

Nesse, Katherine

From: Fay Hou <fayhou@gmail.com>
Sent: Friday, September 19, 2025 12:20 AM
To: Council; PlanningCommission
Subject: Re: Newport NAP – Inaccurate Data and Harmful Impacts Require Correction Before Adoption

Follow Up Flag: Follow up
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Dear Mayor, Councilmembers, and Planning Commissioners,

I am writing again regarding the Newport Neighborhood Area Plan (NAP), which has advanced based on data that is not only outdated but also misleading and unverifiable. Accurate information is essential for policies that truly serve our community, and I urge you to address these concerns before final adoption.

- 1.
- 2.
3. The "80% Homeownership" Claim Is Unverifiable and Inaccurate
- 4.

City staff recently stated they re-ran Census data for 2019–2023 and found homeownership in Newport Hills "close to 80%." This claim cannot be substantiated and appears fundamentally flawed.

The U.S. Census Bureau does not publish data for neighborhoods like Newport Hills; such areas are not recognized Census geographies. The only available sources are American Community Survey (ACS) 5-year estimates (e.g., 2019–2023), which are limited to standard areas like census tracts, block groups, or entire cities. For context, Bellevue's citywide owner-occupied housing rate is just 51.9% per these estimates. Any figure attributed specifically to "Newport Hills" is a staff approximation, not a direct Census output.

On my street alone (22 homes), less than 40% of homeowners occupied —far from "a little lower than 80%." This pattern extends across Newport Hills, contradicting the claim and highlighting how such approximations can mislead.

- 2.
- 3.
4. Homeownership Tenure
5. *Does*
6. Matter for the NAP—It's About Investment and Commercialization, Not Just Renters vs. Owners
- 7.

Staff has suggested that the NAP's policies serve the entire community regardless of whether homes are owner- or renter-occupied. While that's a valid point in isolation, it overlooks the deeper issue driving neighborhood instability: the rise in investor-owned properties used for business or speculation, which erodes residential character irrespective of whether units are rented out.

These aren't benign rental scenarios; they're symptoms of "neighborhood hollowing" that threaten stability, property values, and quality of life. Dismissing tenure differences ignores how investor dominance amplifies these pressures, making targeted safeguards in the NAP essential.

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5. Recommended Actions to Strengthen the NAP

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Even if the plan cannot be sent back for revision, the Council can direct staff to correct the record and bolster protections before adoption. I respectfully request that you:

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-
- Acknowledge the absence of standalone Census data for Newport Hills and remove the misleading
- 80% statistic to prevent further confusion.
-
-
-
- Amend policies S-NP-1 through S-NP-6 to require ongoing, neighborhood-specific ownership
- tracking via King County Assessor parcel data and analysis—supplementing, not relying on, ACS
- surveys.
-
-
-
- Incorporate language to monitor and regulate unlicensed commercial uses and speculative
- rental practices in single-family zones, ensuring fairness and long-term stability.
-

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6. Broader Regional Context

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Bellevue, including affordable enclaves like Newport Hills, has become a magnet for external capital following measures like Vancouver, Canada's ban on foreign housing investment. Without proactive policies in the NAP, we risk accelerating speculation, displacement, and loss of community fabric.

Thank you for your attention to this critical matter. I am available to discuss further and provide additional details. Protecting Newport Hills requires data integrity and policies attuned to on-the-ground realities—your leadership can make that happen.

Sincerely,

Fay Hou

On Tue, Sep 16, 2025 at 2:36 PM Fay Hou <fayhou@gmail.com> wrote:

Dear Mayor, Councilmembers, and Planning Commissioners,

I am writing to urge you not to adopt the Newport Neighborhood Area Plan (NAP) in its current form. The plan's Community Profile contains false data, and real conditions in Newport Hills are being ignored — leaving residents to bear the burden of unchecked investor activity and damaging development.

1. False “80% Homeownership” Claim

The draft NAP states:

Homeowner status: Own 80% / Rent 20% (Source: U.S. Census Bureau, 2018–2022 ACS).

This figure is misleading:

- **Census data does not exist for “Newport Hills.”** ACS only reports by census tracts and block groups. Staff has not disclosed which geographies were aggregated or the margins of error.
- **Survey data lags behind reality.** The 2018–2022 ACS averages five years. It cannot reflect the rapid investor buying and redevelopment happening right now.
- **Local reality is different.** On my street of 22 houses, more than 60% are investor-owned. That is the opposite of what the NAP claims.
- **2. On-the-Ground Impacts**
- The disconnect between the NAP and real conditions is dramatic:
 - **Businesses in single-family homes.** A piano school, a preschool, and a group home all operate out of houses on my block. One rental is owned by a landlord overseas — not legally allowed to enter the U.S. — yet still collects rent with no Bellevue business license or local tax contribution.
 - **Safety risks from construction.** During the project next door, contractors damaged my **gas pipeline** by using machinery to lift it. This was on top of the water intrusion and foundation cracks I've already experienced. These are not just inconveniences — they are dangerous conditions created by a project the City permitted and then failed to oversee.
 - **Lot split at 12530 SE 52nd St.** The City approved dividing one lot into two despite protective covenants recorded in 1960 that run with the land, automatically renew, and have never been amended. The owner received those restrictions in his 2021 title report. Neighbors are now forced to appeal the permit and fight to uphold protections that should have been honored by the City.
- These projects have created **conflict, anger, petitions, and even displacement** — long-time homeowners are moving away because they cannot live with the disruption.

3. Why It Matters

The NAP assumes Newport Hills is a stable, owner-occupied neighborhood. That assumption is false. Building zoning, housing, and infrastructure policies on incorrect data means the plan will not protect current residents or preserve neighborhood character.

4. My Requests

Before adoption, I respectfully ask the Council to:

1. **Return the NAP draft to the Planning Commission.**
2. Direct staff to publish the exact ACS tables, census geographies, and margins of error for the 80% claim — or remove the statistic if it cannot be verified.
3. Amend the NAP to include a policy under S-NP-1 through S-NP-6 requiring the City to track neighborhood-specific ownership using King County Assessor data and parcel-level analysis.
4. Add language directing the City to monitor unlicensed commercial uses and rental practices in single-family neighborhoods to protect stability and fairness.

Newport Hills is one of Bellevue's last affordable neighborhoods. That affordability is why investors target it: buy cheap, bulldoze, flip for profit. This neighborhood is at a critical juncture. The NAP must start with accurate data and clear protections for the people who live here now.

Sincerely,
Fay Hou
Newport Hills Resident

Nesse, Katherine

From: Veronica Shakotko <Vshakotko@mbaks.com>
Sent: Friday, September 19, 2025 1:58 PM
To: PlanningCommission
Cc: Mandt, Kirsten; Gallant, Kristina; Whipple, Nicholas; Horner, Rebecca D; Nesse, Katherine
Subject: Critical Area Ordinance Written Comments - September 24 PC Agenda
Attachments: 2025, 9-19 Bellevue PC CAO Comment Letter.pdf

Follow Up Flag: Follow up
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Dear Chair Goepple, Vice Chair Khanloo, and Planning Commissioners,

Thank you for the opportunity to share our input on the City's Critical Areas Ordinance update in advance of next Wednesday's study session. MBACKS represents nearly 2,500 members who work to create housing for current and future Bellevue residents. We support the City's goal to modernize its environmental code using current science and state law. At the same time, we encourage you to keep the code practical and predictable. It must also support Bellevue's goals for housing supply and timely permitting. We have outlined key concerns in the attached letter, focused on how these changes affect project feasibility and housing opportunity.

1. **Stream Buffer Measurement Changes** – Changing stream buffer measurements to use the ordinary high-water mark may reduce the buildable area on small or narrow lots. Even small buffer increases could stop a modest housing project.
2. **Tree Height Modeling and Buffer Widths** – Using projected tree height to set stream buffer widths adds uncertainty. It can lead to larger setbacks on sites that do not reflect those conditions. MBACKS recommends using current site conditions.
3. **Performance-Based Incentives and Flexibility** – We support tools that reward restoration or improved drainage with design flexibility. These allow creative solutions on small lots while protecting the environment.
4. **Habitat Corridors and Wetland Buffers** – New rules introduce confusion. Without mapped layers or clear thresholds, property owners face planning delays. We support more clarity and continued use of offsite mitigation tools.
5. **Geologic Hazard Areas on Previously Developed Slopes** – Many Bellevue lots include graded or engineered slopes that were stabilized years ago. These sites are often labeled as hazard areas even when development is safe. We support allowing new development when a qualified professional confirms slope stability.
6. **Reasonable Use Exceptions and Housing Types** – MBACKS supports allowing more than one unit under a Reasonable Use Exception when the impact on the environment stays the same. This is consistent with the City's broader housing goals.
7. **Critical Aquifer Recharge Area Regulations** – The City is reviewing possible new standards for aquifer recharge areas. Before adding more rules, we recommend checking whether current protections are working. Any changes should be based on real data and not add unnecessary cost.

MBAKS appreciates the Commission and staff for their thoughtful engagement with stakeholders throughout this process. We look forward to continued dialogue as this ordinance moves forward.

Best regards,
Veronica



Veronica Shakotko

Senior King County Manager

Master Builders Association of King and Snohomish Counties

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Economist, Council Member, Falls Church, VA



September 19, 2025

Bellevue Planning Commission
450 110th Ave. NE
Bellevue, WA 98004

RE: Critical Area Ordinance (CAO) – September 24 Agenda

Dear Chair Goepple, Vice Chair Khanloo, and Planning Commissioners:

The Master Builders Association of King and Snohomish Counties (MBAKS), with nearly 2,500 members, is the largest homebuilders' association in the U.S. We represent builders and developers who are working to create homes for current and future Bellevue residents. Many of our members also build infill and middle housing that must navigate these types of environmental regulations.

Thank you for the opportunity to provide comments on Bellevue's proposed updates to the Critical Areas Ordinance. We appreciate the thoughtful conversations from the Planning Commission and staff. This is a complex update that requires balancing science, regulations, and housing feasibility. We value the City's willingness to work with stakeholders to balance environmental protections with housing feasibility.

MBAKS offers the following comments on provisions that could affect regulatory certainty, development feasibility, and alignment with Bellevue's housing goals.

1. Stream Buffer Measurement Changes

The proposal to shift stream buffer measurements from the top of bank to the ordinary high-water mark introduces additional uncertainty and could significantly reduce the buildable area of residential lots. This change may disproportionately affect properties located along minor stream channels or in areas with steep topography. Even a few extra feet of buffer could reduce a lot's usable footprint, particularly in older neighborhoods with narrow parcels. In practice, this may force homebuilders to redesign projects, reduce the number of units, or abandon construction altogether. MBAKS urges the City to provide cumulative impact analysis and transparent buffer maps that allow applicants to assess feasibility early in the design process.

2. Tree Height Modeling and Buffer Widths

Using site potential tree height (SPTH) to determine buffer widths introduces a level of modeling abstraction that doesn't align with real-world conditions, particularly in urban settings. In neighborhoods with minimal canopy or disturbed stream corridors, these modeled assumptions may require large buffers that aren't justified by current site conditions. The risk is that applicants may face outsized mitigation costs or infeasible setbacks based solely on projections rather than environmental function. MBAKS recommends retaining flexibility to use observed site data.



3. Performance-Based Incentives and Flexibility

MBAKS appreciates the City's recognition that environmentally beneficial actions deserve regulatory flexibility. Many builders are willing to improve ecological function but only if those efforts provide predictable permit pathways. Current incentives are limited in scope. We recommend expanding performance-based approaches and integrating them directly into permit decision-making. For example, if a small-scale housing project enhances a degraded buffer, that benefit should support increased flexibility in layout or setback. These tools are especially valuable on tight sites where traditional standards would make housing infeasible.

4. Habitat Corridors and Wetland Buffers

New regulations around habitat corridors and wetland buffers add layers of complexity without clear thresholds or mapping. This ambiguity is problematic for builders attempting to assess feasibility during site selection or early design. A lack of defined standards introduces uncertainty about what types of mitigation will be required and how long the permitting process will take. This can delay investment decisions and increase holding costs. MBAKS encourages the City to publish publicly accessible GIS layers for wetland and habitat features, establish thresholds that trigger requirements, and continue supporting offsite mitigation options such as banking and in-lieu fees.

5. Geologic Hazard Areas on Previously Developed Slopes

MBAKS supports the City's effort to distinguish between natural steep slopes and engineered or altered slopes. Many properties in Bellevue include terraced yards, retaining walls, or previously permitted grading that has stabilized the land. However, the draft ordinance may still classify these as steep slope hazards, requiring expensive geotechnical studies that may not add any meaningful protection. MBAKS recommends exempting previously developed slopes from full hazard review when a qualified geotechnical professional certifies their stability and no new slope modification is proposed. This would reduce cost and delay for homeowners and builders alike.

6. Reasonable Use Exceptions and Housing Types

MBAKS supports proposed changes that clarify more than one home may be allowed under a Reasonable Use Exception (RUE), so long as overall site disturbance remains unchanged. This is important as Bellevue continues implementing middle housing policies. A property owner who chooses to build two smaller homes instead of one large structure, while maintaining the same footprint and impervious area, should be allowed to do so. This clarification will give staff clearer review criteria and ensure the code reflects Bellevue's evolving housing policies without compromising environmental protections.

7. Critical Aquifer Recharge Area Regulations

New rules for Critical Aquifer Recharge Areas (CARAs) should be grounded in evidence of need. MBAKS encourages the City to review performance data from existing CARA regulations to determine whether additional standards are warranted. In the absence of data showing failures or contamination, additional requirements risk adding cost and uncertainty without improving outcomes. Any future changes should be aligned with state and federal regulations to avoid duplication and inconsistencies.

Thank you again for your work on this important code update. MBAKS members appreciate the City's commitment to both environmental stewardship and housing opportunity. We look forward to continued dialogue as this ordinance moves forward.



Sincerely,

A handwritten signature in black ink that reads "Shakotko".

Veronica Shakotko
Master Builders Association of King & Snohomish Counties
Senior King County Government Affairs Manager

CC: Kirsten Mandt, Senior Planner
Kristina Gallant, Planning Manager
Nick Whipple, Code and Policy Director
Rebecca Horner, Development Services Director

Nesse, Katherine

From: Evan Lee <evnl.business@gmail.com>
Sent: Saturday, September 20, 2025 8:14 AM
To: PlanningCommission
Subject: Comment on stream buffers

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I think it is important to ask whether the buffers are gradated, whether there are multiple levels of land use depending on the distance from the critical area. Based on the docs, it is not clearly communicated whether there exists land use gradations. Ultimately, the goal is to minimize the externalities of adjacent land use while maximizing the benefits for our people. I think some level of the buffer should allow commuter bike and pedestrian routes similar to some sections of Eastrail. I believe these routes have relatively low intensity, make maintenance of the critical areas easier, and provide practical public value.

One more thing to ask is the tradeoff between buffer size and maintenance. Can we get away with a smaller buffer size by doing more maintenance? What can we do to make maintenance cheaper and easier?

Nesse, Katherine

From: Nesse, Katherine
Sent: Monday, September 22, 2025 2:17 PM
To: PlanningCommission
Subject: FW: critical areas code update and housing
Attachments: Bellevue SE 8th Critical Areas Update Memorandum Executive Summary 9.12.25.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Katherine (Kate) Nesse, PhD

Planning Manager & Planning Commission Liaison, Community Development Department

City of Bellevue

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Email: knesse@bellevuewa.gov

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From: Jessica Roe <jroe@mhseattle.com>
Sent: Monday, September 22, 2025 10:54 AM
To: Nesse, Katherine <KNesse@bellevuewa.gov>
Cc: Kennedy, Mariah <MKennedy@bellevuewa.gov>
Subject: RE: critical areas code update and housing

[EXTERNAL EMAIL] Use caution when clicking links or opening attachments.

Good morning,

Of course! My apologies I just used the email address another partner in our firm recommended.

Attached is a memo that summarizes our proposal, and today we are working on a comment letter that is shorter with some suggested amendments. Kate, I should have cc'd you, but Kirsten Mandt has this, and we have shared this with all other Commissioners.

Really appreciate your work on the CAO update and for your consideration of this input related to critical areas and TOD zones. Would be happy to hear any feedback or questions from both of you at the appropriate time or whenever is convenient for you.

Thanks!

Jessica L. Roe
Partner

McCULLOUGH HILL PLLC

701 Fifth Avenue, Suite 6600

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From: Nesse, Katherine <KNesse@bellevuewa.gov>
Sent: Monday, September 22, 2025 9:59 AM
To: Jessica Roe <jroe@mhseattle.com>
Cc: Kennedy, Mariah <MKennedy@bellevuewa.gov>
Subject: RE: critical areas code update and housing

Ms. Roe,
Commissioner Kennedy let me know that you sent a public comment to her work email address, not her planning commission email address. I would like to share this comment with the entire commission so they can all read your input. I will include it with the other written comments. Thanks!
Kate

Katherine (Kate) Nesse, PhD
Planning Manager & Planning Commission Liaison, Community Development Department
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Phone: 425-452-2042
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From: Jessica Roe <jroe@mhseattle.com>
Sent: Tuesday, September 16, 2025 10:55 AM
Cc: Mark Hoyt <mhoyt@crowholdings.com>
Subject: [EXTERNAL] RE: critical areas code update and housing

You don't often get email from jroe@mhseattle.com. [Learn why this is important](#)
hi Commissioner Kennedy,

Since I sent this Friday afternoon I thought I'd follow up. We know your schedule must be really tight, so appreciate you considering it. Also I'm attaching a summary of our proposal.

Thanks!

Jessica L. Roe
Partner
McCullough Hill PLLC
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Seattle, Washington 98104
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From: Jessica Roe
Sent: Friday, September 12, 2025 3:48 PM
Cc: Mark Hoyt <mhoyt@crowholdings.com>
Subject: critical areas code update and housing

Commissioner Kennedy,

We are working with Trammell Crow Residential on a proposed new 321 unit multifamily community in the EM-TOD zone (the Gateway Office building at 1400 SE 8th Street). We have reached a sticking point with degraded wetlands that are within the existing office parking lot under the City's current code. We believe there are two updates that could be included in the City's critical areas ordinance update that could facilitate housing within degraded wetlands or interrupted buffers like parking lots, while preserving and enhancing higher functioning critical areas on the majority of the site. Our proposed updates are consistent with Department of Ecology guidance and already incorporated in peer city codes on the east side, so we view this as a win-win policy choice for housing and critical areas enhancement.

The new EM-TOD zone has seen no new housing development since its implementation in 2021 and we believe most of the properties in the zone may encounter similar issues with the critical areas code. We have shared our proposed code updates with City staff and they are considering them. In the meantime, we'd like to share the proposal with you prior to your September 24th Planning Commission study session on the critical areas code update.

Would you have any availability sometime next week to meet on this? We're happy to do zoom or in-person, 30 minutes or less would be great. We can share more information before then.

Thanks in advance.

Jessica
cc- Mark Hoyt, Trammell Crow Residential

Jessica L. Roe
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MEMORANDUM – ATTORNEY CLIENT PRIVILEGED

TO: The City of Bellevue Planning Department

FROM: Kramer Canup (Soundview Consultants LLC), Ian Morrison, Jessica Roe

DATE: September 12, 2025

RE: Gateway Office Park Critical Areas Update Recommendations

The Gateway Office Park, located in 11400 SE 8th Street in Bellevue (“Property”) is currently developed with a 1985 office building and a surface parking lot. The Property is located within the East Main Transit Oriented Development Lower Density (“EM-TOD-L”) zone. The Land Use Code states the purpose of the zone is to “provide a mix of housing, office, retail, hotel and Open Space uses,” near the East Main Light Rail. LUC 20.25Q.010.B.2.b. In the Lower Density zone, the Code states the “Mercer Slough and associated wetland complex are prominent in the EM-TOD-L and development is intended to maximize connections to these natural features.” *Id.* The Property owner is proposing new development that would achieve both those goals - housing and maximization of connected wetlands - but it requires minor updates to the critical areas code consistent with current Department of Ecology Guidance and pier East side city codes. The below executive summary describes: the status of East Main TOD Vision; the opportunity for TOD housing; current critical areas code constraints; and two recommended amendments to align the goals of the City’s EM-TOD zone and critical areas code.

East Main Vision.

The City’s 2044 Comprehensive Plan states *“In 2035, the East Main station area is vibrant, livable and memorable transit-oriented neighborhood [...] Anchored by a variety of housing choices and [...] small walkable blocks.”* Policies S-SW-40, 41, and 43 require the promotion of housing choices and optimizing transit use and access. Policy S-SW-45 *“encourages development adjacent to Sturtevant Creek to enhance the stream corridor and wetlands as an amenity”*. The EM-TOD Zone was implemented in 2021 with the intention of facilitating housing and mixed-use development to leverage the investment in the East Main light rail station.

The East Main light rail station opened in 2024. No new housing development has occurred in the zone. Like the Gateway Office Park, properties within the zone are currently developed commercial properties with surface parking lots. Many of the sites are impacted by critical areas including Sturtevant Creek and associated stream and wetland associated buffers. With recent decline in office demand, there is a real opportunity now for investment in housing development on sites like the

Property with large surface parking lots. Paved parking lots are nonconforming to current wetland buffers, however, the current critical areas code prohibits redevelopment. Without minor updates to the critical areas code, these sites may remain undeveloped and the goal of new housing development in the EM-TOD zone will not be attainable.

TOD Housing Opportunity.

The owner proposes a new multifamily building including 321 new homes (“Project”) on the west side of the existing Property, currently used as surface parking for the 1985 office building. The project team has spent the past few months creating a win/win design that will: 1) further the City’s vision for adding housing options near light rail within the new EM-TOD zone 2) enhance and protect the highest value wetland area onsite. The Project requires filling a relatively small area (approximately 15,682 s.f.) of lower functioning, degraded Category III wetlands that are located within the existing 1985 parking lot. The wetlands are physically disconnected from the larger high functioning wetland complex. The Project would preserve and enhance the 102,755 s.f., high-quality Category II wetland associated with Sturtevant Creek. A preliminary critical areas delineation map prepared by Soundview Consultants is provided below.



A conceptual plan to add 321 new residential units which would require filling the degraded wetlands within the parking lot is shown below, prepared by Clark Barnes. The high functioning Category II wetland and Sturtevant creek to the east would be preserved and restored as mitigation for impacting the lower functioning Category III wetlands in the parking lot. Since the site would be required to meet current stormwater code, untreated stormwater runoff would no longer be discharged into the wetlands with the new development. The new development would have a robust stormwater treatment system that meets WSDOE’s standards and would significantly reduce pollutant runoff into the wetland and Sturtevant creek. The Project provides an excellent opportunity for both housing and ecological restoration on the site.



Current Code Constraints.

The new housing Project optimizes EM-TOD zoning but is infeasible under the current critical areas code. The code makes no allowance for direct wetland impacts without a qualified reasonable use exception nor for limited wetland buffer interruptions on existing nonconforming sites. The current “reasonable use” exception includes a threshold requirement that 90% of the property be encumbered by critical areas, which is not met here. However, updated Best Available Science and DOE guidance address circumstances like the Property, and should be included in the City’s Critical Areas Ordinance Update for specific zoning districts to allow for housing goals to be achieved. We have summarized two recommended opportunities to update the code below.

Recommended Updates.

Bellevue’s website states the Critical Areas Ordinance is “to strengthen environmental protections while *supporting responsible growth*”. The recommended updates “ensure regulations reflect the latest science and balance conservation with development needs.”

In general, Bellevue’s proposed CAO updates are even more stringent than the current Code. Best Available Science and Department of Ecology Guidance allow development within interrupted buffers and allow for impacting/filling lower functioning wetlands. This trade-off allows for investment in restoration of higher functioning wetlands. A “no-flexibility” approach to critical areas is no longer recommended, because it results in no new development, and nonconforming structures will remain in wetland buffers with no investment in restoration or enhancement. The below recommended allowances are a win-win solution for housing and ecological restoration that already exist in most other east-side city critical areas codes.

Recommendation 1: Waiver for Interrupted Buffers. The CAO update should include a discretionary buffer waiver/interruption for legally established paved parking lots and paved roads within LUC 20.25H.095. This would allow for modification of the minimum required buffer width to terminate at the edge of existing paved roadways, paved parking lots, and existing buildings. Buffer waivers/interruptions for functionally disconnected buffers is addressed at length in the DOE

Wetland Guidance for Critical Areas Ordinance (CAO) Manual at pg. 24. Kirkland, Woodinville, Redmond, and King County all have incorporated similar provisions within their critical areas codes. *See* KZC 90.120.1.b; WMC 21.51.310(4); KCC 21A.24.325C.4. The City's draft CAO update partially includes some buffer interruptions in LUC 20.25H.095.D.2.b; however, LUC 20.25H.095.D.2.b should expressly provide for buffer interruptions for commercial paved parking lots. This is supported by DOE Guidance and Best Available Science.

Recommendation 2: Modification of Lower Functioning Wetlands. Bellevue's CAO update should allow for modification and direct impacts to lower performing Category III and IV wetlands with a critical areas study if within the EM-TOD zone and where compensatory mitigation is provided. The City already allows for impacts to Category III and IV wetlands but only in very specific situations outlined in LUC 20.25H.055. See pages 25-26 and 35 of DOE CAO Guidance Manual for additional criteria on allowances for direct permanent wetland impacts. This direct wetland impact allowance for Category III and IV wetlands may be limited to high-density zones and especially near light rail where housing production should be prioritized. Compensatory mitigation should be required to offset impacts to wetlands. Redmond allows for direct permanent impacts to Category II, III, and IV wetlands per RMC 21.64.030.C, Kirkland allows for impacts to Category IV wetlands per KMC 90.60.2, and King County allows for wetland impacts under KCC 21A.21.045.B without a reasonable use exception.

Conclusion.

The City has seen no housing development within the EM-TOD zone. The critical areas update is an opportunity to align the goals of the critical areas code with the goals for housing and ecological enhancement of the EM-TOD zone. The Recommendations are consistent with Best Available Science and Department of Ecology Guidance, which prioritize the enhancement of higher quality wetlands over the preservation of disconnected, lower quality wetlands which have been degraded by existing commercial parking lots. This would allow for new housing on the existing parking lot at the Gateway Office Property, and developer-funded enhancement of the high-quality, connected wetlands to the east resulting in a win-win for the City.

Nesse, Katherine

From: Katie Kendall <kkendall@mhseattle.com>
Sent: Tuesday, September 23, 2025 11:18 AM
To: PlanningCommission
Cc: Nesse, Katherine
Subject: Comments on Critical Areas Ordinance, File 25-578
Attachments: 9.23.2025 Gaw Capital Letter to Planning Commission on CAO Ordinance.pdf

[EXTERNAL EMAIL] Use caution when clicking links or opening attachments.

Dear Commissioners,
Thank you for the opportunity to provide comments on the proposed Critical Areas Ordinance. Attached please find comments submitted on behalf of Gaw Capital Partners, the new owner of Bellefield Office Park.

Katie Kendall
Partner
McCULLOUGH HILL PLLC
701 Fifth Avenue, Suite 6600
Seattle, Washington 98104
Direct: 206.812.6964
Cell: 347.743.6265
kkendall@mhseattle.com
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September 23, 2025

VIA ELECTRONIC MAIL

Bellevue Planning Commission
City of Bellevue
450 110th Avenue NE
Bellevue, WA 98004

Re: Comments on Draft Critical Areas Ordinance, Agenda Item 25-578

Dear Commissioners:

Thank you for the opportunity to comment on the City of Bellevue's proposed draft Critical Areas Ordinance (CAO). We submit these comments on behalf of Gaw Capital Partners, the owner of Bellefield Office Park. As the recent purchaser of Bellefield, Gaw is excited to be part of the continued success of this unique asset in Bellevue.

We want to provide comments on the nonconforming provisions in the proposed CAO under LUC 20.25H.065 as we believe there are some areas that need clarification and improvement to allow existing nonconforming developments such as Bellefield to remain successful.

Existing Primary Structure

While the concept of the nonconforming existing primary structure has been generally removed from the Code, the key provisions regarding reconstruction in the event of casualty generally provides the same protection. However, the City has kept LUC 20.25H.095.D (wetlands) which provides that, "where a primary structure legally established on a site prior to August 1, 2006, encroaches into the critical area buffer or structure setback established in this section, the critical area buffer and/or structure setback shall be modified to exclude the footprint of the existing primary structure. Expansion of any existing primary structure into the critical area buffer or critical area structure setback shall be allowed only pursuant to the provisions of LUC 20.25H.065 (Nonconforming Sites and Uses)." That very same provision was inexplicably removed in the LUC 20.25H.075.C (streams). This creates confusion when a stream and wetland buffers overlap on a property.

Modification or Repair of Structures.

As the proposed CAO is structured, the explicit allowance for modification, repair and maintenance of nonconforming structures is proposed to be removed. In its place is a reference to modification or expansion of structures without a Critical Areas Land Use Permit. However, the criteria all relate to expansion, so it is unclear how planning staff will interpret such a provision when applying these criteria to future plans to simply modify a structure. In addition, subsections 4.a and 4.c conflict with one another, or are at a minimum, redundant. As the nonconforming structure is often nonconforming as to its location within a critical area buffer, a structure entirely within a critical area buffer would never be allowed to expand unless the expansion is "outside of required critical area

buffer.” In contrast, subsection 4.c then allows expansion so long as the expansion does not encroach further into the buffer. Subsection 4.c makes more sense, protects the critical area, and recognizes the ability to improve and maintain a site. This provision also better aligns with other eastside jurisdictions’ critical areas ordinances.

Modification or Repair of the Site

Within the City of Bellevue and the Bellefield development in particular, there is nonstructural development within stream and wetland buffers. Sites such as Bellefield include nonconforming structures but also include drives, exterior improvements, and landscaping, much of which is located within a critical area buffer. In this version of the CAO update, the City proposes in LUC 20.25H.065.C to retain the existing provision that prohibits changes to the nonstructural development unless it conforms to the regulations of this Code. This provision should be clarified.

For example, it is unclear what “changes” means in this context, and how a planner could interpret the term in the future. A common sense interpretation of this provision likely would not consider minor updates or repair as a “change.” However, keeping this provision as is represents a missed opportunity to clarify that site improvements within existing disturbed areas can be repaired and improved; indeed, depending on the interpretation of “change,” a tenant could be limited on its ability to repair or improve existing exterior improvements and would make it difficult to manage the campus. Importantly, prohibiting “change” could also limit the ability to make ecologically beneficial improvements to the campus. This provision is quite restrictive in comparison to other eastside jurisdictions as jurisdictions allow repair and improvements within disturbed areas of a critical area or buffer so long as the change does not further increase the nonconforming condition. The site should be treated similarly to the structure, and we recommend the Planning Commission adopt the same approach.

Based on the comments above, we recommend that the Planning Commission amend LUC 20.25H.065 as follows:

(New Section B.3). Normal maintenance, and repair, and reconstruction or remodeling of structures is permitted, provided that there is no increase to the existing nonconforming conditions of the structure.

B.4. Expansion or modification of a nonconforming structure may be allowed without a Critical Area Land Use Permit only under the following conditions:

- ~~a. Expansion is allowed outside of required critical area buffer.~~
- b. Existing structure may expand vertically to add upper stories.

- c. The expansion occurs within an existing improved area of the site (e.g., lawn, garden, patio, or other existing disturbed area) provided the expansion does not encroach further into the critical area buffer than the existing development;
- d. Any adverse impacts to the critical area or buffer are mitigated per LUC 20.25H.220;
- e. The Director determines that the proposed expansion will not result in significant additional impacts to critical area functions or values

C. Nonconforming Sites. Nonstructural development legally established within a critical area or critical area buffer prior to August 1, 2006, shall be considered a nonconforming site condition. A nonconforming site condition may be repaired or modified provided there is no increase to the existing nonconforming conditions of the site. not be changed unless the change conforms to the regulations of this code.

We thank you for your consideration of these comments and are happy to answer any questions.

Sincerely,

/s/ Katie Kendall
McCULLOUGH HILL PLLC

Nesse, Katherine

From: Jessica Roe <jroe@mhseattle.com>
Sent: Tuesday, September 23, 2025 11:51 AM
To: PlanningCommission
Cc: Mandt, Kirsten; Nesse, Katherine; Hoyt, Mark; Prepula, Chase; Kramer Canup; Ian Morrison; Sarah Willis
Subject: Critical Areas Update + TOD Housing
Attachments: 2025.09.23 Letter to Planning Commission TCR.pdf; Bellevue SE 8th Critical Areas Update Memorandum Executive Summary 9.12.25.pdf

You don't often get email from jroe@mhseattle.com. [Learn why this is important](#)

[EXTERNAL EMAIL] Use caution when clicking links or opening attachments.

Dear Commissioners,

Please find the attached comment letter and memo ahead of your study session tomorrow on the Critical Areas Update. We are looking forward to your discussion.

Thank you for your consideration.

Jessica L. Roe
Partner
McCULLOUGH HILL PLLC
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NOTICE: This communication may contain privileged or confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

September 23, 2025

Planning Commission
City of Bellevue
Email: planningcommission@bellevuewa.gov

VIA EMAIL

Re: Critical Areas Update and TOD Housing

Dear Commissioners:

Thank you for the opportunity to provide input on the City of Bellevue's ("City") Critical Areas Ordinance update. We appreciate the Bellevue staff and Planning Commission's work on the update so far. Trammel Crow Residential is evaluating converting the existing commercial parking lot on the Gateway Office Property (11400 SE 8th Street) into 321 new residential units ("Project"). The proposal is currently precluded by the critical areas code. Below, we have proposed amendments that would facilitate housing development while preserving and restoring higher quality wetland area onsite. We believe the proposed amendments present a win-win policy choice which will allow for new housing in TOD zones, while also providing restoration mitigation of higher quality wetland area onsite and overall improvements to stormwater management. A brief description is outlined below.

Opportunity for Housing. The proposed development would allow conversion of a paved commercial parking lot into 321 new housing units, just 1,800 feet from the East Main light rail station. The property is located in the East Main Transit Oriented Development Lower Density ("EM-TOD-L").

The Project requires filling a relatively small area (approximately 15,682 s.f.) of lower functioning, degraded Category III wetlands that are located within an existing 1985 Office parking lot. The Project would preserve and restore 102,755 s.f. of high-quality Category II wetland associated with Sturtevant Creek.

Since the critical areas code makes no allowance for impacts to degraded wetlands or interrupted buffers, the Project is infeasible, and the City's vision for housing in East Main may not be achieved here. We have attached proposed amendments consistent with Department of Ecology Guidance and other east-side cities which would allow for limited development where mitigation sequencing is met.

Cost of Status Quo. Without the proposed amendments, the proposed housing development is precluded by the critical areas code, and the 1985 Office parking lot will remain as a nonconforming structure located within current wetland buffers. This is a missed opportunity for ecological restoration of the expansive, Category II wetland onsite, and site-wide upgrades to stormwater management. Additionally, the City's vision for TOD housing in East Main will be unattainable. All of the properties within the EM-TOD zone are existing developed sites, and are likely impacted by critical areas.

Opportunity for Ecological Restoration. Redevelopment of the property would allow for the following restoration actions to be privately funded by the developer within the Category II wetland and

September 23, 2025

Page 2

Sturtevant Creek onsite in order to mitigate for the impacts to the degraded Category III wetlands located in the parking lot:

- Install native trees and shrubs within the Category II wetland and along the banks of Sturtevant Creek. Native plantings will increase the diversity of habitats and increase shading which will help cool the surrounding environment and reduce water temperatures within Sturtevant Creek which is very beneficial to the health of salmon species within the creek.
- Remove and control non-native invasive plant species within the Category II wetland and Sturtevant Creek. The wetland is currently dominated by non-native invasive reed canary grass which is preventing native plants from establishing and the reed canary grass is also choking out the stream channel and significantly reducing the habitat quality within Sturtevant Creek.

Precedence. As described in the attached memo, the proposed amendments are consistent with Department of Ecology Guidance interrupted buffer waivers and modification of lower functioning wetlands. See DOE Guidance Manual pp. 24-26, 35. These policies acknowledge that when impacting lower quality wetlands, there is opportunity to achieve net ecological improvements on existing nonconforming sites through restoration of higher value wetlands and streams. The proposed amendments are also consistent with other east-side cities, such as Redmond and Kirkland. Please see the attached memorandum with further details.

We hope you agree the proposed amendments would support both the goals of the critical areas code, as well as the housing goals for East Main. We look forward to hearing your feedback. Please do not hesitate to contact us with any questions.

Sincerely,



Mark Hoyt, Managing Director
Trammell Crow Residential



Kramer Canup
Senior Project Manager and Environmental Scientist

cc: Jessica Roe, McCullough Hill PLLC
Ian Morrison, McCullough Hill PLLC

Proposed Amendments to September 2025 Draft Critical Areas Update

LUC 20.25H.095.D.2-3:

2. Small Wetland Exemptions. Wetlands that meet the following criteria are not subject to the avoidance and minimization requirements of the mitigation sequence (LUC 20.25H.215) in accordance with the following provisions, and they may be filled if the impacts are fully mitigated. Impacts should be mitigated through the purchase of credits from a mitigation bank or in-lieu fee program. In order to verify whether the following criteria are met, a critical areas report is required per LUC 20.25H.230.

- a. All Category IV wetlands less than 4,000 square feet that:
 - i. Are not associated with riparian areas or their buffers;
 - ii. Are not associated with shorelines of the state or their associated buffers;
 - iii. Are not part of a wetland mosaic;
 - iv. Do not score 6 or more points for habitat function based on the Washington State Wetland Rating System for Western Washington per LUC 20.25H.095.C;
 - v. Do not contain priority habitat or species identified by the Washington Department of Fish and Wildlife and do not contain state or federally listed species or their critical habitat or species of local importance identified in LUC 20.25H.150.
- b. Wetlands less than 1,000 square feet that meet the above criteria are exempt from the buffer provisions contained in this Chapter.

c. Category III and IV wetlands within the EM-TOD zones that measure less than 7,500 s.f. may be filled if: the proposed development results in new housing; and the mitigation requirements of LUC 20.25H.215 are met.

3. Buffer Modification. Modifications to the wetland critical area buffer may be approved pursuant to this section.

- a. Buffer Averaging. Buffer averaging may be allowed if all the following criteria are satisfied. Proposals to average the wetland critical area buffer under this subsection shall require a Critical Areas Land Use Permit; provided, that a mitigation or

restoration plan is not required for buffer averaging. i. Buffer averaging may be approved only if the applicant demonstrates that a modification to non-critical area setbacks pursuant to LUC 20.25H.040 would not accommodate the proposed development in a manner consistent with its intended use and function;

i. Buffer averaging may be approved only if the applicant demonstrates that a modification to non-critical area setbacks pursuant to LUC 20.25H.040 would not accommodate the proposed development in a manner consistent with its intended use and function;

ii. Through buffer averaging, the ecological structure and function of the resulting buffer is equivalent to or greater than the structure and function before averaging;

iii. The total buffer area is not reduced;

iv. The buffer area is contiguous; v. Averaging does not result in any impact to slope stability and does not increase the likelihood of erosion or landslide hazard;

vi. Averaging does not result in a significant adverse impact to habitat associated with species of local importance;

vii. At no point is the critical area buffer width less than 75 percent of the required buffer dimension; and

viii. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a qualified professional through the critical areas report process and a mitigation plan as applicable.

b. Transportation or Utility Infrastructure. Where a legally established right-of-way, railroad right-of-way or other similar infrastructure of a linear nature, or commercial parking lot, crosses a wetland critical area buffer, the edge of the improved right-of-way or parking lot shall be the extent of the buffer, if the part of the critical area buffer on the other side of the right-of-way provides insignificant biological or hydrological function in relation to the portion of the buffer adjacent to the wetland.



MEMORANDUM – ATTORNEY CLIENT PRIVILEGED

TO: The City of Bellevue Planning Department

FROM: Kramer Canup (Soundview Consultants LLC), Ian Morrison, Jessica Roe

DATE: September 12, 2025

RE: Gateway Office Park Critical Areas Update Recommendations

The Gateway Office Park, located in 11400 SE 8th Street in Bellevue (“Property”) is currently developed with a 1985 office building and a surface parking lot. The Property is located within the East Main Transit Oriented Development Lower Density (“EM-TOD-L”) zone. The Land Use Code states the purpose of the zone is to “provide a mix of housing, office, retail, hotel and Open Space uses,” near the East Main Light Rail. LUC 20.25Q.010.B.2.b. In the Lower Density zone, the Code states the “Mercer Slough and associated wetland complex are prominent in the EM-TOD-L and development is intended to maximize connections to these natural features.” *Id.* The Property owner is proposing new development that would achieve both those goals - housing and maximization of connected wetlands - but it requires minor updates to the critical areas code consistent with current Department of Ecology Guidance and pier East side city codes. The below executive summary describes: the status of East Main TOD Vision; the opportunity for TOD housing; current critical areas code constraints; and two recommended amendments to align the goals of the City’s EM-TOD zone and critical areas code.

East Main Vision.

The City’s 2044 Comprehensive Plan states *“In 2035, the East Main station area is vibrant, livable and memorable transit-oriented neighborhood [...] Anchored by a variety of housing choices and [...] small walkable blocks.”* Policies S-SW-40, 41, and 43 require the promotion of housing choices and optimizing transit use and access. Policy S-SW-45 *“encourages development adjacent to Sturtevant Creek to enhance the stream corridor and wetlands as an amenity”*. The EM-TOD Zone was implemented in 2021 with the intention of facilitating housing and mixed-use development to leverage the investment in the East Main light rail station.

The East Main light rail station opened in 2024. No new housing development has occurred in the zone. Like the Gateway Office Park, properties within the zone are currently developed commercial properties with surface parking lots. Many of the sites are impacted by critical areas including Sturtevant Creek and associated stream and wetland associated buffers. With recent decline in office demand, there is a real opportunity now for investment in housing development on sites like the

Property with large surface parking lots. Paved parking lots are nonconforming to current wetland buffers, however, the current critical areas code prohibits redevelopment. Without minor updates to the critical areas code, these sites may remain undeveloped and the goal of new housing development in the EM-TOD zone will not be attainable.

TOD Housing Opportunity.

The owner proposes a new multifamily building including 321 new homes (“Project”) on the west side of the existing Property, currently used as surface parking for the 1985 office building. The project team has spent the past few months creating a win/win design that will: 1) further the City’s vision for adding housing options near light rail within the new EM-TOD zone 2) enhance and protect the highest value wetland area onsite. The Project requires filling a relatively small area (approximately 15,682 s.f.) of lower functioning, degraded Category III wetlands that are located within the existing 1985 parking lot. The wetlands are physically disconnected from the larger high functioning wetland complex. The Project would preserve and enhance the 102,755 s.f., high-quality Category II wetland associated with Sturtevant Creek. A preliminary critical areas delineation map prepared by Soundview Consultants is provided below.



A conceptual plan to add 321 new residential units which would require filling the degraded wetlands within the parking lot is shown below, prepared by Clark Barnes. The high functioning Category II wetland and Sturtevant creek to the east would be preserved and restored as mitigation for impacting the lower functioning Category III wetlands in the parking lot. Since the site would be required to meet current stormwater code, untreated stormwater runoff would no longer be discharged into the wetlands with the new development. The new development would have a robust stormwater treatment system that meets WSDOE’s standards and would significantly reduce pollutant runoff into the wetland and Sturtevant creek. The Project provides an excellent opportunity for both housing and ecological restoration on the site.



Current Code Constraints.

The new housing Project optimizes EM-TOD zoning but is infeasible under the current critical areas code. The code makes no allowance for direct wetland impacts without a qualified reasonable use exception nor for limited wetland buffer interruptions on existing nonconforming sites. The current “reasonable use” exception includes a threshold requirement that 90% of the property be encumbered by critical areas, which is not met here. However, updated Best Available Science and DOE guidance address circumstances like the Property, and should be included in the City’s Critical Areas Ordinance Update for specific zoning districts to allow for housing goals to be achieved. We have summarized two recommended opportunities to update the code below.

Recommended Updates.

Bellevue’s website states the Critical Areas Ordinance is “to strengthen environmental protections while *supporting responsible growth*”. The recommended updates “ensure regulations reflect the latest science and balance conservation with development needs.”

In general, Bellevue’s proposed CAO updates are even more stringent than the current Code. Best Available Science and Department of Ecology Guidance allow development within interrupted buffers and allow for impacting/filling lower functioning wetlands. This trade-off allows for investment in restoration of higher functioning wetlands. A “no-flexibility” approach to critical areas is no longer recommended, because it results in no new development, and nonconforming structures will remain in wetland buffers with no investment in restoration or enhancement. The below recommended allowances are a win-win solution for housing and ecological restoration that already exist in most other east-side city critical areas codes.

Recommendation 1: Waiver for Interrupted Buffers. The CAO update should include a discretionary buffer waiver/interruption for legally established paved parking lots and paved roads within LUC 20.25H.095. This would allow for modification of the minimum required buffer width to terminate at the edge of existing paved roadways, paved parking lots, and existing buildings. Buffer waivers/interruptions for functionally disconnected buffers is addressed at length in the DOE

Wetland Guidance for Critical Areas Ordinance (CAO) Manual at pg. 24. Kirkland, Woodinville, Redmond, and King County all have incorporated similar provisions within their critical areas codes. *See* KZC 90.120.1.b; WMC 21.51.310(4); KCC 21A.24.325C.4. The City's draft CAO update partially includes some buffer interruptions in LUC 20.25H.095.D.2.b; however, LUC 20.25H.095.D.2.b should expressly provide for buffer interruptions for commercial paved parking lots. This is supported by DOE Guidance and Best Available Science.

Recommendation 2: Modification of Lower Functioning Wetlands. Bellevue's CAO update should allow for modification and direct impacts to lower performing Category III and IV wetlands with a critical areas study if within the EM-TOD zone and where compensatory mitigation is provided. The City already allows for impacts to Category III and IV wetlands but only in very specific situations outlined in LUC 20.25H.055. See pages 25-26 and 35 of DOE CAO Guidance Manual for additional criteria on allowances for direct permanent wetland impacts. This direct wetland impact allowance for Category III and IV wetlands may be limited to high-density zones and especially near light rail where housing production should be prioritized. Compensatory mitigation should be required to offset impacts to wetlands. Redmond allows for direct permanent impacts to Category II, III, and IV wetlands per RMC 21.64.030.C, Kirkland allows for impacts to Category IV wetlands per KMC 90.60.2, and King County allows for wetland impacts under KCC 21A.21.045.B without a reasonable use exception.

Conclusion.

The City has seen no housing development within the EM-TOD zone. The critical areas update is an opportunity to align the goals of the critical areas code with the goals for housing and ecological enhancement of the EM-TOD zone. The Recommendations are consistent with Best Available Science and Department of Ecology Guidance, which prioritize the enhancement of higher quality wetlands over the preservation of disconnected, lower quality wetlands which have been degraded by existing commercial parking lots. This would allow for new housing on the existing parking lot at the Gateway Office Property, and developer-funded enhancement of the high-quality, connected wetlands to the east resulting in a win-win for the City.

Nesse, Katherine

From: Charlie Bauman <charlie@gtcptl.com>
Sent: Tuesday, September 23, 2025 4:04 PM
To: PlanningCommission
Subject: 9.24.2025 Planning Commission meeting comment - Critical Areas Update
Attachments: 9.24.2025 CAO Comment Letter.pdf

[EXTERNAL EMAIL] Use caution when clicking links or opening attachments.

Good afternoon Commissioners – I am submitting the attached letter in response to the latest draft of the Critical Area Ordinance which will be presented in a study session to Planning Commission tomorrow night. I have not been able to give this latest draft as thorough of a review as I'd like, but I am sending these high-level comments now, to provide the Commission time to review. A summary of the main points is also listed below.

My intent is to spend more time in the coming days drafting a detailed section by section code response to this latest draft, and will share this with staff and this Commission over the coming weeks.

As I've shared many times previously, this CAO is highly challenging to make work with housing in Bel-Red around light rail, but some good progress is being made, though I believe we are still a ways away from a code draft that will see real success. More work to be done. Thank you for the Commission's focus on this important topic.

- **Bel-Red needs tailored rules** – It is highly degraded but also the state's largest housing opportunity; a uniform CAO will not work here.
- **Private redevelopment drives restoration** – Streams won't improve unless redevelopment is feasible; incentives must align with this reality.
- **Expand daylighting incentives** – Apply equally to piped, degraded, and armored channels; restoring whole stream corridors should be the goal.
- **Make restoration feasible** – Waive the 20-foot setback in restoration cases and cap buffers at 50 feet, with further reductions allowed through averaging or performance measures.
- **Deliver real buffer flexibility** – Add the missing provisions for meandering and armored streams, and test them with property owners before adoption.
- **Reward ecological gains** – Re-meandering projects that add stream length should earn buffer reductions to offset lost land area.
- **Bellevue has clear legal authority** – The GMA standard is "no net loss" at today's baseline; urban-specific, incentive-based codes are defensible and consistent with Best Available Science.
- **CAO and LUCA must be aligned** – Buffers, streets, and setbacks interact; without reviewing them together, regulations risk sterilizing sites and blocking both housing and restoration.

Regards,

Charlie Bauman
GT Capital
charlie@gtcptl.com
(425) 802-3352

September 24, 2025

To: Bellevue Planning Commission

From: Bel-Red Evergreen Center Property

Re: Comment Letter to Bellevue Planning Commission – Critical Areas Ordinance Update

Dear Planning Commissioners,

Thank you for the opportunity to comment on the draft CAO update. Over the past two years, myself and others have advocated for a performance-based critical areas code as the best way to address degraded areas like Bel-Red. A performance code has the highest likelihood of success in complex, degraded urban areas, enabling housing while achieving real stream restoration. But it has become clear that such an approach is too complex to implement directly into the code.

To deliver an improved CAO in a reasonable timeframe—and give Bel-Red the best chance to build housing and restore its streams—the City should focus on **predictable, workable incentives** within the framework staff has presented. I respectfully ask the Planning Commission to direct staff to advance the following:

- **Bel-Red is unique**
 - Unlike most of Bellevue, Bel-Red is paved and degraded, with little existing ecology.
 - It is also the state's single largest housing opportunity district, surrounded by Microsoft, Downtown Bellevue, and four regional light-rail stations.
 - A “one-size-fits-all” CAO approach will not work here; Bel-Red requires tailored provisions. Bel-Red's critical areas will only ever be improved if private property can feasibly redevelop.
- **Broaden and increase the daylighting incentive**
 - Current draft only applies to piped streams. In Bel-Red, streams like Goff Creek run through a mix of pipes and degraded, armored channels.
 - Restoration of channelized streams should be incentivized equally; improving the whole stream is what matters.
 - In cases where large-scale restoration is undertaken, the 20-foot structural setback should be waived outright, and the 50-foot buffer should be treated as the maximum requirement, with further reductions allowed through averaging or performance-based measures. This ensures restoration is feasible while still producing ecological gain.

- **Buffer flexibility**
 - Staff’s memo indicated buffer flexibility for degraded streams that are re-meandered or armored. This provision does not appear in the draft CAO but should be further developed and tested with property owners for feasibility.
 - Incentives should also recognize when private projects add stream length by re-meandering channels. For example, converting a 300-foot straightened ditch into 450 feet of re-meandered stream should qualify for buffer reductions to offset the added land take.
- **Legal authority**
 - Under the Growth Management Act (GMA), Bellevue has broad discretion to balance housing and environmental goals. No single goal is prioritized.
 - The legal threshold is “**no net loss**” of function relative to today’s degraded baseline—not full restoration to pristine conditions.
 - The City may go further by creating incentives for redevelopment that actively improves conditions (e.g., daylighting, re-meandering, riprap removal).
 - The GMA Hearings Board has upheld urban-specific standards in other cities when supported by Best Available Science. Bellevue is on firm legal ground to adopt Bel-Red-specific provisions, consistent with this Commission’s direction.
- **Integrate CAO with Bel-Red LUCA**
 - The CAO cannot be meaningfully evaluated in isolation. Its impacts are inseparable from the Bel-Red LUCA, which is not yet available.
 - Without knowing how streets, setbacks, and other land-take requirements will apply, we cannot judge how wide buffers will affect feasibility.
 - If the City imposes both wide buffers and new streets—as has been the precedent to date—much of Bel-Red will become unbuildable, and the opportunity for both housing and restoration will be lost.
 - The CAO and LUCA must be reviewed together so the combined impacts are fully understood.

Thank you for considering these comments. Bel-Red is both Bellevue’s greatest housing opportunity and one of its greatest restoration opportunities. A workable CAO is essential to achieving both goals.

Sincerely,

Charlie Bauman

Nesse, Katherine

From: Jodie Alberts <jodie@bellevuechamber.org>
Sent: Wednesday, September 24, 2025 10:49 AM
To: Villaveces, Andres; Ferris, Carolyn; Goeppeler, Craighton; Khanloo, Negin; Lu, Jonny; Kennedy, Mariah; Nilchian, Arshia; PlanningCommission
Cc: Jessica Clawson; Joe Fain
Subject: PLUSH CAO Comment Letter (9/24)
Attachments: PLUSH Critical Areas Letter_09.24.2025.pdf

[EXTERNAL EMAIL] Use caution when clicking links or opening attachments.

Chair Khanloo and Planning Commissioners,

On behalf of the Bellevue Chamber's PLUSH Committee, please accept the attached letter regarding the proposed Critical Areas Ordinance (CAO) update.

We appreciate the positive steps in the draft—removal of man-made steep slopes from regulation and elimination of the critical areas density penalty—and outline our concern that the ordinance expands buffers beyond what is required under state law, particularly in already urbanized, transit-oriented areas such as Bel-Red. To meet our housing goals, it is imperative that we understand how these changes could affect the ability to redevelop sites.

Thank you for the opportunity to help shape an ordinance that both safeguards (and enhances) natural systems and supports Bellevue's housing and economic-development objectives.

Warmly,
Jodie

Jodie Alberts | Vice President of Government Affairs

Bellevue Chamber of Commerce

M: 901.834.4261 | O: 425.213.1206 | E: jodie@bellevuechamber.org

330 112th Ave. NE, Suite 100, Bellevue, WA 98004



PLUSH COMMITTEE

Permitting, Land Use, Sustainability, & Housing

bellevuechamber.org

425-454-2464

staff@bellevuechamber.org



September 24, 2025

Planning Commission
City of Bellevue
P.O. Box 90012
Bellevue, WA 98009

RE: Comments on Proposed Critical Areas Ordinance Update

Dear Chair Khanloo and Commissioners,

On behalf of the Bellevue Chamber PLUSH Committee, thank you for the opportunity to comment on the proposed Critical Areas Ordinance (CAO) update.

We are pleased to see that the ordinance removes man-made steep slopes from regulation and eliminates the critical areas density penalty. These are positive steps that bring the code into closer alignment with practical realities and encourage responsible redevelopment.

However, we remain deeply concerned that the ordinance as drafted goes far beyond what is required under state law. Washington State law requires only that critical area regulations achieve no net loss of function, based on existing on-the-ground conditions. That baseline does not assume, nor does it mandate, the expansion of buffers in all circumstances. Yet the proposed ordinance calls for expanded buffers almost across the board, without sufficient consideration of site-specific realities.

This is particularly problematic in already urbanized areas, where creeks and wetlands are highly altered or degraded, often with pavement, pipes, or other hardscape directly at their edges. Applying significantly larger buffers in these existing nonconforming contexts is not only of questionable scientific benefit but also poses serious conflicts with the City's housing, economic development, and transit-oriented development (TOD) goals. These degraded areas will continue to pollute critical areas as a direct result of this policy choice.

One stark example is Goff Creek and West Tributary in the Bel-Red corridor, where the proposed ordinance would double the buffer. This action would directly undercut the City's long-standing planning objectives in Bel-Red, a designated TOD area intended to accommodate growth near light rail. Expanding buffers without thoughtful integration into the urban fabric will have the effect of disincentivizing redevelopment in precisely the areas where the City most wants to see it occur.

We strongly recommend that the Planning Commission request case studies from staff and the City's consultants that clearly illustrate:

- Current buffer widths in key areas;
- Proposed buffer widths under the draft ordinance;
- The implications for redevelopment potential, particularly in TOD corridors; and
- How the City expects to reconcile these expanded buffers with its housing and growth targets.

These visual representations and practical examples are essential for the Planning Commission and City Council to fully understand the real-world impacts of this ordinance before moving it forward. We are in a moment where the Planning Commission need to be asking these questions so that we do not inadvertently tie our hands and do not achieve the outcomes we are looking for under the new growth mandates of the Comprehensive Plan.

The PLUSH Committee urges the Commission to ensure that the CAO is calibrated to balance environmental protection with the City's other critical policy priorities, especially housing production and urban development near transit.

Thank you for your consideration. We look forward to continuing to engage on this important issue.

Sincerely,



Jodie Alberts
Vice President, Government Affairs



Jessica Clawson
PLUSH Committee Chair

Nesse, Katherine

From: Jessica Clawson <jessica@mhseattle.com>
Sent: Wednesday, September 24, 2025 11:11 AM
To: Nesse, Katherine; PlanningCommission
Cc: Sepler, Robert
Subject: CAO comment letter
Attachments: CAO letter.pdf

[EXTERNAL EMAIL] Use caution when clicking links or opening attachments.

Hi Kate,

Here's my comment letter for tonight. Thanks!

September 24, 2025

VIA ELECTRONIC MAIL

Bellevue Planning Commission
City of Bellevue
450 110th Avenue NE
Bellevue, WA 98004

Re: Critical Areas Ordinance Update – No-Net-Loss Rule and Redevelopment

Dear Commissioners,

We are writing to provide comments regarding the ongoing updates to Bellevue's Critical Areas Ordinance (CAO). In particular, we would like to address the no-net-loss standard and the application of buffers to redevelopment sites.

Washington State law requires local governments to ensure **no net loss of ecological function**, based on the *current condition* of a site. Importantly, the statute does not mandate the imposition of significant buffers in every circumstance. Rather, it requires outcomes that maintain or improve ecological function, consistent with the existing condition of critical areas. To quote from the Growth Management Hearings Board: "Ultimately, a CAO must ensure there is no net loss of the critical areas ecological functions and values; said another way, the CAO must ensure the critical area's functions and values are not further degraded. This is true because the legislature imposes a duty to protect critical areas, which is not the same as enhancing them." (emphasis added), *Port Gamble S'Klallam Tribe v. Kitsap County*, GMHB Case No. 24-3-000c, FDO June 20, 2025, citing WAC 365-190-080, *Swinomish Indian Tribal Cmty. V. WWGMHB*, 161 Wn.2d and 430 (2007).

The Growth Management Act (GMA) further requires that local jurisdictions utilize the **best available science** (BAS) in crafting critical areas regulations. If a jurisdiction departs from best available science, it must "identify the information in the record that supported the departure, explain the rationale for the departure and identify the potential risks to the functions and the values of the critical area." *Id.* There is credible BAS demonstrating that allowing for redevelopment of urban sites with significantly reduced buffers can have a net benefit to critical areas values and functions. To put it another way, the BAS certainly does not support the imposition of large buffers that would result in degraded areas polluting critical areas in perpetuity. We are concerned that the proposed regulations may result in sites that remain in their current, degraded condition—producing no environmental gain and, in fact, perpetuating environmental harm.

We urge the Planning Commission to provide clear guidance to staff that the CAO should **encourage the redevelopment of already developed sites** in ways that restore and improve ecological function. Without such provisions, the city risks discouraging redevelopment and locking in degraded site conditions, which is counter to the no-net-loss standard and the overall intent of the

law. We believe that the Planning Commission should have a clear understanding as to what the City's legal obligations are in drafting its critical areas ordinance. The current draft appears to ignore the on-the-ground conditions, which is not consistent with the legislature's direction in the GMA.

In summary, we respectfully request that your recommendations to staff emphasize:

1. The no-net-loss requirement is described to you clearly, and an explanation of why it is not being based on existing conditions should be made.
2. Redevelopment of previously developed and currently nonconforming sites should be recognized and incentivized as a key opportunity to achieve environmental improvement. This is consistent with best available science and GMA.
3. Existing nonconforming sites in a developed condition should be given opportunities to reclaim significant amounts of the area that will be lost to the buffers proposed in this legislation.
4. A request that the best available science related to already-developed sites should be reviewed and specifically considered in this critical areas ordinance update. This consideration of best available science is legally-required.
5. A 15% reduction to a buffer as an incentive to daylighting a creek is not nearly enough when the city proposes a doubling of a buffer requirement. This is a disincentive to the behavior the City purports to want.

Thank you for your consideration, and for your work to ensure Bellevue's critical areas regulations are effective, legally sound, and environmentally beneficial.

Sincerely,

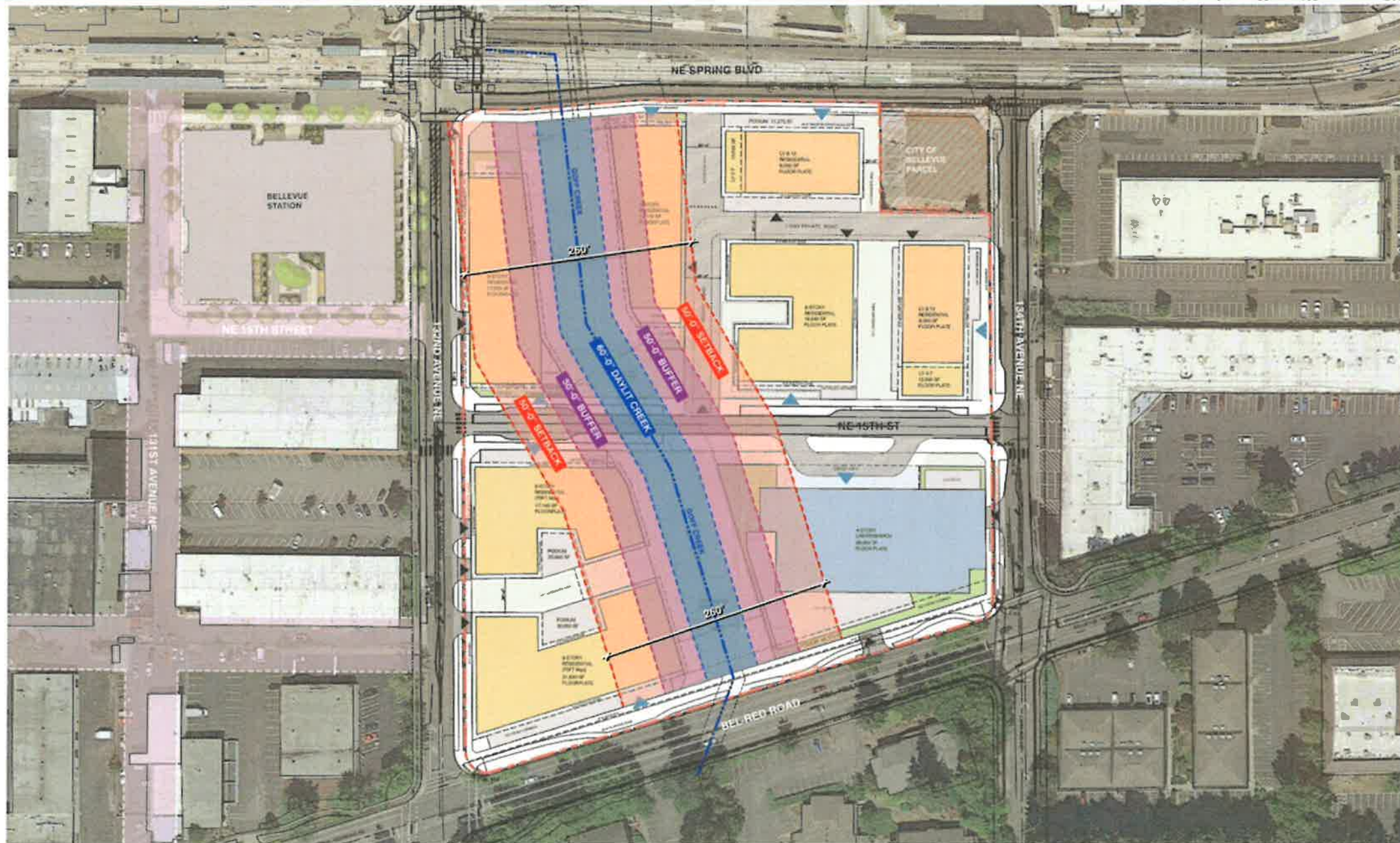
/s/

Jessie Clawson

McCULLOUGH HILL PLLC

Cc: Robbie Sepler, City Attorney

Goff Creek Impacts



Nesse, Katherine

From: David Burg <david_burg@hotmail.fr>
Sent: Thursday, September 25, 2025 2:32 PM
To: PlanningCommission
Subject: Affordable housing FAR / area coverage bonus

Vous n'obtenez pas souvent d'e-mail à partir de david_burg@hotmail.fr. [Pourquoi c'est important](#)

[EXTERNAL EMAIL] Use caution when clicking links or opening attachments.

Hello,

I wanted to take the opportunity to share with you that the FAR bonus appears to be too low to result in the desired outcome of affordable units.

I am working with architects to plan the redevelopment of my lot from SFH into row houses in an R-5 zone. At the default FAR ratio of 1, we can fit 4 family-oriented row houses of 4 BR each.

The 5- or 6- units bonus for affordable housing, however, doesn't allow preserving the same width for the row houses; and wall to wall width is essential for this type of building to be attractive to tenants.

Instead, we would have to switch to a stacked flats design. While on the surface the stacked flat design increases the efficiency of the use of the building's space by putting stairs or elevator in common, it comes with a series of serious drawbacks. The stacked flats have higher construction cost (per sqft), individual covered parking or roof top decks are no longer achievable, units shrink and the renters' appeal drop (neighbors above and below).

As the cost goes up and the value does down, the economics just don't pencil out.

Hence, I recommend for the commission to consider a *combined* lot coverage and FAR bonus for making affordable housing units pencil out.

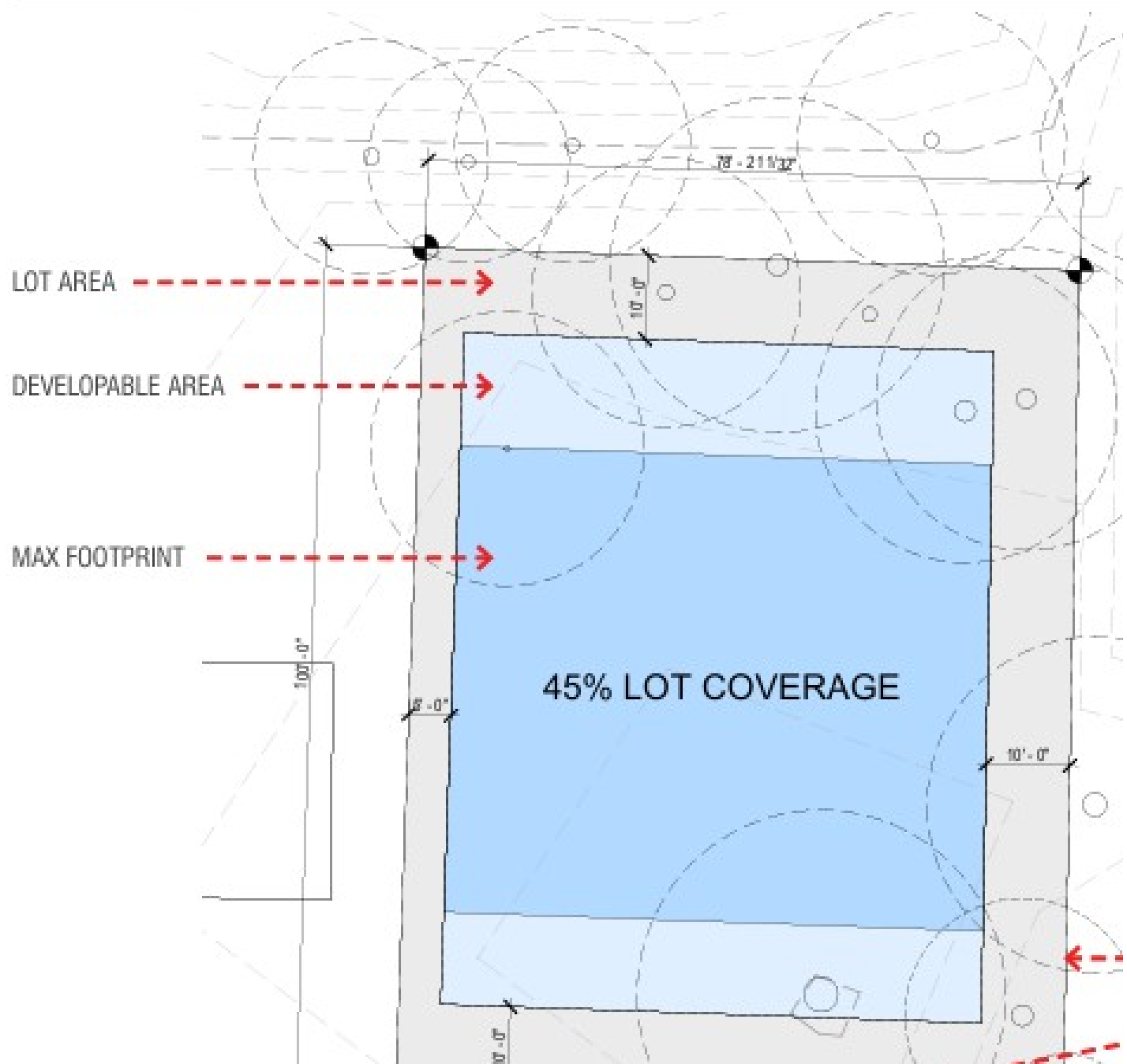
And consider that this needs to be *more* than linear to pencil out: an affordable unit is by definition bringing less value to the developer. If I can develop n regular units of x value at cost y, the additional z affordable units with value < x must bring an incentive higher than the n regular units already deliver.

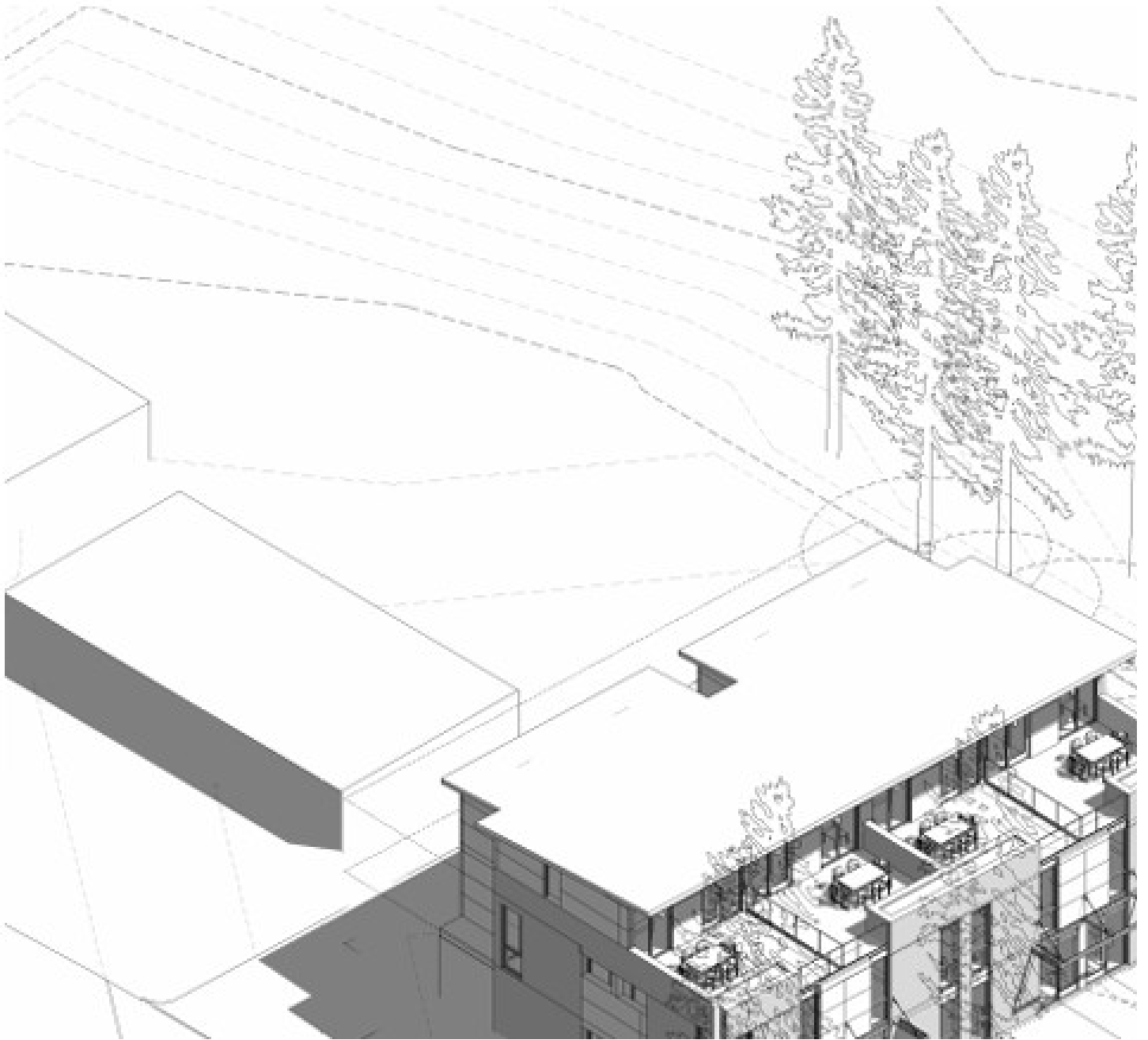
I understand that the commission is not providing feedback on individual projects, and I am not requesting it. I am asking however that the commission grounds its work in the reality of actual such projects, such that the rule proposal it comes up with deliver on the intended outcome. Developers are economic rational actors, so the commission must propose something which economics works out.

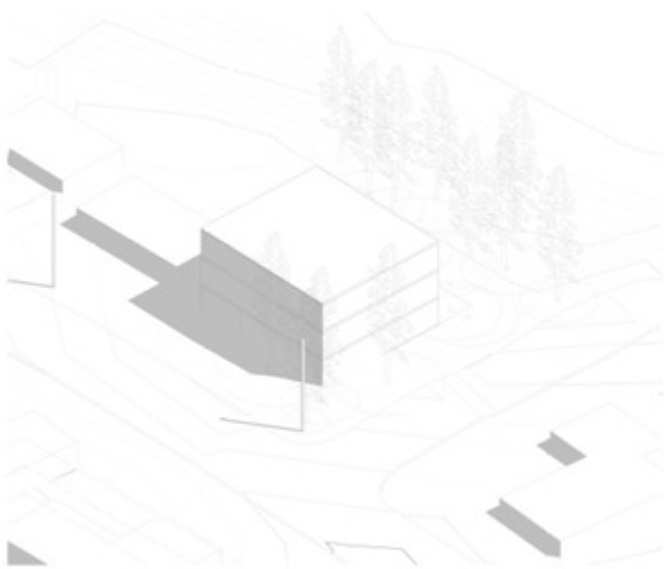
Let me know if you would like a more detailed discussion, or review how your possible code change proposal would work out to tip the economics' balance in favor of affordable units.

With regards,

David Burg.







OPTION F - STACKED FLATS

TOTAL UNITS:	6 UNITS
AVERAGE UNIT:	1,777 SF
TOTAL AREA:	10,662 SF
FAR:	1.3

PROS:

- MAX BUILDABLE AREA AND UNIT COUNT
- (NOTE: 2-UNITS MUST BE AFFORDABLE)

CONS

- ENCLOSED PARKING SHARED, LARGE AREA
- UNITS SMALLER THAN TOWNHOUSES
- ELEVATOR NOT REQUIRED BUT ENCOURAGED

Nesse, Katherine

From: leesgt@aol.com
Sent: Friday, September 26, 2025 12:00 PM
To: PlanningCommission
Subject: September 24, 2025

Follow Up Flag: Follow up
Flag Status: Flagged

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I saved my comments on the results of the Public Comments until now because I was so impressed by the way you all handled it. I thought I might intervene at the beginning before it started but seeing how you all responded to Alex's comments and the follow on commentators, I felt it was entirely unnecessary. Your response was so mature to Alex's off commission agenda, normal off color, inappropriate, hate filled rhetoric and harsh name calling of our Deputy Mayor that I was amazed and pleased. By doing so, the follow-on presenters were listened to carefully and thoughtfully without being sidelined by what just happened with Alex. You all ROCK!!! (I think that this process that has so often been shown by our fantastic Deputy Mayor is a true understanding of what free speech is about. We have to let people vent or there may be other results either in the city chambers or at other places that may cause more problems. I feel if I had said anything at the time you wouldn't have recognized this wonderful result and realized that it had only to do with you.)

I was impressed by the opportunity to share in your training exercise. It was educational and reaffirming for me to be a part of it. (I couldn't answer any of the questions about Bellevue. Often not even closely.)

The discussion about Critical Areas Ordinance LUCA was another highlight for me. Staff presented very clearly the information that needed to be understood, the input gathered sources, and the areas of concern. This allowed you to analyze and determine the things that were missing while affirming the things that were well understood. In the end it was a recognition of some things that proved unclear and may need more clear and may also need to be made more flexible. It went long but it engaged everyone. Outstanding! This is a critical subject and not simple to plan for future environmental dangers.

All in all, this was a great, productive night. I say this believing that if the city at large had witnessed this night with you, they would also share the "You all did well" statement or even include an ovation as well.

Lee Sargent

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Bellevue, WA 98008

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Mobile: 206-861-6140

Nesse, Katherine

From: Meghan Laakso <meghan9laakso@yahoo.com>
Sent: Monday, September 29, 2025 9:31 PM
To: PlanningCommission
Subject: Newport Hills development

Follow Up Flag: Follow up
Flag Status: Flagged

[You don't often get email from meghan9laakso@yahoo.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

[EXTERNAL EMAIL] Use caution when clicking links or opening attachments.

Comments submitted on behalf of Mary Crow,94, who has lived in Newport Hills since the 1950s.

“We have more than enough apartments per capita in our community. Traffic is bad enough and there is no room for more commuters. This will impact air quality due to the extra traffic which is unacceptable. Developers ruined the community feeling in Lake Hills and now that’s what is going to happen to us. I do not support this development in my neighborhood”.

Nesse, Katherine

From: Ann Brashear <abrashear@comcast.net>
Sent: Tuesday, September 30, 2025 10:47 AM
To: PlanningCommission
Subject: Public Comment on "HOMA" Initiative as of September 30, 2025

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL EMAIL] Use caution when clicking links or opening attachments.

Dear Planning Commissioners and Deputy Mayor Malakoutian,

Late last spring the Commission decided to delay full consideration of the HOMA initiative because there were too many other things on the calendar, consideration would have been too rushed, and it was clear that the public had not been broadly informed about the details of HOMA and its implications for their neighborhoods or areas of interest. I understood the Commission would take up HOMA again after the summer break, and that the Commission wanted the city staff working on HOMA to use the intervening time to do a better job of informing the public. I see that the staff has created an online brochure that describes HOMA with a very broad brush; and I infer from some of the previous public comments that discussions have happened with certain members of the public (including the newly branded “Newport Coalition”). Earlier this month staff conducted two online information sessions, of which I got notice presumably because I’m already on the “keep me informed” list for HOMA (interestingly, the session I attended was set up so that participants could not see who else was participating – whether this was the intention or not, the effect was to prevent participants from identifying each other and perhaps forming groups to work together on common interests).

I cannot discern that anything more has been done – to inform members of the general public who are not already aware and engaged in HOMA but whose neighborhoods or livelihoods will be affected, or to fully communicate the proposed HOMA changes and their implications to those of us who are already engaged.

Instead the staff has been working behind the scenes and has produced and quietly released another strike draft of HOMA. To call out just one unexplained change: I would very much like to know why the words “neighborhood-serving” have been replaced throughout the draft by “pedestrian-oriented.” (What is wrong with the “neighborhood-serving” descriptor?) When I see “pedestrian-oriented” I don’t just think “located adjacent to sidewalks,” I think “no or very limited parking.” No or limited parking would be the kiss of death for many of the businesses operating now in Newport Hills (not least because they serve as in-person gathering places for large groups: post-game pizza for kids’ sports teams, team batting practice, informal Newport High alumni nights, CrossFit events), and for the types of businesses I would like to continue to see in our neighborhood center. Even forget about large gatherings – there is no usable public transportation, and no-one is going to walk or bike a mile on a dark, rainy January evening to go out to eat. They

will get in their cars and, if there's no easy parking, they will go elsewhere. Newcastle Commons is not a good model for Newport Hills.

At several points in the Comp Plan update process the Commission and subsequently the Council considered height limits for the Neighborhood Centers, and after much public input and deliberation reached the sensible decision to keep the smaller NB and CB properties at their current limit of roughly four stories. The proposed HOMA changes quietly change the potential limit to 60 feet (5+ stories), while staff claims that those changes simply are consistent with the Future Land Use Map.

The current owner of the Newport Hills Shopping Center parcel, Rainier NW, has been actively involved in supporting HOMA, suggesting changes and shopping a concept for how that property could be redeveloped. Many of their ideas sound attractive. However, until plans and financing are in place for a specific project, it's all pie-in-the-sky. Anything can and probably will happen in the development process. So the Commission's (and staff's, and the public's) working assumption needs to be that what eventually gets developed will be whatever the zoning permits that will produce the most profit for the owner(s) and developer(s). Therefore the city's land use code, including any changes made as a result of HOMA, will be the only guardrails, and those changes need to be carefully thought through with each specific affected neighborhood in mind.

My comments are focused on Newport Hills as always. But so far Newport Hills seems to be the only neighborhood under discussion. This process now appears to be an inappropriate *de facto* site-specific zoning change.

In any case I think trying to use a one-size-fits-all citywide approach, as HOMA is doing, may be a bad idea because the mixed-use properties HOMA is aimed at are so different from one another – the HOMA changes may not actually be “the next right work” for any of them.

I am not afraid of change. I know some amount of change is inevitable, and some kinds of change are desirable. I will welcome those desirable changes. But I will oppose changes that remove value from my neighborhood, and changes made to serve planning concepts that don't fit Newport Hills.

As always, thank you for your thoughtfulness in helping to guide our city's future.

Ann Brashear

Nesse, Katherine

From: Tong Lin <tonglin1@hotmail.com>
Sent: Wednesday, October 1, 2025 1:02 AM
To: PlanningCommission
Subject: Feedback for HOMA

You don't often get email from tonglin1@hotmail.com. [Learn why this is important](#)

[EXTERNAL EMAIL] Use caution when clicking links or opening attachments.

Hi,

I'm living Newport Hills. I got a newsletter from Newport Hills Community saying that a program HOMA is now planning, and I'd like to present my concern regarding of it.

As I understood that HOMA will make the current Newport Hills shopping center to a mixed-used area. My big concern is about the traffic. Currently there are only a few roads that we can use to get off the Newport Hills area. During some peak time, the traffic is very bad. When the mix-used area is built, a lot more people will be here which could make the traffic horrible. I hope there is a plan also for the traffic issue when talking about HOMA. Otherwise I don't think HOMA is a good plan without considering the traffic solution.

Thanks
Tong

Sent via the Samsung Galaxy S24+, an AT&T 5G smartphone
获取 [Outlook for Android](#)