

CRITICAL AREAS OVERLAY AMENDMENTS

*CODE CONSISTENCY UPDATE TO THE
COMPREHENSIVE PLAN*

September 12, 2016

Meeting Objectives

- Present the Technical Reports
- Present the Gap Analysis and Introduce Mandated Code Amendments
- Answer Council Questions
- Receive Council Direction
 - *Schedule Public Hearing for October 3, 2016 on narrowly tailored Critical Areas Overlay Update amendments to demonstrate compliance with state law and ensure consistency between the CAO and the SMP*
 - or*
 - *Provide alternative direction*

BACKGROUND

- August 3, 2015: Council adopted Comprehensive Plan Update
- May 2, 2016: Council adopted Resolution No. 9094
 - *Public hearing held to document GMA compliance of development regulations April 18, 2016*
 - *Council found compliance applies to all development regulations except for critical areas*
- June 16, 2016: Department of Commerce
 - *Congratulated City on completion of the Comprehensive Plan Update*
 - *Noted that Critical Areas Update still needs to be completed*



STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000 www.commerce.wa.gov

June 16, 2016

The Honorable John
Stokes Mayor of
Bellevue
450 110th Ave NE
Bellevue, Washington 98009

RE: Adopted Resolution No. 9094 regarding an analysis of development regulations currently in effect in the city for consistency with the requirements of Chapter 36.70A RCW.

Next Steps to Complete the Periodic Update

RCW 36.70A.130(1) requires that counties and cities take action to review and revise, if necessary, their comprehensive plans and development regulations, including their critical areas ordinances every eight-years. At this time, it appears you still need to finalize the review and update of your critical area regulations and your deadline to complete that and remain in compliance with the update requirements of the Growth Management Act (GMA) is June 30, 2016.

Upon completion, please send the adopted ordinance or resolution to Commerce and notify the department that the update is complete. This will assure that we update our records and show your community as eligible for grants and loans that require GMA compliance.

BACKGROUND

- August 1, 2016: Council provided direction on the Critical Areas Overlay Update to:
 - *Conduct a narrowly tailored code amendment to the Critical Areas Ordinance (CAO), aimed at maintaining the City's development requirements under the Growth Management Act*
 - and*
 - *Advance the code package to the City Council for public hearing to accomplish the State-mandated CAO update as quickly as possible to maintain grant eligibility*
- Tonight
 - *Presentation of Technical Reports*
 - *Introduction of Gap Analysis and Mandated Code Amendments*

Critical Areas in LUC 20.25H

- Streams
- Wetlands
- Geologic Hazardous Areas
- Habitats Associated with Species of Local Importance
- Frequently Flooded Areas

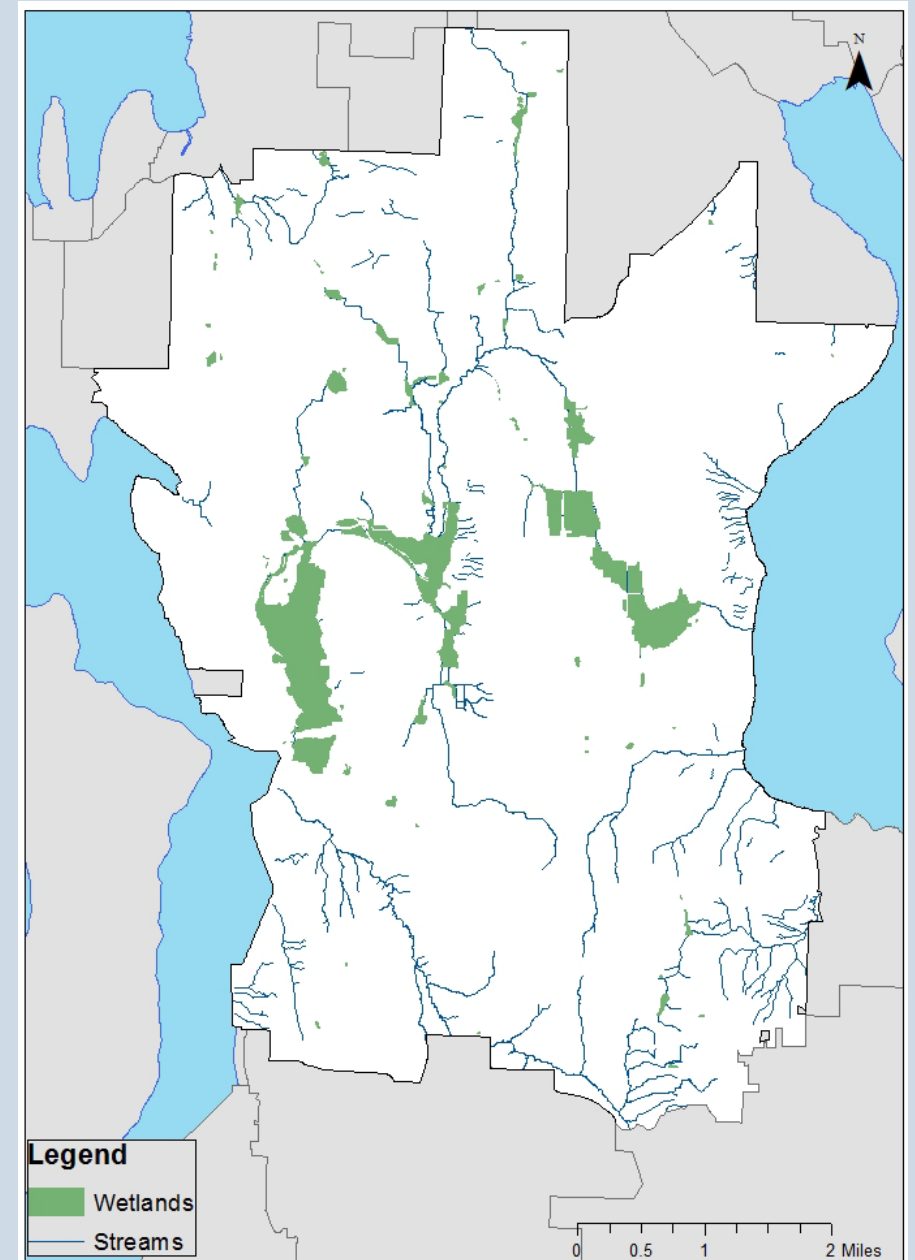
BEST AVAILABLE SCIENCE UPDATE

Streams

- Stormwater Effects on Salmonids
 - *Pre-spawn mortality in coho salmon*
 - *Acute and chronic effects of stormwater constituents*
 - *Treatment effectiveness*
- Buffer functions
 - *River continuum*
 - Small streams are significant for stream functions
 - *Sediment, nutrients, temperature, invertebrates*
 - Site specific conditions affect effectiveness
 - Densely vegetated buffers are most effective
 - *Large Woody Debris*
 - Debris often removed in urban environments because of undersized culverts
 - Density objectives for large wood in streams

Wetlands

- Delineation
 - *Federal manual and regional supplement*
- Rating
 - *2014 Ecology Rating*
 - *Retains Category 1-4, but changes criteria and range of scores*
- 2013 Ecology Review of Buffer Widths
 - *No change in range of recommended widths*
- Credit- debit and third-party mitigation
 - *2008 Joint Rule preference for mitigation banking and in lieu fee programs*

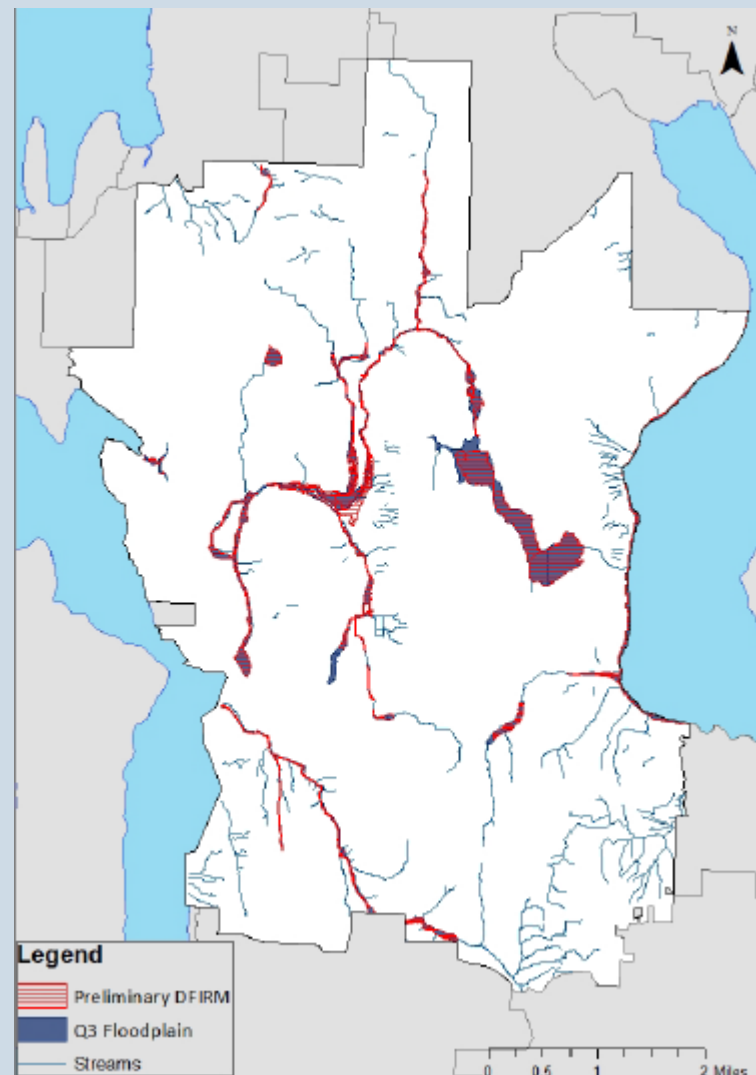


Habitats Associated with Species of Local Importance

- 23 species in current code
- State and federal listings have changed since 2005
 - *Bald eagle (federally de-listed, proposed removal from State sensitive list)*
 - *Peregrine falcon (proposed removal from State sensitive list)*
 - *Merlin (no longer State candidate species)*
 - *Osprey (no longer priority species)*
 - *Oregon spotted frog (listed as federally threatened)*
 - *Western toad (no longer a species of concern)*
- Some species do not have specific management recommendations
 - *Osprey*
 - *Green heron*
 - *Red-tailed hawk*
 - *Western toad*

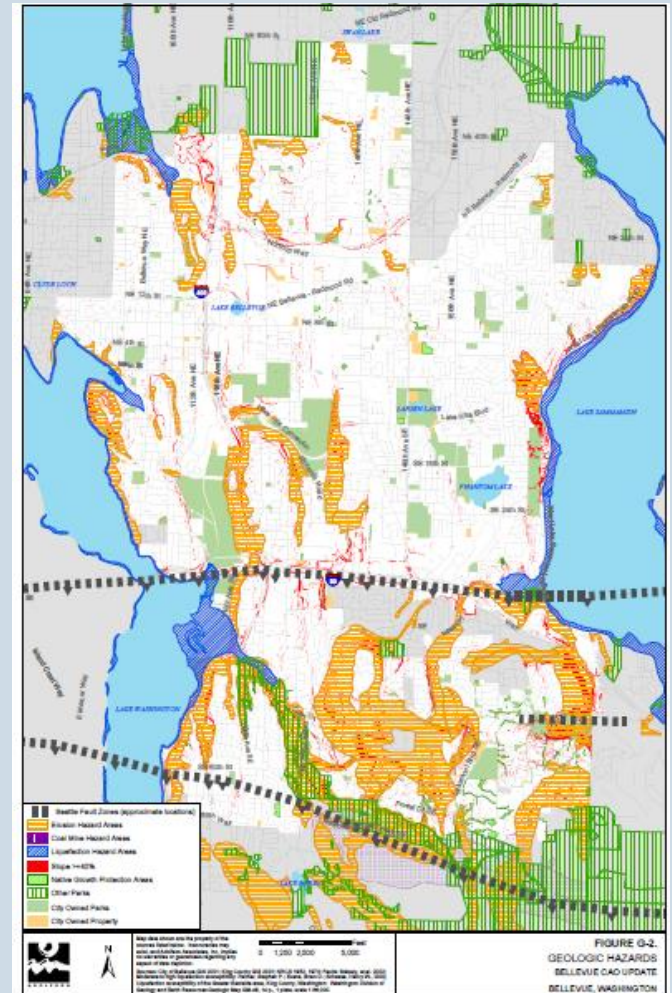
Areas of Special Flood Hazard

- 2008 Biological Opinion relating to effects of floodplain development in Puget Sound region on listed salmonids and southern resident killer whales
 - *Cities/Counties required to ensure development standards meet minimum requirements*



Geologic Hazardous Areas

- Recognition of variability in landslide toe runout distances following Oso landslide
- New information (2008) indicates location of the Seattle Fault is farther northward in Bellevue than previously mapped



Critical Aquifer Recharge Areas

- Addressed in 2005 Best Available Science, but not included in current code
- Bellevue served by Cascade Water Alliance, and public water supply is available to areas that currently use wells
- Since 2005, Bellevue annexed Hilltop neighborhood with Class A well; not designated as CARA under King County code
- City has several emergency wells not currently used for potable water
- Wellhead Protection Plans are required for public wells, but not yet for emergency well since they do not supply potable water

GAP ANALYSIS AND CODE AMENDMENTS

Designation of Critical Areas and Dimensional Standards

Table 3-1. Review summary: Designation of Critical Areas and Dimensional Standards

LUC Section	Title	Review Comment / Recommendations
20.25H.025	Designation of critical areas	<ul style="list-style-type: none"> • Clarify applicability of fish and wildlife habitat conservation areas. • Clarify applicability of frequently flooded areas. • Clarify applicability of critical aquifer recharge areas.
20.25H.030	Identification of critical area	None.
20.25H.035	Critical area buffers and structure setbacks	<ul style="list-style-type: none"> • Update table to reflect recommendations specified in other sections of this document.
20.25H.040	Standards for modifying non-critical area setbacks	None.
20.25H.045	Development density/intensity	None.

Uses and Development in the Critical Areas Overlay District

Table 4-1. Review summary: Use and Development in the Critical Areas Overlay District

LUC Section	Title	Review Comment / Recommendations
20.25H.050	Uses and development in the Critical Areas Overlay District	None.
20.25H.055	Uses and development allowed within critical areas – Performance standards	<ul style="list-style-type: none">• Update culvert design guidance document referenced in LUC 20.25H.055.C.3.e.• Revise language for trails on single-family lots in LUC 20.25H.055.C.3.f.
20.25H.065	Uses and development within critical area buffer or critical area structure setback not allowed pursuant to 20.25H.055	None.

Streams

Table 5-1. Review summary: Streams

LUC Section	Title	Review Comment / Recommendations
20.25H.075	Designation of critical area and buffers	<ul style="list-style-type: none"> • Consider using the Permanent Water Typing System and applying standards from the Interim Water Typing System for additional clarification. • Consider typically measuring stream buffers from the ordinary high water mark, with the possible exception of streams located in ravines. • For buffers on eroding stream banks, require recent documentation of top-of-bank (or ordinary high water mark).
20.25H.080	Performance standards	<ul style="list-style-type: none"> • Apply performance standards to all streams. • Reference stormwater treatment requirements.
20.25H.085	Mitigation and monitoring – Additional provisions	None.
20.25H.090	Critical areas report – Additional provisions	<ul style="list-style-type: none"> • If the City elects to measure stream buffers from the ordinary high water mark, increase minimum stream buffers to 25 feet in all cases.

Wetlands

Table 6-1. Review summary: Wetlands

LUC Section	Title	Review Comment / Recommendations
20.25H.095	Designation of critical area and buffers	<ul style="list-style-type: none"> • Require wetlands be delineated using the approved federal wetlands delineation manual and applicable regional supplements. • Update this section to classify wetlands based on the most recent version of the Washington State Wetland Rating System for Western Washington. • Update the standard wetland buffers to work with the most recent version of the Washington State Wetland Rating System for Western Washington.
20.25H.100	Performance standards	<ul style="list-style-type: none"> • Update performance standards to reference applicable city-wide stormwater standards.
20.25H.105	Mitigation and monitoring – Additional provisions	<ul style="list-style-type: none"> • Consider providing more explicit mitigation ratios. • City should clearly establish if and when the use of third-party mitigation programs is permitted. • Consider allowing mitigation based on the credit/debit method.
20.25H.110	Critical area report – Additional provisions	<ul style="list-style-type: none"> • For critical area reports, require wetland classification based on the most recent version of the Washington State Wetland Rating System for Western Washington.

Geologic Hazard Areas

Table 8-1. Review summary: Geologic Hazard Areas

LUC Section	Title	Review Comment / Recommendations
20.25H.120	Designation of critical area and buffers	<ul style="list-style-type: none"> • Include seismic hazard areas in critical areas designation for purposes of disclosure only. • Revise the minimum toe-of-slope setback verbiage, currently a minimum of 75 feet, to site-specific geotechnical studies to reflect uniqueness of individual landslide hazard sites and that adjustments in the toe-of-slope setback may be required depending on site topography and conditions that may be conducive to fast moving, shallow debris slides and flows.
20.25H.125	Performance standards – Landslide hazards and steep slopes	<ul style="list-style-type: none"> • Consider adjusting performance standards to further address measures that protect habitat.
20.25H.130	Performance standards – Coal mine hazard area	None.
20.25H.135	Mitigation and monitoring – Additional provisions for landslide hazards and steep slopes	None.
20.25H.140	Critical areas report – Additional	None.

Habitats Associated with Species of Local Importance

Table 9-1. Review summary: Habitat Associated with Species of Local Importance

LUC Section	Title	Review Comment / Recommendations
20.25H.150	Designation of critical area	<ul style="list-style-type: none">• Consider referencing the state's priority habitats and species list for species of local importance.
20.25H.155	Uses in habitat for species of local importance	None.
20.25H.160	Performance standards	None.
20.25H.165	Critical areas report – Additional provisions	<ul style="list-style-type: none">• Consider adding language that clarifies when use of the Functional Assessment Model is required.
20.25H.170	Process to identify additional species of local importance	None.

Areas of Special Flood Hazard

Table 10-1. Review summary: Areas of Special Flood Hazard

LUC Section	Title	Review Comment / Recommendations
20.25H.175	Designation of critical area	<ul style="list-style-type: none"> Consider revising the language in LUC 20.25H.175.A.2, as well as other language in this LUC section, to ensure a clear transition to new flood publications.
20.25H.180	Development in the area of special flood hazard	<ul style="list-style-type: none"> Highlight that the City will require floodplain developments to meet National Flood Insurance Program requirements related to the protection of floodplain ecological functions.

Next Steps

- Hold Public Hearing
- Adopt Code Amendments
- Forward Code Amendments to Commerce to demonstrate compliance with GMA and show Bellevue is eligible for grants and loans
- Forward to Department of Ecology for inclusion in the SMP Update Public Hearing

Direction Requested from Council

- Schedule Public Hearing for October 3, 2016 on narrowly tailored Critical Areas Overlay Update amendments to demonstrate compliance with state law and ensure consistency between the CAO and the SMP