

Growth Management Act Conference
Law Seminars International
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Overview

In 2006/2007, the City of Shelton completed their Critical Areas Regulations Update, concluding with the adoption of an updated Critical Areas Ordinance (CAO). Although very important to the community identity, this update was initiated to achieve compliance with the Growth Management Act (GMA). The City of Shelton update process addressed the following elements of GMA:

- The GMA requires designation of Critical Areas *RCW 36.70A.170, 1990*
- Jurisdictions must consider Best Available Science (BAS) *RCW 36.70A.172, 1995*
- Must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries *RCW 36.70A.172, 1995*

The CAO Ordinance review considered both BAS and local circumstances, and resulted in some provisions for local discretion and limited flexibility.

Approach

- Shelton's approach to the no net loss criteria considered the highly altered state of many creeks and streams.
 - Shelton's downtown "core" includes four creeks and tributaries that have been significantly altered.
 - Altered conditions of varied levels exist along creeks and streams outside the predominately developed portions of the city.
 - City's Puget Sound shoreline is dominated by mill activities.
- Instead of relying on theoretical assumptions in general, Shelton used a stream reach analysis in developing alternative buffer requirements and management measures.
- Setbacks and buffers, particularly within stream and shoreline areas, would need to accommodate some activities, such as infrastructure improvements, existing uses, and appropriate water-oriented uses.

Specifics

- Shoreline regulations were crafted that meet the objectives of the Shoreline Management Act (SMA) by allowing water-oriented uses while meeting buffering requirements.
- Includes provisions that provide significant flexibility, such as:
 - The facility shall be located, designed, constructed, and operated to minimize and, where possible, avoid critical area disturbance to the maximum extent feasible.
 - Alterations that occur within a locally important habitat area or that may affect a locally important species as defined herein shall be subject to review on a case-by-case basis.
- CAO includes provisions for displacement of small isolated wetlands and their buffer.
 - Allows for potential displacement of Category 3 or 4 wetlands of up to 4,000 sq. ft. without provisions for avoidance and rectification.
- Provisions include allowances for wetland and water bodies buffer averaging, including averaging to permit reasonable use of a parcel.
 - Take into consideration differences in stream characteristics that affect habitat function.
- Enhanced wetland protections are provided through buffer increase provisions, on a case-by-case basis.
- Provisions allow for some limited interpretive flexibility to meet differing circumstances and changing political agendas.

Unexpected Benefits

- Analysis of areas creeks and streams (including Type F streams) provided some rather unexpected findings and results.
 - Landscape analysis for Goldborough Creek determined that the important elements were outside incorporated Shelton, and substantially outside the Shelton UGA.

- Areas within culverted creeks and streams included gravel beds providing valuable spawning habitat.
- There can be ranges of conditions within Type F streams that result in differing alternative buffer requirements and management measures.

Lessons Learned

- It is possible to adopt provisions that require buffers protecting critical habitat, while allowing appropriate water-oriented uses in marine shoreline areas.
- Take the time to really look at the resource; don't make assumptions.
- Gather all the available info; meet the spirit of the BAS mandate.