



Kittitas County Critical Areas Ordinance Update

CITIZEN ADVISORY COMMITTEE (CAC)

MEETING SUMMARY AND SUMMARY OF SUBMITTED COMMENTS

For July 16, 2014 Meeting

Meeting Attendees:

CAC Members: Present: John Ufkes, Paul Jewell, Kevin Eslinger, Marc Kirkpatrick, Dave Whitwill
Absent: Jill Scheffer, Chad Bala, Mark Charlton, Dave Duncan, Brad Haberman, Tip Hudson, Jim Miller, Arvilla Ohlde Linda Baker, Mark Teske

Chair & Staff: Robert "Doc" Hansen, Lindsey Ozbolt, Christina Wollman, Kaycee Hathaway

Consultants: Anna Nelson, Adam Merrill, Kristina Cerise

Others: Robin McFarlane, John Marvin (TAC)

Action Items from Meeting:

- Review and comment on proposed policies & regulations.

Summary:

Agenda Item 1. Introductions

CAC members and meeting attendees introduced themselves. There were no public comments.

Agenda Item 2. General Critical Area Regulations

Kristina explained how the updated CAO would fit with other components of Title 17A (e.g. SMP regulations and existing CAO provisions that will remain applicable to agriculture in watersheds that opted in to VSP).

Adam reviewed regulation flexibility levels: One: most flexible which is where there is little to no BAS or there are conditions unique to Kittitas County; Two: some flexibility where science supports a range of regulations and standards (e.g. buffer widths); and Three: no flexibility because specific regulations are required by the RCW or WAC.

Adam and Kristina introduced the general provisions drafted so far, including critical area report requirements, mitigation requirements, and general critical area protective measures. CAC offered feedback on the same.

Agenda Item 3. Critical Aquifer Protection Areas (CARAs)

Adam M. explained the what, where and why of CARAs. Kristina described the draft policies for the CARAs. Adam reviewed the draft regulations for CARAs. Anna N. asked the group to review the wording and content of regulations and email feedback and suggestions to her.

Kristina stated that there the County has discussed amending the CARA map to be more clear about what is regulated and what is not (and to avoid confusion with the recent water mapping).

The CAC discussed the draft CARA policies and regulations:

Paul J. Clarification that this CAO is addressing the quality of waters in aquifers not the quantity/the amount taken out. The regulations should focus on contamination protection; water quantity is adequately addressed and not an issue.

Adam M. Clarifies that language in the draft code about fuel/ propane tanks is an FYI to the applicant so that they follow the WAC. The State controls fuel and propane tank regulations.

Doc H. This section of the code is for new proposed uses in the county impacting recharge areas. This will not impact existing uses in the County.

Adam M. There will be no extra regulations for Single Family Residences.

Paul J. The county does not have the resources to enforce the section about use of fertilizers.

Adam M. States that he will look into injection wells to get clarification on if they need to be in the code. These were in the Department of Commerce model ordinance and in the BAS report.

Paul J. We may need to address Coal Mining and new construction in Historical Coal Mining areas.

Doc H. Storage tank review by Community Development Services is needed so that staff can look at the potential contamination to the aquifer as a whole.

Agenda Item 4. Frequently Flooded Area (FFAs)

Adam M. explained the what, where and why about FFAs. Kristina went over the draft policies for the FFAs. Adam reviewed the draft regulations for FFAs. Adam M. clarified that not all FFAs are shown on FEMA Maps so the Planning Official can designate additional FFAs based on past flooding events and other criteria.

The CAC discussed the draft FFA policies and regulations:

Anna N. We may need a general policy that talks about the counties mapping resources, how the maps are readily available and that they will be updated when improved BAS becomes available.

Paul J. Asked if an alluvial fan flood is a geologic hazard rather than a FFA.

Lindsey O. Alluvial Fan Floods: This may be a channel migration issue which is a geological hazard, but alluvial fans should also be referenced within the FFA regulations.

Agenda Item 5. Next Steps

Kristina asked the group to review materials for the next meeting which will be August 20, 2014.

Meeting adjourned at 3:05 p.m. (See next page for summary of submitted comments)

Summary of Submitted Comments and Initial Responses

The following is a summary of written comments submitted related to the meeting agenda items. The comments shown below are excerpts from these items that include the specific comments. Also shown are the initial responses to the comments.

No.	Name	Comment	Response
# x	<i>Name Title/Location Date of Em/Ltr</i>	<i>Comment shown below may be a summary or an excerpt from submitted comments.</i>	<i>Response from Consultant team</i>
1	Kevin Eslinger, 7/16/14	Suggested language for GPO 2.80: Minimize current and future land use incompatibilities in and around critical areas while recognizing existing property uses should be regulated only to the extent necessary to protect the ecological functions of existing critical areas.	Draft policy GPO 2.6.1.B states, "Review new and modified uses and structures to minimize land use incompatibilities in and around critical areas."
2	Kevin Eslinger, 7/16/14	Suggested language for GPO 2.81: Identify private property rights as the primary priority and ensure all implementing development regulations are cognizant of and consistent with private property rights.	The Growth Management Act identifies thirteen goals, including protecting property rights (private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions) and protecting the environment (protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water). None of the goals is identified as a primary priority. To be consistent with GMA, we will seek to balance the identified priorities as drafted in draft policy GPO 2.6.1.A which states, "Use best available science to regulate development in a manner that balances protection of property rights and human health and safety with protection of critical area functions and values."

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3	Kevin Eslinger, 7/16/14	<p>Suggested language for GPO 2.82: Ensure that all implementing development regulations relating to critical areas recognize, allow for and do not interfere with existing irrigation and agricultural practices.</p>	<p>This is a nonconforming use/structure issue. Draft policy GPO 2.6.1.G has been inserted in the working draft document as a <i>placeholder for a policy about uses/structures that will become nonconforming as the result of the updated Critical Areas Ordinance. Specific language for this policy will be discussed at the October CAC meeting.</i></p>
4	John Marvin, 7/23/14	<p>Consider including the following goals/policies:</p> <ul style="list-style-type: none"> • <i>Include the best available science in developing policies and development regulations to protect the functions and values of critical areas, consistent with WAC 365-195-900 through 365-195-925. RCW 36.70A.172</i> • <i>Inclusion of the best available science in the development of critical areas policies and regulations is especially important to salmon recovery efforts, and to other decision-making affecting threatened or endangered species. WAC 365-195-900</i> • <i>Include the best available science in determining whether to grant applications for administrative variances and exemptions from generally applicable provisions in policies and development regulations adopted to protect the functions and values of critical areas. WAC 365-195-915</i> • <i>Conservation or protection measures necessary to preserve or enhance anadromous fisheries include measures that protect habitat important for all life stages of anadromous fish, including, but not limited to, spawning and incubation, juvenile rearing and adult residence, juvenile migration downstream to the sea, and adult migration upstream to spawning areas. Special consideration should be given to habitat protection measures based on the best available science relevant to stream flows, water quality and temperature, spawning substrates, instream structural diversity, migratory access, estuary and nearshore marine habitat quality, and the maintenance of salmon prey species. Conservation or protection measures include long-term strategies to protect and enhance fisheries resources. WAC 365-195-925 (3)</i> 	<p>Draft policy GPO 2.6.1.A states, “Use best available science to regulate development in a manner that balances protection of property rights and human health and safety with protection of critical area functions and values.” This meets the County’s obligations under GMA.</p> <p>Furthermore, the use of best available science is also required for all critical area reports, including but not limited to those that would be submitted as part of a variance application. No changes are needed to ensure best available science is used in decision making.</p> <p>Draft policy GPO 2.6.1.E has been revised to read, “Give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries, <u>including measures that protect habitat important for all life stages of anadromous fish.</u>”</p>

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5	John Marvin, 7/23/14	Please include WAC 365-190-100(3)(c) into the CARA policies and regulations. <i>"Some aquifers may also have critical recharging effects on streams, lakes, and wetlands that provide critical fish and wildlife habitat. Protecting adequate recharge of these aquifers may provide additional benefits in maintaining fish and wildlife habitat conservation areas."</i>	Added draft policy GPO 2.6.4.D that states, <i>"Recognize that some aquifers have critical recharging effects on streams, lakes, and wetlands that provide critical fish and wildlife habitat and that protecting adequate recharge of such aquifers may benefit fish and wildlife habitat conservation areas."</i>
6	John Marvin, 7/23/14	Include Class A water system, wellhead protection areas on the map. Consider including Class B water systems in CARA designation and protection. Data and mapping for both can be acquired from the Kittitas County Public Health Office or the Washington State Department of Health.	The CARA designation includes areas required by law. The County does not intend to adopt a more expansive definition. Current mapping is gross scale and additional, detailed mapping is not budgeted at this time. To the extent that digital data is available, wellhead protection areas for Class A water system will be depicted on a revised map. Draft policy GPO 2.6.4.B states, "Identify and map critical aquifer recharge areas. Continue data collection and evaluation efforts to better understand the vulnerability of County critical aquifer recharge areas to contamination."
7	John Marvin, 7/23/14	Insert "designate" before "protect" in draft policy GPO 2.6.5.A. for GMA consistency. Utilize "designate and protect" consistently throughout comp plan. Consider a BAS reference in this policy.	Added "designate" to draft policy GPO 2.6.5.A. A reference to best available science in this policy would be duplicative of draft policy GPO 2.6.1.A, which applies to all critical areas.
8	John Marvin, 7/23/14	Consider adding some floodplain habitat policies, or reference to FWHCA, consistent with BAS.	The introductory narrative in draft section 2.6.5 includes habitat in the list of frequently flooded area functions. Draft policy GPO 2.6.5.A states, "Designate and protect the function and value of frequently flooded areas." The commenter correctly identifies FWHCAs as a key strategy for protecting habitat functions within frequently flooded areas. No additional policy language is necessary.

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9	John Marvin, 7/23/14	Good to see that FFA designation is not limited to the 100 yr floodplain, consistent with BAS. Soils surveys are a good source of data; include frequently flooded soils in other areas designation or use as a data/map source. Include designation of other frequently flooded areas be consistent with BAS (WAC 36-195-900 through 925). If the CAO is going to consider alluvial fans in 17A.06.15(3), then alluvial fans should be designated in 06.10.	Comment under consideration. Response forthcoming.
10	John Marvin, 7/23/14	At the meeting, it was stated that there were standards in KCC 14.08 that were not consistent with BAS. If KCC 14.08 is going to be referenced and utilized as a CAO protection standard, it will have to be reviewed for consistency with the GMA and its rules (BAS).	Comment under consideration. Response forthcoming.
11	John Marvin, 7/23/14	Good to see that alluvial fans are included, but the alluvial fan section needs a lot more substance or a reference to a geo hazard section that has more specific regulations pertaining to alluvial fans.	Comment under consideration. Response forthcoming.
12	John Marvin, 7/23/14	Replace incomplete list in 17A.06.20(1)(b) with a requirement to include all critical areas within 300 feet of site.	The general reporting requirements for all critical areas (in Chapter 17A.01) require that all critical areas report s identify the locations of all known critical areas on or adjacent to a development site. No change recommended.
13	John Marvin, 7/23/14	Insert "geologist" in 17A.06.25(3)	Revision made.
14	John Marvin, 7/23/14	There are no policies/standards concerning impervious surfaces, inconsistent with BAS.	Policies: The policies are appropriately broad (e.g. protect functions and values) and incorporating specific standards would be inappropriate. Regulations: Comment under consideration. Response forthcoming.

No.	Name	Comment	Response
15	John Marvin, 7/23/14	There are no policies/standards concerning subdivisions, inconsistent with BAS.	Policies: The policies are appropriately broad (e.g. protect functions and values) and incorporating specific standards would be inappropriate. Regulations: Comment under consideration. Response forthcoming.
16	John Marvin, 7/23/14	There are no policies/standards concerning climate change and the protection and restoration of FFA, inconsistent with BAS.	Policies: The policies are appropriately broad (e.g. protect functions and values) and incorporating specific standards would be inappropriate. Regulations: Comment under consideration. Response forthcoming.
17	John Marvin, 7/23/14	The BAS report discusses No Net Loss, Zero Rise, and Compensatory Mitigation, are all of these captured by the proposed standards?	Comment under consideration. Response forthcoming.
18	John Marvin, 7/23/14	Not all considerations for code updates in the BAS report are in the proposed CAO. Include all recommendations.	Comment under consideration. Response forthcoming.