

The Sentry

Kitsap Alliance of Property Owners
www.kapo.org

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President's Report

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SHORELINE MASTER PLAN (SMP) UPDATE FOR KITSAP?

Kitsap SUN front page article (Feb. 15) regarding Shoreline Management planning correctly describes SMP as controversial and “complex”. However, as usual, it implies constitutional protections may be justifiably discarded for environmental benefits which only “sound” scientific. Examples are “climate change”, “endangered salmon” and “dead zones”, all not related to salt-waterfront setbacks. The real connection for these phony arguments is that they will be used to justify further uncompensated taking of private property for the “greater good of the environment”.

Few property owners know they have been fed phony science and have already lost the liberty to improve or restore their homes without going through an expensive, time consuming variance process requiring fees, staff approvals, and (likely) Hearing Examiner action. Repeat appeals to the Hearing Examiner, the County Commission, and possibly even Superior Court are now common, usually requiring expensive legal representation. This is because of excessive buffer restrictions placed by the county two years ago, using the Critical Areas Ordinance (CAO) to increase salt-waterfront setbacks from 35 ft. to 100 ft. This was directly contrary to state law that places shorelines under the exclusive jurisdiction of the Shorelines Management Act. But that is the kind of favoritism now accorded to environmentalists.

Set-back increases were NOT to increase health of marine habitat, but to increase terrestrial wildlife corridors. (Beyond normal 25 ft. pollution buffers for sediments and chemicals, there is NO science that relates terrestrial buffers to health of marine life.) Large shoreline buffers do not protect salmon, eel grass, shellfish, etc.. Real science has destroyed the myths that salmon depend on terrestrial bugs, shade trees or smolt habitat,

About 90% of Kitsap's waterfront owners are now mere “rein-holders” until insurance companies, regulators or judges decide “You can't live here legally any more.”

Yet environmentalists want to further increase salt-waterfront setbacks to 150- 200 ft. and seek now to use SMP to accomplish this.

Few know that real science shows climate rapidly cooling for the past three years or that these changes correlate almost perfectly with solar activity. We've been suckered by

environmentalists into Draconian legislation to control “carbon footprints” or buy carbon credits, etc., that actually have no relation to global temperatures or marine health.

Kitsap private citizens have self-funded (well over \$100,000) a court appeal of the above mentioned CAO. Recent district and state court decisions are finally turning against regulations that effectively ‘steal’ private property without paying for it. It is likely the above CAO action will also be ruled illegal. But irrational well-funded environmental lobbies continue to use zoning laws to take what they want while too many property owners sit idly by.

In Nazi Germany, first they came for the Communists, then the Jews, then the trade unionists, then the church, but if you weren’t any of those, you said nothing. Then they came for you and there was no one left to speak for you. Adolf Hitler is quoted as saying in 1938, “It is a good thing for us politicians that so few people know what we are doing nor do they care”.

Do you personally care?

Executive Director’s Report

“Don’t Tread on me”

Vivian Henderson, Executive Director

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If you think that government is going to run out of ideas any time soon on how to regulate your property and your life, you and I need to talk. Regulating the property that we own, where we live, how we travel, what we eat, what we think etc has become a whole new industry.

You could even call them “green” jobs. It has created careers and lucrative retirement programs out of your (green) dollars. Funding these wackos with our hard earned money isn’t even the worst of it. Far more damaging than taking dollars out of our pockets to fund their scientific baseless schemes is their assault on the very core of our beloved freedoms.

They’re pumping graduates out of Evergreen State College and other liberal colleges throughout the country trained in the fine art of manipulating and micromanaging your life and property and they are especially trained in the art of deception.

Deceiving you into believing that they know what is best for you. Cherry picking science – even manipulating and manufacturing their own science to support the latest “control” scheme they have masterminded.

Deceiving you into believing that they really care what you think. They don’t! Inviting “public participation” when that’s the last thing they want. Current law requires public participation – but ways have been effectively found to define “public participation” that practically eliminates “public participation”.

Deceiving you by deluging you with voluminous amounts of information that you’ll never have time to read and even less of a chance to understand. Hundreds of pages of regulation, policy, guidelines, studies, reports, recommendations, etc. and you’re given 3 minutes to voice your opinion. Three minutes! If you can’t get your opinion verbally expressed in 3 minutes you are invited to submit your testimony in writing. It will never get read!

Aided and abetted by once highly respected professional organizations like the American Planning Association, these planner bureaucrats continue their siege against the American way of life and the very freedoms that have made this country great.

How do these planner/bureaucrats get so much power? We give it to them! We keep electing public officials who go to DC and Olympia and keep pumping the power to the Dept. of Ecology, Dept. of Fish & Wildlife, Dept. of Natural Resources, environmental groups & others. Many of these agencies have legislative power with very little oversight from the elected officials that empower them

Looming on the horizon and rising fast (like a mushroom cloud) is the mother lode of all unaccountable power – the Puget Sound Regional Council (PSRC).

The PSRC has tasked “itself” with developing a long range plan called Vision 2040 that dictates every phase of life in the four counties PSRC “serves”; Snohomish, King, Pierce & Kitsap. It’s another whole layer of government and KAPO has been unable to find any statutory or constitutional authority for the PSRC.

Too many of our local elected officials like little drones spread the PSRC’s tentacles of control as they are regularly indoctrinated in meetings on the 5th floor of a building on Western Ave in Seattle. They are then sent forth to their respective counties to repeat the mantra of PSRC “we will plan your life because we know what is best for you”.

In April 2005, KAPO took on the open challenge of exposing the sinister mission of PSRC. KAPO’s immediate goal is to educate the voters. Many articles have been written by KAPO leadership explaining PSRC’s threat to our way of life. I invite you to learn more about this very critical issue. Go to our website www.kapo.org, click on “Events” at the top of the home page, then click on “Current Events” and scroll down the page about 2/3 of the way. If you want to discuss this matter call me at 360-710-8560 or Email: viviankapo@wavecable.com

Once we’ve educated the voters perhaps they won’t be so anxious to elect public officials who are so eager to turn our local autonomy over to the 5th floor of building on Western Avenue in Seattle.

Planning Commission Insight

Michael Gustavson

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Summary of the January 26, 2009 Planning Commission meeting:

Beginning February 24, the Planning Commission in March, 2009, will begin meeting at 7 P.M., the first and third Tuesdays each month. The justifications are to encourage working people to apply for membership and to provide better public access to our meetings. All meetings will be scheduled at the County Administration Building.

We discussed more interface with the Board of County Commissioners, perhaps as often as 3-4 times per year, rather than the sometimes once per year interface of the past several years.

Topics at this time scheduled for presentation to the Planning Commission (all are subject to change):

4/ 7 Work study, Title 16 "Land Use and Development"

4/21 Public Hearing, Title 16 "Land Use and Development"

5/ 5 and 5/26 Work Study, Site Specifics

Several additional topics that maybe addressed during 2009 include Storm water/Low Impact Development, annexation/ association agreements with other jurisdictions, Silverdale connector roads plan, Puget Sound Partnership Action Agenda, climate change legislation and routine planning updates.

Summary of the February 10, 2009 Planning Commission meeting:

Building permits are down 15% form last year, leaving a \$100,000 forecasted shortfall in DCD revenue (fees).

The promised annul Critical Areas Ordinance performance report will be scheduled every January or February from now on. (We still haven't seen the first of these reports, due in 2006.)

Legacy Lots were addressed in the February 10 Planning Commission meeting. The concern is over small lots platted prior to 1937, such as Woods View in Manchester, which would result in urban densities in rural areas. Until recently, these lots were considered not-developable because of their size and the restrictions of installing a well and septic on each lot. Technology has advanced and now Large On Site Septic (LOSS) systems have been approved by the State and would be able to serve plats such as Woods View

DCD showed us regulations in a half dozen other counties in Washington that have required non-conforming, contiguous lots to aggregate. This sounds on the surface, like a way to erase legacy lots. The problem is the courts have ruled that bright lines are not appropriate. The question then becomes "How small is too small?", and the only logical answer revolves around whether lots are conforming or non-conforming. In the rural areas, non-conforming lots are those less than 5, 10 or 20 acre parcel sizes, depending on zoning. A person owning two - 2½ adjacent parcels would have to make them into one lot, erasing the owner's investment. Further, if one owned an older home and built a new home on the adjacent lot, they would not be able to sell the original home. It would become a non-conforming Accessory Dwelling Unit.

The County's position is development of legacy lots flies in the face of meeting county growth targets in the urban areas. This puts the County at risk of losing CTED funding and might require infrastructure funding in the rural areas.

This should become a hot topic soon as the issue progresses. Be sure to testify at public hearings.

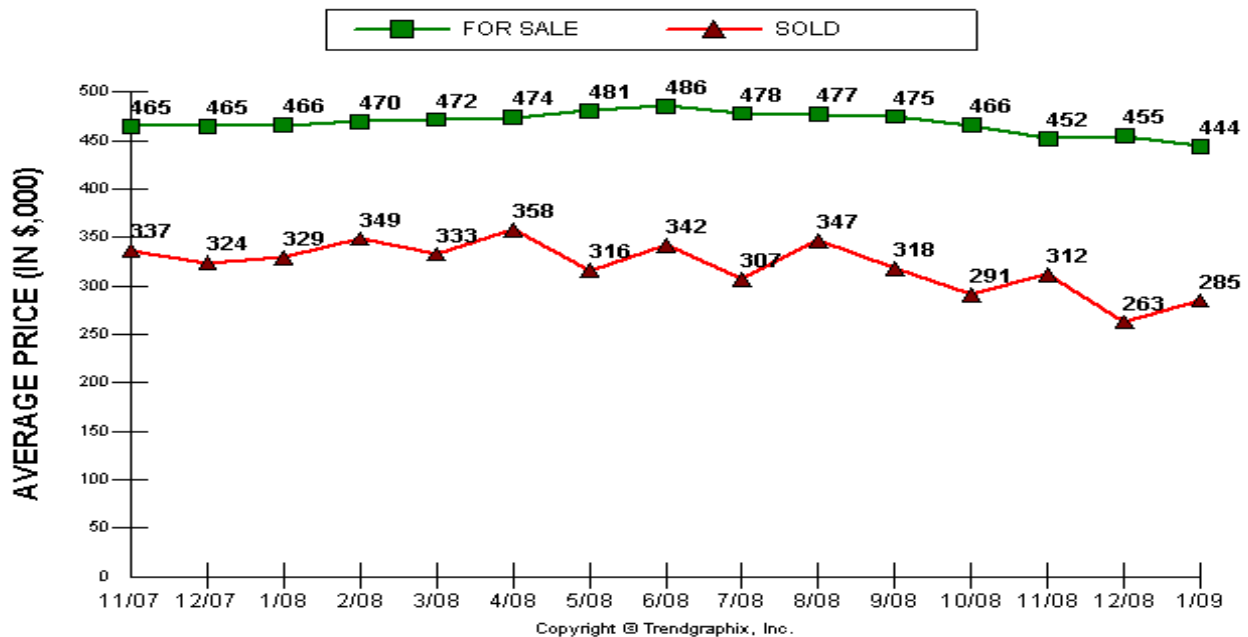
Patty Charnas briefed the Planning Commission on the update of the Shoreline Management Plan, due in 2011. The theme of Department of Ecology (DOE) is "to protect pristine environments". She showed a "rainbow chart", which went by quickly. DOE must approve the SMA update, so the County will likely be influenced by their philosophy. DCD has already met with DOE, but Patty was at a loss to provide copies of the minutes.

Patty said that DOE was invited to define the requirements and show how all the cities and the County can work together to develop the SMA update. "Community groups are to remain engaged throughout the process". She expects to have a Request for Proposal available for the public in May or June. Stake holders are to agree on DOE issued guidelines and "cumulative effects are to be addressed". This should prove interesting.

Hosing Review

Information provided by John Taylor

Here is some comparative information about the housing market in Kitsap County. The data is raw,(without analysis of underlying contributors or other factors). However, the basic data appears to be consistent with the published information concerning the overall market and price of housing



	1 year			15 months		
	Jan 08	Jan 09	% Change	Nov 07	Jan 09	% Change
Avg. Active Price	466	444	-4.7% ↓	465	444	-4.5% ↓
Avg. Sold Price	329	285	-4.5% ↓	337	285	-15.4% ↓

ate	01/08	4/08	7/08	10/08	01/09
# for sale	2140	2458	2589	2231	1755
# sold	159	238	232	236	114
# days on market	100	103	96	110	96
Average sqft price	\$163	\$175	\$164	\$154	\$151
Median Price	\$270,000	\$280,000	\$260,000	\$251,000	\$234,000

You should have received your tax bill for 2009. A good exercise is to compare your taxes for past years 2006 and forward to the current assessed value of your home and your current tax

bill. The ask the question “Am I getting more and better service for the increase in taxes I am paying?”

Environmental Insight With a Touch of Real Science

Don Flora (a real scientist)

Puget Sound and the Slippery Slope

A George Wills column in February 15's Kitsap Sun quotes somebody's axiom: "Nothing is so firmly believed as what we least know."

Kitsap County is about to follow other nearby places down the slope into murky waters: struggling to dredge up a firm scientific basis for our updated Shoreline Master Program. Required by state law, that plan will have tight control over what happens along our shores and for 200 feet inland. We all look to the County's staff for wisdom in drafting the thing, and they seek a base of scientific information. Lot's of luck on the science. Here's why.

Making sane rules about shoreline use and development depends on a boatload of information on what, if anything, is broke within ties among the upshore, the beach, the bays, and beyond. Then where, when, how much needs fixing; which comes first, at what cost? And there is the matter of "restoration": How much, to what effect, and so on?

There is broad agreement among marine scientists that little is known about these things. For one thing, diversity rules: every place and every kind of marine life has myriad variations. A Natural reaction is to guess the answers to all those questions and finesse those answers with words like "may". "might", or "likely to." There lies the slippery slope.

In time, a presumed expert sating "maybe" is seen as an oracle saying "will". Few experts turn away from that perception.

Here's an example. A university scholar wrote (in the proceedings of a recent regional conference) that "Shoreline armoring truncates the intertidal zone, degrades or eliminates shallow nearshore habitats, and disrupts the connection between shore and uplands." Wrong, if modern bulkhead techniques are used.

Another example: (In the same proceedings) "Impervious surfaces accumulate automotive, household, and industrial pollutants, channeling them directly into streams when riparian buffers are insufficient." Perhaps, but buffers of any width are unlikely to stop these sorts of pollutants.

Those proceedings again: "[F]eeder bluffs.... Provide up to 90 percent of the sediment on Puget Sound regional beaches>" But on how many of those beaches? Perhaps only one of a few that were studies.

Yet another, this in a Department of Fish and Wildlife publication: "Increased boat use may affect eelgrass meadows through light attenuation caused by propeller-generated bubbles>" Disturbing indeed.

And another from the same publication:"... the shaded, deep water environment under piers can create a favorable habitat for predatory fish." No research has ever supported this claim.

Viewed critically, all of these statements could be called fabricated science. Certainly they draw readers to the slippery slope of credibility.

In later issues I'll explore further the state of science for these issues and others, and there implications for shoreline policy.

In any case there is a clear need for skepticism on the part of citizens and local planners. Beware that alarm coated slope.

Development Rights -- An Attack on Private Property.

Bob Benze

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Bill Palmer is our expert on Transfer of Development Rights. He knows the impact on land use and recently testified in Olympia in opposition to House Bill 1172 and Senate Bill 5165—Regional Transfer of Development Rights. These bills call for “voluntary transfer of development rights from sending areas with lower population densities to receiving areas with higher population densities”.

But this is just the beginning. At a recent conference, representatives from the Department of Ecology, the EPA, the Cascade Land Conservancy, and several consultants laid out a statewide program they are developing that involves Transfer of Development Rights, In Lieu Fees, and Mitigation Markets.

The scheme would require an inventory of your property and assigning it a value as an environmental resource. This would range from a high value for a shoreline property or a wetland, to a smaller value for a property without such features. Then, based on the environmental resource value, a credit score is assigned. These credits are then used in a “conservation” market.

When a property owner wants to develop his property, he must purchase the credits the government has assigned to his property. These credits are sold by another property owner who is willing to give up his development rights. Under the proposed system, the developer could also purchase additional credits to enhance his development (e.g. add more stories to a condo).

However, the buyer cannot purchase directly from the seller. He must go through a government agency. This “Market Service” agency will provide an integrated credit trading service. This new agency will not only determines the “quantity and quality” of the credit value of the property, which is placed into a “registry” (its going to be quite a data base), but the agency also takes a percentage of every transaction. These fees are then used to fund the agency and to fund restoration projects such as the Puget Sound Partnership’s Action Agenda.

While the proponents claim there is an advantage to both the buyer and the seller, the truth is that the government would be exercising a constitutional taking of a property right in order to fund a government program—at the financial expense of the land owner. The program costs will be imposed on the developers who will then pass them onto their customers.

The fallacy of this scheme is that it will actually result in a diminishing revenue return to the government as more and more customers are priced out of the market. This effect was noted in

a UW study shows that land-use regulations already impose an additional \$200,000 on the price of an average home sold in the Seattle area, driving prices well above what the average home buyer can afford..

But our government in Olympia is blind to such consequences and is actively looking at implementing this type of market mechanism statewide.

It is something worth fighting.

Legislative Update

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The uncontrolled urge to legislate and to cure the ills of the world has been apparent once again in Olympia. Since the start of the session each house has seen over 1000 bills or resolutions introduced. The number alone is enough to strike fear into the heart of any individual who understands the damage that can be done by well meaning but unfettered legislators. Remember, these are part time employees, without certification of either educational background or work experience, to whom we entrust the value of our life earnings and savings, the education of our children, and the fiscal viability of our state. This nameless, faceless mass, certain that they have the answers for all that ails us, strive on through a darkness of sheer ignorance with their way lighted by staff report and lobbyist testimony. I know deep down inside that representative democracy is the best form of government available to man. I just wonder what happened to the “representative” part of the system.

I have on my web site favorite list the Daily Update report of legislation now before both houses. <http://apps.leg.wa.gov/billinfo/dailystatus.aspx?year=2009>

My initial review of the list took over an hour and even then I was not sure what the individual bills actually covered. That led me to select some of the bills to search further. The entry for each bill allows downloading a “bill digest” (essentially the title of the bill), a “bill report” (a staff prepared “review” of the purpose and impact of the bill), or the bill itself as originally proposed. Unfortunately, none of the documents prepares you for the task at hand if you want to understand the actual impact of a proposal, except in the most simple of measures. Bills are written in typical government methodology with reference to numerous other existing RCW to be changed or revised. To properly understand the proposed law, it is necessary to have all of the referenced laws at hand. Building a logic tree through the inter connectivity of the RCW often defies logic. In the end, you “guess: what the law actually does and how it will impact the citizens of the state. For an individual who enjoys that type of research and who has the time to properly review the entire cross referenced implications of the law, the process is mind boggling. For a legislator the task is impossible. For almost every bill that they are acting on, except those near and dear to their hearts (promises made to constituents or voters to be pleased) most legislators are dependent on staff reports for their information on the bills. Virtually every bill passed by the legislature is adopted by individual legislators who have not read or studied the law and who do not understand what they are approving. Worse yet, almost every bill being handled by a principle committee is without “fiscal note”. The legislators are acting on legislation with out any idea of the cost of implementation or where the funding will come from.

If you survive the review process and would like to offer your comments on a proposed bill you have several options. However, first you need to know who to talk to and how to contact them. The legislative web sites offer list of legislators with mail and email addresses, as well as phone numbers. The site also identifies which legislator services on which committees. You need both lists for the House and the Senate. The bill will tell you which committee has jurisdiction. If you call, you will get to talk to a staffer who assures you that your message will be forwarded to Representative XXXX. Good luck if the individual does not share your point of view. You can email but it takes a bit of time to put together the address list for a committee. Don't expect an answer. Mail is just fine but by the time your letter gets to the right desk, action will probably be complete and your opinion will make its way to a file cabinet. You also have the option of appearing before a committee at a "public hearing" First staff gets to make the summary presentation (they read the "important" parts of the bill report and answer questions). Then the committee chair announces how busy the committee is and allows individuals 2 minutes to give testimony. I am sure that most of us can deliver a mind changing argument in 2 minutes.

All that being said, we cannot fail to support those we favored and who got elected or to serve as a continuing loyal opposition to the rest. Each one of us needs to be cognizant of the important bills before the legislature and communicate our concerns and opinions to our elected representatives and to the committee members holding hearings on a bill. If the issue is critical we need to go to Olympia and take the time to be a face to go with the name before the committee. It is often said that "if you don't vote, you don't get to complain about government". Those of us who have been at this for a while also know that if you do not make yourself heard you simply validate the actions of others.

Being involved is not an option available to each of us, it is a duty and responsibility we must carry out with vigor and determination. Please read the next article to better understand the need for your involvement.

An Island Perspective

Bainbridge Shoreline Homeowners

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House bill 1653 and its companion Senate bill 5726 may seem like routine housekeeping to our state's elected representatives, but its effect may be to wipe out the balance between environmental protection and property rights inherent in the Shoreline Management Act (SMA).

We first wrote about the bill on February 4, after receiving a joint press release from the departments of ecology (DOE) and community, trade and economic development (CTED). Since then, the house bill was referred to the House Local Government & Housing Committee on January 27. On a fast track, the bill was referred to the House Rules Committee on February 17. The companion senate bill was referred to the Senate Environment, Water & Energy Committee on January 29.

With hundreds of bills totaling thousands of pages, it is unlikely that anyone but a few staffers will read more than the executive summary of these bills before they are passed out of committee and voted into law. If they do become law, it is likely that the right of shoreline homeowners to protect their property will erode faster than an unprotected bluff in a winter storm.

If you have an opinion on these proposed bills, post a comment below and [contact your legislators](#). Ask them to retain the wise balance established by the SMA and reaffirmed by ESHB 1933. You can also post a comment on WashingtonVotes.com — [HB 1653](#) and [SB 5726](#).

Editor’s Note: The section of the bill (HB 1653 SB 5726) that is probably of most concern is the revision that would implement the “no net loss” criteria on shorelines and associated “habitat”
The revised wording would be as follows-

RCW 90.58.090 (Shorelines Master Program)

(4) The department shall approve the segment of a master program relating to wetlands and fish and wildlife habitat conservation areas as defined by RCW 36.70A.030(5) if the master program segment is consistent with RCW 90.58.020 and applicable shoreline guidelines, and if the segment provides a level of protection of wetlands and fish and wildlife habitat conservation areas that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources as defined by chapter 173-26 WAC.

Obviously the “no net loss” criteria opens the door for bureaucratic regulators to take whatever liberties they desire with little or no recourse from citizens. Elsewhere in the bills, the cross references of SMA and GMA paragraphs would allow planners and DOE to use whichever RCW fit their purposes to implement restrictions. THIS SET OF BILLS DESERVES YOUR ATTENTION. This is not about “shorelines” only – This is about bureaucrats gaining control of our lives.