

PLEASE NOTE THIS RESCHEDULED PUBLIC MEETING
BEGINS AT 5:00 PM

**RESCHEDULED PUBLIC MEETING
ANACORTES PLANNING COMMISSION**



WEDNESDAY, DECEMBER 4, 2019

Municipal Building Council Chambers

6th Street and "Q" Avenue

AGENDA

5 P.M.

[VIEW PACKET MATERIALS HERE](#)

1. **Roll Call**
2. **Minutes of November 13, 2019**
3. **Public Meeting**: Work session and discussion on the Critical Area Regulations Update

The City of Anacortes encourages people with disabilities to participate in public meetings. For assistance with special needs, please contact the City Clerk at 360-299-1960 in advance of the meeting.



Planning Commission Public Hearing Minutes for November 13, 2019

This is not a verbatim transcript of the meeting and is written in an attempt to capture the general spirit of the discussion based upon notes and video observation by the author. To view the video recording of this meeting, click [here](https://www.anacorteswa.gov/700/Watch-Meetings), or go to <https://www.anacorteswa.gov/700/Watch-Meetings>.

Chair McNett called the Public Hearing of November 13, 2019, to order at approximately 5 p.m.

Roll Call

Members Present: Commissioners McNett, Graf, MacKenzie, and Doll

Commissioner Cleland-McGrath arrived at 6pm

Absent: Commissioner Mount & Moffitt

Minutes

Minutes from October 23, 2019, stand as presented.

Correspondence None

New Business None

Old Business

Continued discussion of the Draft Critical Area Ordinance Update.

Ms. Libby Grage, Planning Manager, provided the Critical Area Ordinance (CAO) is required to be updated every 8 years, and the update is past due. Tess Cooper, Associate Planner provided an outline on the update process and timeline proposal, listing the goals for this meeting which were to provide a progress report, review the wetland section, and review the Fish & Wildlife Habitat Conservation Areas (FWHCA) section. Commissioner McNett requested visual diagrams to help with wetland scoring and buffer limits. Ms. Cooper discussed the conservation easement for the Anacortes Community Forest Lands (ACFL) and all the protections currently in place for the ACFL and explained the information in the Commissioners' information packet for this meeting. Chair McNett opened the floor for public participation:

Public Comments:

Tom Glade, 210 Mansfield Ct, Anacortes: Representing Evergreen Islands, discussed reasonable use exceptions in the CAO process.

Brian Wetcher, 814 26th St, Anacortes: Questioned the reason for opening the floor to public comments since they will not be logged as record, and mentioned the CAO should not be based on development; it should be a conservation ordinance.

Bob Barry, 1914 22nd St, Anacortes: Disappointed how the ACFL is being managed under the CAO, and would like 2 more months for the CAO update process.

Catherine Houck, 2318 20th St, Anacortes: Recommend putting the Cannery/Ship Harbor areas back in the CAO document and tailor the CAO to the values of its citizens.

Neal O'Hara, 4407 Anaco Beach Pl, Anacortes: As a member of the Audubon Society, concerned about the Ship Harbor wetland buffer and its critical habitat.

Andy Stewart, 3508 W. 8th St, Anacortes: As a long term member of the Friends of the Forest (FOF), said the CAO should be more part of the ACFL & wildlife corridors.

Ms. Cooper provided the exemption section in CAO is still the same - just renamed and relocated in the Draft CAO. Ms. Cooper also provided information on major changes in CAO including a new section 19.70.350(c), March Point Heronry. Fiona McNair, Consultant with GeoEngineers, explained wetland buffer type & functions, rating system, buffer widths, and primary factors used to evaluate buffer width, etc. Discussion ensued among Commissioners and ultimately agreed more time and public participation was necessary to update the CAO and provided the following timeline to update the CAO:

November 20th at 5pm
November 27th CANCELED
December 4th at 5pm

With no further discussion, Chair McNett concluded the meeting at approximately 8:03 p.m.



Planning Commission Agenda Bill

Meeting Date: 12/4/2019 **Agenda Item:** [Click here to enter text.](#)

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

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
X	Discussion
	Action

Summary Statement: Staff will discuss Draft 2 of 2016 critical areas regulations update, a process that is required to be conducted under the periodic update requirements of the Growth Management Act. The second draft was provided to during the October 23rd meeting. This meeting will allow opportunity for public and Planning Commission discussion feedback to inform the continuing development of this document.

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

December 4	PC Work Session: Public Comment Matrix, Case Studies, and Discussion
December 11	PC Work Session: Final Discussion
December 18	PC Public Hearing: Recommendation to CC (Special Session)

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: Continued public input is encouraged and welcomed. Informal public comment may be provided at Planning Commission work sessions or in writing to Tess Cooper, tessc@cityofanacortes.org. A formal public hearing will be held on December 18th at 5:00 PM.

Recommended Motion: None

Attachments: Public Comments Matrix

Critical Areas Regulations Update

Draft 2 Public Comment Summary

Updated 11/26/19

Below is a brief summary of public comments received up until November 26, 2019, and staff responses. Comments have been grouped by theme/ issue. Complete written public comment letters can be viewed [here](https://www.anacorteswa.gov/DocumentCenter/Index/1267) (<https://www.anacorteswa.gov/DocumentCenter/Index/1267>) and should be consulted for full details and context.

Issue / Key Words	Comments summary	Draft 2 reference	Staff Comments
General Comments not associated with a specific section			
Update timing and deadline	Multiple commenters requested additional time for the process.	n/a	Comments continue to be accepted and the proposed project schedule has been extended to include additional Planning Commission meetings and opportunities for public input.
Removal of Introduction	Comment received is disappointed in the elimination of local knowledge, values, and interest in the new Draft 2.	n/a	Staff recommends removing these sections from the code as they are not specifically code language. They can be added in the end as appendices, or moved to guidance documents or comp plans.
Overall weakening of CAO	Commenter felt that the proposal will weaken the critical areas ordinance.	n/a	The critical area regulations have been edited to tighten up language and clarify confusion, and overall improve critical area protections.
Overall weakening of CAO	Comment received expresses disappointment with the Draft 2 and does not believe critical area regulations should be eliminated.	n/a	The critical area regulations have been edited to tighten up language and clarify confusion, and overall improve critical area protections.
Support of Dr. Barnes Comments	Comment in support of Dr. Barnes concerns.	n/a	Noted by staff.
Support of Dr. Barnes Comments	Commenters would like to endorse the comments of Ross Barnes and Evergreen Islands.	n/a	Noted by staff.
Roles of the planning dept.	Commenter is concerned with the roles of both the Planning Staff and Planning Commission.	n/a	Noted by staff.
Development	Commenter is concerned that the Draft CAO allows uncontrolled development in critical areas.	n/a	The critical area regulations have been edited to tighten up language and clarify confusion, and overall improve critical area protections.
Meeting Packets	The commenter is concerned with the packet availability of the packet material.	n/a	The packet material has been posted as presented with the agenda bill. Draft 2 was provided during the 10-23 meeting packet.
Meeting Packets	The commenter is concerned the agenda bill does not match the packet materials.	n/a	The packet material has been posted as presented with the agenda bill. Draft 2 was provided during the 10-23 meeting packet.
Timeline of CAO process	Concerned with the fast timeline and the spirit of open government.	n/a	Comments continue to be accepted and the proposed project schedule has been extended to include additional Planning Commission meetings and opportunities for public input.

Issue / Key Words	Comments summary	Draft 2 reference	Staff Comments
Monitoring and Adaptive Management	Commenter felt it was important for the City to monitor critical areas over time to ensure that the regulations are protecting the critical areas as intended.	n/a	The CAO currently has adaptive management provisions for wetlands and streams, in AMC 17.70.530 and 17.70.540(A)(7), respectively. While relatively few projects subject to the provisions have been permitted over the past 10 years, funding, record tracking, lack of clear goals and benchmarks, and other technical issues have made administering the program challenging. Recently, the Department of Commerce circulated new draft guidance on monitoring and adaptive management. Staff recommends that a monitoring and adaptive management program for specific project tracking be implemented.
Basic Grammar	The comment recommends text of Draft 2 needs to be reviewed to eliminate ambiguity and offers suggestions to improve language.	n/a	Noted by staff, may incorporate recommendations as appropriate.
General timeline and completion	The commenter is concerned with the rushes timeline and the lag since draft 1. The public input process and the lack of missing maps and availability of meeting materials.	n/a	Staff has made attempts to explain the timeline, process, and pause in the CAO update process and encourages concerned parties to review this explanation or contact staff for further clarification. All materials are available on the website.
Timeline and Terms	A comment received expresses concern about the timeline and “process of push”, and the lack of clarity for certain terms including Decision Maker, Mitigation, Reasonable Use, and Flexibility.	n/a	Noted by staff, they will expand the definition section of this chapter.
Removal of PUD’s	A comment was receive that removing the PUD provisions and flexibility has prevented the flexible development around critical areas.	n/a	Noted by staff.
Section: General Provisions			
Exemptions – Passive Recreation	Commenter is concerned with “passive recreation” vs “active recreation”.	Table 19.70.040	Currently, per AMC 19.70.340(F)(7), “passive recreation” facilities designed in accordance with an approved critical areas report are permitted within a wetland buffer provided they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland. The current definition of passive recreation (AMC 17.06.723) includes trails, interpretive trails and other similar structures or development, among other activities and uses: <i>“Recreation, passive.</i> <i>A “passive recreation area” refers to a mix of uses on undeveloped land (including wetland buffers) or minimally improved lands which includes the following: naturally landscaped areas, non-landscaped greenspaces, picnic areas, water bodies, trails, interpretive trails and other similar structures or development.</i> <i>Passive recreation may be defined as a non-motorized activity that:</i> <i>A. Offers constructive, restorative, and pleasurable human benefits and fosters appreciation and understanding of open space and its purpose;</i> <i>B. Is compatible with other passive recreation uses;</i> <i>C. Does not significantly impact natural, cultural, scientific, or agricultural values; and</i> <i>D. Requires only minimal visitor facilities and services directly related to safety and minimizes passive recreation impacts.”</i>

Issue / Key Words	Comments summary	Draft 2 reference	Staff Comments
			The proposed language in AMC 19.70.250 includes as an allowed use in wetland buffers passive recreation facilities (including walkways and trails) meeting certain standards. The proposed standards are generally consistent with the DOE's Wetlands Guidance for CAO Updates, including orientation, location within outer 25% of the wetland buffer area and to avoid removal of significant trees, use of pervious surfaces and maximum width.
Bicycles as passive recreation	The comment expresses concern with including bicycles as passive recreation, the term non-motorized is ambiguous.	Table 19.70.040	Staff the interpret use of bicycles as passive under the above discussed definition. The definition can be expanded to distinguish gasoline powered vs. electric powered motors, if it is decided clarification is needed. But the Conservation Easements and ACFL Forest Plans regulate the use of motorized bikes, is there a need outside of the ACFL to determine this distinction?
General Language	The commenter provided edits and comments on the language of the general provisions section.	19.70.010 – 19.70.055	Staff has reviewed these recommendations and will consider implementing helpful recommendations.
Bicycles	The commenter is concerned with the use of bicycles as passive recreation.	19.70.040	Only the “use” of bicycles is exempt, NOT the creation of new development (such as building new bike parks or trails).
Bicycles	The commenter is concerned that the bicycle exemption provision would allow a new bicycle path through SHIP harbor wetland buffer.	19.70.040	The exemption is for bicycle “use” on legally existing trails, the exemption is NOT for building new trail, and would not outright allow a new bicycle path without following proper permitting and mitigation requirements.
Exemptions and Bicycles	The commenter is concerned with the use of bicycles as passive recreation.	19.70.040	Noted by staff.
Section: Critical Areas Review Procedures			
Reasonable Use	The comment is concerned with the flexibility of the Reasonable Use exceptions.	19.70.010D	The language in Draft 2 under the provision is in compliance with RCW 36.70A.370 growth management act requirements.
Section: Wetlands			
Regionally significant wetlands	Comment expresses disappointment in the removal of special designations as discussed by Dr. Barnes including removal of wetlands of local and regional significance, removal of the protective buffers for SHIP wetlands, and removal of stream names.	19.70.210	Staff feels that the code was flawed in designation of a lower buffer for these wetlands and has demonstrated that the wetland rating remains a category I without the special designation, with a larger buffer in most instances. However, we could keep the designation with guidance on how the rating and buffers should be dedicated under the provision.
Elimination of special protections	Commenter is appalled at the elimination of special protections for several wetland areas of keen local interest.	19.70.210	Staff felt that the removal of the confusing provisions would help clarity for all wetlands evaluated the special wetlands to ensure the protection levels will remain the same. The special provisions actually lowered the buffer protections and staff felt this should be removed.
Elimination of special protections	Comment feels the removal of hard work that went into the past CAO and special protections.	19.70.210	Staff felt that the removal of the confusing provisions would help clarity for all wetlands evaluated the special wetlands to ensure the protection levels will remain the same. The special provisions actually lowered the buffer protections and staff felt this should be removed.
Elimination of special protections	Commenter concerned with the removal of special provisions for SHIP and such areas.		Noted by staff.

Issue / Key Words	Comments summary	Draft 2 reference	Staff Comments
Wetland Buffers	The commenter is concerned with the provision to modify the wetland buffers from the ecology recommendations.	Table 19.70.250.B	The Draft will be reviewed by the Department of Ecology and staff will follow their guidance on this.
Loss of locally designated critical areas	The comment received expressed concern that the CAO has been downgraded.		Noted by staff.
SHIP Harbor special provisions	Commenter would like to note the amount birds and critical habitat found in the ship harbor interpretive preserve, and would like stress how specific provisions are needed.	n/a	Noted by staff.
Section: Fish & Wildlife Habitat Conservation Areas			
Hérons	Commenter shares praise that the work on the Draft CAO is good, and has provided a few recommendations to improve the section of FWHCA's on Herons.	19.70.350	Staff have reviewed the recommendations and plan to meet with the Skagit Land Trust to further the discussion.
ACFL	The comment includes suggested protections for the ACFL and draft code language to improve clarity.	19.70.330	Staff have forwarded the recommendation to the Anacortes Parks Department and are considering the suggestions for incorporation into Anacortes Municipal Code.
Wildlife Corridors	The commenter believes the CAO as a whole is good work but would like to see more language about wildlife corridors to protect the sensitive and fragile nature of this islands ecosystems.	19.70.310	Staff has discussed this and feels that mapping may be a way to distinguish these areas. They are provided for in the Comprehensive Plan and fall under FWHCA's, but we will look at ways to improve protections.
ACFL Intro	The commenter feels it's important to keep the introduction explanation of the ACFL, but that it could be revised and improved.	n/a	Noted by staff.
ACFL Intro	The commenter feels it's important to keep the introduction explanation of the ACFL, but that it could be revised and improved.	n/a	Noted by staff.
Section: Geologically Hazardous Areas			
Recent landslides not mapped	The comment suggest that the mapping should include more conclusive mapping of recent slide activities as well as well known unstable slopes.	19.70.420	Noted by staff.

Issue / Key Words	Comments summary	Draft 2 reference	Staff Comments
Section: Critical Aquifer Recharge Areas			
None received			
Section: Frequently Flooded Areas			
FEMA NFIP	The commenter is concerned that we have removed the federally mandated NFIP requirements for floodways.	19.70.620	The requirements will be moved out of the CAO and into our development regulations under section 19.47. The provisions are not changed or being removed, just relocated.
Section: Definitions			
Technical Definitions	The comment suggests the CAO should incorporate more technical definitions to avoid ambiguity.		.
Bicycles	Commenter suggests clarifying the definition of bicycling		Noted by staff.
Non-motorized	Comment suggest this hould be defined under bicycles		Noted by staff.
SEPA Environmental Checklist			