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**COMMUNITY
DEVELOPMENT**

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Council Review SMP
Update L06-088

DATE

PROJECT NAME

FILE NO

April 20, 2009

Tukwila City Council
6200 Southcenter Boulevard
Tukwila, WA 98188

HAND DELIVERED WITH COPIES

Re: April 20, 2009 hearing on the Draft Shoreline Master Program

Dear Council Members:

Curran Law Firm represents the Strander family, owners of the real property at 12900 48th Ave. South, a parcel that would be subject to the Draft Tukwila Shoreline Master Program ("SMP"). See attached Exhibit A. The Strander parcel is a paved parking area for a fleet of rental trucks that operates out of a building on an adjacent parcel also owned by the Stranders, but which lies outside the jurisdiction of the SMP. A 30-foot strip between the Strander parcel and the river is owned by the City and used as part of the Green River Trail System. The Stranders have previously appeared in these proceedings and submitted written comments regarding the SMP. We appreciate all that has been done so far by Staff of the Tukwila Department of Community Development ("Staff") and the Planning Commission. Although much work has gone into the SMP to get to this point, there remains substantial room for further improvement, as is evidenced by the split decision by the Planning Commission to recommend the current SMP to you.

Buffers (Section 7.7C)

The Strander parcel would be subject to a 100-foot buffer since it is a commercial property in a non-levee area. Because the Strander parcel is approximately 260 feet long along 48th Ave. S. and 200 feet long along its other boundaries, and because there is a 30-foot strip owned by the City, used for the Green River Trail System, between the Strander parcel and the river, the 100-foot buffer would affect about 1/3 of the Strander parcel.

The buffer could be reduced by up to 50% by re-sloping the river bank to a 2.5:1 configuration. However, the Stranders would bear the burden of the 100 foot-buffer until the bank is re-sloped, if ever. Furthermore, since the bank adjacent to the Strander

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parcel is owned by the City, there will be issues about who has the right to conduct the activity required to obtain the reduction, and liability for work on the bank.

It would make more sense for the reduction to be allowed if the property owner can establish that the full 100 feet is not required to achieve the desired 2.5:1 slope of the bank and that there would be no net loss of shoreline ecological function. For instance, according to Staff, the difference from the ordinary high water mark to the top of the bank is less than 25 feet in the area identified as commercial between 42nd Ave. S. and I-405, which includes the Strander parcel. See Table 3 on page 55 of the SMP. A 25 foot high bank would only require 62.5 feet from the ordinary high water mark for a 2.5:1 re-sloped bank. Even if 20 feet more is added for a setback, presumably to include a trail for public access, the total buffer would only need to be 82.5 feet. It is more likely that the Strander parcel has a much lower bank, possibly less than 20 feet, which would then only require a buffer of less than 70 feet.

Each property owner should be allowed to seek a reduction in the buffer without re-sloping the bank by showing (1) that the entire 100 feet will not be required to achieve the 2.5:1 slope and (2) that there will be no net loss of shoreline ecological function. Waiting for the bank to be re-sloped could take longer than the life of the property owner. Also, allowing individual property owners to undertake bank re-sloping on a case-by-case basis will result in an inconsistent river shoreline as some banks are re-sloped while neighboring banks are not. Re-sloping, to the extent it is actually required, should be performed through a coordinated effort.

We believe it makes far more sense to allow the buffer to be reduced before the bank is re-sloped, if the owner can make the necessary showing. Accordingly, we propose the following revision to relevant parts of Section 7.7C of the SMP:

“C. Establishment of River Buffers

Buffer in Non-Levee Areas:

A buffer width of 100 feet is established for the Urban Conservancy Environment for all non-residential areas without levees. This buffer width is consistent with that established by the City's Sensitive Areas Ordinance for Type 2 streams that support salmonid use, which is based on Best Available Science. ~~In addition, as noted above, looking at the slope geometry and the difference in height between the ordinary high water mark and the 100-year flood elevation for these areas, it was found that a 100-foot setback distance is required to accommodate the slopes needed for bank stability.¹~~

The buffer width of 100 feet allows enough room to reconfigure the river bank to achieve a slope of 2.5:1, the “angle of repose” or the maximum angle of a stable slope and allow for some restoration and improvement of

¹ This sentence may be deleted because if the river tops the bank, it will flood more than what is within the 100 foot buffer, and bank stability is addressed differently by staff in the next paragraph.

shoreline function through the installation of native plants and other habitat features. The actual amount of area needed to achieve a 2.5:1 slope may be less than 100 feet, depending on the character of the river bank and can only be determined on a site-by-site basis.

As an alternative to the 100 foot buffer, a property owner may demonstrate to the satisfaction of the Director how much of a buffer is required to accommodate a re-slope of the river bank to 2.5:1, provide with a 20 foot setback from the top of the new slope and vegetate both the river bank and the 20 foot setback area in accordance with the standards in the Vegetation Protection and Landscaping Section. The property owner must also demonstrate that a reduction in the buffer will not result in a loss of ecological function of the shoreline. Any buffer reduction proposal must demonstrate to the satisfaction of the Director that it will not result in direct, indirect or long-term adverse impacts to the river. In all cases a buffer enhancement plan must also be approved and implemented as a condition of the reduction. The plan must include removal of invasive plants, and plantings using a variety of native vegetation that improves the functional attributes of the buffer and provides additional protection for the watercourse functions. (staff proposed changes in response to Maduell and others)

In areas of the river where this condition currently exists or where the property owner has constructed these improvements, the buffer width will be the actual distance as measured from the ordinary high water mark to the top of the bank plus 20 feet.

The shoreline jurisdiction and buffers for the Urban Conservancy Environment are depicted in the schematic in Figures 3 and 4 below.”

Pre-Existing Development (Section 14.6)

Under the SMP, the current use of the Strander parcel as a parking area will not be permitted on 1/3 of the parcel since off street parking is not allowed within the 100-foot Urban Conservancy Environment Buffer. Section 8.3A1. Such parking will be allowed to continue only as a pre-existing use, subject to Section 14.6A for pre-existing uses. While we are not completely convinced the term “pre-existing” will help a property owner avoid the negative effects of a property becoming nonconforming, we appreciate the willingness to try this alternative. What we would prefer is to simply allow pre-existing uses and structures to be lawful subject to any other requirements of substantial development within the shoreline environment.

One revision is recommended for the first paragraph of Section 14.6A, which we believe incorrectly refers to the definition of nonconforming use when it references TMC Chapter 18.06. We propose the following revision:

"Any preexisting lawful use of land that would not be allowed under the terms of this SMP may be continued as an allowed, legal pre-existing use, defined in ~~TMC Chapter 18.06~~, or as hereafter amended, so long as that use remains lawful, subject to the following..."

No Economic Impact Analysis

Finally, and possibly most significantly, no analysis of economic impact has been made with respect to this proposed SMP. This has been confirmed by Staff. There are approximately 26 miles of shoreline on either side of the 13 miles of river that are proposed to be affected by this SMP. Much of that shoreline is heavily developed with valuable commercial enterprises. The Planning Commission and Staff were both advised by legal counsel for many of the property owners that regulation under the SMP could result in reductions in value for those properties that are made nonconforming; and could cause the city to have to compensate those property owners for the taking of their property for a public purpose.

This indifference to economic impact is not only extremely risky, but contrary to portions of the economic development element of the City's Comprehensive Plan wherein the following are provided (See attached Exhibit B):

One of the general philosophies is to encourage the retention and growth of existing local firms. Page 31 of the Plan.

An activity emphasis includes business development for existing businesses to expand. Page 32 of the Plan.

One of the issues is to continue the strength and growth of the tax base. Page 33 of the Plan.

The goal is to continue enhancement of the community's economic wellbeing. Page 34 of the Plan.

One of the policies adopted to accomplish that goal is to monitor City actions and impacts on the local economy and review economic development incentives. Page 34 of the Plan.

It would seem that economic analysis of the impact of the SMP on one of the City's most significant economic regions would be something the City would absolutely want.

How much will the City have to pay for takings? The Strander parcel has been appraised by King County at a value of \$870,000. However, since it's use is dependent on the property to the west, also owned by the Strandens, the value of that property, \$2,300,000, is also relevant. The property just to the north of the Strandens has been appraised at almost \$15,750,000. Other property owners have stated the losses could be in the hundreds of millions of dollars.

How much will the City lose in tax revenue? The Stranders have already received a request for a rent reduction from their tenant. If the tenant vacates, the pre-existing use could be lost if a tenant with a similar use is not able to be found within 24 months. That would prevent use of 1/3 of the Strander parcel, further reducing the value of the property and its ability to generate taxable revenue.

These are among the many economic questions that should be considered in addition to the benefits to the environment and public amenities provided by the proposed SMP. Please ask Staff to analyze the economic impact of the SMP and advise the Council accordingly so the Council can make its decision fully informed.

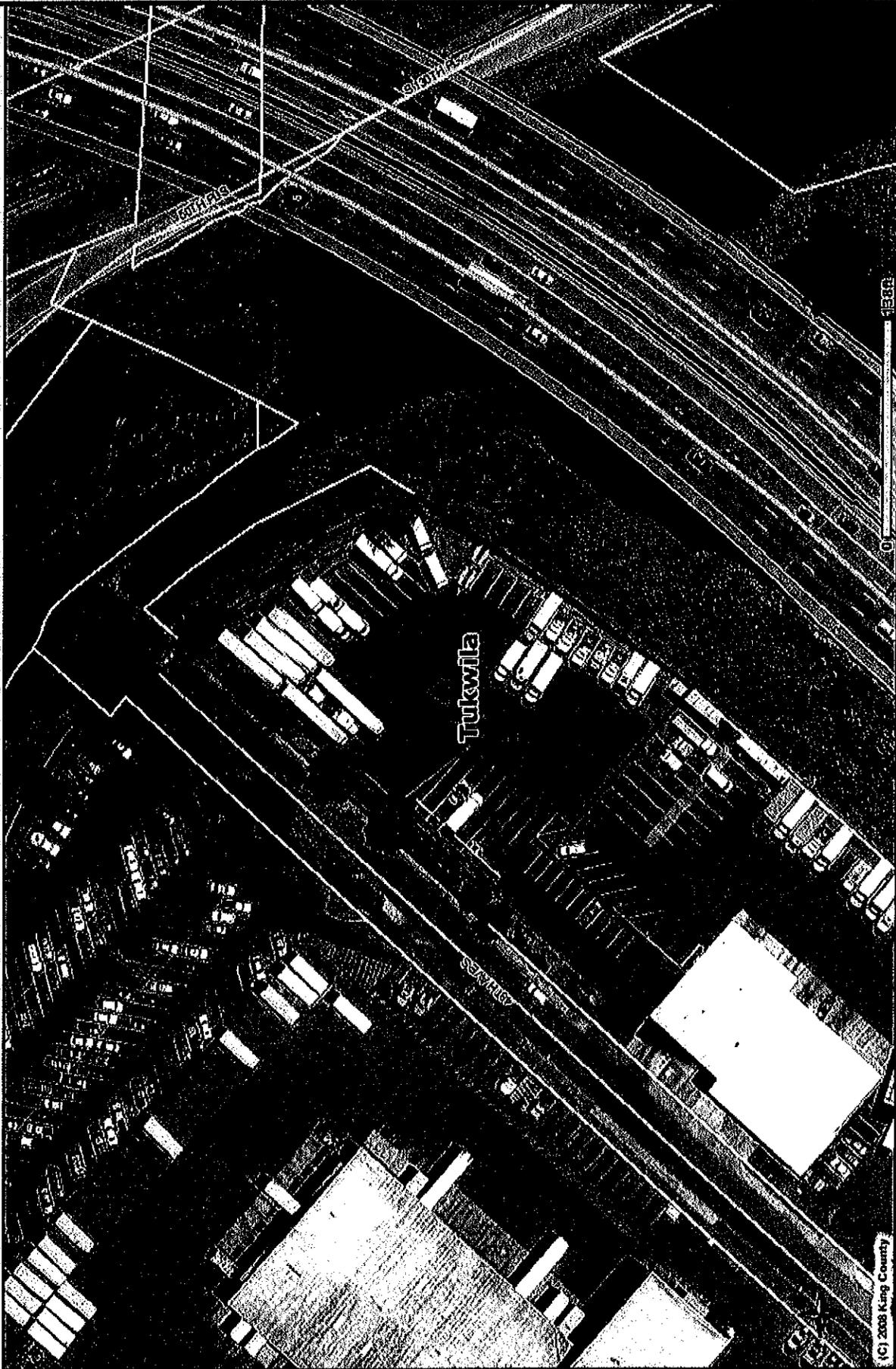
Sincerely,



Greg W. Haffner
ghaffner@curranfirm.com

cc: Mayor Jim Haggerton
Staff of the Department of Community Development
Louise H. Strander
John C. Strander

Strander Parcel



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COMMENTS: 12900 48th Ave. Approx. 260 feet along 48th Ave. and 200 feet on other three sides. City owns 30 feet deep along river.

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Date: 4/20/2009 Source: King County iMAP - Property Information (<http://www.metrokc.gov/GIS/IMAP>)



Strander Parcel

Legend

	Highlighted Feature		
	County Boundary		Unincorporated KC Zoning
	Highways		A-10 - Agricultural, one DU per 10 acres
	Forest Production District Boundary		A-35 - Agricultural, one DU per 35 acres
	Agricultural Production District Boundary		F - Forest
	Urban Growth Area Line Incorporated Area		M - Mineral
	Streets		RA-2.5 - Rural Area, one DU per 5 acres
	Highway		RA-5 - Rural Area, one DU per 5 acres
	Arterials		RA-10 - Rural Area, one DU per 10 acres
	Local		UR - Urban Reserve, one DU per 5 acres
	Tribal Lands		R-1 - Residential, one DU per acre
	Parcels		R-4 - Residential, 4 DU per acre
			R-6 - Residential, 6 DU per acre
			R-8 - Residential, 8 DU per acre
			(cont)

	R-12 - Residential, 12 DU per acre
	R-18 - Residential, 18 DU per acre
	R-24 - Residential, 24 DU per acre
	R-48 - Residential, 48 DU per acre
	NS - Neighborhood Business
	CB - Community Business
	RB - Regional Business
	O - Office
	I - Industrial
	Other

	2007 Color Aerial Photos (6in)
	2007 Color Aerial Photos (12in)

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LAND USE

ECONOMIC DEVELOPMENT

PURPOSE

The overriding goal of this element is the enhancement of the community's economic well-being. In a series of policy recommendations, it identifies means of stimulating economic improvement for business and the community as a whole. It lays out a direction and strategies for dealing with economic variables and adjusting to economic forces that cannot be predicted or controlled. It is a key to the integration of all elements of the Comprehensive Plan, suggesting ways in which the City, as well as others, can use economic strategies in order to achieve the goals of the Plan.

There are two primary ways in which local economic activity can be affected:

- Land use and utility planning that determine, within the local infrastructure, the space available for residential and nonresidential development
- Directly or indirectly influencing private-sector decisions as to location, operation, and development of business real estate

The Economic Development Element presents a focused approach to enhancing our city's economic well-being. This approach can be summarized as follows:

General Philosophy

- Sustain moderate growth
- Target high salary industries
- Provide capacity for meeting Tukwila's employment targets as set by the Countywide Planning Policies
- Ensure quality growth and land use by effective code enforcement and regulations
- Encourage growth into certain areas through the use of zoning and developmental regulations
- Encourage the retention and growth of existing local firms
- Provide efficient and timely administration of City services

Activity Emphasis

- Respond to specific requests for assistance from local firms
- Emphasize business development for existing businesses to expand
- Maintain public works and utilities so that existing systems are not over-utilized
- Utilize prompt and firm code enforcement to negate impact of code violations on surrounding areas.

Potential Tools

- Industrial revenue bonds for certain areas
- Tax-increment financing for specific areas
- Targeted government and private resources
- Targeted local, state, and federal funds
- Use of infrastructure investment to attract new firms and development to designated areas
- Funded, staffed and administered code enforcement.

In this way, local government can play an important role in the economic development of the community. The policies developed in this element are aimed at implementing that role.

The Economic Setting

The following statistics may be useful in setting the background for the economic development policies. In 1992, the population of Tukwila was 16,667; estimated 2003 population was 17,270. During the same period, taxes collected rose from \$19.6 million to \$28.2 million, and the assessed valuation of the City grew from \$2.542 billion to \$3.340 billion. In 1992, there were a total of 7,320 single- and multiple-family dwellings in the City; in 2002 there were 7,628.

In 2000, the median age of Tukwila residents was 33.4 years; nearly eight percent of all citizens were older than 65; and 24 percent of the residents were under 18. In 2000, residents of color were 44 percent of the population. Median household income was \$40,700, which is less than the King County median of \$53,200.

In 2000, Tukwila had nearly three times as many jobs as it had residents. There were over 2,000 licensed businesses of all types in Tukwila, employing

approximately 48,000 people. In 2002, King County's Annual Growth Report showed that manufacturing accounted for 28 percent of these jobs, down from 56 percent in 1991. This reflected the diminished presence of Boeing and other manufacturing firms in the City's light and heavy industrial areas. Wholesale and retail sales provided 38 percent of jobs, with services and government employment representing about 30 percent of the work force. Other sectors provide the remaining employment opportunities.

The City remains a strong attractor of consumer spending, with 5.4 percent of all of King County's retail sales.

ISSUES

The current and existing economic trends provide a variety of complex issues for economic development in the City of Tukwila:

- To access the regional highway, transit and air transportation system in a way that does not handicap local property development and redevelopment efforts
- To establish a coordinated transit hub in the Tukwila Urban Center that efficiently mixes modes of travel and stimulates development of real estate associated with transportation facilities
- To continue the strength and growth of the tax base
- To determine ways to redevelop commercial and residential areas in the SR-99 corridor
- To foster environmental remediation, land conversion and redevelopment in the MIC and Interurban Avenue areas
- To increase development, intensity, and diversity of uses in the Tukwila Urban Center
- To form policies, programs, projects and plans that benefit from the diverse groups within the residential and business community
- To form an organizational entity or linkage to accomplish an effective public-private partnership
- To gain regional recognition commensurate with Tukwila's economic importance, not population size
- To maintain favorable tax base to support daytime and nighttime population
- To meet the needs of our residential neighborhoods while maintaining the economic health of our business community

TUKWILA COMPREHENSIVE PLAN

Economic Development

- To fund infrastructure and services is dependent on maintaining a solvent revenue stream, particularly sales tax. A potential change in the sales sourcing rules is projected to reduce Tukwila sales tax revenue by \$2.6 million per year. This would directly affect Tukwila's ability to adequately fund capital infrastructure and services.

GOAL AND POLICIES

Goal 2.1

Continuing enhancement of the community's economic well-being.

Policies

- 2.1.1 *Develop the tools needed to improve the economic development climate.*
- 2.1.2 *Monitor City actions and impacts on the local economy and review economic development incentives.*
- 2.1.3 *Identify a single contact point and information source for the business community.*
- 2.1.4 *Budget for public infrastructure (for example, roads, sewers, curbs, lighting, parks, open space). Use some capital improvement funds to encourage in-fill, land assembly, redevelopment, and land conversion for family-wage jobs, but only if concurrent with substantial private actions.*
- 2.1.5 *Act in partnership with the private sector to fund infrastructure as part of a sub-area plan to encourage redevelopment and as an inducement to convert outdated and underutilized land and buildings to high-valued and/or appropriate land uses.*
- 2.1.6 *Consider nonfinancial ways (such as brokering and interlocal agreements) to assist industrial land owners with state and federal government environmental remediation actions.*
- 2.1.7 *Maintain a high degree of efficiency and certainty in permit and regulatory processes to enhance our businesses' competitive position.*