



June 30, 2008

Brian Shea
Planning and Building Division
Department of Public Services
Grays Harbor County
100 West Broadway Avenue, Suite 31
Montesano, Washington 98663-3614

Via Electronic Submission: bshea@co.grays-harbor.wa.us

In Re: First Draft of Grays Harbor County Code 18.06 (Critical Areas)

Dear Mr. Shea,

Thank you for the opportunity to comment on the above referenced Draft Critical Areas Ordinance.

FOGH is a broad-based 100% volunteer tax-exempt 501(c)(3) citizens group made up of crabbers, fishers, oyster growers and caring citizens. The mission of FOGH is to foster and promote the economic, biological, and social uniqueness of Washington's estuaries and ocean coastal environments. The goal of FOGH is to protect the natural environment, human health and safety in Grays Harbor and vicinity through science, advocacy, law, activism and empowerment.

It is our understanding that you will be receiving comments from Grays Harbor Audubon, Wildlife Forever Grays Harbor, Futurewise, Brady Engvall, Vickie and David Mascarenas, Catherine and Eric Goldman, Ginger Gamblin, Teri Franklin and Janet Strong. We incorporate those comments and concerns by reference.

We appreciate that Grays Harbor County has recognized in principal the importance to public health, welfare and safety that our critical areas within Grays Harbor provide. However we are concerned that the County may be underestimating their function and value. Even though Grays Harbor does not organize under the Growth Management Act (GMA), protection of the functions and values of critical areas are still under the jurisdiction of GMA.

The Draft Document is written in a disjointed manner so the reader has to search among the various sections for continuity. For example, Section 18.06.080 is titled Mitigation, but there are numerous rules about mitigation in Section 18.06.135. There are many other examples of this throughout the document. The reader is told to refer to other sections but then one must jump back and forth to understand what is going on. This makes the code user-unfriendly and we are concerned that it will be subject to potential noncompliance.

It would be helpful if the code began with a definitions section so that everyone is clear about the meaning of terms. There should also be a bibliography at the end that reflects the best available science sources the County used to write the code. It would be helpful to know upon what scientific documentations the draft code was based.

18.06.010 Critical Protection Area – Purpose

The statement of Purpose seems to be inadequate and a reference to constitutional rights seems out of place in the ordinance's opening statement. Perhaps the following verbiage would better reflect a reasonable statement of Purpose:

The purpose of this Ordinance is to identify and protect critical areas as required by the Growth Management Act of 1990 (Chapter 17, Laws of 1990). This Ordinance supplements the development requirements contained in the various chapters of the Grays Harbor County Code Title 17 by providing for additional controls and measures to conserve, restore and protect critical areas. This Ordinance is adopted under the authority of Chapter 36.70A RCW, Chapter 36.70 RCW, the State Environmental Policy Act, the Shoreline Management Act, the Grays Harbor County Comprehensive Land Use Plan and all Grays Harbor County functional plans, now or hereafter amended.

Goal Statement

It is the goal of Grays Harbor County that the beneficial functions and values of critical areas be preserved, and potential dangers and public costs associated with the inappropriate use of such areas be eliminated by regulations of uses within, adjacent to or directly affecting such areas, for the benefit of present and future generations and for the protection of the public health, safety, welfare and the public resources of wildlife, fish, shellfish, water quality and water quantity.

Policy Goals

To implement the purpose and above stated goal, it is the intent of this Ordinance to accomplish the following

1. Conserve, protect and restore the environmental factors and functions that add to the quality of life for residents of Grays Harbor County and the State of Washington.
2. Protect the public against avoidable losses from maintenance and replacement of public facilities, property damage, costs of publicly subsidizing mitigation of avoidable impacts, and costs for public emergency rescue and relief operations.
3. Inventory and identify critical areas and their environmental functions.
4. Protect critical areas and their functions by regulating use and management within these areas and adjacent lands.
5. Preserve the habitat, water quality and water quantity functions and values of wetlands and their buffers.
6. Protect water quality by carefully siting uses and activities that can detrimentally affect stream flows or aquatic habitat quality.
7. Guide development proposals to the most environmentally suitable and stable portions of a development site.
8. Avoid potential damage due to geological hazards or flooding
9. Preserve natural flood controls and stormwater storage.
10. Maintain groundwater recharge and prevent contamination of groundwater.
11. Prevent cumulative adverse environmental impacts to water, wetlands, fish, shellfish and wildlife habitats, frequently flooded areas, geologically hazardous areas and aquifer recharge areas.
12. Maintain and restore the chemical, physical and biological integrity of the waters of the United States, the State of Washington, and the County of Grays Harbor.

Wetland science is a specific field of study that requires specific training and methodologies to properly identify and wetland, shoreline and stream interconnectivity. Will the County staff be certified in this field and use the most current best science resources?

There are many flood areas and frequently flooded areas within Grays Harbor. The County is enabled by law and practice to protect the health, welfare and public safety of its citizens. How



will the ordinances which allow building and exemptions in these areas protect the citizens from placing them in harms way? This question would also apply to development in Geologically Hazard areas.

Erosion of our ocean and stream shorelines is a significant concern. 18.06.095 discusses slopes and landslides, but appears to ignore the significant shoreline erosion that we are experiencing due to the changes in the littoral cell and upland development impacts and activities on riparian borders. Will this be addressed and included in further drafts?

We are concerned that an exception allows a development in Zones A1-30 and AE on the county's FIRM. According to this exemption the water level by a new development can raise the base flood by up to one foot. This is too high and should be zero. For example, there are 7.48 gallons/cu ft which means that one acre of land would contain 127,152 additional gallons of water.

In the section about Provisions for Flood Hazard Reduction in Coastal High Hazard Areas Marram grass should be used rather than "mean high tide".

The section on mitigation and monitoring is woefully inadequate. Mitigation is seldom successful and often is out of area and out of kind. If mitigation becomes the only solution, after proper sequencing, there must be performance standards and monitoring for a minimum of 10 years. In addition there are no ratios for mitigation for those wetlands being filled or modified.

The described critical protection area development standards for wetland areas is not complete and needs to be strengthened. The wetland classifications shown by the County does not seem to be those promoted by the Department of Ecology's latest version. In order to achieve a policy of no net loss, wetlands should be classified by their function and value and not subjected to lower classification because of degradation by outside activities. The designation of a wetland category must be performed by a qualified professional who has been certified by the Society of Wetland Scientists and is independent of development proponents.

The discussion and ordinance language about wetland and stream buffers is completely inadequate and does not appear to have any accepted scientific basis. We additionally do not concur that buffer averaging will adequately protect critical areas. Most science has determined that a minimum buffer of 50 feet is required for protection. We are concerned that there doesn't seem to be a mandatory building setback from the appropriate buffer.

In summary FOGH is concerned that the Draft Document will not protect water quality, wetlands, aquatic resources and critical areas of our County. It is important that Grays Harbor Count supports the purpose and intent of the law requiring CAO's protection by writing an ordinance that meets the highest expectations and standards. We look forward to reviewing the next edition of the Code.

Sincerely,



Arthur (R.D.) Grunbaum
Vice President

