

Carol Lumb - Tukwila Shoreline Master Program Update....Planning Commission meeting Oct. 9, 2008....Edwards comments

From: "J Michael Edwards"
To: "Carol Lumb"
Date: 10/09/2008 2:56 PM
Subject: Tukwila Shoreline Master Program Update....Planning Commission meeting Oct. 9, 2008....Edwards comments
Attachments:

Dear Ms. Lumb,

The attached include my comments in .doc form and also a signed pdf file for the PC Hearing of Aug. 28th, 2008 (submitted prior) and for the PC Hearing of Oct. 9th, 2008. The latter includes an attachment letter from counsel (SMP 9_9_08 Attny MEdwards.pdf). I am sending all of this in one package so that you do not need to gather all of the letters I have sent to you now and in the past under my signature.

Please review and advise if they are readable by you.

Thank you so much for your time and consideration.

Michael

J. Michael Edwards
Friday Harbor, WA
360 378-6076

EXHIBIT 36 DATE 10/9/08
PROJECT NAME SMP Update
FILE NO 106 088

J. Michael Edwards, DDS, MD, FACS
265 Carefree Way
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360 378-6076
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October 9, 2008

City of Tukwila Planning Commission
C/O Department of Community Development
&
Mr. Jack Pace
Director of Community Development
Department of Community Development
6300 Southcenter Parkway Boulevard, Suite #100
Tukwila, WA 98188

Re: Planning Commission Public Hearing of the City of Tukwila's 'Shoreline Master Program' Oct. 9th, 2008

Parcel #7888900164 (owner)

Addendum to prior written comments for Public Hearing of Aug. 28th, 2008 and attachment

Dear Planning Commissioners and Mr. Pace,

Again, I regret that I can not attend your public hearing the evening of Oct. 9th, 2008 as I am attending local meetings with my own Commission and Foundations. In lieu of my personal attendance please receive this second letter of my concerns and comments as well as the attached letter from counsel, which reflects my views as well, for the record.

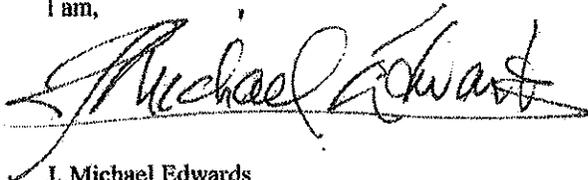
My additional general comments and questions for your consideration:

I attended the Open House on Oct. 1st, 2008 and asked questions specific to my property with regard to existing parking within the proposed "buffer zone" and mezzanine TI build-out etc.. Having this opportunity to discuss my concerns specific to my property was welcomed and productive. This given I would encourage the City to continue this aspect of the 'public input' process in the coming months.

Particularly for those property owners who do not have structure in place or approved plans for same is there going to be provisos to financially mitigate constraints on building-out their property or for those property owners who are rebuilding their structures and fall under the SMP triggers?

Again, thank you for your time and consideration. Please feel free to call me at your will if you have any comments or questions.

I am,



J. Michael Edwards
San Juan County Public Hospital District #1 Commissioner
Inter Island Healthcare Foundation, Board of Directors*
San Juan Community Hospital Committee, Co-Chair*
*501(c)3 organizations

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Mr. Jack Pace
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6300 Southcenter Parkway Boulevard, Suite #100
Tukwila, WA 98188

Re: Planning Commission Public Hearing of the City of Tukwila's 'Shoreline Master Program' Aug. 28th, 2008

Parcel #7888900164 (owner)

Dear Planning Commissioners and Mr. Pace,

As a fellow Commissioner and public servant I regret that I can not attend your public hearing the evening of August 28th, 2008 as I am attending special meetings with my own Commission and Foundations. In my absence I would like to introduce Mr. Ted Wheeler, my general contractor for my building, as my spokesperson.

It is my understanding that your Commission does not have subsequent public hearings scheduled. Again as a fellow Commissioner also addressing a monumental matter in my jurisdiction, a month of public exposure and reflection is inadequate for your assimilation of the public's will and guidance I would think. As such I encourage you to continue to make your plans known to those intimately involved and public-at-large with additional land owner targeted and community mailings, staff level workshops and follow-up public hearings as we need more public input and involvement in the development of the plan details.

My initial general comments and questions for your consideration:

Why mix substantial vegetation with a levee system, in the name of 'improving habitat', when it is recognized that vegetation can reduce levee structural integrity per the US Army Corps of Engineers and they preclude it? Your draft SMP follows their current slope parameter but not with regard to vegetation. Levee structural integrity should be the first and foremost consideration and not be compromised as the protection of life and property is paramount in serving our community. If substantial vegetation is mandated beyond your control why is a 'bench' needed as vegetation readily grows on a slope? Taking land from property owners to add trees on a 'bench' doesn't seem worthwhile since trees would probably not impact water temperature within the City of Tukwila and a significant number of trees would obstruct views of the river.....the major point of walking along the river's edge I would think.

As the Green River water flow during storms is controlled by a dam why should this not mitigate the current levee system as being 'inadequate' for flood control? Is there a history of the current levee system being inadequate in this regard or is this speculation?

My initial specific comments and questions relative to my property noted above for your consideration:

My building has considerable office build-out and an additional 6,000 sq. ft. of available mezzanine office space. My parking requirements to build-out this additional office space are dependant on the parking

spaces in the proposed Green River 'buffer' zone. As my building has few docking doors the paved area in the proposed 'buffer' zone currently can be available for additional doors as well. This is acutely salient to me as my building is currently on the market for re-lease and the potential lessees want more office space and/or docking doors.

In the event of a natural disaster again (my building suffered considerable roof and interior damage in the storm of Dec. 2006) I would be beholden to the draft SMP constructs to allow destruction of 45' of my current building, as it is 80' from the current OHWM, if the costs of restoration were more than 50% of the building's worth as I understand it. Is this correct? If so does this not discourage restoration of older buildings that have fallen into disrepair?

Thank you for your time and consideration. Please feel free to call me at your will if you have any comments or questions.

I am,



J. Michael Edwards
San Juan County Public Hospital District #1 Commissioner
Inter Island Healthcare Foundation, Board of Directors*
San Juan Community Hospital Committee, Co-Chair*

*501(c)3 organizations

October 9, 2008

VIA ELECTRONIC MAIL
AND HAND DELIVERY

Tukwila Planning Commission
c/o Department of Community Development
6300 Southcenter Blvd., #100
Tukwila, WA 98188

RE: Shoreline Master Program Update

Dear Commissioners:

This letter is written on behalf of all of the undersigned commercial and industrial property owners in the City of Tukwila. We are writing jointly to impress on you our deep concern regarding the adverse impacts of the Draft Shoreline Master Program ("SMP") on our properties and the City as a whole. This letter identifies key shared areas of concern. This letter does not contain an exhaustive discussion of all issues raised by the SMP. Individual property owners will provide further information specific to their properties and interests separately.

1. Public Participation

The last opportunity for property owner input to the SMP amendment process was in the year 2000. Since then, the proposed amendments (and applicable Department of Ecology ("DOE") regulations) have changed dramatically. Yet, the City has failed to reestablish the citizens advisory committee that existed in 2000 or to provide any other mechanism for meaningful dialogue between the City and affected property owners. The Planning Commission should recommend that the City provide opportunities for this dialogue, including the formation of a citizens advisory committee.

2. Applicability (Triggering Events)

Section 9.1 of the SMP, which addresses when the development standards of the SMP will apply, is vague and inconsistent with other SMP provisions. Property owners cannot tell from this section when the development standards in the SMP will apply. In addition, the standards of TMC 18.70 are referenced but not included in the SMP text, leading to inconsistencies and confusion. Finally, some of the standards in Section 9.1 and TMC 18.70 result in the application of SMP development standards in an overly broad and burdensome manner. The Planning Commission should closely examine Section 9.1 of the SMP and TMC 18.70 and recommend revisions to these sections so that they are integrated, consistent and clear. In addition, many of the "triggers" for SMP applicability should be significantly revised or eliminated altogether, including the low threshold for application of the SMP in the case of renovation, the provision limiting reconstruction in the case of destruction, and the provisions limiting retenuing of buildings that have been vacant for six months (for nonconforming uses) or two years (for nonconforming structures).

3. Shoreline Buffers

Shoreline buffers for commercial and industrial properties are expanded to 100 to 125 feet uniformly applied to all properties without any site specific analysis. The SMP and appendices fail to provide scientific and technical support for the City's approach (e.g., that achieving a 2.5:1 slope everywhere along the river is needed). This approach is not needed to achieve "no net loss" of ecological functions necessary to sustain shoreline natural resources. Rather, by imposing such a requirement everywhere, the City appears to be trying to maximize the opportunity to pursue future restoration projects to improve ecological functioning at tremendous cost to the property rights of private landowners. The Planning Commission should recommend elimination of the "one size fits all" buffer and instead recommend variable buffer widths guided by clear and appropriate standards. The Commission should recommend provisions ensuring that the cost of infrastructure or habitat improvements is not imposed solely on shoreline property owners.

4. Development Standards

There are a number of development standards that should be revisited due to their impact on development. These include the landscaping, site design, and height standards, among others.

The landscaping requirements along the bank are so cost prohibitive, and require so many permits, that imposing these requirements will prevent economic development in the area, costing the City tax revenue.

The SMP's requirement that parking facilities, loading docks and service areas be located on the landward side of the development is inconsistent with fact that warehousing, distribution and similar uses are allowed in many places in the shoreline area under the City's SMP and zoning code. In many places the foregoing requirement will result in such facilities facing the public street, which is both aesthetically and functionally problematic. Similarly, the requirement that blank walls be avoided "on the public and river sides of buildings" is nonsensical, as it would appear to preclude such walls anywhere, which is inconsistent with the types of uses allowed under the City's SMP and zoning code. The Planning Commission should recommend elimination of these requirements.

The 45 foot height limitation between the landward edge of the river buffer and the edge of the shoreline area serves no apparent purpose and would hinder rational building design for many allowable uses. With appropriate landscaping, there is no reason why greater height should not be allowed – and, indeed, in many cases greater height will serve important public goals such as increasing economic vitality and allowing creative site design. Staff has indicated this requirement serves to protect residential views; however, these views are from hypothetical future residential development. Furthermore, the City has not conducted view studies showing that there would be any view blockage. Accordingly, the Planning Commission should recommend substantially revising or eliminating the 45-foot height limit.

5. Public Access

The SMP calls for public access to the shoreline and along the shoreline without compensation to private property owners whose land is used for this purpose. This unfairly places the cost of public access on private property owners. The SMP does not take into account safety, security, liability and insurance burdens on private property owners. The Planning Commission should recommend the elimination of mandatory public access requirements.

6. Economic Impacts

The current plan would make very functional and valuable property in the City non-conforming. This impairs the value, marketability and insurability of the property. Creating a large area of non-conforming uses will encourage economic stagnation and blight in a large and important segment of Tukwila. The Planning Commission should not act without a full economic impact study.

7. Role of City

The City has deferred unduly to DOE. The City sought and adopted DOE's comments on the SMP (including those on buffers) before releasing the draft SMP for review and comment by Tukwila property owners. The City had the process backwards. The Shoreline Management Act grants the City discretion to adopt regulations that take into account the unique conditions and circumstances of the City. The Planning Commission should consider first the interests of those who own property, work and live in the City.

Thank you for your consideration of these comments. We look forward to working cooperatively with the City to develop a SMP that gives appropriate consideration to property owner interests.

Sincerely,

THE UNDERSIGNED COMMERCIAL AND INDUSTRIAL STAKHOLDERS

cc: Tukwila City Council
Mayor Jim Haggerton
Jack Pace
Carol Lumb

Green Riverside, LLC

Property Owner

By:

Its:

Michael K. King
John Principle