



TO: Jack Moore, Planning and Development Services Director
Allen Rozema, Assistant Planning and Development Services Director
Robby Eckroth, Senior Planner
Tara Satushek, Senior Planner

FROM: Clay White, Director of Planning
Dan Nickel, Principal of Planning, Facet
Nell Lund, Sr. Ecologist, Facet
Kyle Cotchett, Environmental Planner, Facet

DATE: April 15, 2024

RE: April 22, Planning Commission briefing – 2025 Periodic Comprehensive Plan Update –
Critical Areas Ordinance

We look forward to the opportunity to brief the Skagit County Planning Commission on April 22, 2025, regarding the 2025 Periodic Comprehensive Plan – Critical Areas Ordinance update. At the briefing the consultant team will provide an overview and approach to proposed changes to the Critical Areas Ordinance (CAO) (SCC 14.24).

Critical areas ordinance changes generally fall into two categories including:

- **Clarity and Efficiency** – Some proposed changes come from Skagit County staff and consultant team to improve clarity for implementing the Critical Areas Ordinance (CAO).
- **Best Available Science (BAS) & The Growth Management Act (GMA)** – Washington State required changes resulting from the current and best available information that follows a valid scientific process.

We look forward to answering any questions the Planning Commission may have and receiving feedback on the summary of proposed development regulations. Your comments will help as we continue efforts to engage the community and develop a complete Comprehensive Plan draft this winter.

Background

The Growth Management Act (GMA) requires all cities and counties in Washington to adopt regulations protecting “critical areas”. Regulated critical areas include wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. The intention of these regulations is to preserve the natural environment, wildlife habitats, and sources of fresh drinking water, while also encouraging public safety by limiting development in areas prone to natural hazards. Skagit County adopted their Critical Areas Ordinance (CAO; Skagit County Code 14.24) in 1996 and was last updated in 2006, which was adopted December 23, 2008 and effective February 1, 2009.

Clarity and Efficiency

As we work to update the CAO with the use of BAS, it is important to take the time to also review and update the code for optimization and clarity. While some areas of the code need only minor updates to achieve this, others, like the reasonable use exception, are undergoing greater restructuring. Here, County staff, alongside Facet, has worked to create a code that sets clear allowances for residential development when the strict application of the critical area ordinance would result in the loss of all economically viable use of the property. This includes transitioning most of these types of projects to be reviewed under a reasonable use exception rather than a variance process. Ultimately, this will result in a streamlined administrative review process that benefits both applicants and County staff while still maintaining the critical areas protections and mitigation requirements needed to ensure no net loss of functions and values. Clarity updates focused on:

- Readability and administration
- Reasonable Use and Variance language
- CARA section – improve content and organization

Best Available Science and The Growth Management Act

As required by the Washington State GMA, the review of the BAS was compiled to support Skagit County's CAO update, a component of comprehensive updates to the unified development code. BAS means the current and best available information that follows a valid scientific process as specified in WAC 365-195-900 through WAC 365-195-900. Ecological systems are highly complex, and the scientific body of knowledge is constantly evolving with the advancement of new research and technology. The BAS review is a resource for critical area management, but the management and decision-making processes should also take into consideration societal values.

CAO updates under review to incorporate current BAS are focused on the following.

- Administrative Updates
 - Emphasis on no-net-loss of ecological functions
 - CAO relationship to other state, federal, local agency regulations
 - PCA (Protected Critical Area) sign spacing
 - WAC and resource updates as applicable
 - Qualified professional clarifications as needed
- Wetlands
 - Designation & Classification – reference current manuals, Ecology publications
 - Buffer regulations – habitat score updates, vegetated condition, impact minimization measures, habitat corridors, small wetland exemption, and buffer modification
- Critical Aquifer Recharge Areas
 - Designation categories
 - Land use standards
 - Site assessment & protection plans
 - Stream Inflow Rules – WAC and WRIA references
 - Seawater intrusion areas – DOH standards
- Geologically Hazardous Areas
 - Known or suspected hazards – descriptions

- Fish and Wildlife Habitat Conservation Areas
 - Reference current WDFW Priority Habitats and Species List
 - Site assessment criteria – distance, bald eagle regulatory change
 - Streams: protection standards - functions, vegetated buffer condition, structure setback, buffer modifications