

**From:** [John Norris](#)  
**To:** [Shari Winstead](#); [Chris Eggen](#); [Keith McGlashan](#); [Will Hall](#); [Doris McConnell](#); [Jesse Salomon](#); [Chris Roberts](#)  
**Cc:** [Debbie Tarry](#); [Carolyn Wurdeman](#); [Heidi Costello](#)  
**Subject:** CAO Regulations - Responses to Council Questions  
**Date:** Monday, December 07, 2015 2:54:52 PM

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Council,

Councilmember Salomon sent in the questions below regarding adoption of the Critical Areas Ordinance tonight. Also below are staff's responses in blue. These have also been included as a Green Folder item in iLegislate. Please let me know if you have any additional questions. Thanks!  
-John

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**From:** Rachael Markle  
**Sent:** Monday, December 07, 2015 2:29 PM  
**To:** Debbie Tarry; John Norris; Paul Cohen; Julie Ainsworth-Taylor  
**Subject:** RE: CAO regulations DRAFT RESPONSE

**From:** Jesse Salomon <[jsalomon@shorelinewa.gov](mailto:jsalomon@shorelinewa.gov)>  
**Date:** December 6, 2015 at 10:19:47 PM PST  
**To:** Debbie Tarry <[dtarry@shorelinewa.gov](mailto:dtarry@shorelinewa.gov)>, Carolyn Wurdeman <[cwurdema@shorelinewa.gov](mailto:cwurdema@shorelinewa.gov)>  
**Subject:** CAO regulations

Why is it said that Coho are inaccurately included?  
SMC 20.80.270(B)(1)(a) is intended to exactly mirror the Federally designated endangered & threatened species of fish and wildlife identified by the US Fish & Wildlife Service and the National Marine Fisheries Service. These lists does not include Coho in the Lake Washington or Puget Sound basins that includes Shoreline. Therefore it is inaccurate to include Coho in this section.

Are wild Coho not locally protected? Have they been historically present in our streams such that if we manage the streams week they may return?  
Coho are listed as a "State Priority Habitat & Species" in the proposed CAO update. Conservation and management are a priority for the State for Coho. Coho have been mapped in Shoreline. Under the proposed SMC 20.80.270 the City is "locally protecting" Coho & habitat for Coho. SMC 20.80.270(A) states that to be designated as local Fish and Wildlife Habitat and therefore regulated as such, the species and habitat must meet one of the criteria in SMC 20.80.270(B); criterion SMC 20.80.270(B) (2) includes Coho.

CAO suggested amendments to VHRs are hard to digest. The idea behind requesting amendments is to prohibit development in VHR landslide areas. The amendments as written list numerous ways to

develop in those areas. What would be the effect of adopting the planning commission's recommendations in light of this?

The Planning Commission's recommendation allows for development in Very High Risk Landslide Hazard Areas based on site specific scientific analysis rather than a blanket prohibition of all types of development when located within a Very High Risk Landslide Hazard Area. Site and proposal specific considerations are factored into the Planning Commission recommended regulations.

Development includes more than just construction of structures. Development also include additions, clearing & grading, and drainage alterations, for example. These types of development are not what was intended to be considered by the Critical Areas Reasonable Use Permit (the only mechanism currently available to allow development in Very High Risk Landslide Areas). By adopting the Planning Commission recommendation, the City would be allowing more development in Very High Risk Landslide Hazard Areas than currently is allowed or would be allowed under the options being considered tonight in Council's packet.

What development would be prevented if the planning commission proposal is not adopted?

Vegetation removal including nonhazardous tree removal and replacement; and some structural additions to buildings and projects such as retaining walls, patios, decks, drainage.

For SMC 20.30.336 what if there is no safe alternative to provide for reasonable use on a VHR slope? I am skeptical that a BAS analysis can make development there safe and am concerned about endangering downslope persons or property.

SMC 20.20.044 defines "Reasonable Use" as the minimum use to which a property owner is entitled under applicable State and Federal constitutional provision, including takings and substantive due process. If the City came to the conclusion that after third party review of the applicant's geotechnical analysis that there appeared to be no minimum safe use, then we would seek legal advice.

Can you provide concrete and most likely examples of what we would see if we allowed for vegetation management in VHRs?

Most likely, the City would see tree removal and replacement with trees that achieve lower heights and deeper root systems; invasive species removal and replacement; trail repair and development.

What is the difference between the three options for amendment 2. The options are very technical and I think it would be best to also explain the differences in less technical terms.

Option 1: Nearly all development would be prohibited in Very High Risk Landslide areas and associated buffers. Only the minimum level of development approved through Critical Area Reasonable or Special Use Permit would be allowed. Typically the Critical Area Reasonable Use Permit has been used to determine a reasonably sized footprint and location of single family uses in R-4 and R-6 zones based on geotechnical analysis of the site. Critical Area Special Use Permits have been used to examine alternatives to public projects and ensuring best management practices through scientific analysis used as a basis for permit conditions. An example of this is the King County Hidden Lake Sewer Project. If the City prohibited development without a Reasonable Use Permit process, the City could be sued for taking the property through regulatory means. Also, reasonable use does not allow for tree/vegetation removal only and could potentially prohibit increasing building footprints and hardscapes.

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Option 2: Same as Option 1 – but adds back into the regulations new design criteria (added by Planning Commission to balance the allowance of development in Very High Risk Landslide Hazard Areas) that can be applied to development that is allowed through the Critical Area Reasonable or Special Use process. This amendment is intended to improve environmental protection and safety.

Option 3: Same as Option 2, but prescriptively allows Vegetation Clearing and Restoration and adds design criteria specific to vegetation removal and replacement. All other development within a Very High Risk Landslide Hazard Area would only be allowed through a Critical Area Reasonable Use Permit or Critical Area Special Use Permit.

**If development is limited in VHRs and no vegetation management amendment is adopted will there still exist a provision for removal of hazardous trees in order to ensure safety to people and property?**

Yes. Hazardous trees are exempt from the Critical Areas regulations. See proposed SMC 20.80.030(F) & (G) – very similar to existing regulations.

In general in the CAO ordinance, are buffer reductions only allowed when there will be no increased environmental impact as compared with conformance of required buffer widths prior to a reduction?

Correct.