

PLANNING COMMISSION

Tuesday, April 11, 2017
Poulsbo City Hall Council Chambers

Minutes

Members Present

Bob Nordnes (BN), James Thayer (JT), Ray Stevens (RS), Shane Skelley (SS), Kate Nunes (KN), Jim Coleman (JC)

Staff

Karla Boughton (KB), Helen Wytko (HW), Charlie Roberts (CR), Michael Bateman (MB)

- 6:00 PM
1. Call to Order
 2. Flag Salute
 3. Approval of Minutes – 03/14/16 COLEMAN/NUNES all in favor
 4. Modifications to Agenda
 5. Comments from Citizens – regarding items not on the agenda
 6. Public Meeting
Critical Areas Ordinance Update
Staff: Boughton

Karla Boughton, Planning and Economic Development Director gave a presentation that included an overview of GMA, Critical Areas and Best Available Science requirements. Summary - of proposed amendments to the City's current CAO.

COA update Public Review timeline from March 31st to June 14th.

(Slide Show): Critical Areas are wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, critical aquifer recharge areas, and frequently flooded areas.

Value of Critical Areas not only for fish and wildlife life but provides other benefits. Helps maintain natural beauty; includes water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance, and attenuation (the slow release) of flood waters, recreation, erosion control, wave attenuation, protection from natural hazards, historical, archaeological, and aesthetic value protection, ground water recharge and discharge

Implementing the GMA refresher. All cities and counties in WA are required to adopt critical areas regulations by the Growth Management Act (GMA) ([RCW 36.70A.060](#)). Update required by state deadline (June 30, 2016) to remain eligible for state grant funding tied to GMA. Critical areas ordinances must incorporate requirements for use of best available science (BAS) and give special consideration to anadromous fisheries. While there is no single best approach to critical areas protection. Each jurisdiction must decide which approaches to critical areas protection are appropriate to apply locally; however state resource agencies will provide best available science guidance.

Best Available Science (BAS) - A 1995 amendment to the state GMA requires counties and cities to apply BAS when developing critical areas regulations. Local governments must identify, collect, and assess the available scientific information relating to the protection of critical areas within their jurisdiction, and then determine which of that science constitutes the BAS. The burden is on the local government to determine whether scientific information assembled in fact constitutes the best available science. Utilizing or relying on state agency guidance is one way most jurisdictions meet the BAS requirement

Summary of 2017 CAO Amendments 1. Incorporating BAS provided by resource agencies. 2. Recommendations by the City's consultant critical areas biologists; Grette and Associates. 3 Amending corrections or conflicts. 4 assist with ease of administration. The Draft CAO includes footnotes explaining the reason/purpose for all substantial proposed amendments.

Section 100: General Provisions and Administration.

16.20.115 Applicability:

B. New subsection to identify specific activities that are subject to the provisions of the critical areas ordinance.

F. Updates to mapping data sources.

16.20.120 General Exemptions. New subsection 16.20.120(L)(M)(N)(O)(P) to exemptions, identifying specific circumstances where non-native vegetation can be removed from a critical area buffer, as well as other enhancement activities – such as watershed restoration projects, fish enhancement projects – are exempt for obtaining a critical area permit.

16.20.155 Definitions. “Mitigation” (adding sequencing), “wetland report” (adding proper wetland delineation manual reference) “wetland specialist” (clarifying qualifications); and removing definition of “Resource Management Area (RMA)” and “wetland, isolated.”

SS: If someone wanted to take blackberries out of critical area is there criteria?

KB: There are some provisions, if exceed criteria then need to get a critical area permit and have a biologist proposed plan.

JT: Since you are specifying activities that fall under this ordinance, how are you specifying what protects you from activities that do not fall under that buffer.

KB: Provisions in section 100

JT: Fall back guidance to backup determination?

KB: Yes what I would do is look for the definition of what impact means and look at activity to see if it fits within that definition.

RS: We are in the overview, we will go through document page by page.

KB: I will go quickly.

Section 200 Wetlands has the most changes to its section.

16.20.210 Wetland Categories: Changes to how wetlands are to be delineated and categorized per requirement in WAC 193-22-035, which requires that wetlands be delineated in accordance with approved federal wetland delineation manual and applicable regional supplements, adopted by the U.S. Army Corp of Engineers.

16.20.215 Regulated and Non-regulated wetland classification: The WA State Wetland Rating System for Western WA was revised in 2014. Changes reflect the date, as well as a change to the scoring system used to categorize wetlands.

16.20.220 Application requirements: This section amended to add new type of wetland report – wetland assessment.

16.20.225 Determination of wetland boundaries: Clarifying that wetland are to be delineated using the current approved federal manual and supplements.

16.20.230 Wetland and Buffer Development standards:

A. Buffers. This section clarified to identify vegetated buffers, and enhancement may be required.

B. Impact of Land Use. New section incorporating hierarchy of uses that may occur adjacent to wetlands and buffers. This table is from Appendix 8-C, Table 8C-3 of *Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands (Ecology Publication #05-06-008)*.

C. Buffer Widths. Buffer widths have been revised per Appendix 8-C, Section 8C.2.3 of *Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands (Ecology Publication #05-06-008)*.

E. Buffer Width Averaging: This section has been revised per Appendix 8-C, Section 8C.2.6 of *Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands (Ecology Publication #05-06-008)*.

F. Decreasing Buffer Widths. This section has been revised per Appendix 8-C, Section 8C.2.4.1 of *Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands (Ecology Publication #05-06-008)*.

New subsection .4 Buffer Enhancement Plan – is required

as part of a buffer reduction request. Inclusion is recommended by Grette Associates (City's consulting biologist).

B. Increasing Buffer Widths. Revisions made per Appendix 8-C, Section 8C.2.5 of *Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands* (Ecology Publication #05-06-008).

16.20.235 Additional development standards:

E. Surface Water Management – addition requiring a wetland hydrology monitoring plan in this section, recommended by Grette Associates.

16.20.240 Wetland Alterations:

A. Mitigation Sequencing: This section is revised to be consistent with WAC 197-11-768 sequencing requirements.

B. Mitigation for Regulated Activities in Wetland Buffers. Administrative clarification added.

C. Mitigation for Regulated Activities in Wetlands. Administrative clarification added.

16.20.240 Wetland Alterations:

D. Wetland Replacement Ratios. Revisions added consistent with *Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance* (Ecology Publication #06-06-011a) per Appendix 8-C, Table 8C-11 *Wetlands in Washington State – Volume 2* (Ecology Publication #05-06-008).

E. Compensatory Mitigation. This section revised per Department of Ecology guidance on offsite mitigation, "Critical Areas Ordinance Code Example of Offsite Mitigation Language," March 2009.

F. Advance Mitigation. New section per *Interagency Regulatory Guide: Advance Permittee-Responsible Mitigation*, Ecology Publication #12-06-015.

G. Monitoring Requirements. Addition of 'performance standards' as a requirement of a monitoring report.

Section 300: Fish and Wildlife Habitat Conservation Areas

16.20.310 Fish and Wildlife Habitat Conservation Area – Designations:

A. Revision to stream typing based on DNR Water Typing Alpha, per WAC 222-16-030.

D. Deletion of "Class 1 and Class 2 Wildlife Habitat Conservation Areas" and use of all habitats identified by federal, state or local agencies. New Subsections E, F and G, in addition to revisions in subsection D are per WAC 365-190-130 and Washington Department of Fish and Wildlife Priority Habitat and Species List August 2008 and Updated 4/2014.

BN: So will this cause any problems deleting the Class 1 and Class 2?

KB: No. Protection for wildlife or plants that isn't in association with a stream. We will have a placeholder for how to deal with them and then they are dealt with through habitat plan on a case by case basis.

SS: What about manmade wetlands?

KB: It is defined in the wetland section, and is narrowly defined. Up to the property owner to prove that it is not a regulated wetland.

SS: If someone built an osprey nest, and the osprey landed there would it prevent future development?

KB: Excellent question, I will have to ask Fish and Wildlife because that is what we are doing at Strawberry Field.

BN: I hope we don't regulate ourselves too much. Example on 6th Ave Poulsbo Creek.

KB: All provisions in the current CAO you worked very hard with for Poulsbo Creek have no changes. CAO talks about existing development and how you can maintain and expand properties. There are vacant properties that want to be developed but creek buffer covers their entire lot. Can't do much right now, can go with habitat management plan. Like to do our BAS with Grette for Poulsbo Creek. Lengthy process which we have to provide to the tribe and other resource agencies. Do have plans to keep working on it.

BN: Besides the creek, there are always potential for fire and destruction and we wanted to be assured that people can rebuild what they have. Want to maintain that.

KB: That is your long standing policy and it is reflected in our development regulations. If they have done it at their own hand, that is different. Not proposing to change any of it.

16.20.315 Development Standards:

A. Buffers and Setbacks. Removal of "Resource Management Areas (RMA)" which was a term unique to Poulsbo's CAO. The term buffer and building setback (from buffer) will be applied consistently to all streams.

A.2 Revisions require that when impacts or reductions to standard buffer width are proposed, the remaining buffer shall be enhanced.

16.20.315 Development Standards:

A.6.b is revised to clarify what types of intrusions are allowed within the 25' building setback from buffer. The types are consistent with what is allowed in the wetland building setback. The revision also clarifies that a habitat management plan is required for proposed intrusions.

Table 16.20.315 is revised to 1) identify Alpha water typing system; 2) add subcategories to F type streams and Ns type streams; and 3) remove Class 1 and Class 2 and consolidate into other fish and wildlife habitat conservation areas.

B. Removal of RMA reduction provisions. Any proposed

buffer reduction must prepare a Habitat Management Plan.

E. New section on Habitat Assessment Report and Habitat Management Plan, clarifying that a Habitat Assessment Report is required when a fish and wildlife habitat conservation area is on or within 300' of a proposed development site, and a Habitat Management Plan is required if modification, impact or reduction to the required buffer or building setback is proposed.

16.20.320 Project Specific development standards:

A. Stream Crossings. Adding revisions to be consistent with WDFW Hydraulic Project Approval requirements.

B. Stream Relocation. Adding new provision requiring downstream impacts be evaluated as part of a stream relocation proposal.

G. Trails and Trail-Related Facilities. Adding new provisions requiring mitigation through replanting or enhancement of affected or degraded buffers.

H. Utilities. Adding new provision that refueling or maintenance activities for utilities shall not be conducted within the buffer of a fish and wildlife habitat conservation area.

Section 400: Geologically Hazardous Areas

16.20.415 Allowed uses:

A and B. This section revised to identify critical facilities may be restricted from being sited in geological hazardous areas. This is recommended by Washington State Department of Commerce.

16.20.420 Development Standards:

G. Trees and Vegetation. This section revised to address issues of tree cutting on critical slopes. Proposed revisions from Washington State Department of Commerce's recommended ordinance language.

Section 500: Critical Aquifer Recharge Areas

Map is the thing that is most significantly changed. KPUD went through an update process with USGS and provided some better data.

16.20.510 Critical aquifer recharge area categories: Definitions revised per WAC 365-190-030.

16.20.515 Development standards: Revisions based on Department of Ecology's Critical Aquifer Recharge Area Guidance Document, recommending listing uses that are to be prohibited within CARAs.

Table 16.20.515 Activities: Table revisions based upon the prohibition of uses identified in 16.20.515.A.1.

Section 600: Frequently Flooded Areas - no changes

Section 700: Special Reports

Gets to Shane's question if they want to remove invasive species on a property, what kind of report can you provide us. Recent conversations have helped us rewrite this section to prevent this back and forth between biologists and our consultants.

16.20.721 Time Limitations: Extending the time validity to five years from the date of issuance of a special report unless a longer or shorter period is specified.

16.20.725 Wetland Reports:

- A. New Wetland Assessment Report is required if a wetland is on or within 300 feet of a proposed use or activity.
- B. Wetland Delineation Report requirements reflecting new federal and state delineation and category identification standards.
- C. Wetland Mitigation Plan adding sequencing.
- D. New Buffer Enhancement Plan added.
- E. New Monitoring Report added.

Maps

- Update Figure CAO-1 Wetlands to map hydric soils maps from the U.S. Department of Agriculture and site-specific delineated wetlands.
- Update Figure CAO-2 Aquifer Recharge Areas with data from the 2014/2015 U.S. Geological Survey Scientific Investigation Report.
- Update Figure CAO-4 DNR Hydrology Water Type Map to the alpha system of stream identified as set forth in WAC 222-16-030 and -031.
- New Figure CAO-5 Fish and Wildlife Habitat Conservation Areas, consistent with map of same title from Comprehensive Plan. Includes SF Dogfish Creek Reaches as identified in Table 16.20.315.
- New Figure CAO-6 South Fork Dogfish Creek Reach Map, providing magnified of reaches on parcel basis, and as identified in Table 16.20.315.

RS: Lets get started. Has everybody had a chance to study and read? Page 3? I have a question #5 these are exempt uses?

KB: No these are examples of uses that would require compliance with the CAO.

RS: I have a note on reconstruction, can we define that? So this list is a things that are not exempt, so reconstruction is not exempt.

KB: Yes it should be defined. I'll take a look to delete it from the list because we want to make sure not conflicting with non conforming provisions.

RS: Move on. D explain intent but you already covered that. Interesting because the buffer is the resource management area.

KB: Exactly right, setback and setback. We thought the RMA should apply to the buffer. But what will have is the buffer and building setback.

RS: Page 5 do you think it will be confusing if we don't say Army Corp of Engineers. Example under letter E. Inconsistent throughout document.

JT: Make definition so you don't have to change throughout the document.

RS: Page 6?

JT: 16.20.120 typo first paragraph 4th line down, where it says the exempted, do you mean the exemption?

SS: Might as well take out the comma too.

JC: Top of the page Planning Director shouldn't that be the new title?

KB: Okay will probably change to just director.

BN: I think you need the comma.

RS: Anything else on page 6?

JT: Page 7 down under K. Was it well enough described in the following text to define what interrupted was. Had to reread several times.

KB: I appreciate that comment, it is an important piece of this code because a lot of the City's buffers are interrupted, and without that in there it could lead us down a path that doesn't make sense.

SS: On Page 7 number 1, tree removal is a minimum necessary balance, should it be necessity?

RS/BN: Necessary.

RS: Did we finish with K?

JC: K and maybe I just didn't read it right? Who does the interpretation?

KB: I want to take a look at it because it is an important piece of code. Most obvious example Fjord Drive, 200ft shoreline buffer. Under shoreline nothing is supposed to happen in buffer. Problem is that Fjord Drive is there. Not a pristine buffer, interrupted by a road. Doesn't make sense for us to make them do more shoreline 100ft a way. Are we going to make the applicant replant with wetland vegetation on the other side of the road. Not going to make them dig up a road.

JT: Does it define what an interrupted buffer is

KB: No, we'll need to add a definition.

BN: Recognizing interruption and we are going to stand by that. As we move forward we have to really be cautious of protecting Poulsbo from

outside agencies.

RS: Real issue that DOE is looking at is best scenario, and we have to impose it. We need to be able to modify, we have to have a place to live and work.

KB: Pausing on Page 8.

7. Public Hearing
2017 Floodplain Management Revisions – PMC Chapter 15.24
Staff: Roberts

Charlie Roberts introduction. FEMA Regulations. PMC Chapter 15.24. Background - Regulates and manages development in areas of special flood hazard. Compliance allows property owners to purchase flood insurance through National Flood Insurance Program (NFIP). Flood Insurance Maps are revised and updated by FEMA periodically. Chapter 15.24 adopts the Flood Insurance Maps.

BN: I have a question because I was faced with that. There was a map created in 1976 that was a demarcation of high tide. So to get out of the flood insurance I had to get a survey, and I was a skosh out. Has that changed?

MB: No, just updated versions of the same maps. Until fairly recently the mortgage lenders had an out. The fine for non compliance was \$20k. Mortgage lenders took no responsibility, would just write one check per year, and buy off on houses that had issues. Recently they made the fee per violation, so lenders are paying more attention and enforcing NFIP.

These maps get revised semi regularly. Until recently just revising the maps wasn't considered a development regulations but recent court cases ruled that updates were development regulations. Changes are interesting and are relatively minimal and some mapping is going further into a bay. Done a good job of mapping pretty well. We had some comments and they made revisions. Did inject local knowledge best we could. Better modeling of wind driven waves, costal updates.

CR: Summary of Revisions In 2016 FEMA updated coastal zone flood mapping. Better technology to properly map effects of high water combined with wind driven wave action. Minor differences for City

- Official study and map published February 3, 2017
- Chapter 15.24 revised to adopt this study
- Chapter also reviewed by FEMA staff and some revisions made to be in compliance
 - Added definitions and revised language to ensure consistency with FEMA definitions

There is an interactive map on the FEMA website.

MB: Impressed with mapping, very accurate.

CR: Summary of Revisions

- 15.24.020 Definitions. – Added several new definitions and revised a few for consistency with FEMA regulations
- 15.24.040 Flood hazard areas established. – Revised date of flood insurance study to February 3, 2017 (current study and associated map)
- 15.24.130 Gather of information. – Revised code to comply with FEMA regulations and provide clarity
- 15.24.190 Utilities. – Added statement requiring wells to be placed on areas not in the mapped floodway.
- 15.24.260 Floodways. – Revised code to comply with FEMA regulations.
- 15.24.370 Severability. – Added new code section to provide severability.

BN: Years ago dogfish creek backed up so bad it flooded Albertsons in Poulsbo Village. Between snow melt, king tide, rain, it was a disaster.

MB not in a regulated floodzone, but FEMA maps had the water line identified pretty close.

CR: Have discussion or move on to a motion?

RS: Questions? Close public hearing and open public meeting.

JC: Would have been nice to have a map in here. How can they be accessed?

MB: Yes, can be found in office or on FEMA website. Large and difficult to include.

JT: Maybe a comment about maps available to review.

MB: Yes, we do have it in the code.

JT: Page 3 where it discusses RV definition. Light duty truck limiting?

MB: These are the words FEMA told us has to be there.

JT: On following page seems like definition without corresponding definition.

MB: That should be corrected.

JT: Z is variance?

MB: That will have to move to double aa.

RS: Anything else?

MOTION: NORDNES/COLEMAN Planning Commission recommend approval to the Poulsbo City Council the 2017 Floodplain Management Revisions – PMC 15.24, thereby amending sections of the Poulsbo Municipal Code as identified as Exhibit A of the staff report. **Vote all in favor**

8. Public Meeting - Continued
Critical Areas Ordinance Update
Staff: Boughton

RS: Ended at page 8? 9? On letter D, I have a note reconstruction so we will get a definition for that.

KB: Yes have that added.

BN: That two year requirement, have to do something with in two years?

KB: Yes.

RS: 9?

JT: Page 10 C deleted definition about RMA.

KB: Yes removing.

RS: Page 11?

SS: What would be considered not an unreasonable threat, is there a definition?

KB: For a reasonable use exception. The standards are restrictive, then this could be a path forward, Type III Permit, before the Hearing Examiner

SS: Who would make that call.

BN: Past situations I remember when cell towers were a big drama and people were concerned about public health and towers causing cancer and sterility.

JT: Is unreasonable even the right term? You don't want to pose a real threat?

KB: Language doesn't provide, is threat the right word, public safety, health, and welfare.

RS: Drop the unreasonable. Does not pose a threat to public health, safety, or welfare.

JT: Concern about threat. If there is a tenth of a one percent. Credible?

RS: Something along those lines, we had a woman looking at her cell phone walk past the barricades into one of our jobsites, not even paying attention.

SS: Working on the street with could be a threat. Backhoe distracting someone and they drive off the road.

RS: Intent of this is to impose too much of a threat, at some point they are going to have to do something.

BN: On definitions, we have gotten a lot into it. Do you refer to an edition?

KB: Webster's dictionary.

RS: Anything else on 11?

JC: Item C down at end where is article 7?

KB: It is now section 700, will make a note. Renumbered it to be consistent with the rest of the code.

RS: Anything else on this page? 12? One thing that I have here is the fish type, stream type things nice to know what those are.

KB: Okay stream typing like F? yes we can do that.

SS: Why don't they have protection like trout, only see salmon.

KB: We do care about trout. F1 and F2 we have defined it.

RS: Anything else definitions page 12? 13? 14? 15? 16? 17? 18?

RS: Interesting word that I have no idea what that means, Interdunal?

KB: From WDFD, thought about dropping it out of the table, but wanted to include it all. Don't have any wetlands of that type. Add definition there. Have note to add interrupted buffer definition on page 18.

SS: It is a wetland that is created in between sand dunes.

RS: Page 19?

JC: Normal repair, what is reasonable?

KB: Always question. We may borrow from non conforming section give them 2 years.

KN: I would rather see that stay with reasonable than 2 years. When did it start decaying until point no longer reasonable?

KB: I agree want to have flexibility.

RS: Page 20?

JT: Under OHWM you refer to June 1, 1970 what is that date?

KB: Date of the shoreline management act. Term is used for stream bank as well. See if they have updated it.

JT: That is about 36 years how do you know it was a condition back then?

RS: Whenever I have done stuff on the shoreline we are given the OHWM.

KB: In the land use permitting part, we have to determine it in a lot of our land use permits. Recently the redevelopment of PD. We had to have Ecology come out to alleviate confusion. It hasn't come up for years but this year we have dealt with it a half a dozen times.

RS: Page 21?

KB: Ray you are probably thinking is the mean high water mark and that is easily available.

BN: And that term is used to determine tidelands.

KB: Yes, what I learned just recently OHWM is only used by ecology for shoreline permitting. OHWM basically is high tide mark.

RS: Page 21 should we have definition of what it means to reconstruct?

KB: Yes.

RS Page 22? 23?

KB: Add steam typing and the lack there of.

RS: Page 24?

JT: Same question about date July 1, 1990 wetlands.

KB: Straight from state statute.

JT: Another question about wetlands under regional significance. What is criteria for decision?

KB: Well interesting because that term is found no where in wetland section. Would rely on biologist to provide criteria. Let me take a look at that. Wondering if we need that in there.

JT: Couldn't tell if adequate by reading that.

KB: Appreciate what you are saying, intrigued about definition.

JT: More concerned that people would be unhappy with decision.

RS: Very next one DOE sets those?

KB: Yes they do.

SS: Category 1 larger than 1 acre so maybe that is the threshold for significance?

RS: See intent but how do you manage it?

RS: Page 25?

JT: Let me ask, does the director believe that we can get through the rest of this in the next two session?

KB I think we can have it done in next three workshops. If we can get through section 200 and 300 next week.

KN: How much flexibility do we even have in section 200? Most from ecology?

KB: Way set up and being administered, jurisdictions need to use BAS. The wetland section changes are all based on BAS guidance from Ecology. Fix some of the administrative parts we were struggling with.

BN all going away anyway with no DOE.

9. Comments from Citizens - None
10. Commissioner Comments - None
11. Meeting Adjourned 7:49pm



Ray Stevens
Chairman, Planning Commission