November 28, 2005

The Honorable Don Gerend
Mayor of Sammamish
486 – 228th Avenue Northeast
Sammamish, Washington 98074-7209

RE: Proposed amendments to the Transportation Element, the Parks, Recreation, and Open Space Element of your comprehensive plan, and your critical areas ordinance

Dear Mayor Gerend:

Thank you for sending the Washington State Department of Community, Trade and Economic Development (CTED) the proposed amendments to Sammamish’s comprehensive plan and development regulations that we received on September 16, 2005. We recognize the substantial investment of time, energy, and resources that these documents represent, and we appreciate the opportunity to comment.

We especially like the following:

- We are impressed with your process to update the city’s critical areas ordinance. Many of the proposed amendments will improve this ordinance.
  - Many definitions have been changed to be more consistent with the best available science and state regulations. We appreciate that the stream rating system was revised consistent with the Department of Natural Resource’s latest rating system.
  - We appreciate that the city is proposing a revised administrative review process, which is more consistent with the administration of critical areas protection. The recommended code changes propose to eliminate the variance and waiver processes for critical areas but add standards that allow for buffer reductions and development flexibility when performance standards are met. This allows staff and the applicant greater flexibility to deal with a wide variety of site configurations and conditions and provides the city with tools to require mitigation and monitoring.
  - We commend you on your excellent Web site on the update. The list of sources of science, staff reports, public comments and staff responses, comparison table of proposed standards, and recommended action help citizens to understand what factors decision makers need to consider.
We support the proposed addition of policy TP-6.1.15 to your Transportation Element. “Signalized intersections should be designed to maximize pedestrian mobility and safety.” As the text states, attaining level of service D at major intersections with exclusive right-turn lanes, double left-turn lanes, and additional through lanes can result in very long crosswalks and could discourage pedestrian activity. This new policy supports your city’s commitment to a balanced transportation system by limiting the size of intersections to retain a pedestrian scale and is consistent with the goal TG-6 of the Transportation Element: Create desirable, safe, and convenient environments that are conducive to walking and bicycling or other non-motorized uses. You may also consider careful attention to design at intersections such as minimizing crossing distances, providing pedestrian refuges, and offering other treatments to improve pedestrian safety and comfort.

A parks impact fee is proposed to help pay for parks needed with new residential development. This tool will help address the need for new facilities in a way that helps to ensure new growth pays for new facilities.

We also encourage you to adopt amendments to policy TP-7.3.11: “The city should create a transportation, mitigation fee individualized to specific development types” instead of a single city-wide fee. This allows the city to work within the concurrency system to recognize that smaller residential units and pedestrian-scale commercial, located closer to transit, typically have lower trip generation rates and fewer overall transportation impacts. The ultimate effect of targeted fees for residential might be to encourage smaller residential units in Sammamish, which are needed to provide for a greater variety of housing types, including some affordable housing.

We have the following concerns about your proposed critical areas ordinance:

Section 21A.50.060(1)(b), under Partial Exemptions, allows an expansion to the footprint of an existing single-family residence of up to 1000 square feet in a critical area or its buffer. The ordinance has been improved by specifying that this limit also applies to associated impervious surfaces. However, we understand your first draft previously proposed a lower limit of 700 square feet. Even with a lower limit and its applicability to all impervious surfaces, this exemption is still not consistent with many sources of science, and may reduce the functions and values of critical areas. We encourage you to consider retaining the proposed limit of 700 square feet or lower, and consider the use of techniques to reduce impacts to critical areas, such as low impact development techniques to infiltrate stormwater, and design specifications such as managing lighting.

Section 21A.50.070(1)(d) allows a public agency and utility exemption to allow the use of Type S or F streams and Class 1 and 2 wetlands or their buffers for regional stormwater management facilities where there is a “clear showing that the facility will protect public health and safety or repair damaged natural resources.” We are concerned that using these high value critical areas for stormwater management will pose significant risks to their functions and values. We recommend that this section be removed from the ordinance, and that the existing language in section 21A.070.050 be used to site needed utilities.
Congratulations to you and your staff for the good work these amendments embody. If you have any questions or concerns about our comments or any other growth management issues, please call me at (360) 725-3064. We extend our continued support to the City of Sammamish in achieving the goals of growth management.

Sincerely,

Anne Aurelia Fritzel, AICP
Associate Planner
Growth Management Services

cc: Ben Yazici, City Manager, City of Sammamish
    Kamuron Gurol, Community Development Director, City of Sammamish
    Kathy Curry, Wetland Biologist/Senior Environmental Planner, City of Sammamish
    Kathy Taylor, Local Liaison, Puget Sound Action Team
    Laura Casey, Wetlands Specialist, Washington State Department of Ecology
    Pam Erstad, GMA/PHS Biologist, Washington State Department of Fish and Wildlife
    Leonard Bauer, AICP, Managing Director, Growth Management Services, CTED
    David Andersen, AICP, Planning Review Team Manager, Growth Management Services, CTED
November 28, 2005

Kathy Curry, Senior Environmental Planner
City of Sammamish
Community Development Department
486 – 228th Avenue, NE
Sammamish, WA 98074

Dear Ms. Curry:

RE: City of Sammamish’s Critical Areas Regulations Update – Wetland Protection

Thank you for the opportunity to review the draft updates of Sammamish’s Critical Areas Regulations (CAR) and the Supplemental Code Changes, both dated September 15, 2005, as they pertain to wetland protection. We also reviewed the City’s Wetland Comparison Table showing how the City’s existing and proposed regulations compare with nearby local jurisdictions. We appreciated talking with you about our concerns.

Ecology particularly supports the following sections of the City’s CAR update:

- 21A.15.1415 We appreciate the City’s proposal to adopt Ecology’s recently revised Washington State Wetland Rating System for Western Washington (2004) that is based on the best available science.

- 21A.50.060(1)(e) clarifies that restoration and enhancement are exempt from review processes in the CAR, subject to approval of a plan by the City, except that a notice on title may still be required.

- 21A.50.145 We applaud the clear set of requirements for mitigation plans to be submitted to the City for review.

- 21A.50.170 allows the City to require fencing around a critical area where necessary to protect the functions of that critical area.

We would like to offer the following detailed comments to help strengthen certain sections of Sammamish’s Critical Areas Regulations:

- 21A.50.070(1)(d)(ii) Stormwater management facilities constructed within a forested buffer of a wetland can significantly reduce the function of that buffer including the protection it affords
the wetland. In addition to the restrictions already provided, Ecology recommends restricting the placement of stormwater facilities in wetland buffers to the outer 25% of non-forested buffers around Category III or IV wetlands.

- 21A.50.145(7) Ecology recommends a minimum of 10 years of monitoring where woody vegetation is part of the mitigation plan.

- 21A.50.290 (1) Ecology appreciates that the City is proposing wetland buffers that account for the functions or special characteristics of the wetlands in determining needed buffer widths. Ecology’s recommended buffer approach was established in conjunction with local government staff and consultants to assist urban and urbanizing jurisdictions, and is based on an extensive review of the scientific literature, found in *Wetlands in Washington State, Volume 1: A Synthesis of the Science, and Volume 2: Guidance for Protecting and Managing Wetlands*, at [http://www.ecy.wa.gov/programs/sea/bas_wetlands/index.html](http://www.ecy.wa.gov/programs/sea/bas_wetlands/index.html). King and Pierce Counties, and cities including Redmond, Marysville and Stanwood have adopted a similar buffer approach, and we believe it is well-suited for urbanizing settings such as the City of Sammamish.

Sammamish is a growing city that is designated to support urban population densities and urban uses, where most of the existing and proposed land uses would be considered to be high intensity (see Appendix 8-C, Volume 2, *Wetlands in Washington State*, Table 8C-3). The buffer widths proposed in the City’s CAR update are comparable to those recommended by Ecology for moderate intensity land uses (Appendix 8-C). The recommended “moderate intensity” wetland buffers can provide adequate protection for high intensity land uses when additional measures are implemented to minimize impacts to wetlands from the adjacent development, such as are listed in Table 8C-8, Appendix 8-C. The City of Sammamish already requires many of these additional measures, including light and noise restrictions, and stormwater runoff controls to avoid impacts to wetlands and other critical areas through the adopted stormwater manual.

In addition, the City is proposing to retain “wetland management overlay areas” that provide additional protection to Category I wetlands. 21A.50.290(6) would require increases in wetland buffer widths for Category II wetlands when they are within 300 feet of a Category I or II wetland, a salmonid stream, or a fish and wildlife habitat conservation area. The City also proposes to adopt new regulations protecting ground water quality and recharge. Therefore, it is appropriate for the City to implement wetland buffer width requirements similar to the “moderate intensity land use” buffers recommended by Ecology. However, Ecology recommends that the City include provisions to increase the buffers on Category III wetlands with moderate habitat scores, as the proposed buffer of 75 feet will not adequately protect the habitat function of these wetlands.

- 21A.50.290(1)(b) would continue to apply previously established wetland buffers even where new development is proposed, as long as the previous buffer width is at least 50% of the buffer width required in the updated CAR. The buffer widths previously required by the City or the
County in many cases do not provide adequate protection for the functions of wetlands, based on Ecology’s review of the scientific literature. This provision is understandable for re-development of existing structures. However, where there are undeveloped lots in previously approved developments in the City of Sammamish, this provision could allow degradation of wetland resources. The City should clarify the CAO language to ensure that this provision only applies to re-development of existing structures.

- **21A.50.290(5)(c) and 21A.50.290(7)** We recommend that buffers be reduced to no less than 75% of the standard buffer width at any location, in order to protect the functions of both the buffer and the wetland.

- **21A.50.290(7)(f)** This language would allow buffer width reduction in return for restoration of an off-site buffer area. Please note that Ecology’s wetland buffer width recommendations assume an intact, functioning buffer. Buffers only provide functions for the wetland that they surround. Please clarify this section to ensure that off-site buffer restoration can only compensate for the loss of buffer functions when the restored buffer is on the same wetland as the impacted buffer.

- **21A.50.310(6)(a)** The mitigation ratios proposed in the draft regulations may not be adequate to prevent the loss of wetland function. Recent studies conducted in the Pacific Northwest and elsewhere in the United States found that mitigation projects continue to fail to adequately compensate for permitted impacts. Based on these findings, Ecology has published guidance in Table 8C-11 of *Wetlands in Washington State—Volume 2: Guidance for Protecting and Managing Wetlands*. We encourage you to consider adopting these recommended ratios. These recommendations take into account both the type of wetland and the type of mitigation being proposed. King County and Redmond recently adopted similar ratios, and this approach is consistent with what the state and federal agencies require for mitigation. By adopting the recommended ratios, the City will help streamline the approval process for applicants.

If the City wants to adopt simplified ratios, we recommend the following:

- **Category I:** 6:1
- **Category II:** 3:1
- **Category III:** 2:1
- **Category IV:** 1.5:1

Ecology would like to review any scientific data that Sammamish can provide to support lower mitigation ratios, for example, by demonstrating that wetland mitigation projects in the City are more successful than those constructed elsewhere in the state.

If the City of Sammamish proposes to adopt a revised CAO that departs from recommendations based on the best available science, the City should provide a written rationale including analysis of its implications and potential risks as part of the findings of the adopting ordinance. The
written record supporting the City’s decision should include a detailed explanation of the risk to wetland functions that is likely to follow implementation of the revised CAO. The rationale should include an evaluation of alternative methods that the City will employ to ensure no net loss of wetland structure, function, and value.

The City’s Wetland Comparison Table references regulations from the Cities of Woodinville and Issaquah, neither of which has been updated to consider the best available science. Ecology is working with both of these local jurisdictions to strengthen their wetland protection regulations. The other two local jurisdictions in the Comparison Table, Redmond and King County, have both updated their critical areas regulations to reflect the scientific literature.

We appreciate the opportunity to work with the City on revising the Critical Areas Regulations regarding wetlands. If you have any questions or would like to discuss Ecology’s comments, please give me a call at (425) 649-7149 or send email to eala461@ecy.wa.gov.

Sincerely,

Laura Casey
Wetland Specialist
Shorelands and Environmental Assistance Program

cc: Pam Erstad, Washington Department of Fish & Wildlife
    Anne Fritzel, Department of Community, Trade, and Economic Development
    Donna Bunten, Ecology CAR Review Coordinator
    Geoff Tallent, Interim Section Manager, Ecology Shorelands & Environmental Assistance Program
    Erik Stockdale, Interim 401/Wetlands Supervisor
November 29, 2005

Kathy Curry, Senior Environmental Planner
City of Sammamish
Community Development Department
486-228th Avenue NE
Sammamish, Washington 98074

SUBJECT: WDFW Review of Draft Update of City of Sammamish Critical Area Ordinance

Dear Ms Curry:

Thank you for providing WDFW the opportunity to review and comment on the City of Sammamish Critical Areas Ordinance (CAO). We apologize for the late date of the letter but only received notice last week of your draft document. We appreciate the time and effort that you and your project team have spent researching and writing the draft ordinance. We offer the following comments and suggestions in an effort to help you draft a Critical Area Ordinance that sufficiently protects our valuable fish and wildlife resources in Washington State.

The WDFW commends the City of Sammamish for providing additional protection for fish and wildlife in the following sections of the document:

Page 5, Section 21A.50.060.d, Partial exemptions: inserting language requiring revegetation will help improve fish and wildlife habitat areas by allowing more absorption of water runoff and lessening the effect of pollutants on waterbodies.

Page 14, Section 21A.50.145, Mitigation Requirements: This section provides good information outlining what is required from a mitigation plan.

Page 57, Section 21A.50.351, Lakes and ponds – Development Standards: WDFW is pleased to see that the City has developed a separate section to address lake and pond buffers. This is often overlooked in CAO’s even though these areas are also important fish and wildlife habitat areas.

The following sections of the CAO, as written, may not sufficiently protect fish and wildlife. WDFW offers the following comments and recommendations for the protection of valuable fish and wildlife resources:
Page 5, Section 21A.50.060.1a and b, Partial Exemptions: This subsection contains partial exemptions for additions to existing structures, up to 1000 square feet, as long as the structure does not encroach further into a critical area or buffer. Adding more impervious surfaces could cause additional impacts to fish and wildlife habitat and could encourage homeowners to apply for shoreline stabilization structures if a streambank or other waterbody begins eroding more rapidly due to increased runoff. WDFW recommends that the City require Low Impact Development (LID) to be incorporated for all expansions on existing development, especially since new language has also been inserted into this section that allows expansions in documented landslide hazard areas. Allowing larger structures to be built in existing unstable areas could cause additional impacts to fish and wildlife habitat and could encourage homeowners to apply for shoreline stabilization structures if a streambank or shoreline begins eroding more rapidly due to increased runoff. The City should require all project proponents to prepare a feasibility study report that evaluates various LID designs to determine the extent that stormwater runoff could be reduced at the proposed development site.

Page 7, Section 21A.50.070.1d, Exceptions: As written, this subsection will not adequately protect fish and wildlife by allowing regional stormwater management facilities to be built in critical area buffers. The WDFW recommends that this be deleted from the text.

Page 11, Section 21A.50.130, Contents of critical area study: WDFW suggests that language be added in this section that requires project proponents to examine potential cumulative impacts that may occur in, or adjacent to, critical areas containing fish and wildlife due to the newly-proposed development.

Page 17, Section 21A.50.210.1-4, Building Setbacks: WDFW recommends language be added in this section that states newly-created impervious surfaces should strive to have 100% containment of runoff through LID requirements.

Page 23, Section 21A.50.260.1 and 2, Landslide hazard areas – Development standards and permitted alterations: Language in this section is acceptable provided that the new development does not occur in, or adjacent to, wetlands or fish and wildlife habitat conservation areas (FWHCA).

Page 45, Section 21A.50.325.1., Fish and wildlife habitat conservation areas – Development standards: WDFW recommends that wording in the first sentence be revised to read “…the director shall require a critical areas study…”.

Page 45, Section 21A.50.325.3c, Fish and wildlife habitat conservation areas – General requirements: delete “stormwater management facilities” in this section. These facilities should be located outside of critical fish and wildlife habitat areas.
Page 45, Section 21A.50.325.3, Fish and wildlife habitat conservation areas – Development standards: Alternatives analysis should be required prior to allowing development to occur in critical area buffers. WDFW recommends that this paragraph add a sentence that states “Prior to approval of building utilities, or accessory structures in buffers along waterbodies, an alternatives analysis must be conducted to ensure all possible alternatives have been examined and that no viable alternative exists. This evaluation must be documented in a written report and provided to respective governmental agencies with jurisdictional authority to ensure all alternatives have been examined. If it is determined that no alternative sites are feasible to build at, the impacts must be fully mitigated.”

Page 49, Section 21A.50.330.1a and b, Streams – Development standards: WDFW has concerns in this subsection regarding the allowable reduction in buffers on public roadways that transect streams and in instances where a buffer has been previously established. The language, as written, would allow buffer reductions of up to 50%. The resulting buffer width would be considerably less than those recommended by WDFW in its publication titled “Management Recommendations for Washington’s Priority Habitats: Riparian.” This document is based on a synthesis of scientific literature, and it represents WDFW’s view of “best available science” regarding an important component in the protection of riparian areas across Washington State. The City of Sammamish has not provided any scientific analysis or support that demonstrates the proposed buffers and buffer reductions will adequately protect the functions and values of riparian areas.

Page 50, Section 21A.50.330.6, Buffer reduction: this section provides several scenarios where buffer reduction will be acceptable provided best management practices (BMPs) are implemented. For example, up to 10% buffer reduction will be acceptable if impervious surfaces are reduced by at least 50%. Up to 20% of the buffer may be reduced if bioengineered bank stabilization is installed. WDFW is unsure how these numbers were derived. If there is highly valuable fish and wildlife habitat in a particular area where the buffer is proposed to be reduced, these enhancements may not be sufficient, depending upon the type of and intensity of development proposed.

Page 52, Section 21A.50.340, Streams – Permitted alterations: WDFW recommends that this sentence contain language that states alternative analysis must be required prior to allowing development in FWHCAs. In addition, all references to allowing regional stormwater management facilities to be built in FWHCA should be deleted.

Page 52, Section 21A.50.340.10, Streams – Permitted alterations: This subsection should contain language that states soft-bank shoreline stabilization is preferred over hardened structures.

The Washington Department of Fish and Wildlife wishes to thank you again for the opportunity to provide comments on your critical area ordinance. We sincerely hope that you will find these comments constructive in your final deliberations. Please don’t hesitate to contact me at the number listed below with any questions that you have.
regarding the comments and recommendations contained in this letter. I would be more than happy to sit down with you and discuss some of the above-mentioned issues in greater detail.

Sincerely,

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References