

The Sentry News Letter

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Kitsap Alliance's Mission Statement

1. To free private property from unreasonable government regulation
2. To work for responsible wildlife habitat protection and for conservation of natural resources
3. To support those who defend the rights guaranteed to owners of private property by the United States and Washington State Constitutions

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SHORELINE TASK FORCE RECONVENES

Dept of Community Development is reconvening the Shoreline Task Force at the Silverdale Community Center, 9729 Silverdale Way, Silverdale, (bottom floor) Nov 9th at 6:30 PM. If you are an interested party or a **shoreline home owner** please make a concerned effort to attend and learn about any changes and updates to the Shoreline Master Program. The decisions made here are likely what will happen in the shoreline jurisdiction. **LET YOUR VOICE BE HEARD.**

Directors Meetings are held on the 1st Tuesday of the month from 1:00 pm to 3:00 pm. We meet at the Home Builders Association of Kitsap County office, 5251 Auto Center Way, Bremerton, WA., 98312. They are located just off Kitsap Way. We are happy to have guests but please contact Jackie Rossworn via email at rosswarnjr@wavecable.com or call (360) 990-1088 before coming.

Our Dinner meetings are held on the last Thursday of the month. We will **not** have a dinner meeting in November. Kitsap Alliance of Property Owners has always felt this is a time to be with family and friends to give thanks for all the things we hold precious. We thank all of our members for their loyalty and continued hard work in protecting property rights for us and future generations of Americans. We will see you for dinner in December.

"When we get piled upon one another in large cities, as in Europe, we shall become as corrupt as Europe". Thomas Jefferson

[Google "United Nations Agenda 21"](#)

"Smart Growth" Law Repealed in Florida

by Wendell Cox for New Geography

The state of Florida has repealed its 30-year old growth management law (also called "**smart growth**," "**compact development**" and "**livability**").

Under the law, local jurisdictions were required to adopt comprehensive land use plans stipulating where development could and could not occur. These plans were subject to approval by the state Department of Community Affairs, an agency now abolished by the legislation.

The state approval process had been similar to that of Oregon. Governor Rick Scott had urged repeal as a part of his program to **create 700,000 new jobs** in seven years in Florida.

Economic research in the Netherlands, the United Kingdom and the United States has associated slower economic growth with growth management programs.

Local governments will still be permitted to implement growth management programs, but largely without state mandates. Some local jurisdictions will continue their growth management programs, while others will welcome development.

The Need for A Competitive Land Supply: Growth management has been cited extensively in economic research because of its association with higher housing costs.

The basic problem is that, by delineating and limiting the land that can be used for development, planners create guides to investment, which shows developers where they must buy and tells the now more scarce sellers that the buyers have little choice but to negotiate with them. This can violate the "principle of competitive land supply," cited by Brookings Institution economist Anthony Downs. Downs said:

If a locality limits to certain sites the land that can be developed within a given period, it confers a preferred market position on those sites. ... If the limitation is stringent enough, it may also confirm a monopolistic powers on the owners of those sites, permitting them to raising land prices substantially.

Conditions of Development Approval

by Karl Duff

to: Editor Tim Kelly, The Port Orchard Independent,

Last week, Dennis Oost of the Kitsap County Department of Community Development claimed in public hearing that Kitsap could require a developer to build trail through private property as "**condition of development approval**", although the county has no title or easement interest in the property. The example he used was a county map already showing trails that private property owners oppose.

Mr. Oost apparently does not realize or care that such proposed action is thoroughly illegal, having been twice ruled upon by the U.S. Supreme Court. It is illegal for government to exact such takings as condition of granting a permit. Possibly DCD Director Larry Keeton does not realize this either, since such practices are becoming a common extortion tool used by local governments to get property owners to give up property rights before granting permit approval. Many citizens 'cave' to these demands when they don't have to. Prosecutor Russ Hauge probably knows this. Government employees who perpetrate such a crime against private property are also subject to civil rights prosecution and sanctions of up to 10 years in federal prison.

The case law is found in *Nollan vs. California Coastal Commission* (1994) and *Dolan vs City of Tigard* (1987)

US Supreme Court Asked to Hear Challenge to Bigger Buffers and Land Grab

PACIFIC LEGAL FOUNDATION, Pacific Northwest office, Bellevue, Washington (425) 576-0484

Contact: Brian T. Hodges, Managing Attorney, PLF Pacific Northwest office: (425) 576-0484 bth@pacificlegal.org

Bellevue, Washington, October 11, 2011 - Attorneys with Pacific Legal Foundation announced today that they have just petitioned the United States Supreme Court to hear their constitutional challenge to Kitsap County regulations that force every shoreline property owner to surrender large portions of their properties to create fish and wildlife habitat areas.

Donor-supported PLF is the leading watchdog organization that litigates for limited government, property rights, and a balanced approach to environmental regulations. In this case, PLF attorneys represent an association of property owners, the Kitsap Alliance for Property Owners.

The regulations at issue were adopted in 2005, when Kitsap County re-classified every inch of its 269 miles of marine shoreline as a critical fish habitat. This blanket designation was a shock to local residents, given that the county's shorelines are almost entirely developed with single-family homes, businesses, and marinas.

"The impact of the classification was even more of a shock to residents," said Brian Hodges, managing attorney with PLF's Pacific Northwest office in Bellevue. "The County's regulations force every one of its 7,000 shoreline property owners to dedicate either 50 or 100 feet of his or her shoreline as an 'undisturbed natural vegetation area' to provide buffers for fish habitat any time he or she seeks a permit.

The regulations make no attempt to base buffer size on the actual environmental and geographic conditions on the county's shorelines, and did not consider any site-specific variables, such as existing vegetation and land uses.

"The county cannot simply transform the shorelines from homes and businesses to undisturbed 'conservation areas' by seizing tracts of private property whenever it has an opportunity to do so," Hodges continued. "A desire to change public conditions has never been enough to satisfy the protections of the Takings Clause. The Constitution does not provide for shortcuts; if the County wants to take private shoreline property, it has to pay for them."

Shoreline Vegetation

What does Ecology WAC 173-26-221 really say?

The Department of Ecology's shoreline master program guidelines explicitly state that vegetation conservation standards do not apply retroactively to existing uses and structures. The relevant section of the Washington Administrative Code (WAC) is quoted below, and it begins with another key phrase, "Like other master program provisions...." Bainbridge Shoreline Homeowners has been advised by legal council that many elements of the proposed draft of our SMP Update go far beyond the requirements of the WAC and violate state law in a number of key areas. It is our sincere hope that these errors are corrected by the Planning Commission and City Council before new regulations are enacted and costly litigation further drains community resources.

WAC 173-26-221 General master program provisions.

(5) Shoreline vegetation conservation.

(a) Applicability.

Vegetation conservation includes activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species.

Unless otherwise stated, vegetation conservation does not include those activities covered under the Washington State Forest Practices Act, except for conversion to other uses and those other forest practice activities over which local governments have authority. As with all master program provisions, vegetation conservation provisions apply even to those shoreline uses and developments that are exempt from the requirement to obtain a permit. Like other master program provisions, vegetation conservation standards do not apply retroactively to existing uses and structures, such as existing agricultural practices.

[emphasis added]

Additional reference:

WAC 173-26-191 Master program contents.

(2) (a) (iii) (A) Statement of applicability.

... While the master program is a comprehensive use regulation applicable to all land and water areas within the jurisdiction described in the act, its effect is generally on future development and changes in land use. Local government may find it necessary to regulate existing uses to avoid severe harm to public health and safety or the environment and in doing so should be cognizant of constitutional and other legal limitations on the regulation of private property. In some circumstances existing uses and properties may become non-conforming with regard to the regulations and master programs should include provisions to address these situations in a manner consistent with achievement of the policy of the act and consistent with constitutional and other legal limitations. [emphasis added]

Web sites for Information:

www.bainbridgeshorelinehomeowners.wordpress.com Bainbridge Island

www.commonsensealliance.net San Juan Islands Property Owners

www.kitsapalliance.org Kitsap Alliance of Property Owners

www.kitsapgov.com www.kitsapshoreline.org

www.pacificlegalfoundation.org www.landrights.org

www.ecy.wa.gov WA. State Dept of Ecology

google "**United Nations Agenda 21**" it will look very familiar

Kitsap Alliance of Property Owners always suggests you look for resources to expand your knowledge. We hope some of these will help you in making up your own mind concerning private property rights.

SEEKING A GOVERNMENT PERMIT?

Don't concede your property and other rights

Insure any agreement includes the notation:

"U/D RCW 62A.1-207" under your signature.

RCW 62A.1-207 Performance or acceptance under reservation of rights.

(1) A party who, with explicit reservation of rights performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as "without prejudice", "under protest" or the like are sufficient.

(2) Subsection (1) of this section shall not apply to an accord and satisfaction.
[1993 c 229 § 2; 1965 ex.s. c 157 § 1-207.]

Notes:

Recovery of attorneys' fees -- Effective date -- 1993 c 229: See RCW 62A.11-111 and 62A.11-112.

"Many citizens inadvertently sign away their property rights when they sign a contract with government (or a bank or business). Typical in this modern era is a permit to build, improve, buy or sell or relocate something.

A contract is the only means by which a U.S. citizen can give legally up his constitutional rights, since contract is given the highest protection level in our constitution(s). (See Article V in the U.S. Constitution.)

Because in the past, this has been abused heavily by contracting parties to 'steal' away constitutional rights, the federal code (Universal Commercial Code) and State RCW adopted simple language to reserve rights under contract., (regardless of what you think you are signing up for.) The text provided below can be placed under the signature blank of your permit, license (or whatever contract it is that you are signing). By writing that in, no one can come along later and claim that you signed away your rights when you agreed to the terms of your permit or license.

The form is abbreviated, but the meaning should be clear to the person protecting himself. It says that the signature is under duress or protest and that the 'signee' is signing while preserving his or her rights."

Note that a public official cannot thereby refuse to grant you your permit, or deny your right to add this phrase under your signature. Governments attempting to do this are in violation of U.S. Code 42, section 1983 (the U.S. Civil Rights Act) and face very severe penalties if convicted for their actions.

Contact Kitsap Alliance of Property Owners for additional Questions

HOMES ARE CONFORMING ON THE SHORELINE

During the Monday afternoon County Commissioners work study ,Oct 24,2011, it was announce by Dave Greetham, Patty Charnas and DCD director Larry Keaton that shoreline homes will be considered a conforming structure and yards a conforming use under SSB 5451 signed into law last April. Below is Kitsap Alliance's first response placed in news papers.

Kitsap Alliance of Property Owners says THANKS!

Kitsap Alliance of Property Owners would like to thank all parties involved in rejecting the idea that legally built homes should become legal but non-conforming due to changes in the County's Shoreline Master Program which are currently in the works.

During a meeting of the County Commissioners on October 24, David Greetham and Patty Charnas of the Department of Community Development recommended a solution. They asked the Commissioners to support staff moving forward on language that proposes to

make existing residential and appurtenant structures "conforming", consistent with SSB-5451. Substitute Senate Bill 5451 was adopted by the Legislature last April and signed into law by Governor Gregoire.

Over the past several weeks, shoreline property owners have delivered petitions requesting this change to the County Commissioners with over 700 signatures. Doug Lyons and Carl Shipley spearheaded the petition drive with the help of Kitsap Alliance members.

We are grateful to everyone who asked their neighbors to read and sign the petitions, and we are especially grateful to those who presented the signed petitions to the Commissioners so the voices of property owners could be heard.

Finally, we would like to thank the County Commissioners for hearing our voices and approving staff's recommendation that the Shoreline Master Program declare existing, lawfully built homes to be "conforming".

Jackie Rossworn, Executive Director
Kitsap Alliance of Property Owners

This letter of thanks was e-mailed to the Port Orchard Independent, the Kitsap Sun and the Kitsap Peninsula Business Journal.

How to Join Kitsap Alliance

Membership in Kitsap Alliance of Property Owners is available at three levels:

Voting Membership is open to applicants and includes voting rights. Membership dues are \$100 per year.

Associate Membership is also available. Associate Members do not enjoy voting rights. Associate Membership dues are \$25 per year.

Life Membership, voting membership for the life of the member, is available for a single payment of \$1000.

Dues are pro-rated quarterly. Contact Jackie Rossworn for correct amount based on the date of your application.

The list of Kitsap Alliance members is not released to the public. Individual member information is not used for any other purpose than the specific business of Kitsap Alliance of Property Owners.

For more information or to receive a membership application visit the Kitsap Alliance web site at [Kitsap Alliance.org](http://KitsapAlliance.org) or contact Executive Director Jackie Rossworn, at 360-990-1088 or via [email. rosswornjr@wavecable.com](mailto:rosswornjr@wavecable.com)