Critical Areas Ordinance Update Land Use Code Amendments

Updated Scope

Definitions

An important component of any code update, there are a number of definitions that will be reviewed and updated to provide better clarity and refine terms for better applicability. A few key examples 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 Washington Department of Fish and Wildlife (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), which is described in more detail below.

- Steep slope: The current definition and categorization of steep slopes is 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 simplify how to apply the regulations, particularly for when a site is undergoing redevelopment.

- Urban stream: When 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.

Stream Buffers & Urban Streams/Daylighting

As detailed in the Best Available Science (BAS), there are several ways that streams can be classified and regulated. Staff is reviewing those different methodologies with the consultant team and conducting mapping analysis on the different impacts of each strategy to determine which practice will be best for the city. The city's current methodology, which is largely similar to other local jurisdictions, relies on the Department of Natural Resources (DNR) stream typing system. This system categorizes streams based on whether or not they are a shoreline of the state, are fish-bearing, and if they flow year-round or not. Fixed buffers are assigned based on this system that allow for a level of predictability in the regulations. The WDFW guidance uses a different approach that does not rely on this same water typing system. The WDFW guidance for managing RMZs is to treat all streams equally and uses the soil typology associated with the dominant tree species in a given area to determine buffer sizes and management.

Key considerations in reviewing the different methodologies include the prioritization of balancing redevelopment with environmental protections, particularly given that redevelopment is often needed to improve buffer conditions. There are also considerations to be made for the level of predictability and applicability of the code, given that one of the project goals is to improve implementation. Staff is also reviewing potential code language for inclusion in the draft to incentivize daylighting of piped stream segments, particularly in urbanized areas. Based on Planning Commission feedback, staff is also discussing performance-based strategies that could be integrated into the code, but still ensure we meet state requirements for compliance.

Wetland Buffers

The rating system for wetlands, including the habitat score, their buffers, and mitigation options that are recommended to ensure no net loss of ecological function will be reviewed and updated as needed to align with the latest recommendations. 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 and adding vegetation standards for mitigating degraded buffer conditions.

Steep Slopes

The recommendation in the gap analysis is to provide updated language that permits additional construction methods on human-made slopes that meet certain technical requirements. There are additional code components for geologically hazardous areas that will also help to ensure safety and stability of slopes. These include adding language to address the potential for erosion hazards, additional standards to clarify when monitoring is required, potentially adding a section specific to seismic hazards, as well as establishing a minimum factor of safety to ensure stability of a slope as part of the approval of modification criteria.

Development Factor and Residential Density

The current code limits the number of dwelling units per acre and the maximum floor area ratio (FAR) for office space for a site that is located in the Critical Areas Overlay District. In the BelRed and East Main land use districts, the code restricts total floor area (whether residential or office) when critical areas are present.

This “development density/intensity” calculation for a site within the Critical Areas Overlay District is designed to determine how many dwelling units can be built while accounting for both developable land and critical areas. The maximum dwelling unit potential is based on adding the dwelling units per acre permitted on the buildable area, plus the potential dwelling units per acre on the area of the site covered by critical areas and associated buffers with a percentage removed. This reduction is known as the development factor and is calculated based on the ratio of buildable area to critical area on a site.

While this method provides a structured approach to balancing development and environmental protection, it can be somewhat confusing and complex during the development review process, and typically does not result in a significant reduction of units or square footage. Additionally, the number of units or square footage on a site does not affect how critical areas are delineated or how buffers and setbacks are applied. Staff is working with the consultant team to determine

if reducing development yield on a site is necessary to ensure protection of a given critical area. This includes exploring whether prioritizing the clear and consistent delineation of critical area and buffer boundaries, rather than varying protections based on development scale or density, could offer a more effective and transparent way to protect environmental functions and values. Such an approach may help to preserve development potential while maintaining critical areas protection and supporting a more balanced model of growth and conservation, particularly as this standard applies in our growth corridor (i.e., BelRed, East Main, Eastgate, etc.).

Critical Aquifer Recharge Areas

Critical Aquifer Recharge Areas (CARAs) are designated areas with a critical effect on aquifers to recharge. These areas are important to protect because they play a key role in maintaining the quality and quantity of groundwater, which is often used for drinking water and other essential needs.

The land use code does not currently have a section addressing critical aquifer recharge areas. Staff is reviewing Ecology's recommended CARA code content, example language, and best practices to determine what will work best for the city. King County also has its own CARA regulations that can be referenced as well.

CARAs are typically categorized based on how susceptible they may be to groundwater contamination and relative proximity to a sole source aquifer or wellhead protection area. Bellevue contains a number of wellhead protection areas and adding a new section to regulate them will help protect the city's groundwater resources.