

**Helland, Carol**

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**From:** Lyford, Laurie <llyford@nwtzl.com>  
**Sent:** Wednesday, September 28, 2016 6:27 PM  
**To:** Wallace, Kevin R; Lee, Conrad; Stokes, John; Chelminiak, John; Robertson, Jennifer S.; Robinson, Lynne; Slatter, Vandana  
**Cc:** Helland, Carol; City Manager; Council; Councilcoordinators  
**Subject:** FW: Critical Areas Ordinance  
**Attachments:** Council RE CAO Issues 9-2016.pdf

Dear Bellevue City Mayor & Council Members,

The attached letter from WA Sensible Shorelines Association provides input for your deliberation of proposed changes to the City Critical Areas Ordinance. Our investigation shows that there potentially will be major impacts to shoreline properties from what is proposed. We also point out that the City has discretion to regulate shorelines using the SMP which we have worked diligently to sort out in cooperation with the City.

Thank you,

Laurie Lyford  
President WSSA

Mayor & Council  
City of Bellevue WA



**RE: CAO Update Amendments**

Dear Council Member,

Sept. 29, 2016

**Why Are We Contacting You?**

The proposed CAO Update Amendments contain a major flaw that will, if not corrected, severely undermine the Shoreline Master Program regulations adopted by the Council after six years of extensive citizen involvement before the Council and Planning Commission.

**Background**

The City designated the lake shorelines as “critical areas” as part of adoption of the 2006 City Critical Areas Ordinance (CAO). The Department of Ecology urged this description even though the lake shorelines were almost 100% landscaped as part of existing single family homes. The City made this major change with minimal notice to shoreline property owners, including no notice that the CAO changes conflicted with the City’s Shoreline Master Program that had regulated the shorelines since the 1970s.

In 2009 staff kicked off the Shoreline Master Program (SMP) Update process. WSSA soon thereafter alerted the Council that the State Legislature had issued a determination that shorelines were not “critical areas” simply because they’re shorelines. We were advised that the CAO regulations would be left in place, but that citizens should work with City staff to develop shoreline regulations to replace their designation as “critical areas.”

WSSA, its attorney, consulting engineers, planners, biologists, and shoreline contractors, as well as dozens of residents did as the Council requested and attended dozens and years of Planning Commission meetings while providing numerous technical reports, carefully focused testimony, and legal analyses. After this massive investment of resources, the draft SMP went to the Council for review in 2013 and then back to the Planning Commission to consider CAO conformance amendments. Subsequently, the Council modified the draft SMP and approved it for submittal to the Department of Ecology in May 2015. (However, it took until December 30, 2015, for staff to get the proposed SMP to Ecology.)

We still await comments by Ecology but now find, yet again, attempts to thwart efforts to create a balanced approach to shoreline management - one that accommodates domestic urban uses and environmental needs.

**CAO Update Expands Wetland Regulation in Conflict with Proposed SMP**

Several weeks ago, in attending a City Council meeting on a separate issue, one of our board members learned that staff was briefing the Council on the need to make a list of “focused” changes to the CAO. Staff said these changes were required by the State Commerce Department... simple changes to wording. And, staff stated haste was necessary and the normal procedure of involvement of the City Planning Commission should be by-passed, and again, with only the minimum required level of public notice.

At your recent meeting on this topic, we appreciate those on the Council who probed staff on the reality of what they were proposing - some asking staff what the impact to shoreline properties would be. Staff stated they had no idea! However, we do.

Buried in the language changes proposed by staff is a revised method of assessing shoreline wetlands known as “lake fringe wetlands.” **This subtle change would dramatically expand which minor wetlands would be regulated and impose massive no touch buffers along the lake shorelines contrary to the proposed SMP!**

WSSA  
P.O. Box 6773  
Bellevue 98008

### The Specifics

Under the current City CAO, small wetlands that are 2500 square feet or less are not regulated when designated Category IV—the least important categorization. Small wetlands would typically be categorized as Category IV because small patches of wetland plants do not provide critical habitat, flood storage, or water quality benefits. As approved by the State, Category IV wetlands 2500 square feet or less were not critical and did not require special protection such as "no touch" buffers surrounding them.

However, Ecology dramatically changed the Wetland Rating System in 2014 and Ecology demands that each jurisdiction follow the new system. Under the 2014 Wetland Rating System, a lake fringe wetland will be categorized as Category III, and not Category IV, even though the wetland is 2500 square feet or less. WSSA confirmed this outcome through qualified wetland consultants. Under the City's 2006 CAO, these small wetlands require no buffers. But under the staff proposed CAO Update Amendments, these small areas will be called Category III wetlands and will **require "no touch" buffers of up to 225 feet with a minimum buffer of 60 feet.**<sup>1</sup> With many lots only 50 to 100 feet wide, these massive buffers will extend across multiple lots without any notice whatsoever to property owners. Our analysis is that a large number, perhaps the majority, of shoreline properties may be affected—dozens and dozens of homes.

Importantly, the draft SMP, under review by Ecology, contains specific regulations for "lake fringe" wetlands. Your Council has the authority to specify these SMP provisions are to be used in Bellevue to regulate shoreline development actions.

### What can the Council do?

We ask the Council to exercise the discretion it has with respect to adopting local Critical Area Ordinances. The Council should modify the CAO changes to exempt "lake fringe" wetlands from buffer requirements and require their regulation under the SMP.

Taking this direction will honor the extensive effort your shoreline residents have undertaken to work with the City to develop Bellevue specific, reasonable, and environmentally sensitive shoreline regulations.

Thank you for your support,



Laurie Lyford  
President, WA Sensible Shorelines Association

CC: C. Klinge, Attorney

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<sup>1</sup> It should be noted that the 225 foot buffer is more than twice as wide as the current maximum 110 foot buffer.

