



# Bellevue Planning Commission

May 28, 2025

## PLANNING COMMISSION STUDY SESSION ITEM

### **SUBJECT**

Study Session on the Critical Areas Ordinance (CAO) Land Use Code Amendments (LUCA).

### **STAFF CONTACT(S)**

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### **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 information on the Best Available Science (BAS) document, the public engagement plan, and the gap analysis. Staff will also be reviewing some of the key areas where changes are being suggested to the code and will be asking for feedback from the Planning Commission as staff begins drafting the revisions to the code.

#### **BACKGROUND/ANALYSIS**

##### **Best Available Science**

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. To meet these requirements, the City has hired a technical consultant, Facet, to conduct a BAS review.

##### *BAS Components*

The BAS is divided into five critical areas sections, fish and wildlife habitat conservation areas, wetlands, geologically hazardous areas, frequently flooded areas, and critical aquifer recharge areas. Each of these sections provides clear definitions specific to that critical area, identifies the critical area as it pertains to the city, explains how to evaluate the relevant functions and values that are utilized to evaluate the relative health of a given critical area, and outlines the various key methods for protecting those functions and values. The BAS also includes sections for each critical area that evaluate the impacts of climate change to that specific critical area and strategies to manage those impacts.

The BAS sections for geographically hazardous areas and frequently flooded areas differ somewhat from the other critical areas in that while functions and values for protection are also key, these areas also pose potential hazard risks to the public, which should be taken into account as well when looking at

management and mitigation strategies. The BAS is included as Attachment A.

## **Gap Analysis**

As described in the agenda memo provided at the April 23 meeting, the gap analysis utilizes the BAS to review the existing code and identify areas where it is not consistent with either the BAS or GMA requirements and notes areas where the regulations can also be updated to better align with policy at the city level and address policy direction from council.

Key topic areas and the current recommendations to address those topic areas are explained in more detail below. The gap analysis is being finalized and will be provided at the next study session.

## **Key Changes for CAO LUCA**

### *Definitions*

There are a few key terms under review as a part of this project for potential revision. These include:

- Top-of-bank versus ordinary high-water mark: the current code measures buffer dimensions for streams from the top-of-bank rather than the ordinary high-water mark (OHWM), which is more typical and aligned with the best practice supported by regional training and state and federal guidance. Staff will be reviewing the relative benefits of each option. Along with the WDFW recommendation for measuring the riparian management zone (RMZ) widths from the outer edge of the channel migration zone (or OHWM where channel migration zone is not present).
- Steep slope: The current definition and categorization of steep slopes is very broad, which has resulted in a greater number of slopes subject to regulation under the CAO than is typical in other nearby jurisdictions. Staff will be working on refining this definition to better apply to slopes that need regulation along with other adjustments to the geologically hazardous areas regulations related to steep slopes.
- Undeveloped and developed site: Provide better clarity between a developed versus undeveloped site and simply how to apply the regulations, particularly for when a site is undergoing redevelopment.
- Urban stream: For the purposes of trying to apply certain standards, particularly for daylighting, in highly developed areas where we do not want to preclude development, it will be important to determine how to categorize an urban stream versus another stream within the city limits. This will be especially important in urban areas containing fish-bearing streams, such as in the BelRed subarea.

### *Critical Area Buffers*

One of the important areas for alignment with both the BAS and recommendations from state agencies will be reviewing the rating system for wetlands and streams, their buffers, and mitigation options that are recommended to ensure no net loss of ecological function. This includes updates to include mitigation banking for wetlands and in-lieu fee programs as an option for low quality and/or small wetlands to provide a greater overall benefit to the regional systems.

### *Steep Slopes*

In addition to the definition and classification of steep slopes, staff will also be looking at ways to address man-made slopes and their modification. Additionally, staff is looking at potential code changes where we can rely on the recommendations from geotechnical reports prepared by qualified

professionals to guide permitting and review requirements given the wide variety of soil and slopes conditions present throughout the city that can make a more standardized approach challenging.

#### *Development Factor and Residential Density*

The current code contains regulations limiting residential density yield on a site that has or is adjacent to critical areas. In support of council priorities to encourage residential growth and better balance between housing and the natural environment, staff will be reviewing whether or not this provision is necessary for protecting and improving critical areas, or if other strategies may be more beneficial without hindering housing development.

There are also regulations specific to plats with critical areas or critical area buffers that will be under review for potential changes, but that we don't have specific direction for at this time.

#### *Urban Streams and Daylighting*

Strategies for encouraging, incentivizing, and potentially requiring daylighting of streams in key corridors are under review and consideration as a part of this LUCA, which includes addressing daylighting of streams in urban areas where we are working to drive denser, affordable, and more transit-oriented development. Staff will be reviewing strategies utilized in other jurisdictions as well as opportunities for more performance-based approaches to mitigation along with the more standardized categorization and mitigation approach.

#### *Critical Aquifer Recharge Areas*

Critical aquifer recharge areas are currently not included as a section within the critical areas overlay. These areas are defined in the WAC as, "areas with a critical recharging effect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge." In Bellevue this includes wellhead protection areas, as mapped in the BAS. Per the

#### *Additional Project Components*

As noted in the April 23 memo, improving the general usability of the code is another key priority to ensure that the CAO is easier to navigate for staff, applicants, and the general public, and also helps to streamline the permit review process.

Staff will also be working on process improvements to improve collection and storage of mapping and data when new critical areas reports are received as a part of the project application and review process, as well as evaluating data from different state and county agencies. This will help to improve the city's critical areas data, which will help improve the service provided to the public, as well as to support the work of other departments and divisions.

### **Public Engagement**

For additional detail, the public engagement plan is included as Attachment B.

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.

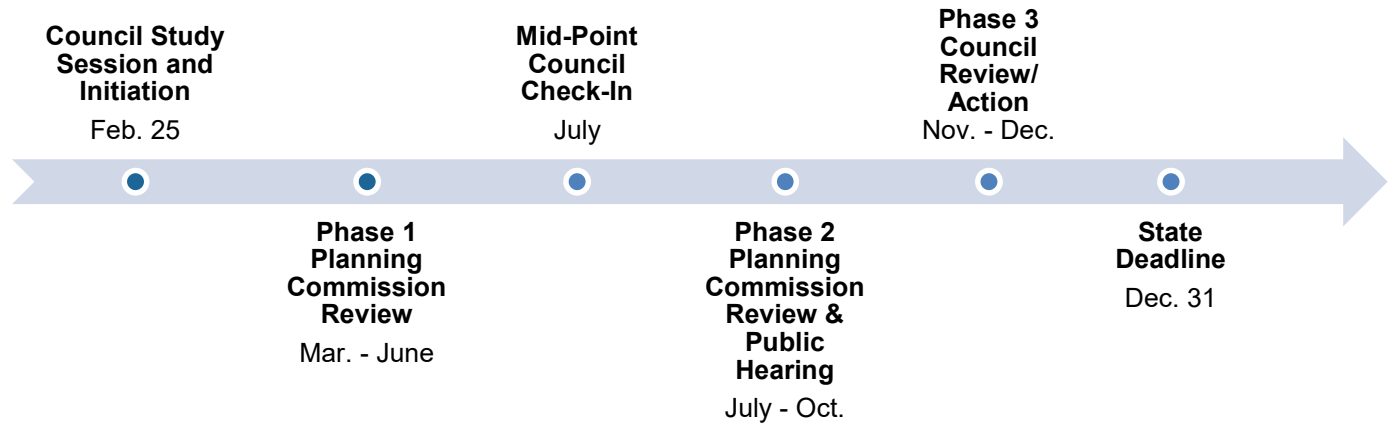
- **Phase Two: Drafting and Public Review (July – October)**

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. Best Available Science (BAS)
- B. Public Engagement Plan