

Public Comments on A-27 - Nonconforming Code Update, Critical Areas Ordinance*

Ref. #	Date Received	Name	Comment
1	5/14/2022	Peggy Butler	Please leave the current code in place. It protects the public's interest by preserving critical areas. The proposed code amendments will undermine the 'use of the best available science' and likely increase the human impacts within critical areas. Thank you.
2	5/15/2022	Sam Merrill, Black Hills Audubon, Conservation Chair	<p>Black Hills Audubon Society (BHAS) is a chapter of the National Audubon Society. Our region includes Thurston, Mason, and Lewis Counties, and we have approximately 1300 members within our region. Our mission includes protecting habitat for both humans and wildlife. Critical areas are mapped using careful, scientifically based criteria. Each kind of critical area protects a vital part of the public interest – preventing floods that devastate human settlements and farmland; identifying areas with unstable soils that could lead to landslides; conserving wetlands that filter pollution, offer flood control and protect wildlife; and preserving river basins that contribute to clean and plentiful groundwater/drinking water and preserve endangered species such as salmon. Because the proposed code amendments for Docket Number A-27, Nonconforming Code Update—Critical Area Ordinance (Title 24) have the potential to negatively affect the functions of these critical areas, BHAS has a number of concerns:</p> <ol style="list-style-type: none"> 1. The amended code does not rigorously ensure that “the best available science” is considered in making decisions to permit changes to nonconforming property. Under the current Exceptional Use application process, each case is considered by the Hearings Examiner, who must use “best available science” in their decisions. In fact, if a property owner claims that the effects on the critical area’s function would be minimal, they may be required to pay a third party to substantiate that claim. However, the amended code makes no explicit “best available science” requirement of administrative staff review and eliminates the possibility of the applicant paying for a third party to prove any claims. 2. The proposed amended language allows almost all proposed changes to property to be decided by administrative staff as long as the changes are within a nonconforming structure’s footprint. However, there is less public transparency about the use of “best available science” for staff decisions than when a Hearing Examiner makes decisions about Exceptional Use applications. 3. The amended code language might result in more human occupation and activity in critical use areas. The current process protects the public’s interest by discouraging improvements in critical areas. According to the staff memo of April 20, currently there are about 10 to 12 Exceptional Use applications per year, and county staff estimates that the proposed amended code requirements would have only applied to 1 or 2 of those applications each year. However, under the proposed amended code, with no fee and only staff discretion to decide permits, there could be a deluge of applications. 4. The proposed amended code increases human impacts within critical areas by allowing construction outside the footprint of current nonconforming structures. Neither of these two new proposals is well-supported by Department of Natural Resources or WA Department of Fish & Wildlife guidelines, nor by any other science: <ul style="list-style-type: none"> • New structures could be built in areas “functionally isolated” from the critical area’s function by “topographic breaks” or human construction such as a building, public road, or railroad. Staff claims this is consistent with Dept. of Ecology guidelines for wetlands critical areas, but the amended code language is for all critical areas. It is not clear how the functions of wetlands, much less those of critical areas for river basins, flooding, or unstable soils, could be isolated by these structures. The code revision would add a definition of “Functionally Isolated Buffer” and “Functional Isolation-Physical Separation” that has no basis in science. In fact, the Department of Fish and Wildlife has suggested that “best available science” requires consideration of all riparian functions in critical areas, including upland functions. See https://wdfw.wa.gov/sites/default/files/publications/01988/wdfw01988.pdf • Expansions of a current nonconforming structure could be built on the other side of the critical area’s function. The staff’s example is from the Shoreline Management Program with a house addition built “upland” of a river. Again, no scientific basis is provided to allow this exception, especially for all types of critical areas. Until the proposed code amendments can be shown to conform to “best available science” and to have no negative effects on the functions of critical areas, BHAS urges the Planning Commission to reject the proposed code amendments.
3	5/15/2022	Karol Erickson	I do not support this proposal which would be a significant change from the current process. It would undermine the use of best available science and likely increase harmful human occupation and activities in critical areas. The amended code does not require that “the best available science” be considered in making decisions about permitting changes to nonconforming property. Currently the Exceptional Use application process has each case considered by the Hearings Examiner, who must use “best available science” in their decisions and the burden is (at least partially) on the property owner to prove “only minimal effects”. The amended code makes no explicit “best available science” requirement and takes away the possibility of the applicant paying for a third party to prove claims. The current code protects the public’s interest by permitting few nonconforming use activities in a critical area. In contrast, the proposed amended language allows almost all proposed changes to property to be decided by administrative staff, as long as the changes are within a nonconforming structure’s footprint. The current process protects the public by discouraging improvements that result in increased human occupation and activities in critical areas. The proposed amended code increases human impacts within critical areas by allowing construction outside the footprint of current nonconforming structures. Neither of these two new proposals is well-supported by Department of Natural Resources or WA Department of Fish & Wildlife guidelines, nor by any other science. New structures could be built in areas “functionally isolated” or on the other side from the critical area’s function by “topographic breaks” or human construction such as a building, public road, or railroad. The concept of “functionally isolated” as proposed is not supported by science. There shouldn’t be expansion of a nonconforming structure, regardless of direction, without the current process.

* All comments provided to Planning Commission on 5/18/2022

Public Comments on A-27 - Nonconforming Code Update, Critical Areas Ordinance

Ref. #	Date Received	Name	Comment
4 & 5	5/17/2022	Jason Mosebar	I wanted to send an email in supporting adjustments to the A-27 - Non-Conforming Code Update (formerly Reasonable Use Exceptions) (Title 24). We purchased a home on Black Lake 8 years ago and researched the property best I could and as well as visit to the Planning Department. Also, we quickly got a permit for a new septic system and a permit to fix wiring issues in the home for past owners. We got no indication from the planning department during that process of major violations. We knew that there were unpermitted items done to the property before we owned it and wanted fix them. So, we started the process to fix and or remove the unpermitted items and fix the home. This has been a 3-year process that we have been locked up in, have had to get a lawyer and an outside planning company to help us navigate through the County Planning Department. We are now stuck after much money spent and because we are in a "critical area" the cost of the remodel due to the rise in the cost of material to fix the home is going to be more than 50% of the value of the existing structure, we are now stuck!! We have nothing else we can do and every turn we seem to be blocked. Supporting the amendments would allow us to fix the home and return the property to code compliant. Thank you so much! (Also submitted to Commissioner Menser on 5/17/22)
6	5/17/2022	John & Melodye Cosley	My wife and I are current owners of a legally established nonconforming structure (our house) that is located within a critical area buffer. As such, we would like to compliment the Planning Staff for their update recommendations to the nonconforming structures code of the Critical Area Ordinance (Title 24). We believe Staff's recommended updates are consistent with the Thurston County Comprehensive Plan's Chapter 2, Goal 1, Objective A, which states: "County development requirements and programs provide for a balance between human uses and the natural environment in rural and resource areas," Here are a few points we would like to highlight: 1. The suggested change to allow small projects to be subject to an Administrative Review process rather than the onerous Reasonable Use Exception (RUE) process certainly will further this goal. This is huge for us. We have dreaded and, in fact, been counseled against applying for a RUE for our planned remodel because of the process' complexity and cost. While we can only speak for ourselves, we are aware of at least one other homeowner that would be positively affected by this update. That is just within our small circle of contacts. 2. The "Functionally Isolated Buffer" provision that allows structure expansion under certain specified conditions makes sense. When it can be shown that there is no additional harm to the environment or habitat, allowing expansion is, again, consistent with your stated goals. In fact, subject to the detailed criteria, it is hard to justify why this should not be allowed. 3. Allowing uncovered impervious surfaces to be enclosed and incorporated into a structure's living space, does not alter the environmental impact of that impervious surface. Actually, a covered roofline that is designed to capture surface water runoff will control erosion more effectively than a patio or deck. 4. Removing the 50% valuation constraint on nonconforming structure remodels would be beneficial to both property owners and habitat preservation. With the rapidly rising costs of materials and services, it is difficult and complex to know what the total remodel costs are, let alone relative current values. In addition, this valuation limitation currently restricts a property owner from making energy efficiency improvements, because they are costly items. Our remodel plans for a solar passive house, including improved insulation, triple pane windows, thermal masonry walls, and solar panels would quickly exceed this valuation limitation. In addition, implementing a comprehensive drainage and erosion control plan to protect the natural habitat is another important but expensive endeavor. An effective and fair Critical Area Ordinance must include the recognition that existing property owners are partners in the various processes and that their rights as property owners are not being arbitrarily subjugated without just cause. The questions posed about whether there is a scientific basis for allowing appurtenances to be covered into living space, or for allowing vertical additions on nonconforming structures, or for the validity of a functional isolation provision are being considered backwards. The question should actually be whether or not there is a scientific reason NOT to allow such accommodations. If there is none, then the restriction is arbitrary and entirely at the expense of the property owner. We thank you for your consideration of our comments.
7	5/17/2022	Laurence Reeves	Dear Planning Commissioners: I am writing to ask that you reject the proposed code amendments related to Docket Number A-27, Non-conforming Code Update—Critical Area Ordinance. Critical areas are a vital part of the public interest – preventing floods that devastate human settlements and farmland; identifying areas with unstable soils that could lead to landslides; conserving wetlands that filter pollution, offer flood control and protect wildlife; and preserving river basins that contribute to clean and plentiful groundwater/drinking water and preserve endangered species such as salmon. I believe this proposal weakens protection given to critical areas because it does not rigorously ensure that "the best available science" is considered in making decisions to permit changes to nonconforming property. Given the rate of loss of critical areas, we should be looking to strengthen protections of critical areas, not making it easier to develop in critical areas. Thank you for your consideration of my comments.
8	5/17/2022	Sharron Coontz	Several years ago this county spent huge amounts of time and money evaluating and mapping critical areas so those areas could be protected. Sadly, some of that protection has waned in the ensuing years as exceptions have been granted to specific projects. I think amending the code to allow further exceptions (and, worse, those exceptions without thorough scientific evaluation) would be unwise and I hope you won't pass these amendments. The amendments lack the specificity needed to define exactly what "small" projects can be undertaken under exactly what circumstances. They lack the specificity to prevent a so-called small project from morphing into a larger and more damaging one. And subjective standards are being set by and will be evaluated by people who are not necessarily conversant with all the possible ramifications of these actions. We all hear and talk about "unintended consequences," many of which are extremely harmful. Scientists face them frequently and, while scientists still make mistakes that lead to such consequences, I think we can agree that a trained hydrologist, for instance, can better assess the effects of a project on an aquifer than most anyone else. To turn these important decisions over to people with different areas of expertise is in effect negating scientific best practices and could have serious repercussions (unintended consequences). The fact that under these amendments changes could be requested without payment of a fee is problematic. It sounds like a nice thing to provide people with. But what does it really mean? It either means a huge amount of staff time devoted to a thorough investigation (at large cost to the county) or it means a hasty ok of a project because staff are overworked and unable to conduct such an investigation. Neither of these is fair or satisfactory. I am strongly opposed to amending our code in this manner. I sincerely hope these amendments are rejected for both financial and environmental/scientific reasons.

Public Comments on A-27 - Nonconforming Code Update, Critical Areas Ordinance

Ref. #	Date Received	Name	Comment
9	5/17/2022	Marianne Tompkins	<p>Please leave the current code in place. I have 5 acres, mostly wetland, critical areas in Olympia. I'm building a very small home (700 square feet) in the only area I can build. I have spent a LOT of money on wetland reports, and restoration I'm personally doing on the property. There were abuses in the past from previous owners, but it's still beautiful. Two years after happily and understandably complying with County regulations around protections, I started my build. My property has a non developable parcel behind me because of the wetland. The same seasonal creek from my property flows on that parcel and all the way into Zangle Cove. I purchased this land to protect it. A mile or so up the road from me a battle is going on between a Thurston County employee and neighbors. The applicant received approval of a Reasonable Use Exception to reduce a standard 50 foot landslide hazard area buffer to 30 feet for a new single-family residence.</p> <p>Changing the current ordinance has me worried. It would create vulnerability to the property behind me, and give a green light to developers and ease for more people applying for Reasonable Use Exceptions in areas that should be protected. The property behind me has a reveue with a seasonal creek (same as mine). I've seen developers fill these in and build. It happened in the neighborhood I grew up in before protections. Creeks are diverted and native life is destroyed by removing the natural habitat. Please leave the current code in place. Thank you for listening, and for your service.</p>
10	5/18/2022	Esther Kronenburg	<p>I speak as an advocate for protecting our critical water resources to oppose these Critical Area code changes. At present, the County does no routine monitoring of the thousands of chemicals that are used daily everywhere in the county that can easily leach into the soils and ground and surface waters. It has a steady backlog of more than 100 failing septic systems identified of the thousands that inevitably degrade and begin to fail that are not monitored. The County has not enforced violations of environmental law for years, except for egregious failures of septic systems, while permitting 2000 or more new units of housing. The Community Planning & Economic Development department used to be called Resource Stewardship. It is clear since the name change about 5 years ago that the focus of this department has been development to the detriment of our resources. This shift in focus will have long term consequences that we all will suffer. I understand there are circumstances in which someone may want to enclose a porch or create a mother-in-law unit. I think people who have lived on their properties for years and face changing circumstances should be allowed to make these changes if the effects of these changes are properly analyzed for their consequences, as current code dictates. Because you cannot separate one property out of an ecosystem and pretend it doesn't have an effect. It's like 2 people in a boat. One takes out a drill and starts boring a hole under his seat and the other says "What are you doing?" and he replies "I'm just drilling under my seat - it's none of your business." In other words, when it comes to critical areas, we are all affected. We need the protections written into the current code. We need to base our policies on the facts provided by good science which the current policy does. We are losing farmland, green spaces and an alarming amount of wildlife which should be enough of a wake up call and a reason why this code should not be changed to make it easier to continue down the path of development above all else. It's only a matter of time when these losses will be threatening our drinking water, the basis of all public health, and what will our properties be worth then, when the water is contaminated beyond repair? Critical areas are just that - critical. And we should do all we can to protect them, because ultimately we are protecting ourselves and our children. Please leave the code as is.</p>

Ref. # 1

From: [PlanningCommission](#)
To: [Ashley Arai](#)
Subject: FW: Critical Areas Ordinance
Date: Tuesday, May 17, 2022 2:28:10 PM

Dina Christensen | Administrative Assistant
Thurston County Community Planning & Economic Development
Community Planning Division
2000 Lakeridge Dr SW, Bldg 4, Olympia, Washington 98502 [Map](#)
Phone (360) 867-2040
dina.christensen@co.thurston.wa.us | www.thurstonplanning.org

This communication is a public record and may be subject to disclosure under the Washington State Public Records Act, RCW 42.56.

From: Thurston County | Send Email <spout@co.thurston.wa.us>
Sent: Saturday, May 14, 2022 10:01 PM
To: PlanningCommission <PlanningCommission@co.thurston.wa.us>
Subject: Critical Areas Ordinance

This email was created by the County Internet web server from the email masking system. Someone from the Public has requested to contact you with the following information:

To: **Planning Commission**

Subject:

From: **Peggy Butler**

Email (if provided):

Phone: (if provided):

Message:

Please leave the current code in place. It protects the public's interest by preserving critical areas. The proposed code amendments will undermine the 'use of the best available science' and likely increase the human impacts within critical areas.

Thank you.

From: [PlanningCommission](#)
To: [Ashley Arai](#)
Subject: FW: Docket Number A-27, Nonconforming Code Update—Critical Area Ordinance (Title 24)
Date: Tuesday, May 17, 2022 2:27:24 PM

Dina Christensen | Administrative Assistant
Thurston County Community Planning & Economic Development
Community Planning Division
2000 Lakeridge Dr SW, Bldg 4, Olympia, Washington 98502 [Map](#)
Phone (360) 867-2040
dina.christensen@co.thurston.wa.us | www.thurstonplanning.org

This communication is a public record and may be subject to disclosure under the Washington State Public Records Act, RCW 42.56.

From: Thurston County | Send Email <spout@co.thurston.wa.us>
Sent: Sunday, May 15, 2022 7:42 PM
To: PlanningCommission <PlanningCommission@co.thurston.wa.us>
Subject: Docket Number A-27, Nonconforming Code Update—Critical Area Ordinance (Title 24)

This email was created by the County Internet web server from the email masking system. Someone from the Public has requested to contact you with the following information:

To: **Planning Commission**

Subject:

From: **Sam Merrill, Black Hills Audubon, Conservation Chair**

Email (if provided): SamMerrill3@comcast.net

Phone: (if provided):

Message:

May 15, 2022

Re: Docket Number A-27, Nonconforming Code Update—Critical Area Ordinance (Title 24)

Dear Planning Commissioners:

Black Hills Audubon Society (BHAS) is a chapter of the National Audubon Society. Our region includes Thurston, Mason, and Lewis Counties, and we have approximately 1300 members within our region. Our mission includes protecting habitat for both humans and wildlife.

Critical areas are mapped using careful, scientifically based criteria. Each kind of critical area protects a vital part of the public interest – preventing floods that devastate human settlements and farmland; identifying areas with unstable soils that could lead to landslides; conserving wetlands that filter pollution, offer flood

control and protect wildlife; and preserving river basins that contribute to clean and plentiful groundwater/drinking water and preserve endangered species such as salmon.

Because the proposed code amendments for Docket Number A-27, Non-conforming Code Update—Critical Area Ordinance (Title 24) have the potential to negatively affect the functions of these critical areas, BHAS has a number of concerns:

1. The amended code does not rigorously ensure that “the best available science” is considered in making decisions to permit changes to nonconforming property.

Under the current Exceptional Use application process, each case is considered by the Hearings Examiner, who must use “best available science” in their decisions. In fact, if a property owner claims that the effects on the critical area’s function would be minimal, they may be required to pay a third party to substantiate that claim. However, the amended code makes no explicit “best available science” requirement of administrative staff review and eliminates the possibility of the applicant paying for a third party to prove any claims.

2. The proposed amended language allows almost all proposed changes to property to be decided by administrative staff as long as the changes are within a nonconforming structure’s footprint. However, there is less public transparency about the use of “best available science” for staff decisions than when a Hearing Examiner makes decisions about Exceptional Use applications.

3. The amended code language might result in more human occupation and activity in critical use areas. The current process protects the public’s interest by discouraging improvements in critical areas. According to the staff memo of April 20, currently there are about 10 to 12 Exceptional Use applications per year, and county staff estimates that the proposed amended code requirements would have only applied to 1 or 2 of those applications each year. However, under the proposed amended code, with no fee and only staff discretion to decide permits, there could be a deluge of applications.

4. The proposed amended code increases human impacts within critical areas by allowing construction outside the footprint of current nonconforming structures. Neither of these two new proposals is well-supported by Department of Natural Resources or WA Department of Fish & Wildlife guidelines, nor by any other science:

- New structures could be built in areas “functionally isolated” from the critical area’s function by “topographic breaks” or human construction such as a building, public road, or railroad. Staff claims this is consistent with Dept. of Ecology guidelines for wetlands critical areas, but the amended code language is for all critical areas. It is not clear how the functions of wetlands, much less those of critical areas for river basins, flooding, or unstable soils, could be isolated by these structures. The code revision would add a definition of “Functionally Isolated

Buffer” and “Functional Isolation-Physical Separation” that has no basis in science. In fact, the Department of Fish and Wildlife has suggested that “best available science” requires consideration of all riparian functions in critical areas, including upland functions. See

<https://wdfw.wa.gov/sites/default/files/publications/01988/wdfw01988.pdf>

- **Expansions of a current nonconforming structure could be built on the other side of the critical area’s function. The staff’s example is from the Shoreline Management Program with a house addition built “upland” of a river. Again, no scientific basis is provided to allow this exception, especially for all types of critical areas.**

Until the proposed code amendments can be shown to conform to “best available science” and to have no negative effects on the functions of critical areas, BHAS urges the Planning Commission to reject the proposed code amendments.

Sincerely,

**Sam Merrill
Director and Conservation Chair**

**Charlotte Persons
Director at Large and Conservation Committee Member**

References:

Meeting materials for the April 6 Planning Commission workshop at
https://www.thurstoncountywa.gov/planning/planningpcagenda/A-27%20Nonconforming%20Code%20Update_CAO_PC%20Packet_04062022.pdf

Meeting materials for the April 20 Planning Commission meeting at
https://www.thurstoncountywa.gov/planning/planningpcagenda/A-27%20Nonconforming%20Code%20Update_CAO_PC%20Packet_04202022.pdf

From: [PlanningCommission](#)
To: [Ashley Arai](#)
Subject: FW: Docket A27, Nonconforming Code Update-- Critical Area Ordinance (Title 24)
Date: Tuesday, May 17, 2022 2:27:35 PM

Dina Christensen | Administrative Assistant

**Thurston County Community Planning & Economic Development
Community Planning Division**

2000 Lakeridge Dr SW, Bldg 4, Olympia, Washington 98502 [Map](#)

Phone (360) 867-2040

dina.christensen@co.thurston.wa.us | www.thurstonplanning.org

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From: Thurston County | Send Email <spout@co.thurston.wa.us>
Sent: Sunday, May 15, 2022 11:46 AM
To: PlanningCommission <PlanningCommission@co.thurston.wa.us>
Subject: Docket A27, Nonconforming Code Update-- Critical Area Ordinance (Title 24)

This email was created by the County Internet web server from the email masking system. Someone from the Public has requested to contact you with the following information:

To: **Planning Commission**

Subject:

From: **Karol Erickson**

Email (if provided):

Phone: (if provided):

Message:

I do not support this proposal which would be a significant change from the current process. It would undermine the use of best available science and likely increase harmful human occupation and activities in critical areas.

The amended code does not require that "the best available science" be considered in making decisions about permitting changes to nonconforming property. Currently the Exceptional Use application process has each case considered by the Hearings Examiner, who must use "best available science" in their decisions and the burden is (at least partially) on the property owner to prove "only minimal effects". The amended code makes no explicit "best available science" requirement and takes away the possibility of the applicant paying for a third party to prove claims.

The current code protects the public's interest by permitting few nonconforming use activities in a critical area. In contrast, the proposed amended language allows almost all proposed changes to property to be decided by administrative staff, as long as the changes are within a nonconforming structure's footprint. The current

process protects the public by discouraging improvements that result in increased human occupation and activities in critical areas.

The proposed amended code increases human impacts within critical areas by allowing construction outside the footprint of current nonconforming structures. Neither of these two new proposals is well-supported by Department of Natural Resources or WA Department of Fish & Wildlife guidelines, nor by any other science.

New structures could be built in areas "functionally isolated" or on the other side from the critical area's function by "topographic breaks" or human construction such as a building, public road, or railroad. The concept of "functionally isolated" as proposed is not supported by science. There shouldn't be expansion of a nonconforming structure, regardless of direction, without the current process.

Thank you for consideration of my comments.

- Karol Erickson

From: Jason.Mosebar@Ferguson.com
To: [Ashley Arai](#)
Subject: May 18, 2020 A-27 Non Conforming Code Update
Date: Tuesday, May 17, 2022 10:13:35 AM
Attachments: [image001.png](#)

I wanted to send an email in supporting adjustments to the A-27 - Non-Conforming Code Update (formerly Reasonable Use Exceptions) (Title 24).

We purchased a home on Black Lake 8 years ago and researched the property best I could and as well as visit to the Planning Department. Also, we quickly got a permit for a new septic system and a permit to fix wiring issues in the home for past owners. We got no indication from the planning department during that process of major violations. We knew that there were unpermitted items done to the property before we owned it and wanted fix them. So, we started the process to fix and or remove the unpermitted items and fix the home. This has been a 3-year process that we have been locked up in, have had to get a lawyer and an outside planning company to help us navigate through the County Planning Department.

We are now stuck after much money spent and because we are in a "critical area" the cost of the remodel due to the rise in the cost of material to fix the home is going to be more than 50% of the value of the existing structure, we are now stuck!!

We have nothing else we can do and every turn we seem to be blocked.

Supporting the amendments would allow us to fix the home and return the property to code compliant.

Thank you so much!

[Please Rate My Customer Service](#)

Jason Mosebar

AMR/AMI Specialist

Ferguson Meter and Automation Group

Cell-503-780-6170

Western Washington/Puget Sound Area



From: Thomasina Cooper <thomasina.cooper@co.thurston.wa.us>
Sent: Tuesday, May 17, 2022 11:36 AM
To: Christina Chaput <christina.chaput@co.thurston.wa.us>
Subject: FW: May, 18, 2022 A-27 Non Conforming Code Update

Hi Chris-

Tye received the email below with comment about A-27. I am not sure if this comment should be oriented to Planning Commission or if it's too late for them, and it should go to Tye as county commissioner. Also, who is tracking comment for this item?

In other words- what do you recommend I do with the feedback below?

Thank you!!

Thomasina

From: Thurston County | Send Email <spout@co.thurston.wa.us>
Sent: Tuesday, May 17, 2022 10:10 AM
To: Tye Menser <tye.menser@co.thurston.wa.us>
Subject: May, 18, 2022 A-27 Non Conforming Code Update

This email was created by the County Internet web server from the email masking system. Someone from the Public has requested to contact you with the following information:

To: **Tye Menser - District 3 Commissioner**

Subject:

From: **Jason Mosebar**

Email (if provided): jason.mosebar@ferguson.com

Phone: (if provided): **15037806170**

Message:

Tye,

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Supporting the amendments would allow us to fix the home and return the property to code compliant.

Thank you so much!

From: [John Cosley](#)
To: [Ashley Arai](#)
Cc: mlcosley@gmail.com
Subject: Comments to Thurston County Planning Commission and Planning Staff / A-27 Nonconforming Code Update – CAO Title 24
Date: Tuesday, May 17, 2022 11:41:37 AM

Dear Commissioners and Staff;

My wife and I are current owners of a legally established nonconforming structure (our house) that is located within a critical area buffer. As such, we would like to compliment the Planning Staff for their update recommendations to the nonconforming structures code of the Critical Area Ordinance (Title 24). We believe Staff's recommended updates are consistent with the Thurston County Comprehensive Plan's Chapter 2, Goal 1, Objective A, which states: "County development requirements and programs provide for a balance between human uses and the natural environment in rural and resource areas,"

Here are a few points we would like to highlight:

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3. Allowing uncovered impervious surfaces to be enclosed and incorporated into a structure's living space, does not alter the environmental impact of that impervious surface. Actually, a covered roofline that is designed to capture surface water runoff will control erosion more effectively than a patio or deck.
4. Removing the 50% valuation constraint on nonconforming structure remodels would be beneficial to both property owners and habitat preservation. With the rapidly rising costs of materials and services, it is difficult and complex to know what the total remodel costs are, let alone relative current values. In addition, this valuation limitation currently restricts a property owner from making energy efficiency improvements, because they are costly items. Our remodel plans for a solar passive house, including improved insulation, triple pane windows, thermal masonry walls, and solar panels would quickly exceed this valuation limitation. In addition, implementing a comprehensive drainage and erosion control plan to protect the natural habitat is another important but expensive endeavor.

An effective and fair Critical Area Ordinance must include the recognition that existing property

Ref. # 6

owners are partners in the various processes and that their rights as property owners are not being arbitrarily subjugated without just cause. The questions posed about whether there is a scientific basis for allowing appurtenances to be covered into living space, or for allowing vertical additions on nonconforming structures, or for the validity of a functional isolation provision are being considered backwards. The question should actually be whether or not there is a scientific reason NOT to allow such accommodations. If there is none, then the restriction is arbitrary and entirely at the expense of the property owner.

We thank you for your consideration of our comments.

John & Melodye Cosley
3125 46th Ave. NW
Olympia, WA 98502

Sent from [Mail](#) for Windows

From: [PlanningCommission](#)
To: [Ashley Arai](#)
Subject: FW: Docket Number A-27, Nonconforming Code Update—Critical Area Ordinance (Title 24)
Date: Tuesday, May 17, 2022 2:27:13 PM

Dina Christensen | Administrative Assistant
Thurston County Community Planning & Economic Development
Community Planning Division
2000 Lakeridge Dr SW, Bldg 4, Olympia, Washington 98502 [Map](#)
Phone (360) 867-2040
dina.christensen@co.thurston.wa.us | www.thurstonplanning.org

This communication is a public record and may be subject to disclosure under the Washington State Public Records Act, RCW 42.56.

From: Thurston County | Send Email <spout@co.thurston.wa.us>
Sent: Tuesday, May 17, 2022 12:04 PM
To: PlanningCommission <PlanningCommission@co.thurston.wa.us>
Subject: Docket Number A-27, Nonconforming Code Update—Critical Area Ordinance (Title 24)

This email was created by the County Internet web server from the email masking system. Someone from the Public has requested to contact you with the following information:

To: **Planning Commission**

Subject:

From: **Laurence Reeves**

Email (if provided): LHReeves@juno.com

Phone: (if provided): **360-956-1559**

Message:

Dear Planning Commissioners: I am writing to ask that you reject the proposed code amendments related to Docket Number A-27, Non-conforming Code Update—Critical Area Ordinance. Critical areas are a vital part of the public interest – preventing floods that devastate human settlements and farmland; identifying areas with unstable soils that could lead to landslides; conserving wetlands that filter pollution, offer flood control and protect wildlife; and preserving river basins that contribute to clean and plentiful groundwater/drinking water and preserve endangered species such as salmon. I believe this proposal weakens protection given to critical areas because it does not rigorously ensure that “the best available science” is considered in making decisions to permit changes to nonconforming property. Given the rate of loss of critical areas, we should be looking to strengthen protections of critical areas, not making it easier to develop in critical areas. Thank you for your consideration of my comments. Laurence Reeves

From: [PlanningCommission](#)
To: [Ashley Arai](#)
Subject: FW: Docket A-27
Date: Tuesday, May 17, 2022 3:55:17 PM

Dina Christensen | Administrative Assistant
Thurston County Community Planning & Economic Development
Community Planning Division
2000 Lakeridge Dr SW, Bldg 4, Olympia, Washington 98502 [Map](#)
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From: Thurston County | Send Email <spout@co.thurston.wa.us>
Sent: Tuesday, May 17, 2022 2:52 PM
To: PlanningCommission <PlanningCommission@co.thurston.wa.us>
Subject: Docket A-27

This email was created by the County Internet web server from the email masking system. Someone from the Public has requested to contact you with the following information:

To: **Planning Commission**

Subject:

From: **Sharron Coontz**

Email (if provided): sharron.coontz@gmail.com

Phone: (if provided): **3608667596**

Message:

Several years ago this county spent huge amounts of time and money evaluating and mapping critical areas so those areas could be protected. Sadly, some of that protection has waned in the ensuing years as exceptions have been granted to specific projects. I think amending the code to allow further exceptions (and, worse, those exceptions without thorough scientific evaluation) would be unwise and I hope you won't pass these amendments.

The amendments lack the specificity needed to define exactly what "small" projects can be undertaken under exactly what circumstances. They lack the specificity to prevent a so-called small project from morphing into a larger and more damaging one. And subjective standards are being set by and will be evaluated by people who are not necessarily conversant with all the possible ramifications of these actions. We all hear and talk about "unintended consequences," many of which are extremely harmful. Scientists face them frequently and, while scientists still make mistakes that lead to such consequences, I think we can agree that a trained

hydrologist, for instance, can better assess the effects of a project on an aquifer than most anyone else. To turn these important decisions over to people with different areas of expertise is in effect negating scientific best practices and could have serious repercussions (unintended consequences).

The fact that under these amendments changes could be requested without payment of a fee is problematic. It sounds like a nice thing to provide people with. But what does it really mean? It either means a huge amount of staff time devoted to a thorough investigation (at large cost to the county) or it means a hasty ok of a project because staff are overworked and unable to conduct such an investigation. Neither of these is fair or satisfactory.

I am strongly opposed to amending our code in this manner. I sincerely hope these amendments are rejected for both financial and environmental/scientific reasons.

Thank you.
Sharron Coontz

From: [PlanningCommission](#)
To: [Ashley Arai](#)
Subject: FW: Docket Number A-27, Nonconforming Code Update—Critical Area Ordinance (Title 24)
Date: Tuesday, May 17, 2022 3:55:38 PM

Dina Christensen | Administrative Assistant

**Thurston County Community Planning & Economic Development
Community Planning Division**

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This communication is a public record and may be subject to disclosure under the Washington State Public Records Act, RCW 42.56.

From: Thurston County | Send Email <spout@co.thurston.wa.us>
Sent: Tuesday, May 17, 2022 2:56 PM
To: PlanningCommission <PlanningCommission@co.thurston.wa.us>
Subject: Docket Number A-27, Nonconforming Code Update—Critical Area Ordinance (Title 24)

This email was created by the County Internet web server from the email masking system. Someone from the Public has requested to contact you with the following information:

To: **Planning Commission**

Subject:

From: **Marianne Tompkins**

Email (if provided): marianned.tompkins@gmail.com

Phone: (if provided): **3605455229**

Message:

Please leave the current code in place.

I have 5 acres, mostly wetland, critical areas in Olympia. I'm building a very small home (700 square feet) in the only area I can build. I have spent a LOT of money on wetland reports, and restoration I'm personally doing on the property. There were abuses in the past from previous owners, but it's still beautiful.

Two years after happily and understandably complying with County regulations around protections, I started my build. My property has a non developable parcel behind me because of the wetland. The same seasonal creek from my property flows on that parcel and all the way into Zangle Cove. I purchased this land to protect it.

A mile or so up the road from me a battle is going on between a Thurston County employee and neighbors. The applicant received approval of a Reasonable Use Exception to reduce a standard 50 foot landslide hazard area buffer to 30 feet for a new single-family residence.

Changing the current ordinance has me worried. It would create vulnerability to the property behind me, and give a green light to developers and ease for more people

applying for Reasonable Use Exceptions in areas that should be protected. The property behind me has a revere with a seasonal creek (same as mine). I've seen developers fill these in and build. It happened in the neighborhood I grew up in before protections. Creeks are diverted and native life is destroyed by removing the natural habitat. Please leave the current code in place.

Thank you for listening, and for your service.

Marianne Tompkins

From: [PlanningCommission](#)
To: [Ashley Arai](#)
Subject: FW: Critical Areas Ordinance (Title 24)
Date: Wednesday, May 18, 2022 10:34:01 AM

Dina Christensen | Administrative Assistant
Thurston County Community Planning & Economic Development
Community Planning Division
2000 Lakeridge Dr SW, Bldg 4, Olympia, Washington 98502 [Map](#)
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dina.christensen@co.thurston.wa.us | www.thurstonplanning.org

This communication is a public record and may be subject to disclosure under the Washington State Public Records Act, RCW 42.56.

From: Thurston County | Send Email <spout@co.thurston.wa.us>
Sent: Wednesday, May 18, 2022 10:28 AM
To: PlanningCommission <PlanningCommission@co.thurston.wa.us>
Subject: Critical Areas Ordinance (Title 24)

This email was created by the County Internet web server from the email masking system. Someone from the Public has requested to contact you with the following information:

To: **Planning Commission**

Subject:

From: **Esther Kronenberg**

Email (if provided): wekrone@gmail.com

Phone: (if provided): **3608671988**

Message:

I speak as an advocate for protecting our critical water resources to oppose these Critical Area code changes.

At present, the County does no routine monitoring of the thousands of chemicals that are used daily everywhere in the county that can easily leach into the soils and ground and surface waters. It has a steady backlog of more than 100 failing septic systems identified of the thousands that inevitably degrade and begin to fail that are not monitored. The County has not enforced violations of environmental law for years, except for egregious failures of septic systems, while permitting 2000 or more new units of housing.

The Community Planning & Economic Development department used to be called Resource Stewardship. It is clear since the name change about 5 years ago that the focus of this department has been development to the detriment of our resources. This shift in focus will have long term consequences that we all will suffer.

I understand there are circumstances in which someone may want to enclose a

porch or create a mother-in-law unit. I think people who have lived on their properties for years and face changing circumstances should be allowed to make these changes if the effects of these changes are properly analyzed for their consequences, as current code dictates. Because you cannot separate one property out of an ecosystem and pretend it doesn't have an effect. It's like 2 people in a boat. One takes out a drill and starts boring a hole under his seat and the other says "What are you doing?" and he replies "I'm just drilling under my seat - it's none of your business."

In other words, when it comes to critical areas, we are all affected. We need the protections written into the current code. We need to base our policies on the facts provided by good science which the current policy does. We are losing farmland, green spaces and an alarming amount of wildlife which should be enough of a wake up call and a reason why this code should not be changed to make it easier to continue down the path of development above all else. It's only a matter of time when these losses will be threatening our drinking water, the basis of all public health, and what will our properties be worth then, when the water is contaminated beyond repair?

Critical areas are just that - critical. And we should do all we can to protect them, because ultimately we are protecting ourselves and our children. Please leave the code as is.