



Land Use & Environment Committee

Critical Areas Ordinance

Agenda Date: 7/16/2015
Agenda Item Number: 4.C
File Number: 15-0696

Type: discussion **Version:** 1 **Status:** Filed

Title

Critical Areas Ordinance

Recommended Action

City Manager Recommendation:

Guidance on an approach to updating the City's Critical Areas Ordinance.

Report

Issue:

The Washington State Growth Management Act (GMA) requires that the City of Olympia review and update as needed its Critical Areas Ordinance (CAO) by June 30, 2016. As a follow-up to a briefing provided by staff on June 23, 2015, staff will provide the Land Use and Environment Committee (LUEC) options for how to approach an update to the City's Critical Areas Ordinance, and specifically in regards to locally important species and habitat.

Staff Contact:

Stacey Ray, Senior Planner, Community Planning and Development, 360.753.8046

Presenter(s):

Keith Stahley, Director, Community Planning and Development, 360.753.8227

Background and Analysis:

In 1990, with passage of the Washington State Growth Management Act (GMA), comprehensive planning for critical areas became a requirement for cities. However, Olympia has been protecting critical areas for many decades through management of land it owns, educational programs, and regulations on building and development. With each update, these programs and regulations have continued to evolve in scope and to integrate the most current and best available science regarding how to preserve and protect those areas.

The Olympia Critical Areas Ordinance (CAO) is the primary set of regulations on development that protects critical areas. It can be found in the Olympia Municipal Code, Chapter 18.32. It addresses five types of environmentally sensitive areas: drinking water (wellhead) protection areas, important habitats and species, streams and important riparian areas, wetlands and small lakes, and landslide hazard areas. Frequently flooded areas are addressed in a different section of the code: OMC 16.70, and marine shorelines and freshwater shorelines as defined by the Shoreline Management Act

are addressed in OMC 14.08. See Attachment A for brief descriptions of each of the five critical area designations in the CAO, frequently flooded areas, and shorelines regulated through the Shoreline Management Act.

Growth Management Act

The Growth Management Act requires that cities review their CAO every eight years so that it remains consistent with the Act's guidelines. With an extension having been adopted by the state legislature, the next review and update deadline for Olympia is June 30, 2016. There are two requirements that we need to address by the deadline:

- **Critical Areas Review for Best Available Science.** It has been over 10 years since our last CAO review and update in 2005, so we are due to conduct a technical review of the best available science in designating critical areas and evaluate our development regulations for effectiveness in protecting the functions and values of critical areas.
- **Anadromous Fish.** Cities are required to give special consideration in their development regulations to conservation or protection measures necessary to preserve or enhance anadromous fish. Anadromous fish are those that spawn and rear in fresh water and mature in marine waters, including salmon.

Best Available Science Review

A Best Available Science Review (BAS) ensures that our policies and development regulations are based on the most current science and best management practices available for designating and protecting critical areas. GMA doesn't require that cities go out and conduct scientific studies, but to gather and evaluate the best science available. Sources of information can include state agencies, universities, tribes, and other experts; however, ultimately, we are responsible for determining what is reliable and appropriate for our local area. WAC 365-195-905 provides guidance to cities in making that determination.

Staff will recommend several updates be included in the scope to help clarify existing language or meet revised state and federal guidelines. Those that have been identified so far include:

- Adopting the newly updated Washington State Wetland Rating System for Western Washington;
- Clarifying the ownership and maintenance responsibilities for groundwater monitoring wells for Drinking Water (Wellhead) Protection Areas; and
- Adopting into code that new structures downtown be elevated can additional foot in response to anticipated seal level rise or flood events.

However, the BAS may also identify other potential updates. For example, there may be new science, tools, or best management practices developed since the Oso, WA landslide in 2014 to better identify geologically hazardous areas.

Lastly, the BAS may help locate or clarify current information on other topics of interest, such as protecting locally important species and habitat. The current science and best practices may provide additional information on how Olympia might identify locally important species and/or habitats and

establish effective protective measures. This can then be combined with other information, such as the potential implications adopting new regulations may have on property rights, to analyze policy options.

Locally Important Species and Habitat

Staff, community members, and Council have all brought forward other emerging issues or topics of interest for possible inclusion in the scope of the CAO update. One example is the protection of locally important species and their associated habitat, such as the Great Blue Heron and Oregon white oak.

At the June 23 LUEC meeting, several members of the community provided comments on the need to move forward quickly with updating the CAO to protect specifically the Great Blue Heron and its associated habitat.

Based on that discussion, staff has prepared three potential approaches for including locally important species and habitat in the scope of the update to the CAO. Also identified for each approach is the anticipated impact on the timeline and resources needed to complete the work (Attachment A).

While staff will still expect to return to LUEC and the full City Council after completion of the BAS to more fully discuss the scope of the update, direction from LUEC on the options in Attachment A can help guide our scoping process, BAS review, and help us better understand and prepare for the resources needed to complete the update. Staff will also be seeking direction on whether or not the scoping process and the BAS review should specifically address the Great Blue Heron.

Neighborhood/Community Interests (if known):

Critical areas are found throughout the City; how they are regulated could have an impact citywide.

Options:

- A) Provide staff with direction on how to scope and identify resources for including locally important species and habitat in the CAO update process.
- B) Wait until after the BAS is completed to scope and identify resources for including locally important species and habitat in the CAO update process.

Financial Impact:

Reviewing and updating as needed the Critical Areas Ordinance to meet the June 2016 deadline established by the Growth Management Action is already a budgeted work item for Community Planning and Development. Additional review or updates beyond the minimal requirements may require additional resources in 2015 and 2016.