Bellevue Planning Commission

July 23, 2025

PLANNING COMMISSION STUDY SESSION ITEM

SUBJECT

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

STAFF CONTACT(S)

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POLICY ISSUES

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

Bellevue last conducted a major update to its CAO in 2006. Since then, limited amendments to the CAO have been adopted to address specific regulatory needs. The proposed LUCA to update the City's CAO is necessary to maintain compliance with the GMA and meet the state-mandated deadline of December 31, 2025.

This update will incorporate BAS to align Land Use Code (LUC) regulations with current, science-based environmental best practices while balancing the need for enhanced environmental protections with the City's growth priorities outlined in the recently adopted Comprehensive Plan. Additionally, the update will help ensure the City remains eligible for grants, loans, and other state and federal funding for public projects and infrastructure.

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

- **Policy CL-52:** Use geotechnical information and an analysis of critical areas functions and values to evaluate the geologic and environmental risks of potential development on geologically hazardous areas and implement appropriate controls on development.
- **Policy CL-54:** Use specific criteria in decisions to exempt specific small, isolated or artificially created steep slopes from critical areas designation.
- **Policy CL-87:** Require and provide incentives for the opening of piped stream segments during redevelopment where scientific analysis demonstrates that substantial habitat function can be restored, and where the cost of restoration is not disproportionate to the community and environmental benefit.
- **Policy CL-88:** Preserve and enhance native vegetation in Critical Area buffers and integrate suitable native plants in urban landscape development, considering species' climate resilience.

- **Policy CL-100:** Use prescriptive development regulations for critical areas based on the type of critical area and the functions to be protected; and as an alternative to the prescriptive regulations, allow for a site specific or programmatic critical areas study to provide a science-based approach to development that will achieve an equal or better result for the critical area functions.
- **Policy CL-106:** Facilitate the transfer of development potential away from critical areas and the clustering of development on the least sensitive portion of a site.

This project will include changes to the LUC, predominantly to the Critical Areas Overlay, Part 20.25H LUC.

DIRECTION NEEDED FROM THE PLANNING COMMISSION

ACTION	DIRECTION	INFORMATION ONLY
☐	☒	☐

The goal of this study session is to provide Planning Commission with an overview of an early preliminary draft LUCA, focusing on the policy areas where Council prioritized at project initiation. Staff is asking for feedback on the proposed direction of these policy areas that will be integrated into the next version of the draft for the September 24 study session.

BACKGROUND/ANALYSIS

June 25 Study Session

At the June 25 study session, Planning Commissioners had questions and comments related to the following topics:

- Reasonable use exception
- Measuring stream buffers from top-of-bank versus ordinary high-water mark
- Performance-based strategies
- Site potential tree height

Reasonable Use Exception (RUE)

Additional detail was provided at the June 25 study session around RUEs and some of the proposed changes to the code which include:

- Simplifying and consolidating requirements
- Expanding the allowance for the number of units so long as the footprint is the same
- Continuing to ensure the same minimization of impacts to critical areas

Top-of-Bank versus Ordinary High-Water Mark (OHWM)

Commissioners discussed the use of top-of-bank versus OHWM in delineating buffers for streams, with staff recommending a change to using OHWM based on the BAS and the project consultant's recommendation. There were some additional questions around the potential environmental impacts of using one method versus the other. Per the gap analysis provided June 25, OHWM is the industry standard, and the best practice supported by regional training and state and federal guidance. It provides a more consistent and ecologically relevant reference point by identifying the area subject to

water flow. This helps ensure buffers protect the areas of the stream corridor most important for water quality, habitat, and riparian function.

In comparison, "top of bank" can be less reliable, especially in areas with low or poorly defined banks. OHWM offers a clearer, field-verifiable marker that improves consistency in implementation without weakening protections for critical areas.

Performance-Based Strategies

There was a lot of discussion around what approach should be taken regarding stream and wetland buffers, particularly in urbanized environments. While performance-based strategies are a tool that can be utilized to incentivize mitigation, there is also a limitation as to the extent to which these can be applied due to the regulatory framework in Washington State under the Department of Ecology. A more performance-based approach essentially permits an applicant to propose buffers below the standard buffers where it can be demonstrated that there is still no net loss of functions and values to the critical area based on proposed improvements to offset the reduction. The draft includes some performance-based strategies that are utilized to provide an incentive for daylighting streams to remove culverts and improve fish passage, and adjusting the channelization of streams where the alteration creates an improvement to the stream and may also provide a benefit to the site design.

Site Potential Tree Height Analysis

The consultant team has conducted mapping analysis to determine the potential impacts of adopting the Washington Department of Fish and Wildlife's (WDFW) recommended methodology using Site Potential Tree Height (SPTH), to establish Riparian Management Zones (RMZs) and define stream buffers. Some of the key data points that have resulted from that analysis include:

- Bellevue's current average stream buffer is 85.5 feet
- Applying SPTH method produced a range between 100 and 231 feet, with a large proportion of buffers falling within a range between 187 and 196 feet.
    - This is more than 80 feet larger than our current largest standard buffer for a fish bearing stream or shoreline of the state at 100 feet.
- 87% of all Bellevue stream buffers would be larger under SPTH
- Only 13% of all streams in the city would have the same buffer with either method applied, and there are no instances where a stream buffer would decrease

In light of these findings, and based on Council's direction to balance housing growth, environmental protection, and to simplify our LUCA approach, it was determined that the SPTH methodology is not consistent with this direction. The substantial increase in buffer widths could significantly constrain redevelopment opportunities within our growth areas. Improvement of riparian areas typically occurs through the redevelopment process, and the implementation of significantly larger buffers may preclude the ability for sites to redevelop, thereby allowing degraded conditions, particularly in our industrial centers, to persist. Instead of incorporating SPTH, the LUCA includes alternative approaches that better align with Council's goals. This includes new language for vegetation standards for streams and requiring larger buffers where adequate mitigation measures and vegetation are not provided. This approach supports critical area protection while maintaining the flexibility needed to accommodate growth and redevelopment. These strategies are consistent with other riparian management strategies included in the guidance from WDFW.

Components of Draft Code

Some of the key components of the draft based on the BAS, consultant analysis, and feedback from Planning Commission and public engagement are described below:

Stream Buffers & Daylighting Incentives

Proposed Code Component	**Background & Rationale**
Maintain current stream typing and buffer methodology	• Potential impacts in our urban transit-oriented-development areas (such as BelRed, East Main, and Wilburton) would make redevelopment infeasible for many parcels under the SPTH buffer methodology, precluding improvements to sensitive areas that occur through redevelopment given the large increase in the typical buffers noted above. • Requiring larger buffers doesn't necessarily result in an improved environmental condition. • Reflects direction from Council and Planning Commission to facilitate redevelopment
Amend code to use Ordinary High-Water Mark (OHWM) to delineate streams rather than Top-of-Bank	• OHWM is the standard and provides consistency amongst jurisdictions • Provisions to account for increased measurement where slope or floodplain intersects with stream channel • Reflects staff proposed direction to streamline the code where feasible and find areas for consistency with other jurisdictions
Introduce performance-based incentives for daylighting and moving streams	• Provides a pathway for a non-standard buffer approach for situations where we want to incentivize rehabilitation • Would need to demonstrate net gain rather than just no net loss • Reflects the desire for daylighting streams in urbanized environments that are already degraded • Reflects direction from Planning Commission and stakeholder feedback around including flexibilities and performance-based strategies to balance development

Wetland Buffers

Proposed Code Component	**Background & Rationale**
Update habitat score	• Shift needed to align with updated requirements from the Department of Ecology
Add language regarding buffer vegetation standards for wetlands	• Allows for smaller buffers where the buffer is in an adequately vegetated condition, and larger buffers where revegetation and mitigation is not provided

	• Continued inclusion of wetland buffer averaging as a tool
Add language requiring habitat corridors as part of the minimization measures for smaller buffers	• Included as guidelines from the Department of Ecology in order to permit smaller buffers

Human-made Slopes

Proposed Code Component	**Background & Rationale**
Add exemption request allowance for any general geologic hazard area where it can be shown that the area was manmade	• Current regulations that define steep slope hazards categorize many slopes as hazards which result in steep slope buffers that may not be necessary to ensure safety and reduces the buildable area of a site

Development Factor and Residential Density

Proposed Code Component	**Background & Rationale**
Remove Density/Intensity Calculation in LUC 20.25H.045	• Current approach does not significantly reduce development yield, but does introduce unnecessary complexity • The existing buffer, setback, and mitigation standards are sufficient to protect critical areas without adding another layer of limitation. • Helps streamline the code and facilitate review

Public Engagement

For additional detail, see the public engagement plan provided as an attachment to the May 28th meeting materials.

1. Process IV Requirements. Process consistent with Chapter 20.35 LUC procedural requirements to provide opportunities for public comment, including:
   - Notice of Application and Notice of Public Hearing
   - Public hearing on the proposed LUCA with Planning Commission

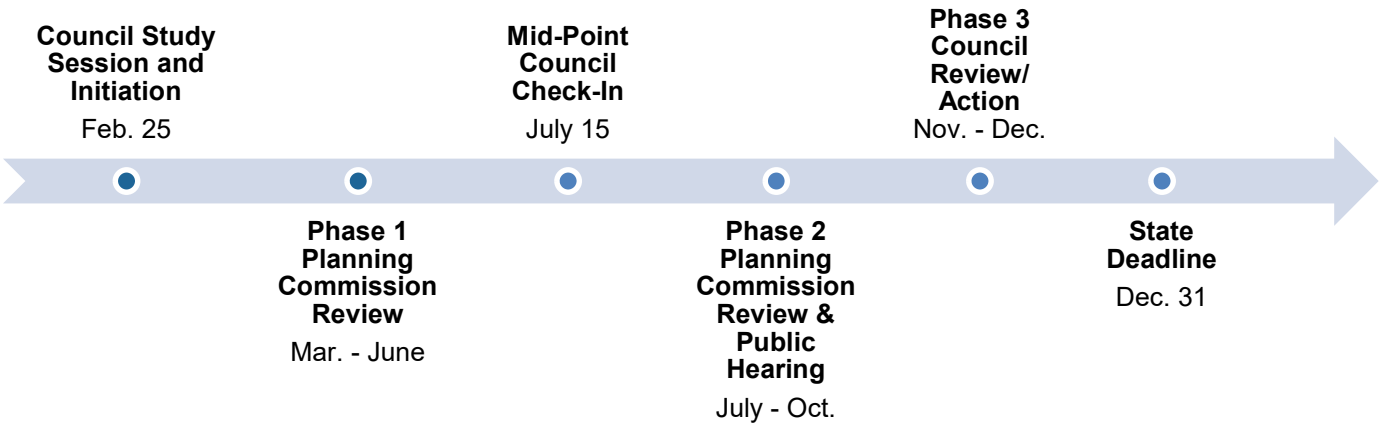
2. Online Presence. A dedicated city webpage with project information, FAQs, the latest LUCA draft, point of contact for questions, and instructions for submitting comments.

3. Direct Engagement and Feedback. Ongoing discussions with residents, environmental groups, the development community (including the Bellevue Development Committee), and King County and neighboring cities to gather feedback and ensure a range of voices are heard.

4. Community Workshops. Two workshops were held, one on June 16 and one on July 7, to discuss BAS updates and regulatory implications, as well as to gather feedback on proposed changes.

5. Virtual Public Information Session. An interactive online event where the public can review and provide feedback on the draft CAO in a convenient, accessible format.
    - August 7th virtual, 6:30-7:30pm

LUCA Schedule



ATTACHMENT(S)

A. CAO Update LUCA Early Preliminary Strike Draft