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Brian Shea, Director
Planning and Building Division
Department of Public Services
Grays Harbor County
100 West Broadway Avenue, Suite 21
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Dear Mr. Shea:

Thank you for the opportunity to comment on Grays Harbor County Critical Protection Area Code Draft 1. We appreciate the hard work you and your staff have put into drafting this and your concern with protecting the County's considerable natural resources and beauty while balancing our citizens' economic and social interests.

The following are our comments.

Policy Discussion

Many of the sources of "best available science" cited in the Policy Discussion are outdated and should now be replaced with more current scientific information, which should be considered.

18.06.060 Critical Protection Area Maps and Inventories.

The reference to "County maps" is vague and unclear. The Code needs to identify clearly which maps it is referring to and where they can be found since it is incorporating them into the Code.

18.06.100(C) Critical Protection Area Development Standards for Frequently Flooded Areas.

In acknowledgement that the FIRM is historically incomplete for parts of Grays Harbor County, the draft ordinance permits supplementing flood area information with the best available information. However, this reasonable provision ends at "such time that a new FIRM is issued that incorporates updated hazard identification." Since it is not a given that any updated FIRM would be complete for all areas of Grays Harbor County and would be maintained, it is not prudent to automatically sunset "the best available information" on the mere event of an issuance of any new FIRM of unknown completeness.

18.05.120(H) Provisions for Flood Hazard Reduction

The words "unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the county" are confusing and overbroad. Depending on the horizontal area and/or the hydrology, a one foot elevation of the base flood could have a tremendous adverse impact on the property, health and safety of residents, both upstream and downstream. We suggest the deletion of those words so that the provision ends after the words "will not increase the water elevation of the base flood."

18.06.125(A) Provisions for Flood Hazard Reduction in Floodways.

(A) posits an impossibility as commonsense dictates that any of the enumerated encroachments in a floodway would necessarily result in an "increase in flood levels during the occurrence of the base flood discharge." For this reason, we suggest the deletion of all words after the word "other development."

18.06.130 Provisions for Flood Hazard Reduction in Coastal High Hazard Areas.

(A) The term "landward of the reach of mean high tide" is confusing, vague and an inadequate standard. Low high tides could mathematically reduce the mean high tide calculation to an unsafe line.

(B) The term "V zones" needs to be clearly defined.

18.06.135 Critical Protection Area Development Standards for Wetland Areas.

(A) It is our understanding that the aerial photos on which the National Wetlands Inventory Maps are based significantly understate the size and complexity of the wetlands and that onsite investigations are essential for accurate determination of wetlands. We suggest the additional language that "The County shall utilize the most current editions of these resource manuals."

(B) (1) states that wetland areas should not be altered except as expressly authorized but omits to provide a remedy. We suggest the additional language: "Wetland areas illegally altered before identification and delineation shall be restored to their condition at the time of the illegal alteration before classification and delineation under this section."

(B)(2) add: "The required studies and proposed mitigation shall contain sufficient site specific detail, including hydrology, to evaluate the practical effectiveness of the proposed mitigation measures."

(B)(3) is unintelligible because it makes reference to "Section 18.06.120(B)(6)" which does not exist. Therefore, this section should be corrected and made available to the public for further comments.

(B)(5) The proposed wetland classifications are unclear and inadequate. We suggest rating Grays Harbor wetlands using the Washington State Wetland

Rating System for Western Washington and stating explicitly that you are doing so. More specifically,

(B)(5)(a)(iii) Small category 1 wetlands may singularly and cumulatively provide important functions and category 1 wetlands should not be limited to 10 acres. We suggest half an acre for this subsection which is consistent with DOE.

(B)(5)(b)(i) Small category 2 wetlands may singularly and cumulatively provide important functions and category 2 wetlands should not be limited to 1 acre. We suggest 2,500 sq. ft. for this subsection which is consistent with DOE.

(B)(5)(c)(i) The mere fact that the wetland is not inventoried and not over an acre should not be sufficient to downgrade a category 1 wetland to category 3! This is further reason to simply utilize the Washington State Wetland Rating System for Western Washington.

(B)(5)(d)(iii) So called "isolated wetlands" are often mischaracterized and in fact hydrologically connected and not truly "isolated." There is no need for the size limitation: small wetlands may singularly and cumulatively provide important functions

(B)(6)(a) The proposed wetland buffers in this section are woefully inadequate and arbitrary and are indicative of reliance on outdated articles, rather than consideration of best available science. These buffers are significantly smaller than current science and Washington State Department of Ecology recommends. They are also strikingly out-of-step with other counties, including Pacific, Thurston, King and Port Townsend.¹ The proposed minimal fixed buffers without provision for greater protections for high impacts will significantly degrade the critical areas the CAO attempts to conserve. This section must be amended to reflect contemporary science and to protect Grays Harbor citizens from flooding and allow for proper ground water recharge. We suggest utilizing the DOE recommended buffers.

(B)(6)(b) Add aqua culture and shell fish to the resources that may require additional buffers.

(B)(6)(f)(1) and (2): Agricultural activity is already exempted in preceding provisions and should not be specifically regulated under the CAO so we suggest that (F)(1) and (2) be deleted.

Alternatively, (f)(1) is unintelligible, syntactically incorrect and must be revised so that its import can be understood and commented on by the public.

(B)(6)(f)(2): the term "grazed wet meadows" must be defined (it is also vague as to time) so that this exemption can be understood and commented on by the public.

¹ Comparison of Grays Harbor's Proposed Buffers with other counties:

| | GH | King | Pacific | Pt Townsend | Thurston |
|-------|----|---------|---------|-------------|----------|
| Cat 1 | 68 | 125-225 | 100 | 125-250 | 100-300 |
| Cat 2 | 51 | 100-200 | 75 | 100-200 | 100-300 |
| Cat 3 | 34 | 75-125 | 50 | 75-150 | 100-300 |
| Cat 4 | 17 | 50 | 25 | 25-50 | 50-100 |

(B)(6)(g)(1): this provision should be deleted: it is redundant if it merely restates previous sections or it is overbroad, vague and overreaching if it adds new exemptions without providing conditions or reasons.

(B)(6)(g)(3) is inadequate as it provides no minimum buffer in the most critical and vulnerable areas of a wetland. We suggest that buffer averaging should not be permitted to reduce the buffer at any point by more than 20% of the usual buffer.

(B)(6)(h): Retention and detention facilities on Category 1 and 2 wetlands will seriously degrade these wetlands and reverse the preceding protections.

18.06.140(A)(6) Fish Habitat Conservation Area Protection Standards.

The proposed buffers in this section are arbitrary and inadequate and are indicative of reliance on outdated, rather than consideration of the best available, science. These buffers are significantly narrower than current science and Washington State Department of Fish and Wildlife recommends.

18.06.140(A)(6)(e) Building setback lines.

Commonsense tells us that a building setback line of at least 15 feet is needed near critical area buffers or the protections afforded by the buffer will be destroyed.

18.06.150 Violations – Penalties.

We recommend establishing a critical areas fund in which Grays Harbor deposits all moneys received from penalties for the violation of rules and laws regulating development and activities within critical areas. Such fund would be used exclusively for the restoration, and purchase, of wetlands.

Therefore, we propose the following additions to this section:

(E) Critical Areas Fund. There is hereby created a critical areas fund. The Grays Harbor County finance and business operations division shall administer this fund.

(F) Source of Critical Areas Fund. Grays Harbor County shall deposit all moneys received from penalties resulting from the violation of rules and laws regulating development and activities within critical areas into the fund.

(G) Use of Critical Areas Fund. Moneys from the fund shall only be used for paying for restoration of wetlands and the purchase of wetlands in order to preserve them in perpetuity as wetlands without development.

(H) Investment of Critical Areas Funds. Grays Harbor County shall deposit moneys in the fund in a separate investment fund in accordance with RCW 36.29.020. The director is the designated investment fund director.

Brian Shea, Director
Grays Harbor Planning and Building Division
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We also hereby adopt the comments of Tim Trohimovich, Planning Director of Futurewise, FOGH and Ginger Gamblin and incorporate them by reference into our comments herein.

Thank you for considering our comments. Please notify us of any future public involvement opportunities or comment periods for Grays Harbor Critical Areas Code.

Sincerely,

Catherine & Eric Goldman
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