Wetlands and Us

Orcas Island
February 29, 2012

Kyle Loring, Friends of the San Juans
Hot Topics

- Brief History of Critical Areas Protections
- Current Status of San Juan County update
- Requirements vs. Goals
- Best Available Science
Critical Areas

- Critical Aquifer Recharge Areas
- Frequently Flooded Areas
- Geologically Hazardous areas
- Wetlands
- Fish and Wildlife Conservation Habitat Areas
Critical Areas Ordinance History

- **Primacy** -- Counties “shall designate critical areas...and adopt development regulations...protecting these designated critical areas.” RCW 36.70A.040

- All counties must protect, even if not planning under GMA

- “The land speaks first.”
Why Early Designation and Protection?

• Preclude urban development in areas unsuitable because of risks to human life and property

• Prevention of irreversible environmental harm, such as species loss

• Avoidance of high cost of substituting for lost hydrological and other environmental services
Requirements vs. Goals
Requirements Include

• Protect critical areas

• Conserve agricultural, forest, and mineral lands

• Establish Urban Growth Areas

• Avoid precluding Essential Public Facilities
Planning Goals

• Urban growth
• Reduce sprawl
• Transportation
• Housing
• Economic development
• Property rights
• Permits
• Natural resource industries

• Open space and recreation
• Environment
• Citizen participation and coordination
• Public facilities and services
• Historic preservation
Requirements Come First

Growth Management Hearings Board:

“[A] city or county’s discretion to balance GMA goals is not a license to ignore the GMA’s explicit requirements. Thus ‘balancing’ and ‘deference’ come into play when GMA mandates have been satisfied.”

Wash. State Dep’t of Ecology, et al., v. City of Kent, CPSGMHB No. 05-3-0034, Final Decision and Order, at 12-13 (April 19, 2006).
CAO Update Status

CARA – Completed 2008

Frequently Flooded Areas – Interim Final Adopted

Geologically Hazardous Areas – Interim Final Adopted

General Provisions – Interim Final Adopted

Wetlands – Planning Commission review March 6

FWHCA – no draft to date
Update Needs

- Maps
- Tailored approach, including new wetland rating system
- Modify buffers to better protect salmonids
- Activities in wetlands and buffers
- Minimum parcel size
- Mitigation
1995 – In designating and protecting critical areas under this chapter, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas.

RCW 36.70A.172(1)
“Include”

- Scientific evidence in the record
- Reasoned process in evaluating scientific evidence
- Whether provisions fall within parameters of BAS – for all functions, including habitat
- Whether any departure is justified – must still protect
Public Comment

- Planning Commission -- March 6, 2012
- San Juan County Council -- 3 touches
- 3-minute public testimony
Nighttime Reading

- Growth Management Act -- RCW 36.70A
- Guidelines for critical areas protections -- WAC 365-190
- Best Available Science -- WAC 365-196
- San Juan County Critical Areas Ordinance website -- http://www.co.san-juan.wa.us/cao/default.aspx