



Planning & Development Services

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Memorandum: Critical Areas Ordinance Amendments

To: Planning Commission
From: Leah Forbes, AICP, Senior Planner
Date: October 6, 2026
Re: Amendments to SCC 14.24, Critical Areas Ordinance

Recommendation

The Department recommends **approval** of these proposed amendments.

Summary

The Growth Management Hearings Board (GMHB) determined that the County's riparian buffers violated the Growth Management Act (GMA). In particular, the GMHB found that the Critical Area Ordinance's fixed-width buffers, which did not meet the recommendation of a size equal to "Site Potential Tree Height" (SPTH), lacked a mechanism to prevent a net loss of ecological functions where SPTH exceeded the distance of the fixed-width buffer. The remaining issues were all denied and dismissed. Planning and Development Service is proposing amendments to SCC 14.24.530 of the Critical Areas Ordinance in response to the GMHB Final Decision which is outlined in detail below.

Separate from the changes proposed to comply with the GMHB decision, staff are also proposing to modify the maximum disturbance limits under SCC 14.24.140, Reasonable Use Exception, to accommodate reasonable development on lots that exceed 1-acre.

The proposed amendments can be found in **Exhibit A**.

Background and History

Critical Areas Ordinance (CAO)

The purpose of the Critical Areas Ordinance is to assist in conserving the value of property, safeguarding the public welfare, ensuring no net loss of ecological functions and providing protection for the following critical areas:

- Wetlands
- Frequently Flood Areas
- Critical Aquifer Recharge Areas
- Geologically Hazardous Areas
- Fish and Wildlife Habitat Conservation areas

Riparian Management Zones (SCC 14.24.530)

On November 25, 2025, the Board of County Commissioners adopted [O20250011](#), amendments to SCC 14.24, the Critical Areas Ordinance. This ordinance was appealed to the GMHB January 16, 2026, by

Evergreen Islands, Jan Edelstein, and Friends of Skagit County (Case No. 26-2-0004c) (**Exhibit B**). The Final Decision and Order (FDO) was received on July 20, 2026 and can be found in **Exhibit C**.

Site potential tree height or SPH_{200} is the average maximum height the tallest dominant trees could grow within 200 years at a given location. This height can be determined using the SPH_{200} calculator provided by the Washington State Department of Fish and Wildlife. To determine site quality using tree height as the indicator, appropriate site trees of each species are selected in a stand. The site trees' heights and ages are measured in the field and then plotted or indexed on species-specific growth curves or tables. These tree height-to-age relationship curves are derived from growth and yield field data and show how the best trees from a variety of sites have grown over time.

A simpler option is to use the Priority Habitats and Species (PHS) SPH Mapping Tool. This allows a landowner or their qualified professional to select a polygon surrounding the project location on the map to determine the SPH_{200} for the site.

A random selection of areas throughout the County has shown SPH_{200} can be as low as 94 feet for certain areas of Red Alder or as high as 245 feet for Douglas Fir. Parcels can have more than one identified SPH_{200} so the Riparian Management Zone (RMZ) may be project specific.

Reasonable Use Exceptions (SCC 14.24.140)

The goal of the amendments to SCC 14.24.140, Reasonable Use Exception (RUE), adopted under O20250011, was to allow for an administrative process for single family residential development with smaller impacts to onsite critical areas. This provision in code allows an applicant who cannot comply with the specific standards of the Critical Areas Ordinance to seek approval of a RUE for single-family residential development when application of the standard buffer widths will deny all economically viable use of the property.

Currently, the maximum allowed disturbance limit under the RUE process is 4,000 square feet with no consideration for lot size. Implementation of the changes to have proven too restrictive on lots greater than 1-acre in size. This has resulted in a high number of critical areas variances which require approval from the Skagit County Hearing Examiner and can be a time-consuming process. The new amendments to SCC 14.24.140 will help streamline critical areas review of single-family residences by changing the land disturbance thresholds for RUEs.

Overview of Proposed Amendments

Below is a summary of the amendments proposed to the Critical Areas Ordinance. The proposed amendments can be found in **Exhibit A**.

Riparian Management Zones (SCC 14.24.530)

Skagit County Planning and Development Services is proposing to amend SCC 14.24.530 in response to the Growth Management Hearings Board Final Decision and Order. The proposed changes include expansion of the standard review area for streams to a minimum of 250 feet and the designation of a Riparian Management Zone (RMZ). This increased review area will capture the vast majority of SPH_{200} buffers.

The RMZ will provide for protection of existing ecological functions and values including large woody debris recruitment, shade, bank integrity (root reinforcement), runoff filtration, wildlife habitat, microclimate, and nutrient inputs. For densely vegetated buffers that meet the 200-year site potential tree height, the regulated buffer will be the SPH_{200} width.

If the RMZ does not provide the standard ecological functions and values, and the uses within the RMZ are lawful, the regulated buffer width will be the baseline buffer. If the densely vegetated RMZ is greater than the baseline buffer width but less than the SPTH₂₀₀ buffer, then the regulated buffer includes the densely vegetated area to protect existing ecological functions and values. If the baseline buffer is not densely vegetated, it must be enhanced with native vegetation as required in SCC 14.24.530(1)(c)(i). Baseline buffers will be as established in O20250011 (SCC 14.24.530(1)(c)).

- Type S (Shoreline) = 200'
- Type F (Fish-bearing) = 150'
- Type N (Non-fish-bearing) = 100'

Lawful impacts to the buffer include development or land clearing that was established through the County permitting process or those that existed prior to the effective date of the original Critical Areas Ordinance, June 13, 1996.

This approach will protect against net loss of ecological functions and values, and in many cases, will increase the functions and values through enhancement.

Reasonable Use Exceptions (SCC 14.24.140)

As mentioned above, the maximum allowed disturbance limit under the RUE process is 4,000 square feet with no consideration for lot size. Implementation of the changes to have proven too restrictive on lots greater than 1-acre in size. Planning and Development Services are proposing to amend the maximum disturbance limits depending on lot size.

The proposed maximum disturbance limits include:

- 4,000 square feet for lots less than one acre
- 10% of the lot size if the lot is between 1 acre and five acres
- 22,000 square feet of the lot is larger than five acres

Establishing different thresholds based on lot size will create more flexibility for property owners to complete an administrative process rather than going before the Hearing Examiner. The Critical Areas Reasonable Use Exception process is a Type 2 project review requiring public comment. The increased maximum disturbance limits will still require thorough review and compliance with applicable provisions for site assessments, mitigation sequencing, and permanent buffer protections. All RUE proposals must demonstrate that the proposal mitigates for the impacts to the critical areas and minimizes net loss of critical area functions to the greatest extent feasible.

How to Comment

The public may submit written comments via email to pdscomments@skagitcountywa.gov (preferred) or via US mail starting **October 15, 2026**. All paper comments must be submitted on 8½" x 11" paper to the address below:

Skagit County Planning & Development Services
re: Comments "Critical Areas Ordinance Amendments"
1800 Continental Place
Mount Vernon, WA 98273

All comments must be received by **November 19, 2026, at 4:30 p.m.** and include (1) your full name, (2) your mailing address. Comments not meeting these requirements will not be considered. You may also provide verbal comments at the Public Hearing. The public hearing is scheduled for **November 17, 2026**,

at 6:00 p.m in the Skagit County Commissioners Hearing Room at 1800 Continental Place, Mount Vernon, WA 98273.

If you wish to provide testimony via the online meeting option, please send an email to pdscomments@skagitcountywa.gov, with your name, phone number, and include a request to be added to the speakers list in the body of the email. Public hearing testimony is usually limited to three minutes, so written comments are preferred.

Exhibits

- **Exhibit A – Proposed 14.24 Amendments**
- **Exhibit B – Growth Management Hearings Board Appeal (Case No. 26-2-0004c)**
- **Exhibit C – Growth Management Hearings Board Final Decision and Order (Case No. 26-2-0004c)**