



Kitsap County Department of Community Development Shoreline Master Program Periodic Review 2021

Introduction to the Planning Commission Public Comment Matrix:

The Planning Commission Public Comment Matrix includes all public comments received during the joint Kitsap County Planning Commission and Washington State Department of Ecology comment period and public hearing. The comments are binned into topic areas shown in bold text under column 3-Summary of Concern. Column one includes the Issue Reference Number. Column two includes the Comment Reference Number(s) which correspond with specific comment letters received and recorded during the public comment period. The full comment letters are numbered 1 – 20 and attached to this matrix for reference. The Summary of Concern column includes a summary of the public comment. The Department Response column indicates whether a change to the proposed code amendment is recommended based on the comment and includes the reason for the recommendation.

Planning Commission Public Comment Matrix: SUMMARY AND RESPONSE			
Issue Ref. No.	Comment Reference Number(s) (PC)	Summary of Concern (See comment matrix below for detailed comments)	Department Response
1	3	View Blockage -(22.400.135) View Blockage: D.1 Any appeal process should NOT be solely Administrative. It should be a type 3.	Change not recommended: The proposed amendment creates an alternative pathway for an applicant to file for a “conditional waiver” from the strict application of the section. Granting of a conditional waiver would be a Type II administrative decision. Any appeal would be a Type III decision that goes to the Hearing Examiner consistent with KCC 21.04.290.
2	1, 5, 14, 17	View Blockage - Add requirement to Section 22.400.135 “New plantings within 15 feet of side yard boundary of the Buffer and Shoreline Setback zone described in this section	Response pending

		<p>above shall not be greater than 6 ft at maturity”</p> <ul style="list-style-type: none"> - (22.150.485) request that accessory buildings have a defined height so they cannot block view - change wording in View Blockage (22.400.135) to allow for remodeling or reconstruction in the future - (22.400.135) the existing SMP is not ambiguous regarding use of structures in view blockage calculation, including ADUs and boathouses. 	
3	8	<p>View Blockage (22.400.135 (A)(3)) WDFW does not support the use of stringline setbacks if the setbacks would increase the need for future bank protection at the site.</p>	Response pending
4	8	<p>Light Penetration (22.400.120.D.1.c) Proposed language specifies grating with 40% light penetration on stair landings. WDFW suggests making this 60% light penetration, which would be consistent with the state Hydraulic Code requirements for overwater structures.</p>	Response pending

5	8	<p>Trams (22.400.120(D)[d]) WDFW recommends that Kitsap County require tram landings to be landward of the ordinary high water line</p>	<p><u>Change not recommended:</u> While the County agrees that tram landings should be located landward of the ordinary high water mark when feasible, their location in geologically hazardous areas is not always conducive to a safe upland position. Trams are specific to geologically hazardous areas and require special studies as well as documentation of No Net Loss to shoreline ecological functions. Development of trams and tram landings are subject to Hydraulic Project Approval from Washington Department of Fish and Wildlife.</p>
6	11	<p>No Net Loss - (22.600) Require specific language of no net loss of ecological functions for specific uses and modifications</p>	<p><u>Change not recommended:</u> The requirement to achieve no net loss of ecological functions (NNL) is required throughout the SMP, including application to all development under KCC 22.400.115, Mitigation, subsection A.2, which requires that mitigation sequencing achieve NNL of ecological functions. Furthermore, the requirement to document NNL is listed specifically in most use and modification regulations in KCC 22.600. Reference to No Net Loss requirements is also included in many policies, specifically Policies SH-8 for critical areas in the shoreline jurisdiction and SH-20 for shoreline use and development activities.</p>
7	11, 12	<p>Mitigation Options - (22.500.100.C.3.c and 22.600.175.C.11.b.i) Recommend a strong mitigation funding system, where new purchasers of shorelines properties pay into a mitigation account used to purchase or restore</p>	<p><u>Change not recommended:</u> The County currently requires mitigation sequencing per KCC 22.400.110 (mitigation sequencing options and compliance) but currently does not have a shoreline property mitigation bank. The County may undertake discussion of mitigation funding options in the future, the creation of a mitigation funding system, including a</p>

		shorelines - Consider use of a mitigation banking system for shoreline improvements so voluntary shoreline enhancement is incentivized	shoreline property mitigation bank. The creation of a mitigation bank is outside the scope of the periodic update. The County appreciates this suggestion for future consideration.
8	2, 3, 6, 7, 11, 16	Climate Change - Removing hearing examiner review will result in buffer reductions with adverse effects (Table 21.04) - (22.300.125) Include requirements for climate change affects such as sea level rise and storm surge - (22.400.105 & 22.400.150) require avoidance of effects of climate change - (22.700.130) Require cumulative climate change effects analysis - Limit new development due to the exacerbating effects on climate change - Limit development to allow landward migration of vegetation and wetlands in response to rising sea level - Change floodplain regulations to account for 2100 sea level - Prohibit redevelopment in same footprint when damage is due to rising seas - (22.400.150) recommend a moratorium on building construction within 1 meter vertical height above OHWM on the FEMA coastal	Change not recommended: The Shoreline Management Act and Ecology Guidelines currently contain no requirements for SMPs to address climate change or sea level rise. The Guidelines do encourage jurisdictions to consult Ecology guidance for new information on emerging topics such as sea level rise WAC 173-26-090(1). In June 2020, Kitsap County completed a Climate Resiliency Assessment, which documents and evaluates risk from a variety of climate change and sea-level rise impacts based on magnitude, confidence, and timing. The assessment is available at: https://www.kitsapgov.com/dcd/Pages/Climate_Change_Resiliency_KC.aspx Impacts evaluated include public health, economic impacts, culture and recreation, coastal flooding and infrastructure, land use, geologic and natural hazards, habitat and fire. That assessment is intended to inform a more wholistic community-based approach, rather than a piecemeal approach, to addressing climate resiliency, possibly guided by recent action in the legislature to include climate planning as a Comprehensive Plan element.

		<p>flooding and marine tsunami zones</p> <ul style="list-style-type: none"> - Address climate change in SMP, provide a timeline for sea level rise adaptation, and describe how addressed in the future 	
9	6	<p>Tribal Lands & Tribal Treaty Rights</p> <ul style="list-style-type: none"> - Concern over threats to physical access to the shoreline to practice social and cultural Tribal Treaty Rights 	Response pending
10	3, 15	<p>Letter of Exemption</p> <ul style="list-style-type: none"> - (22.500.100.C.2) the requirement to have shoreline exemptions undergo shoreline review will add time and expense - requirement that the County prepare a 'Letter of Exemption' for any action not undergoing formal review under the SMP 	<p><u>Change not recommended:</u></p> <p>The proposed amendment is a clarification to specifically describe the process the County currently takes to review and approve shoreline exemptions. Shoreline Exemption is an exemption from a Shoreline Substantial Development Permit but not an exemption from requirements under the Shoreline Master Program or Shoreline Management Act.</p>
11	5, 14, 15, 17	<p>Study requirements and added cost to landowner concerns</p> <ul style="list-style-type: none"> - (22.400.120.D.1.a) retain original language - (22.400.120.D.1.b) retain original language -(22.400.125) request not to require SDAP 	Response pending
12	3, 7	<p>Shoreline Stabilization</p> <ul style="list-style-type: none"> - add a statement that recognizes that all shoreline stabilization measures come with the requirement for 	Response pending

		<p>appropriate maintenance</p> <ul style="list-style-type: none"> - Request a critical area study to determine buffers for geologic hazard areas 	
13	8	<p>Hybrid Shoreline Stabilization</p> <ul style="list-style-type: none"> - (22.150.570) Additional clarification is needed to help differentiate between "soft" and "hybrid" bank protection - Likewise, if beach nourishment is required or proposed as mitigation for a bulkhead, does the bulkhead now qualify as a "hybrid?" 	Response pending
14	4, 7, 11	<p>Environmental Toxins</p> <ul style="list-style-type: none"> -(22.150.321, 22.200.100) concern about effluent discharging from floating homes -(KCC 22.400.115C.2) Request for updated riparian buffers to prevent toxins from entering fish habitat - (22.600.185) Mitigation is needed to address sewage treatment plant outfalls. 	Response pending
15	3	<p>Internal County Monitoring</p> <ul style="list-style-type: none"> - Request for program consistency monitoring (i.e. shoreline permit consistency between permit authors) and permit enforcement and monitoring to ensure no net loss 	Response pending

16	7, 8, 9	<p>Critical Areas</p> <ul style="list-style-type: none"> - Request a critical area study to determine buffers for geologic hazard areas - (22.500.105(C)(11)(e)) Require the delineation of critical areas within 200 feet of the project to ensure the project won't impact buffers. - (19.200.210(C)) The section on exemptions for small isolated wetlands is not consistent with most recent Ecology guidance. WDFW recommends updating this section to meet "no net loss" requirements. - (19.200) WDOE reviewed for consistency with their published guidance and recommends several amendments to the wetland section, including exemptions for small wetlands, buffer reduction limits, and reference to mitigation standards. 	Response pending
17	10	<p>Site Specific Concerns</p> <ul style="list-style-type: none"> - Concern regarding unstable slope near home and future planned upland development impacts 	<p><u>Change not recommended:</u> Site specific considerations related to existing and future development are reviewed at the time of a development application.</p>
18	3, 11	<p>Federal and Tribal Land Exclusions</p> <ul style="list-style-type: none"> - request that Tribal Trust Land not have a exemption in 22.100.120.d - (22.100.120.B) – Military bases and national parks should meet the requirements of the SMP 	<p><u>Change not recommended:</u> Exclusions of federal and tribal lands are not discretionary as these are explicitly stated in WAC 173.27.060. The Department of Ecology Periodic Review Checklist Guidance states, "Ecology amended a permit rule that addressed lands within federal boundaries to</p>

			<p>clarify that areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of the SMA. For example, exclusive jurisdiction ceded to the United States in Mount Rainier National Park (RCW 37.08.200), Olympic National Park (RCW 37.08.210), and for acquisition of land for permanent military installations (RCW 37.08.180).”</p> <p>The County prefers to provide these statements in KCC 22.100.120 for consistency with state law. KCC 22.100.120.B describe that direct federal agency activities affecting the uses or resources subject to the Act must be consistent to the maximum extent practicable with the enforceable provisions of the Act and with this master program as required by WAC 173-27-060.</p> <p>There are no national parks or forests in Kitsap County.</p>
19	3, 11	<p>Should vs Shall</p> <ul style="list-style-type: none"> - Throughout many of the management policies, refrain from using the term “should” and replace with “shall” or rephrase to remove apparent ambiguity (e.g. use “prohibited” rather than “discouraged”) - (22.600.145a) replace ‘may’ with ‘shall’” Forest practice that includes new or reopened right of ways, grading, culvert installations or stream crossings SHALL (may) be 	<p><u>Change not recommended:</u></p> <p>Policies commonly use the term “should” and it is defined to mean that a particular action is required unless there is a sufficient reason to not take the action. The term “shall” is commonly used in regulation to define when a specific action is required, such as those policies that apply to no net loss. “May” is a permissive term, used to convey an actions acceptability but may not always apply. It is not necessarily interchangeable with “shall.”</p>

		considered development.	
20	11	<p>Nonconforming Uses and Structures</p> <ul style="list-style-type: none"> - (22.400.100.A.2) Non-conforming developments should not be allowed to have their non-conformity increase by expanding and modifying their uses, footprints, etc - (22.400.100.B.1.a) If structures could not meet the requirements of this program today, then they should be considered non-conforming as they no longer meet the current law. 	Response pending
21	15, 18	<p>Lack of available information and public participation</p> <ul style="list-style-type: none"> - Consistency Analysis Report is not readily available - Concern about lack of availability of SMP appendices mentioned in staff report and confusion surrounding lack of attachments which are also mentioned - All non-mandated amendments should be removed as the process has lacked involvement by shoreline property owners. Only items #3 and #24 in the “Other Issues for Consideration” section of the Consistency Analysis, should be considered to carry forward 	Response pending

22	16	<p>Trails</p> <p>- (22.400.120.D.1.a) State Parks is concerned about strict limitations on appropriate materials for trail surfacing especially in the light of the Americans with Disabilities Act (ADA), which should be included in this amendment. More latitude and flexibility to meet ADA standards would be helpful.</p>	Response pending
23	3, 6, 7, 8, 11	<p>Increase Protection Standards</p> <p>a. (22.400.100.B.1d) Allow only one year for construction after shoreline permit approval instead of two</p> <p>b. (22.500.110) Under Enforcement and Penalties, add consideration for lost ecological function and cost to replace/mitigate ecological damage</p> <p>c. General concerns over water quality and quantity, loss of habitat, proliferation of in-/over-water structures</p> <p>d. do not allow expansion of existing structures further waterward within riparian buffers</p> <p>e. update riparian buffers to 200-year site potential tree height (SPTH)</p> <p>f. (19.200.220.A) WDFW does not oppose the Ecology-supported change in wetland buffers. However, WDFW is concerned</p>	<p>a. <u>Change not recommended:</u> Reducing the construction completion window to one year is impractical for many reasons including fish construction windows required under state and federal law, which in many cases reduces the construction window to a few weeks. Construction windows are required to protect salmonids, forage fish and groundfish during spawning periods and periods of presence.</p> <p>Response pending for comments b – j.</p>

		<p>about the potential impact on fish habitat.</p> <p>g. (22.400.115.C.1.b and 2.b) Do not allow buffer reductions or averaging, nor any construction within habitat buffers.</p> <p>h. (22.400.120) Infill provisions should be removed. Expansions, especially waterward of existing development, should not be allowed.</p> <p>i. (22.500.100 and 22.600.160) Proliferation of docks and mooring buoys within shellfish resource areas may increase potential for shellfish closures due to use densities.</p> <p>j. (22.500.100.E.4.a and 5.a) Not being able to build a house on a currently empty lot due to buffer restrictions should not be considered reasons to grant variances.</p>	
24	3, 5, 8	<p>Clarifying Edits</p> <p>- (22.400.120C.2.c) state again that this variance is only given if the policies and requirements of the plan are met; the proposed language should also be revised to change the word 'could' to 'should' in the sentence</p>	Response pending

		<ul style="list-style-type: none">- (22.600.160.C.3.b) revision should say “no less than 20 ft” rather than “spaced 20 ft”- (22.100.125) – use the most up-to-date water typing and mapping from WDFW or the Wild Fish Conservancy and all additional mapping since 2010- (22.400.120.B.3) “shorelines of statewide significance” clarification requested to limit this section only to Hood Canal- (22.600.160) This section in general is a bit unclear on what portions apply to marine vs freshwaters. Please add clarification- (22.600.160(C)(3) Please clarify whether this is for docks in lakes or just marine shorelines? In lakes, dock pilings are typically smaller and not placed 20 feet apart.- (22.400.120.D.1.f.v) add “designation” to end of sentence as part of “natural environment.”	
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