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November 6, 2008

Mr. Brian Shea
Planning and Building Division
Department of Public Services
Grays Harbor County
100 West Broadway Avenue, Suite 131
Montesano, Washington 98663-3614

Re: Grays Harbor Critical Area Ordinance

Dear Mr. Shea:

On behalf of our Twin Harbors Chapter of the Olympia Master Builders (OMB) I would like to thank the Planning Commission and its distinguished members for the opportunity to comment on the proposed Critical Area Ordinance (CAO).

OMB is very concerned with the growing regulatory environment and opposes any process that fails to consider the costly unintended consequences of adopting new regulations on development and property owners. OMB understands the County doesn't have a choice in adopting a Critical Area Ordinance, but this doesn't mean the County doesn't have choices in what constitutes a final ordinance tailored specifically for Grays Harbor County. OMB has reviewed the draft ordinance and a number of significant concerns have been identified. These concerns include, but are not limited to:

- **Prohibition on development in "frequently flooded areas" (page 32) in which "no land...shall be altered, no building or structure shall be erected, reconstructed, located...and no land, building or structures shall be used for any purpose except as herein after allowed..."**

OMB isn't saying that any and all development should be allowed in frequently flooded areas, but there does need to be reasonable and necessary provisions to develop or redevelop land without instituting a de facto moratorium in these areas.

- **Non-mandatory buffers create the potential for an additional taking of private property and render certain properties and/or projects undevelopable resulting in severe financial hardship to the property owner.**

OMB fully anticipates environmental groups such as Futurewise, Department of Ecology, Fish & Wildlife and others will press hard for increasing the buffers from what is currently proposed. OMB opposes any increase in the proposed critical area buffer widths and studies have clearly shown buffers substantially lose their effect after thirty feet.

OMB believes the current proposed CAO buffer widths provide the necessary balance in protecting our sensitive areas, protecting fish and wildlife habitat, while giving consideration to the protection of private property rights and the economic vitality of Grays Harbor County.

The issue of buffers has been unsuccessfully challenged by groups such as Futurewise. The State Supreme Court has upheld local planning decisions which meet the requirement to inflict “no harm” to critical areas while citing there’s no requirement to enhance them through buffers.

- **Deference is granted to local jurisdictions to plan according to unique local circumstances. Each jurisdiction is unique and needs to plan accordingly.**

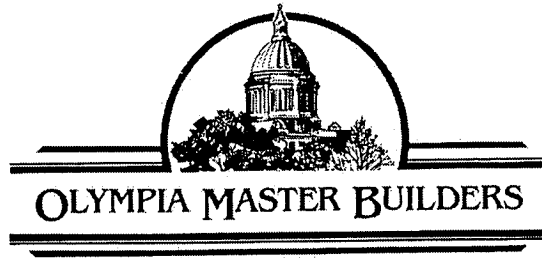
OMB believes, and the courts have upheld, that deference is granted to local jurisdictions in comprehensive planning and development regulations based upon local circumstances and local goals. OMB trusts local jurisdictions to know what is best for their citizens and we reject any state agency’s “one size fits all” recommendations that are often not in the best interest of local government and their goals.

OMB wants to reiterate the importance of balancing economic development, property rights, and environmental protection. As such, we are generally supportive of the proposed CAO before you for consideration. The proposed CAO provides the County with a good starting point, but adoption doesn’t end the process. CAO’s are not intended to be static and will require reviews and updates over time.

OMB recognizes the long hours that staff has put into the Critical Area Ordinance and appreciates its commitment to the citizens and property owners of Grays Harbor County.

Sincerely,

Mark Bigelow
Government Affairs Associate



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Comments – Grays Harbor CAO

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