

ANACORTES PLANNING COMMISSION



January 8, 2020

Municipal Building Council Chambers

6th Street and “Q” Avenue

AGENDA

5 P.M.

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1. **Roll Call**
2. **Executive Session (30 Minutes)**
Potential Litigation or Litigation Per RCW 42.30.110 (i)
3. **Minutes of November 20, December 4 and December 18, 2019 will be provided at a later date**
4. **Correspondence**
5. **Old Business**
Public Hearing: Draft Critical Area Ordinance Update – Deliberation and Possible Recommendation

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Planning Commission Agenda Bill

Meeting Date: 1/8/2020 **Agenda Item:** Click here to enter text.

Subject: Draft Critical Area Ordinance Update: Planning Commission Public Hearing

Staff Contact: Don Measamer, Tess Cooper

Approved for Submittal to PC by	
	Laurie Gere, Mayor
x	Don Measamer, PCED Director
	Darcy Swetnam, City Attorney

Action Type	
	Public Hearing
	Staff Report
	Discussion
X	Action

Summary Statement: A public hearing was held as part of the 2016 critical areas regulations update process that is required to be conducted under the periodic update requirements of the Growth Management Act. The second draft was released in October 2019 and has been reviewed by Planning Commission over the course of several meetings.

Proposed Schedule: The following general process is proposed for public and Planning Commission review

November 20	PC Work Session: Geologically Hazardous Areas, Critical Aquifer Recharge Areas, Frequently Flooded Areas, and Critical Area Commerce Checklist,
November 27	SEPA determination and Notice of Hearing
December 4	PC Work Session: Case Study Examples, Public Comment Matrix, Discussion
December 18	PC Public Hearing
January 3, 2020	Written comment period ends
January 8, 2020	PC deliberation and possible recommendation
January 22, 2020	PC deliberation and recommendation (if needed)

Background: Additional project background information can be viewed at <https://www.anacorteswa.gov/201/Critical-Areas-Regulations-Update>

Previous Council/Committee/Commission Action: None.

Competing Viewpoints Considered: The purpose of the meeting is to deliberate on the proposed Draft 2 and public comment.

Recommended Motion: Staff recommends approval with changes and send to City Council for consideration.

Attachments:

2nd Draft Recommended Changes to wetland buffers

Anacortes Critical Area Regulations

2nd Draft Changes

December 23, 2019

The following table lists the changes recommended for the 2nd draft the Anacortes Critical Area Regulations resulting from internal staff discussion, legal review, Planning Commission direction, and response to public comments.

Wetland Buffers Tables 19.70.250	<i>Change requested by Dept. of Ecology:</i> The following captures the entirety of Ecology recommended changes to the Wetland buffer section. Options: This is a necessary change.
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19.70.250 Wetlands – Required buffer areas.

- A. **Buffer Requirements.** Wetland buffers must be established to protect the integrity, functions and values of the wetland. The standard buffer widths in Tables 19.70.250 (A) (B) and (C) have been established in accordance with the best available science. The buffer widths must be determined based on the category of wetland, surrounding land use intensity, and the habitat score as assigned by a qualified wetland professional using the most up to date version of the Washington State Wetland Rating System for Western Washington.
1. Measurement of Wetland Buffers. All buffers must be measured horizontally from edge of the wetland boundary as surveyed in the field. The width of the wetland buffer must be determined according to Tables 16.55.340(B), (C) and (D).
 2. Buffer Standards. The buffer standards required by this chapter presume the existence of a dense vegetation community in the buffer adequate to protect the wetland functions and values. When a buffer lacks adequate vegetation, the decision maker may increase the standard buffer, require buffer planting or other enhancements, and/or deny a proposal for buffer reduction or buffer averaging.
- B. For the purposes of buffer determination below, Land Use Intensity rating is as follows:

Table 19.70.250 (A)

High Land Use Intensity	Land use that includes the following uses or activities: commercial, industrial, institutional, retail sales, nonresidential use in zones where the primary intent is residential, high density residential zones (R4, R4A, R3, R3A, R2, R2A , OT), high-intensity recreation (such as golf courses, ball fields,-), hobby farms.
Moderate Land Use Intensity	Land use that includes the following uses or activities: medium density residential (R2, R2A, R3, R3A),

	moderate-intensity open space (parks, trails, and logging roads.
Low Land Use Intensity	Land use that includes the following uses or activities: low-density residential (R1) , forestry (cutting of trees only), low-intensity open space (such as passive recreation and natural resources preservation), unpaved trails.

C. There are three sets of buffer standards, based on these parameters:

1. Buffer Widths for wetlands that have a high level of function for wildlife habitat as indicated by a habitat function score of 8 or 9 points or more on the wetland rating form:

Table 19.70.250 (B).

Wetland Category	Buffer Width (feet)		
	High Intensity	Moderate Intensity	Low Intensity
Category I	200 300	190 225	150
Category II	200 300	150 225	100 150
Category III	150	110	75
Category IV	50	40	25

2. Buffer Widths for wetlands that have a moderate level of function for wildlife habitat as indicated by a habitat function score of 6 or 7 points or more on the wetland rating form:

Table 19.70.250 (C).

Wetland Category	Buffer Width (feet)		
	High Intensity	Moderate Intensity	Low Intensity
Category I	150	110	75
Category II	150	110	75
Category III	150	100 110	60 75
Category IV	50	40	25

3. Buffer Widths for wetlands that have a low level of function for wildlife habitat as indicated by a habitat function score of 3 to 5 points or more on the wetland rating form:

Table 19.70.250 (D).

Wetland Category	Buffer Width (feet)		
	High Intensity	Moderate Intensity	Low Intensity
Category I	100	75	50
Category II	100	75	50
Category III	80	60	50 40
Category IV	50	40	25

D. Reducing Buffer Widths.

1. For wetlands that score 6 points or more for habitat function, buffer widths for high intensity may be reduced to moderate intensity if both of the following criteria are met:
 - ~~a.~~ a. A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other relatively undisturbed area, as defined in the 2014 wetland rating system, or any other Priority Habitat as defined by the Washington State Department of Fish and Wildlife. The latest definitions of Priority Habitats and their locations are available on the WDFW web site at: <http://wdfw.wa.gov/hab/phshabs.htm>).
 - The corridor must be protected for the entire distance between the wetland and the relatively undisturbed area or Priority Habitat by some type of legal protection such as a conservation easement.
 - a. — Presence or absence of a nearby habitat must be confirmed by a qualified biologist.
 - b. The measures in Table XX are implemented, where applicable, to minimize the impacts of the adjacent land uses.
2. For wetlands that score 3-5 habitat points, only the measures in Table ~~XX~~ 17.70.250(E) are required for the use of moderate intensity buffer widths.
3. If an applicant chooses **not** to apply the mitigation measures in Table ~~XX~~ 17.70.250(E), or is unable to provide a protected corridor where available, then high intensity buffer widths must be used.

Table ~~19.70.250(E)~~ XX Required measures to minimize impacts to wetlands

(All measures are required if applicable to a specific proposal)

Disturbance	Required Measures to Minimize Impacts
Lights	• Direct lights away from wetland
Noise	• Locate activity that generates noise away from wetland • If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source • For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered • Establish covenants limiting use of pesticides within 150 ft of wetland • Apply integrated pest management
Stormwater runoff	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer • Use Low Intensity Development techniques (for more information refer to the stormwater manual)

Disturbance	Required Measures to Minimize Impacts
Change in water regime (increase or decrease in the frequency, duration, timing, extent, depth or variability of water in a wetland)	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	• Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	• Use best management practices to control dust

E. Increasing buffer widths. Buffer widths may be increased, on a case-by-case basis, as determined by the Decision maker. This determination must be supported by appropriate documentation showing that it is necessary to protect wetland functions and values. Documentation must include, but is not limited to, any of the following:

1. The wetland is used by a plant or animal species listed by the Federal government or the State as endangered, threatened, candidate, sensitive, monitored, or documented priority species or habitats, or the wetland is essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
2. The adjacent land has slopes greater than 15 percent and is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
3. The adjacent land has minimal vegetative cover on slopes greater than 30%. In lieu of increasing the buffer width where exiting buffer vegetation is inadequate to protect the wetland functions and values, development and implementation of a wetland buffer restoration/enhancement plan in accordance with AMC 19.70.270 may be substituted.

F. Averaging buffer widths. The Decision maker may allow averaging of wetland buffer widths on a case-by-case basis when the critical areas report demonstrates that the following criteria are met:

1. There is not a feasible alternative to the site design that could be accomplished without buffer averaging;
2. The buffer averaging does not reduce the functions or values of the wetland, either through preservation of total buffer area or enhancement of buffer areas;
3. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer.
4. The wetland contains variation in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrow buffer in other places;
5. The buffer width at its narrowest point is not reduced to less than 75 percent of the standard width, for Category I and II. No less than 50 percent or 35 feet for Category III, and 15 feet for Category IV, whichever is greater.