



# Bellevue Planning Commission

March 26, 2025

## PLANNING COMMISSION STUDY SESSION ITEM

### SUBJECT

Critical Areas Ordinance (CAO) Land Use Code Amendments (LUCA).

### STAFF CONTACT(S)

Kirsten Mandt, Senior Planner, 452-4861

Nick Whipple, Assistant Director, 452-4578

*Development Services Department*

### POLICY ISSUES

Every ten years, the Growth Management Act, Chapter 36.70A RCW (GMA), requires local jurisdictions to periodically review and evaluate their adopted critical areas policies and regulations using Best Available Science (BAS) to ensure protection of these areas. State law requires the designation and protection of five types of critical areas: wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas.

Bellevue last conducted a major update to its Critical Areas Ordinance (CAO) in 2006. Since then, limited amendments to the CAO have been adopted to address specific regulatory needs. In 2009, amendments were made to support the BelRed rezone and related LUCA. In 2018, the City updated its Shoreline Master Program, which included removing the Shoreline Jurisdiction Overlay from the Critical Areas Overlay in the Land Use Code (LUC). In 2020, the City adjusted regulations for frequently flooded areas to conform with federal and state standards and adopted the Federal Emergency Management Agency's (FEMA) updated Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study (FIS) to maintain eligibility in the National Flood Insurance Program (NFIP).

The proposed LUCA to update the City's CAO is necessary to maintain compliance with the GMA and meet the state-mandated deadline of December 31, 2025. This update will incorporate BAS to align LUC regulations with current, science-based environmental best practices while balancing the need for enhanced environmental protections with the City's growth priorities outlined in the recently adopted Comprehensive Plan. Additionally, the update will help ensure the City remains eligible for grants, loans, and other state and federal funding for public projects and infrastructure.

The Comprehensive Plan provides policy guidance for developing these updates along with the BAS and public engagement. Relevant Comprehensive Plan policies that have informed the scope of the project include, but are not limited to:

- **Policy CL-52:** Use geotechnical information and an analysis of critical areas functions and values to evaluate the geologic and environmental risks of potential development on geologically hazardous areas and implement appropriate controls on development.
- **Policy CL-54:** Use specific criteria in decisions to exempt specific small, isolated or artificially created steep slopes from critical areas designation.
- **Policy CL-87:** Require and provide incentives for the opening of piped stream segments during redevelopment where scientific analysis demonstrates that substantial

habitat function can be restored, and where the cost of restoration is not disproportionate to the community and environmental benefit.

- **Policy CL-88:** Preserve and enhance native vegetation in Critical Area buffers and integrate suitable native plants in urban landscape development, considering species' climate resilience.
- **Policy CL-100:** Use prescriptive development regulations for critical areas based on the type of critical area and the functions to be protected; and as an alternative to the prescriptive regulations, allow for a site specific or programmatic critical areas study to provide a science-based approach to development that will achieve an equal or better result for the critical area functions.
- **Policy CL-106:** Facilitate the transfer of development potential away from critical areas and the clustering of development on the least sensitive portion of a site.

This project will include changes to the Land Use Code, predominantly in LUC 20.25H, which is the critical areas overlay, and will apply citywide.

#### **DIRECTION NEEDED FROM THE PLANNING COMMISSION**

**ACTION**



**DIRECTION**



**INFORMATION ONLY**



The goal of this study session is to provide Planning Commission the proposed scope of the LUCA set by City Council at the initiation study session on February 25, 2025. Staff would like feedback from Planning Commission on the currently proposed direction as staff begins work on developing the BAS with the consultant team and begin the public engagement process.

#### **BACKGROUND/ANALYSIS**

##### **Proposed Approach and Scope of the CAO Update LUCA**

The proposed approach for the CAO Update follows two key steps, with community engagement shaping the policy alignment and code drafting phase. This process aims to strike a balance between environmental protection and Bellevue's growth, ensuring regulations effectively support both development and the conservation of critical areas.

##### **Step 1: Incorporating Best Available Science (BAS)**

As part of this update, the City must incorporate the BAS to document the scientific basis for its regulations or provide justification for any deviations, as required under Washington Administrative Code ([WAC 365-195-915](#)). Additionally, Bellevue must give special consideration to conservation and protection measures that support anadromous fisheries<sup>1</sup>. To meet these requirements, the City has hired a technical consultant, Facet, to conduct a BAS review.

##### **Step 2: Gap Analysis and Policy Alignment/Code Drafting**

Bellevue's critical areas policies are primarily contained within the Climate and Environment Element of the Comprehensive Plan, with corresponding regulations codified in Part 20.25H of the LUC.

The BAS review will inform a gap analysis to identify where existing critical areas regulations may be

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<sup>1</sup> Anadromous fish species mature in salt water and migrate to fresh water streams to spawn, such as salmon and steelhead.

inconsistent with BAS or GMA requirements. This analysis will also explore opportunities to refine LUC regulations to improve clarity, consistency, and usability while better aligning with broader city priorities, such as supporting housing growth, daylighting streams in BelRed, supporting development along the Eastrail corridor, and streamlining the development review process for sites with critical areas.

As part of this update, the LUC will be revised to:

- Clarify definitions of key terms.
- Refine buffer, structure setback, and mitigation requirements for all critical areas.
- Evaluate methods to distinguish between human-made and naturally occurring steep slopes.
- Explore updates or alternatives to the current density and intensity calculation approach to better support housing development.
- Improve the applicant-required critical areas report process and requirements, while simplifying critical areas performance standards and permit decision criteria.

The goal is to ensure that Bellevue's regulations remain science-based and effective in protecting critical areas while also supporting development and providing greater certainty and predictability in both development review and the enhancement and protection of critical areas.

### **LUCA Priorities and Objectives**

Through initial outreach and internal discussions, five key priorities and objectives were identified for this LUCA to ensure a balanced, transparent, and effective update to the CAO. These priorities focus on regulatory alignment, development feasibility, community engagement, usability and LUC implementation improvements, and enhanced data accuracy. By addressing these areas, the LUCA will support environmental protection while accommodating responsible growth and development.

#### **1. Align with the Latest State Requirements and BAS**

Staff will ensure that all proposed updates will incorporate current state requirements and integrate BAS to ensure effective, legally sound, and scientifically informed critical area protections.

The City's consultant, Facet, will conduct a comprehensive review of recent BAS updates for all applicable critical areas, including critical aquifer recharge areas, frequently flooded areas, geologic hazard areas, wetlands, and fish and wildlife habitat conservation areas. This review will focus on updates to relevant scientific information since the City's last CAO update and will address emerging factors, such as climate change impacts, where applicable.

In accordance with [WAC 365-195-900](#), staff will integrate BAS into the LUCA to ensure the protection of critical area functions and values. Proposed amendments will be cross-referenced with specific, well-documented BAS sources to support their rationale.

#### **2. Balance Housing and Growth Priorities**

The LUCA will align with the GMA requirement for "no net loss" of the functions and values of designated critical areas to maintain compliance with state law. At the same time, the LUCA will seek to balance this mandate with property owners' rights and the City's broader housing and growth priorities, as identified in the Bellevue 2044 Comprehensive Plan, adopted in October 2024 through the Comprehensive Plan Update process.

#### **3. Improve the Usability of the CAO for Staff and Applicants**

Regulatory clarity is essential for staff, the general public, and project applicants navigating the CAO. To enhance usability, staff will:

- Expand and refine definitions to clarify key terms, reduce ambiguity, and provide plain-language explanations for complex requirements.
- Streamline permit review by identifying opportunities to improve the applicant-required critical areas report process and, where appropriate, consolidating critical areas performance standards and decision criteria to reduce confusion and redundancy.
- Ensure flexibility in how regulations are applied.
- Develop user-friendly checklists and permit flowcharts to provide applicants with clear, step-by-step guidance on submittal requirements and approval processes.

#### 4. Enhance Data Accuracy and Mapping

Staff will improve the existing inventory and mapping of critical areas in the City. This process will involve evaluating data layers from multiple agencies, including King County's iMap and relevant state data from the Departments of Fish and Wildlife, Natural Resources, and Ecology.

To further improve data accuracy and mapping, staff will explore real-time data collection methods tied to critical area land use permits submitted to the Development Services Department (DSD). This will allow DSD to integrate applicant-provided surveys and analyses directly into the City's GIS system, ensuring a more accurate and up-to-date representation of critical areas. This will be an ongoing process and long-term goal for DSD, building upon existing data as new critical area permits are submitted. By better leveraging the use of permit data, DSD can build a more detailed and reliable understanding of the type and extent of critical areas in the City. This improved data and mapping will support future CAO updates, streamline the development review process, and provide residents, property owners, and developers with better insights into site conditions.

### **Public Engagement**

1. Process IV Requirements. Process consistent with Chapter 20.35 LUC procedural requirements to provide opportunities for public comment, including:
  - Notice of Application and Notice of Public Hearing
  - Public hearing on the proposed LUCA with Planning Commission
2. Online Presence. A dedicated city webpage will provide project information, FAQs, the latest LUCA drafts, points of contact for questions, and instructions for submitting comments.
3. Direct Engagement and Feedback. Staff will facilitate ongoing discussions with environmental advocates, residents, the development community (including the Bellevue Development Committee), and King County and neighboring cities to gather diverse perspectives.
4. Community Workshops. Two workshops will be held to discuss BAS updates and regulatory implications, as well as to gather feedback on proposed changes. These workshops will engage residents, neighborhood leaders, various neighborhood associations, environmental advocates, and building industry professionals.

5. Virtual Public Information Session. An interactive online event where the public can review and provide feedback on the draft CAO in a convenient, accessible format.

## LUCA Schedule

Given the complexity of critical area regulations and the project’s significance to the community, staff propose an alternative approach to processing these code amendments—allowing for extended engagement, a mid-point Council check-in, thorough vetting, and review. This process will unfold in three key phases:

- **Phase One: Research and Engagement Foundation (March – June)**

Following Council initiation, the City’s consultant will conduct a BAS review and gap analysis to define the scope of necessary CAO updates and identify LUCA priorities. Once this information is determined, staff will engage stakeholders and the public to gather feedback on the LUCA priorities.

At the end of Phase One, the Planning Commission will review the consultant’s findings, public input, as well as an initial LUCA draft. Staff will then check in with Council on these same topics to affirm early priorities and recommendations and seek additional guidance.

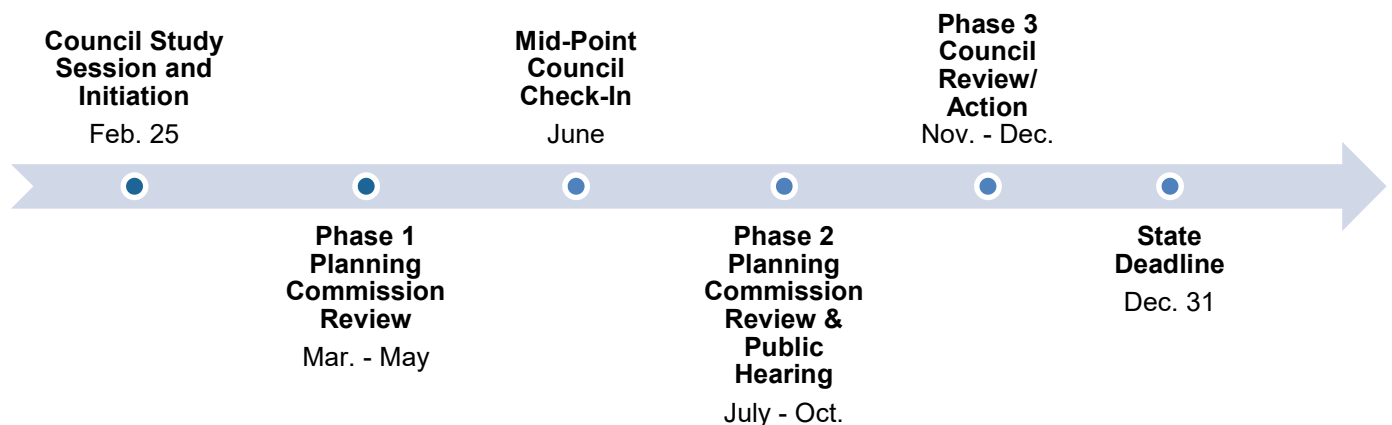
- **Phase Two: Drafting and Public Review (July – October)**

Following the Council check-in, staff will finish developing the proposed code recommendations, incorporating feedback from Phase One. The Planning Commission will also review a crosswalk analysis connecting the proposed LUCA to the BAS analysis.

During this phase, public engagement will focus on reviewing and providing input on the specific language of the proposed LUCA. Staff will balance community input while ensuring compliance with state-mandated BAS standards and alignment with the broader housing and development priorities outlined in the *Bellevue 2044 Comprehensive Plan*.

- **Phase Three: Finalization and Adoption (November – December)**

After the Planning Commission holds a public hearing and provides its recommendation, Council will begin its review of the LUCA. Once ready, the Council can direct staff to finalize the LUCA ordinance for adoption before the state deadline of December 31, 2025.



**ATTACHMENT(S)**

A. N/A