

Date: June 9, 2014

To: Citizen Advisory Committee (CAC)

From: Kristina Cerise, AICP – Van Ness Feldman

Re: Critical Areas Goals and Policies in the Kittitas County Comprehensive Plan

What the Law Requires

There are five critical areas that require protection under the Growth Management Act (RCW 36.70A.030(5) and WAC 365-196-485(2)):

- Wetlands.
- Areas with a critical recharging effect on aquifers used for potable water.
- Frequently flooded areas.
- Geologically hazardous areas.
- Fish and wildlife habitat conservation areas.

Counties are required to protect the function and values of critical areas (WAC 365-190-080(1)) using best available science (WAC 365-190-080(2)). Counties have an obligation to consider conflicts with critical areas when expanding UGAs or making decisions on future land use designations and/or development proposals (WAC 365-196-485(4)(a) and WAC 365-196-485(4)(b)). Counties are encouraged to protect surface and groundwater resources (WAC 365-190-080(2)) and must give special consideration to preservation or enhancement of anadromous fisheries (WAC 365-196-485 (3)(d)).

Current Comprehensive Plan Goals, Policies and Structure

Kittitas County's existing general critical areas goals and policies are outdated and inconsistent with current standards (see section above). The County's existing Comprehensive Plan section that addresses goals and policies applicable to all critical areas (Section 2.6.1) includes only the following three goals/policies:

- GPO 2.79 Kittitas County will consider creating a wildfire protection policy tied to land use zoning that will protect both the private landowner and public lands from wildfire. When the use of forested lands is changed, the party doing the changing is responsible for providing a fire resistant buffer around the property.
- GPO 2.80 Kittitas County will consider establishing a board to coordinate with the federal and State fish and wildlife agencies to provide local input into decisions about wildlife introduced into the area.
- GPO 2.81 Kittitas County recognizes that local tax burden on private lands is increased when private land is changed to public ownership. Such changes should be discouraged.

There are other sections that include policies for specific critical areas (e.g. wetlands), but these are the only general policies applicable to all critical areas. The existing goals and policies include topics (i.e. wildfires) that are not related to critical areas, include language that is not directive, and do not facilitate regulations that are consistent with current standards.

In addition to the text of the specific critical area goals and policies, the structural location of those goals and policies is also worth considering. Kittitas County currently includes policies for critical areas, ground water, hazard mitigation, and shorelines in Chapter 2 of the Comprehensive Plan. Chapter 2 is the Land Use Element. Other counties compile such regulations in a separate Comprehensive Plan element of such as Yakima County's "Natural Element," Grant County's "Natural Setting Element," or Skagit County's "Environment Element." There are advantages to separating critical areas, shoreline and other similar goals and policies into a separate element. A reader may not intuitively know to look in the Land Use element to find policies related to wetlands, but would look in an element called "Natural Environment." Grouping topics in an element with a recognizable title makes the plan easier to navigate. The County should consider creating a separate element for goals and policies related to the natural environment.

What Commerce Recommends

The Department of Commerce's [Critical Areas Assistance Handbook](#), intended to help Washington communities design locally appropriate programs for designating and protecting critical areas, outlines the following program goals and policies for critical areas ordinances:

Goals

- Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, volcanic eruptions, or flooding.
- Maintain healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species.
- Direct activities not dependent on the use of critical areas resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas.
- Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas.
- Promote the enhancement of ecological processes through conservation and restoration measures.

Policies

- Minimize Land Use Incompatibilities.
- No Net Loss.

Recommendations

To update the Kittitas County Comprehensive Plan in a manner consistent with current critical area standards, we recommend deleting the three existing policies in Section 2.6.1 and drafting new policies that:

Applicability

- Explain which critical areas are regulated.

Purpose

- Specifically call for the protection of critical area functions and values.
- Prioritize protecting people and property from injury, loss of life, or property damage associated with critical areas.
- Promote enhancement, conservation and restoration of critical areas.

Standards

- Reference the best available science standard.
- Establish a preference for avoiding critical area impacts when possible and mitigating when necessary.
- Minimize land use incompatibilities and ensure no net loss.

These changes could be made within the existing Comprehensive Plan structure or as part of a standalone Natural Environment Element.

Draft Language

Draft language for a revised general critical areas goals and policies section in the Comprehensive Plan is included on the next page. Draft policy language for each specific critical area (e.g. wetlands, geologically hazardous areas, etc.) will be presented for consideration and feedback at a future Citizen Advisory Committee (CAC) meeting. This language is presented as revisions to the existing critical areas section of the Comprehensive Plan but could easily be incorporated in a separate Natural Environment element if that is the recommendation of the CAC and direction of County Staff.

2.6. Critical Areas

~~As part of the growth management planning process, Kittitas County has adopted Critical Areas Policies. The following contain those policies. Kittitas County Code Title 17A, Critical Areas, contains development regulations which were adopted to implement these policies.~~

Pursuant to the requirements of the Growth Management Act (GMA), Kittitas County has adopted the following goals and policies applicable to critical areas located within the county, including:

- Wetlands
- Areas with a critical recharging effect on aquifers used for potable water
- Frequently flooded area
- Geologically hazardous areas
- Fish and wildlife habitat conservation areas

The regulations that implement these goals and policies are found in Kittitas County Code Title 17A.

2.6.1. General Critical Areas Goals and Policies

~~GPO 2.79 Kittitas County will consider creating a wildfire protection policy tied to land use zoning that will protect both the private landowner and public lands from wildfire. When the use of forested lands is changed, the party doing the changing is responsible for providing a fire resistant buffer around the property.~~

~~GPO 2.80 Kittitas County will consider establishing a board to coordinate with the federal and State fish and wildlife agencies to provide local input into decisions about wildlife introduced into the area.~~

~~GPO 2.81 Kittitas County recognizes that local tax burden on private lands is increased when private land is changed to public ownership. Such changes should be discouraged.~~

GPO 2.79 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.

GPO 2.80 Minimize current and future land use incompatibilities in and around critical areas.

GPO 2.81 Evaluate opportunities to use nonregulatory measures, such as public education and transfer of development rights, to protect and enhance critical areas.