

8/7/08

**OUTLINE OF TESTIMONY
BEFORE TUKWILA PLANNING COMMISSION
(August 7, 2008)**

- I. Recent Case Law – Citizens’ Alliance for Property Rights v. King County**
- King County’s critical areas ordinance - clearing limitations
 - Under RCW 82.02.020, the government bears the burden of showing that the condition is reasonably necessary as a direct result of the development and the government must show that the conditions are tied to a specific, identified impact of a development on a community.
 - Conditions must be both related to and proportional to the impacts of the development and
 - Cannot be imposed for the purpose of mitigating problems that exist but are not caused by the specific proposed development.
 - Tukwila draft Shoreline Master Program suffers from the same defect as King County’s critical areas ordinance.
 - The draft document proposes buffers of up to 125 feet adjacent to the Green/Duwamish River.
 - The City has not made a showing that these buffers are directly related and proportional to the impacts caused by the specific future development of the affected parcels.
 - The draft document acknowledges that the buffers improve an existing condition, rather than mitigate future impacts.

- II. Lack of public participation**
- State statutes and Department of Ecology regulations require meaningful public participation in the adoption of shoreline master plan updates. RCW 90.58.130; WAC 173-26-090; WAC 173-26-100.
 - The draft document discloses a lack of public participation between the years 2000 and 2008.
 - The current public participation process appears to be the first opportunity for public comment on the portions of the draft Shoreline Master Program adopted under current Department of Ecology regulations.
 - The City must allow public review and comment of all of the new material. Yet, the draft document improperly presents the 2007 Shoreline Restoration Plan as a “final” document.
 - The public has not been given the opportunity to review all of the proposals, as required by state law.
 - The failure to allow meaningful public participation is a procedural error that, by itself, is fatal to the validity of the plan.

- III. Planning Commission**
- Direct staff to revise the draft document to comply with Citizens’ Alliance
 - Allow public review and comment on the entire document
 - La Pianta LLC will work cooperatively with the City

From: Courtney Kaylor
for La Pianta

EXHIBIT 1 DATE 8/7/08
 PROJECT NAME SMP update
 FILE NO LO6-088