



MEMORANDUM

DATE: December 26, 2024
TO: PLANNING COMMISSION
FROM: Ann Siegenthaler, Senior Planner, and Parametrix consultant team
RE: **2024 Comp Plan Update –CRITICAL AREAS ORDINANCE – Code Update**

I. BACKGROUND / WHY THE AMENDMENTS ARE BEING PROPOSED

The Growth Management Act (GMA) requires all cities and counties to adopt development regulations that protect critical areas. Critical areas are lands with 1) natural hazards or lands that can pose a risk to life and property; and 2) areas that support unique, fragile or valuable resources. Critical areas regulations help to preserve the natural environment, maintain fish and wildlife habitat, and protect drinking water. It can be costly, or even impossible, to replace critical area functions and values once they are lost. RCW 36.70A.030(5) defines five types of critical areas:

- Wetlands
- Aquifer recharge areas Frequently flooded areas
- Geologically hazardous areas
- Fish and wildlife habitat conservation areas.

All critical areas must be designated, and their functions and values protected using the best available scientific information (BAS). As defined by WAC 365-195-900 through 925, BAS is derived from a process that includes peer-reviewed literature, standard methods, logical conclusions and reasonable inferences, quantitative analysis, and documented references to produce reliable information. The last substantial review of Sumner’s regulations for BAS was in 2015. The 2024 updates proposed to Sumner’s critical areas regulations are based on current Best Available Science.

II. DESCRIPTION OF PROPOSAL

The proposed amendments to Sumner Municipal Code Title 16 Environment will update regulations related to protection of critical areas. **See EXHIBIT B** Proposed Code Changes.
Key changes are:

- A. Updated critical area section titles to be consistent with current state code and guidelines.
 - For example, changing “Wildlife Habitat Area” to “Fish and Wildlife Habitat Conservation Area.”
- B. Updated definitions and added additional definitions to better address critical areas requirements from the state, agency guidelines and best practices, such as.
 - Best available science
 - Clarifying best management practices (BMPs)
 - Clarifying that fish and wildlife habitat do not include artificial features.

C. Exemptions:

- Existing code exempts minor development and habitat restoration activities that do not need a permit.
- Added a section for “partial exemptions” for activities that only require a minimal amount of City review. This should facilitate faster processing time for minor projects.

D. Variance/reasonable use

- Existing code allows a variance process when regulations may cause extraordinary hardship or remove reasonable use of a property. Buffer reduction for most development is covered in other code sections.
- This section is updated to clarify criteria for variance approval.

E. Non-Conforming Uses:

- Existing code allows non-conforming uses that legally exist prior to code adoption.
- This section to be updated to clarify when non-conforming uses can continue. Generally, non-conforming uses can continue and can expand outside of critical areas or their buffers, if there are no further impacts to the critical area or its buffer.

F. Buffer adjustments

- Added sections for wetlands and streams to allow a project to exclude functionally disconnected buffers (e.g. bisected by a street). Previously, functionally disconnected buffers were assumed but explicit text was not in the existing code.

G. Buffer reductions for streams

- **See EXHIBIT A** Streams and Wetlands Map.
- Existing code allows buffer reductions for wetlands and streams, if the critical area is adequately protected.
- Fish Bearing Streams (Type F): Existing code allows reduction of a buffer to no less than 75 feet (from 100 feet). No change is proposed.
- Non-Fish Bearing Streams (Type N): Existing code allows a buffer reduction by approximately 50%, to between 20-25 feet. New code removes this reduction and treats all streams the same (see section below).
- New code changes the approval process for stream buffer reduction; instead of a more onerous variance permit, a buffer reduction would be approved administratively.
- Existing approval criteria are updated:
 - Reductions would be allowed on all properties, not just smaller properties (less than 200 feet deep).
 - Applicants still have to show there are no feasible alternatives that reduce impacts before being granted a reduction.
 - Applicants must also comply with site design and management measures to minimize impacts to streams/buffers, similar to what is required for wetlands.
 - New language no longer limits impervious surface area to 10% in the extracted buffer area.
 - Applicants are still required to enhance the existing buffer and follow measures to ensure enhancements are successful. This has been clarified by requiring a habitat management plan and oversight by a biologist, similar to wetlands requirements.

H. Updated buffer widths for streams

- This section has new buffer recommendations based on discussion with Washington Department of Fish and Wildlife (WDFW) and the Best Available Science (BAS). Jurisdictions are required to include BAS in regulating critical areas. WDFW’s buffer recommendations are based on soil type, and tree species, among other factors. For Sumner the range of buffers recommended is 100-231 feet. 100 feet is the minimum recommended buffer for all streams as it is the minimum distance needed to provide habitat functions (e.g. 95% or more removal of phosphorus, sediment and most pesticides and 80% removal for surface runoff containing excess nitrogen).

- **Fish Bearing Streams:** All Sumner fish bearing streams (Type F) currently have a 100-foot buffer. Most of Sumner’s Type F streams are in the valley floor and have a recommended buffer of 100 to 105 feet with a few areas of 225 feet. As the existing buffer is similar to WDFW’s recommendation, no change is proposed.
- **Non-Fish Bearing Streams:** Based on BAS and WDFW recommendations, staff is proposing that non-fish bearing streams (Type N) also have a 100-foot buffer.
 - **See EXHIBIT C** Non-Fish Bearing Stream Characteristics. Most of Sumner’s Type N streams are located on the eastern and western forested slopes in landslide hazard areas, often within ravines, where steep slopes have development restrictions. Some have adjacent wetlands, which also are restricted. In these areas WDFW recommends 194 to 231-foot buffers. As current buffers for Type F streams are 100 feet, an increase to 100-foot buffer for Type N is recommended. This is much less than the 194 to 231 feet recommended by WDFW but is the minimum width for a viable buffer.
 - Characteristics of Type N streams: Type N streams in Sumner are primarily extensions of a Type F; they are the upper reaches of the same stream. All of these stream segments are tributaries to Sumner’s major salmonid habitats, such as Salmon Creek and the White River. As tributaries, these streams are critical to the entire stream system, having an important role in protecting water quality (reducing high water temperatures and pollutants). BAS indicates that tributaries to Type F need the same protective buffers as Type F.
 - Given that Type N are extensions or tributaries to Type F that have a 100-foot buffer, having a consistent treatment in the code is recommended. Also, there is virtually no distinction on the ground between the water flowing from a Type N and where that water meets a Type F. Having a consistent buffer makes site design and permitting more straightforward.
 - Sumner’s stream buffers have not been updated since 1992. As are required by the State to update their 2024 Comprehensive Plans for BAS, the proposed code will bring Sumner more in line with new BAS recommendations.
- **Effects on development:**
 - The proposed code maintains the 100-foot buffer for Type F.
 - Type N buffers are not proposed at the highest 231-foot recommended by WDFW, but will be held at a 100-foot width, consistent with other streams.
 - Buffer increases to Type N will occur primarily in areas of landslide and erosion hazard areas and wetlands that have restricted development already.
 - Type F and Type N will have a consistent treatment in the code in terms of buffer requirements and buffer reduction.
 - Buffer reduction provisions will allow for reasonable development, and for a streamlined administrative permit.

III. STAFF RECOMMENDATION

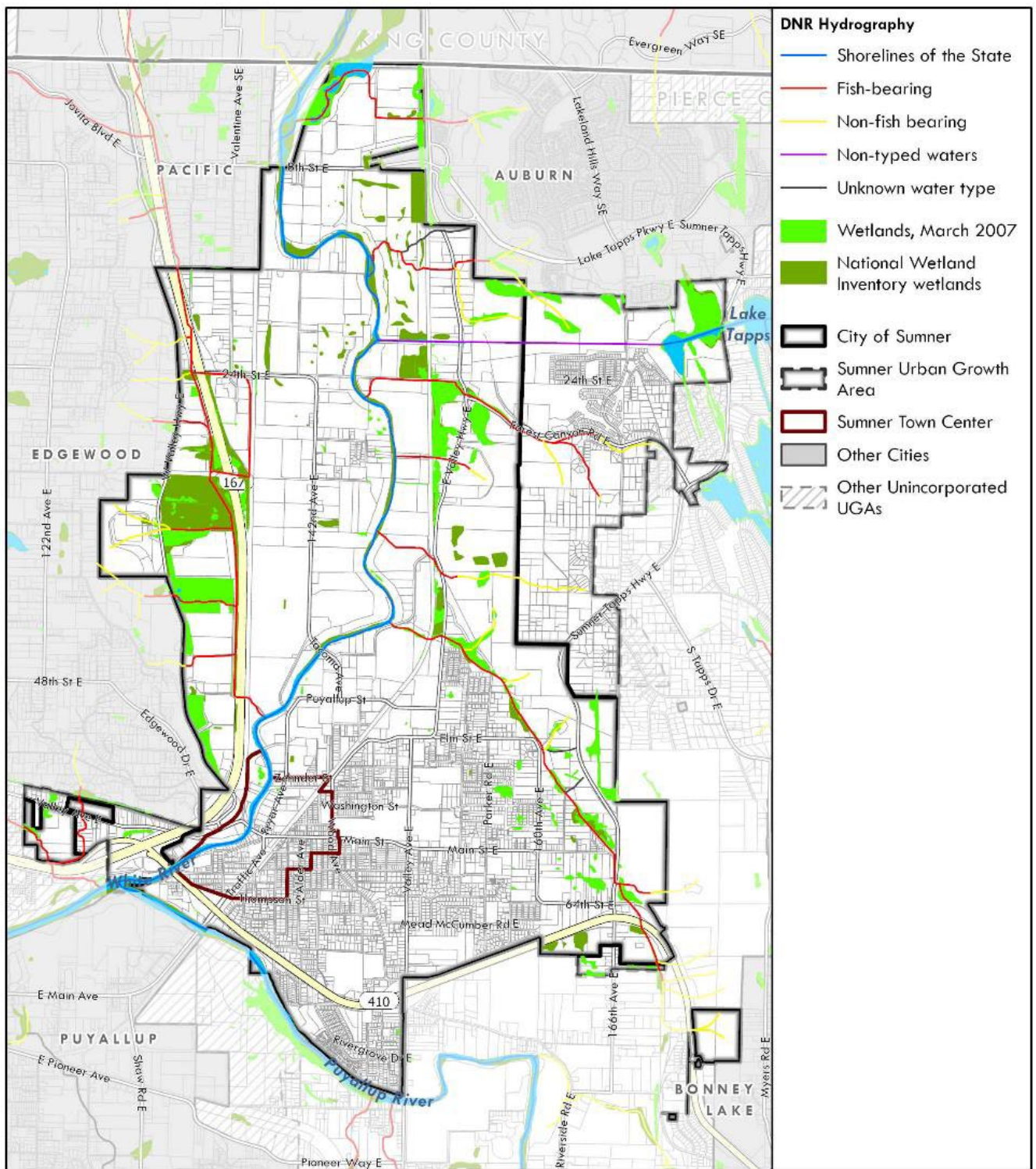
Review the proposed changes, discuss, and provide comments to staff and the consultants.

IV. EXHIBITS

- A. Streams & Wetlands map
- B. Proposed Code Changes Critical Areas Regulations
- C. Non-Fish Bearing Streams Characteristics

EXHIBIT A

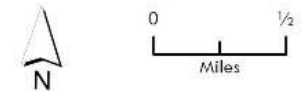
Source: Parametrix November 2023



CITY OF SUMNER

Streams and Wetlands

Disclaimer: Map features are approximate only. The City of Sumner does not guarantee the accuracy of this map nor assume any liability from the use of or reliance on the information herein.



Map Date: August 2023