

1 **FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATIONS**
2 **OF THE KITSAP COUNTY PLANNING COMMISSION,**
3 **TO THE BOARD OF COUNTY COMMISSIONERS,**
4 **REGARDING THE PROPOSED AMENDMENTS TO KITSAP COUNTY CODE TITLE 19**
5 **‘CRITICAL AREAS ORDINANCE’**
6

7 General Background. The Kitsap county Planning Commission makes general findings
8 as follows:

- 9 1. Kitsap County’s Critical Areas Ordinance (CAO) (Title 19 KCC) implements
10 the requirements of Chapter 36.70A RCW, the Growth Management Act (the
11 Act). RCW 36.70A.020 includes planning goal (10) Environment, to guide
12 development regulations to “protect the environment and enhance the state’s
13 high quality of life, including air and water quality, and the availability of
14 water”.
- 15
- 16 2. RCW 36.70A.050 directs the Washington Department of Commerce to adopt
17 guidelines to guide the classification of critical areas, in consultation with the
18 Department of Ecology. These are minimum guidelines that apply to all
19 jurisdictions, but also allows for regional differences.
20
- 21 3. RCW 36.70A.040 directs the County to designate critical areas and adopt
22 development regulations protecting these critical areas under RCW
23 36.70A.170 and 36.70a.060.
24
- 25 4. RCW 36.70a.130 (4) directs Kitsap County to “take action to review, and if
26 needed, revise their comprehensive plans and development regulations” by
27 June 30, 2016. Whereas Kitsap County adopted its Comprehensive Plan in
28 June of 2016, and the Department of Commerce allows jurisdictions a one
29 year ‘grace period’ to complete updates to the associated development
30 regulations, Kitsap County is under legislative authority to adopt this CAO
31 amendment no later than June 30, 2017.
32
- 33 5. In 2010, the legislature established a new rule in WAC 365-196-580 on the
34 integration of the Shoreline Management Act (SMA) with the GMA. This rule
35 addressed overlaps between designated critical areas and shorelines of the
36 state.
37
- 38 6. In 2010, the Department of Commerce established new rules in WAC 365-
39 190 regarding guidelines on critical area classification (best available science,
40 maps), guidelines to classify wetlands (WAC 365-190-090), critical aquifer
41 recharge areas (WAC 365-190-100), frequently flooded areas (WAC 365-190-

1 110), geologically hazardous areas (WAC 365-190-120), and fish and wildlife
2 habitat conservation areas (WAC 365-190-130).

- 3
4 7. Also in 2010, new rules were established in WAC 365-196-835 addressing
5 the protection of critical areas. This rule indicates that regulations must
6 preserve the existing functions and values of critical areas, but if harm is
7 allowed, they must require compensatory mitigation of the harm. It also
8 addresses appropriate scales for evaluating functions and values, the use of
9 both regulatory and non-regulatory measures, and the use of best available
10 science, as referenced in chapter 365-195 WAC.
11
12 8. Kitsap County's Critical Areas Ordinance was first adopted in 1998, and last
13 amended in 2007.

14
15 Procedural History. The Kitsap County Planning Commission makes general
16 procedural findings as follows:
17

- 18 9. The planning process for Kitsap County's CAO update began in 2015 with a
19 preliminary staff review of 'best available science' since the last update,
20 amendments to relevant state and federal mandates, recent court and Growth
21 Management Hearings Board decisions, and any other known internal
22 inconsistencies or code conflicts. The Planning Commission was briefed on
23 this review, the "Supplemental Best Available Science Review and Required
24 Changes" on February 2, 2016.
25
26 10. The Board of County Commissioners approved the CAO Update Scope of
27 Work, Schedule and Public Participation Plan at a briefing on March 28, 2016.
28 Included was the direction to convene an informal Working Group comprised
29 of state and local agency technical experts (Department of Ecology,
30 Department of Fish and Wildlife, Department of Natural Resources, Kitsap
31 PUD, Kitsap Public Health) tribal representatives (Suquamish, Port Gamble
32 S'Klallam, Suquamish, Puyallup, Squaxin), and representatives from
33 stakeholder organizations (Kitsap Builders Association, Kitsap Alliance of
34 Property Owners, West Sound Conservation Council, FutureWise).
35
36 11. In April and May of 2016, staff produced an initial red-line draft of Title 19,
37 based on the changes identified in the "Supplemental Best Available Science
38 Review and Required Changes" document. These were distributed to the
39 Working Group, along with the "Working Group: Purpose, Ground Rules and
40 Schedule" document. This document describes the Working Group as "a
41 technical sounding-board for County staff" and to "help fill in any gaps and to
42 clarify" best available science.
43

- 1 12. Working Group meetings were held on June 20 (Frequently Flooded Areas
2 and Critical Aquifer Recharge), June 30 (Wetlands), July 26 (Fish and Wildlife
3 Habitat Conservation Areas), August 4 (Geologically Hazardous Areas), and
4 September 15 (Special Reports, Appendices). Meeting notes were drafted
5 and sent to all members for finalization, along with a revised draft based on
6 their feedback at the meeting. Final comments were discussed on Frequently
7 Flooded Areas and Critical Aquifer Recharge Areas at the September 15
8 meeting, and the remainder at a final meeting on October 19, 2016.
9
- 10 13. The Planning Commission was provided a briefings on the status and findings
11 from the Working Group on August 16 and November 15, 2016. The
12 November meeting included a brief on public outreach, which included the
13 development of an online open house on the County's CAO page, and
14 presentations to the Manchester, Kingston, Suquamish and Central Kitsap
15 Citizen Advisory Councils.
16
- 17 14. On January 17, 2017 the Planning Commission received a briefing on the
18 expected changes to the draft. Due to internal and legal review the draft was
19 not yet available. At a February 22 briefing, the Board of County
20 Commissioners were presented with a revised schedule, including an
21 alternative extended deadline. The Board reserved that decision until after the
22 initial public comment period.
23
- 24 15. On March 1, the Draft CAO was published for public review and comment
25 through March 31, 2017. This included whole drafts (underline/strike-out and
26 clean versions), draft by chapter, "Summary of Changes" documents (whole
27 document and by chapter), and "Best Available Science Summary" (whole
28 document and by chapter). Notice was provided via press release and
29 published on the County's main webpage, DCD page, and GovDelivery
30 notices (email, Facebook, Twitter) to all recipients subscribed to the
31 Department of Community Development or Critical Areas Ordinance.
32
- 33 16. On March 2, the online open house was launched. It included opportunities
34 for a section by section review of the draft ordinance, including a summary of
35 relevant BAS and proposed changes from the current CAO. Visitors were also
36 able to provide comments and suggested revisions via an online comment
37 form.
38
- 39 17. On March 7, the Planning Commission was briefed on the released draft
40 materials. In-person public open houses were held on March 23 (Kingston,
41 Village Green Community Center), March 28 (Port Orchard, County
42 Administrative Building), and March 30 (Central Kitsap, Fairgrounds-Eagles
43 Nest).

- 1
2 18. Following the public comment period and briefing by staff, on April 3, 2017 the
3 Board of County Commissioners made the decision to continue with the June
4 30, 2017 adoption schedule.
5
- 6 19. The Planning Commission held two work studies on the draft CAO, April 4
7 and April 18, 2017. On April 18th, DCD also advertised via press release and
8 GovDelivery, and published to the CAO webpage, all public comments as
9 received through March 31st, summaries of those submitted comments, and
10 County responses by topic or section to comment summaries.
11
- 12 20. Planning Commission hearings were properly noticed and held on April 25
13 (Fairgrounds, President's Hall), April 27 (Poulsbo City Hall), and May 2 (Port
14 Orchard, County Administrative Building). The Planning Commission held the
15 hearing record open for written testimony through the end the May 2, 2017
16 hearing. At each hearing venue, in-person open houses were conducted prior
17 to each of the hearings.
18
- 19 21. The SEPA DNS (Determination of Non-significance) was noticed on April 27,
20 2017 for a 14 day public comment period through May 10, 2017. No
21 comments or appeals were received.
22
- 23 22. On May 16 and 23, the Planning Commission held deliberations on the draft
24 CAO. Prior to deliberations, staff provided the Planning Commission with a
25 matrix comparing the current CAO with changes in the draft, as well as staff
26 supported recommendations based on all public comment to-date.
27
- 28 23. Following deliberations on May 23, the Planning Commission voted 5 to 1 to
29 recommend approval of the draft CAO and incorporating the text revisions
30 voted on during the deliberation meetings.
31
- 32 24. Additional motions were unanimously approved to adopt the Critical Areas
33 map, as presented on May 23, for informational purposes only, and to support
34 an implementation delay of 90 days after adoption.
35
36

37 Substantive Findings and Conclusions. The Kitsap County Planning Commission
38 makes the following substantive findings and conclusions:

- 39 25. The proposed CAO submitted herewith is consistent with the 14 statewide
40 planning goals contained within the Growth Management Act.
41

1 26. The proposed CAO is consistent with the County Wide Planning Policies and
2 with the goals and policies contained in the Kitsap County Comprehensive
3 Plan.

4
5 27. The proposed CAO is consistent with RCW 36.70A, as well as existing and
6 amended state rules, including Chapters 365-190, -195 and -196 WAC.
7

8 **NOW THEREFORE**, the Kitsap County Planning Commission recommends to the
9 Board of County Commissioners as follows:

10 **RECOMMENDATION: Adopt the proposed CAO text and map revisions as**
11 **presented by staff and amended by the Planning Commission. The final recorded**
12 **motion reads as follows:**

13 ***“Move that the Planning Commission accept the Critical Areas Ordinance Update***
14 ***with the changes as presented in the draft and as amended during deliberations.”***

15 **This motion passed 5 to 1 and was supported by 69 approved motions that made**
16 **changes to the March 1, 2017 CAO presented by staff.**

17 **Attachments:**

- 18 **1. Appendix A: Planning Commission text revisions**
19 **2. Appendix B: Minority Report**
20 **3. Appendix C: Critical Areas Map**
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23 **Approved by the Planning Commission of Kitsap County, Washington, at a**
24 **regular meeting thereof, held this 6th day of June, 2017.**

25
26 **By** _____

27 **Robert Baglio, Chair**
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