19.100.130. 3. E but should include “significant habitat” in addition to the “loss of significant trees”.	Comment noted; May consider adding clarification to (F) that the required HMP must still demonstrate 'no net loss'.
		g	19.200.210C	Futurewise recommends eliminating exemptions for small wetlands from the code in 19.200.210C Wetland identification and functional rating.	Comment noted; may consider reducing the exemption threshold size per Ecology recommendations. Exempt wetlands are only exempt from buffers, not from fill or other impact.
		h	Functionally Disconnected Buffers	Futurewise strongly objects to the inclusion of language to define “functionally disconnected buffers”	Comment noted. This provision is to recognize that some functions may be lost due to the disconnection, consistent with BAS. It does NOT exempt from the rest of the provisions of the CAO, including assessment by a biologist for 'no net loss, retention of significant trees, etc.
		i	Buffer Width Increases and Vegetation Enhancement	Futurewise does support the option to increase buffer widths or enhance buffer vegetation when warranted.	Comment noted.
		j	19.200.220.C	Buffer widths should not be sacrificed long-term for short-term buffer enhancement as described in 19.200.220.C because buffer incursions are typically permanent, and enhancements can occur at any time including into the future and this approach precludes the shared goals for ecological recovery.	Comment noted.
		k	No Net Loss and Ecosystem Recovery	The “no net loss” standard used to describe buffer widths is insufficient for achieving shared ecosystem recovery goals.	Comment noted.
		l	9.200.220.E	Futurewise supports the increased protections for bog wetlands in 19.200.220.E with the addition of language to include low-impact development or stormwater management requirements.	Comment noted.
		m	19.300.310.B.3	The addition of a Type “O” stream classification under 19.300.310.B.3 as a Critical Area is appropriate.	Comment noted.

Comment #	Date Received	Name	Topic	Summary	County Response
		n	Buffer Widths in UGAs	Buffer width within UGAs should not be narrower than required outside UGAs.	The Alternative UGA buffer allowance recognizes that some buffers in the UGAs would not reasonably be able to achieve full riparian function due the surrounding built environment. This allows for certain redevelopment and infill to occur, when specific criteria are met and incentivizes ecosystem restoration. These criteria are key for allowing lower buffer. Additional analysis to be provided separately. The proposed UGA alternative was also proposed, in part, to explore options for urban areas to meet GMA goals, such as reduced sprawl and provision of affordable housing.
		o	Predictive Model	Adopting the staff-recommended predictive model approach that would result in lesser protections 30% of the time is not consistent with BAS which must be used as the basis for critical areas regulations.	The proposed buffers are consistent with the ranges provided in the scientific literature review completed in WDFW's <i>Riparian Ecosystems, Volume 1: Science Synthesis and Management Implications</i> . The minimum 100-foot buffer will achieve 100% of the function of pollutant removal as well as provide 85% of in-stream wood recruitment and erosion control (bank stability root strength at 33-feet). Further, the tree heights (recommended buffers ranging from 100-240') are based on old-growth forest conditions. The proposed predictive buffers are still within that range and takes into account the existing landscape of Kitsap County.
		p	Development Standards	Alternative buffer widths should not be permitted under new development standards.	Comment noted. See previous response(s).
		q	19.300.3104.a.i	19.300.3104.a.i must designate Priority Habitats and Species as Class I Wildlife Habitat Conservation Areas.	Comment noted. Priority Habitats and Species are, and have been, designated as Class I Wildlife Habitat Conservation Areas.
		r	Unstable Slopes	Futurewise strongly supports the inclusion of runout calculations and alluvial fans for determining the outer extents of Critical Areas containing unstable slopes.	Comment noted.
		s	19.400.425.C	The CAO language should include the factors that demonstrate the potential that a hazard could occur.	Comment noted, however it is unclear what this comment is intending. KCC 19.400.425. C is a list of factors that may demonstrate that that a potential hazard exists.
		t	19.400.435.B	Futurewise proposes changing the language in 19.400.435.B from "a geologic assessment may be requested" to "a geologic assessment will be required" to make clear that a geologic assessment is a standard development permit application requirement.	Comment noted; concur.
		u	19.100.105 13 and Critical Areas Regulations	Futurewise recommends amending Proposed 19.100.105 13 and the critical areas regulations to require that new lots and new buildings be located outside the area of likely sea level rise where possible.	Sea level rise is an important climate change issue. Climate Change was recently required to be addressed in future Comprehensive Plan updates under a climate change and resiliency element. Following policy development by Kitsap County in the Comp Plan, implementing development regulations will be adopted/updated consistent with state law and schedules.
		v	19.100.105 13	Include the words "and to plan for" after "consider"	Comment noted; concur.
		w	Habitat Planning	We should focus on creating and enhancing climate refuges for plants and animals including for Priority Species and Habitats by considering and planning for the predicted need for plants and wildlife now and into the future.  Plants and some wildlife will be forced to move inland in response to	Comment noted. See sea level risk response above.

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				predicted sea level rise causing existing shoreline habitats to shrink and forcing wildlife to move inland as uplands are flooded. <sup>13</sup> We must plan now to effectively address the coming need for more inland habitat.	
		x	Rare Plants	Designate and protect rare plant categories and listings from the Department of Natural Resources, Natural Heritage Program in the critical area's policies and regulations.	Comment noted; concur.
		y	Tree Canopy	Canopy Trees provide significant climate resiliency benefits and must be protected and encouraged wherever possible.	Comment noted. Significant tree retention is required within critical areas and their buffers. The County is also assessing new tree retention regulations as part of the 2024 Comprehensive Plan Update.
48	5/21/24	Joanne Bartlett and Francis Naglich (PC Hearing)	CAO Comments		
		a	Variances	If stream buffers are increased, type II and type III variances will become more common. Variances cannot and should not be eliminated if the stream buffers are increased as proposed. In the absence of variances available to landowners, many situations will become "takings" of a reasonable property right. To begin taking rights away in such manner is to be employing a "nuclear" option that will ultimately lead to lawsuits and the courts, which is not a desirable outcome for anyone.	Comment noted.
		b	Type O Streams	A lower buffer width of 25 feet is recommended when these stream types are encountered. A list should be compiled to determine what will not be considered a Type O stream. It will be difficult for consultants to provide professional services if there are no clear parameters or definitions of what constitutes a Type O stream.	Comment noted. Clarifications proposed to definition.
		c	19.200.220.B.1	Adding this section will place undo costs and burden on single family landowners by increasing the permit timeline. If a buffer has been used historically for a landscape or other uses, predating critical areas ordinances, that should be "grandfathered" in and current rules not applied retroactively. Code should propose native plantings only for projects that require buffer reductions, as is currently the status quo.	Comment noted. Clarifications proposed to this section to indicate that intent is not to apply to existing development.
49	5/21/24	Ian Harkins (KBA) (PC Hearing)	Housing and Buffer Increases	By reducing the amount of land available to build on the County is worsening the housing affordability problem. The buffers should be kept the same where possible, and Type O stream buffers should be reduced. Housing will be in even higher demand with an increased Navy presence in the near future.	Comments noted. See responses in summary matrix.
50	5/21/24	Francis Naglich (PC Hearing)	Buffer Increases	Certain buffer changes are too restrictive and potentially punitive for landowners. Existing conditions will have to be changed to meet new code. It is necessary to examine existing conditions and provide space and respect for landowner decisions. Stream buffers for seasonal streams should be reduced.	Comment noted.
51	5/21/24	John Taylor (PC Hearing)	Housing and the GMA	Consider removing regulations in favor of taxpayers to address the housing problem.	Comment noted.

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<b>Comment #</b>	<b>Date Received</b>	<b>Name</b>	<b>Topic</b>	<b>Summary</b>	<b>County Response</b>
52	5/21/24	Eric Nemeth (PC Hearing)	DCD Funding	There are instances where development is pushed through and causes environmental damage. The problem stems from DCD funding coming from revenue. The building codes are outdated, and the County should incorporate practices from other countries.	Comment noted.
53	5/21/24	Anthony Augello (PC Hearing)	Development	So much new development is being constructed as cheap apartments. The County's natural resources are key to the county's identity, and they should be managed appropriately.	Comment noted.
54	5/21/24	Marla Powers (Port Gamble S'Klallam Tribe) (PC Hearing)	Buffer Reductions and Variances	Administrative variances to buffer reductions should be eliminated and buffer reductions should be no more than 25%. The concurrence of Tribes must be a part of the variance concurrence process. The County should investigate solutions to the legal lot of record problem.	Comment noted. See above responses and summary matrix.
55	5/21/24	Kathie Lustig (PC Hearing)	CAO Enforcement and Variances	There is a collapsed culvert near Trenton on Enetai Creek which is impacting fish passage and the overall health of the creek. There is also trash in the creek and stormwater which drains to the creek unfiltered from Trenton. DCD needs to enforce CAOs and not allow for as many variances.	Comment noted.
56	5/21/24	Michael Gustavson (PC Hearing)	Housing Affordability	Regulation leads to cost burdens for prospective homebuyers. Homelessness in the County is due in large part to the housing affordability issue. More land should become available to build upon to create jobs and provide opportunity.	Comment noted.
57	5/21/24	Robert Baglio (PC Hearing)	Stormwater, Permitting, Comp Plan, Variances and Buffer Averaging	Any project developed after 1990 has full water quality treatment facilities built as part of the development process. Permit review is the job of DCD and the process is thorough and time-consuming. The Comprehensive plan identifies areas for growth and those are the areas where high density apartment-style developments will occur, rural areas will remain virtually unchanged. Buffer averaging and variances are useful tools for development in areas slated for growth.	Comment noted.
58	5/21/24	Doug Hayman (PC Hearing)	Buffer Reductions, Comment Matrix, Comment Responses	Support for the comments made by the Suquamish and Port Gamble S'Klallam Tribes, especially regarding the 25% limit to buffer reductions. The comment response matrix is too large and difficult to sort through. The County needs to share responses to the CAO comments from the April 26 <sup>th</sup> comment period.	Comment noted; a Summary Matrix has been prepared to aide in the Planning Commission deliberations and will summarize or 'roll-up' the comments to-date.
59	5/21/24	Ron Perkerewicz (PC Hearing)	Buffer Increases and Developable Land	The County should complete an analysis to show how much land will not be developable with the new CAO update, particularly those lands which are within existing UGAs.	As part of the Final EIS for the Comprehensive Plan and utilizing the selected preferred alternative, a revised analysis is being prepared using the buffers proposed in the 3/8/24 Preliminary Draft CAO .
60	5/21/24	Beverly Parsons (PC Hearing)	Comment Responses	The current comment matrix on the website is long and difficult to review. The County needs to share responses to comments that directly reference code changes.	Comment noted; a Summary Matrix has been prepared to aide in the Planning Commission deliberations and will summarize or 'roll-up' the comments to-date.