Dear Robert Grumbach, March 8, 2011

As thirty-five year Medina waterfront residents we have bought our home many times over through horrendous property taxes. We worry that our investment will be impacted by new shoreline restrictions.
Underlying our concerns is a belief that the proposed restrictions are impractical, idealistic and of little proven benefit.
The economic consequences could be severe as the tax base is eroded.
How many lots are two hundred feet deep?
Will new homes be bare of the lovely mature landscape we have worked so hard to cultivate?
Will we hack our way through salal on" limited use paths" toward the water's edge?
This starts to sound silly.
We really want the government to acknowledge that its citizens care about and love their homes and do not need any more help.
The fish under our willows are happy too.
Long live reason and thank you for your service.

Pam Lyford

Pam and Chuck Lyford

Pamela N. Lyford
8845 Overlake Dr. W
Medina, WA 98039

Robert Grumbach

om: Pamala Lyford [1armpit@comcast.net]
Sent: Tuesday, March 08, 2011 5:41 PM
To: Robert Grumbach
Subject: new guidelines

As thirty five year Medina waterfront residents we have bought this property many times over through horrendous property taxes. We are concerned that the new guidelines will negatively impact our investment. Underlying our worry is a belief that many of the good ideas behind the proposed standards are impractical, idealistic and of little proven value.
The social and economic impact will be devastating to a county already in financial trouble. How many waterfront properties are two hundred feet deep? Who can afford to remove decades old bulkheads and mature and lovely landscapes tended for many years? Shall we be rewarded for our years of effort by hacking our way through salal on a "limited use path" to the water?
Enough already.
Pam Lyford

Robert Grumbach

From: Gail [Gail.Swihart@earthlink.net]
Sent: Tuesday, December 21, 2010 4:38 PM
To: Robert Grumbach
Subject: RE: Shoreline Master Program Update

Robert, your reply was indeed helpful, especially after I tried wading through the nine pages of detail in the SMP. Something like this would be both informative and helpful to residents when hearing of this agenda. I very much appreciate your reply, and commend you for it. Thank you.

Sincerely,
Gail Swihart

From: Robert Grumbach [mailto:rgrumbach@medina-wa.gov]
Sent: Tuesday, December 21, 2010 1:23 PM
To: gail.swihart@earthlink.net
Subject: Shoreline Master Program Update

Hi Ms. Swihart,

Thank you for the phone message. You ask a great question and I don't have an exact answer at this time regarding how waterfront property owners will be affected by the new regulations because we are still early in the process of developing them. However, I can give you a short synopsis of the City's approach and hopefully this will give you an overall idea of what to expect. I will start by saying that we are required by law to follow state guidelines in our update. Ultimately, we have to obtain state approval of whatever policies and regulations we adopt. The state guidelines strike balance between people's use of the shoreline area and environmental protections. I will spare you the technical jargon, but the main thing to understand is that the new guidelines are meant to hold or improve the current environmental conditions and to prevent further deterioration due to human development.

The approach Medina is taking with the updates is to retain as much of our existing regulations as possible and fill in the blank with more detailed standards consistent with the state guidelines. We have a long history of regulating our shorelines and we don't want to lose this history. The more detailed standards are required by the state, but they will also help waterfront property owners know what they can do with their property. We are suggesting a two prong approach to the regulations. The first prong will establish some fairly strict standards based on existing conditions and utilizing existing federal and state standards. The second prong will allow you to deviate from these standards if you provide mitigation that helps improve the shoreline environment. An example of this is a standard 80-foot setback from the shoreline, but you can reduce the setback to 30 feet if you provide a native vegetative strip along the water, remove some overwater surface coverage, and other improvements. The second prong does require more process, but it allows greater flexibility. This approach is actually not uncommon as current state and federal approval processes for piers and docks follow a similar path.

It is also important to know that if you don't change anything on your property, the rules won't affect you. As it is now, the regulations only come into play when you decide to change something. As I said, we are still early in the process so exactly how you and other property owners might be affected is difficult to say. At the moment, I am working on a draft discussion document that will be released for public input hopefully in January. We will then be working on the document with a small citizen advisory committee and the planning commission before taking it to the council in the coming year. I will also try to create summary documents to help people understand the proposed changes. Hopefully we will get some public input to help refine the proposal.

The City created an information spot on the City's website to help inform people. You can also sign up for shoreline update notifications through our e-gov system as well. The website is http://www.medina-

wa.gov/index.asp?Type=B_BASIC&SEC={69EE75CB-CF21-4D56-AEB1-C8D3DD2EEB39} The sign-up for notification can be found on the website.

Hope this information is helpful.

Best regards,

Robert Grumbach, AICP
Director of Development Services

Integrity Shoreline Permitting

Permit Manager/Shoreline Consultant

Professional • Affordable • Reliable

integritypermitting@hotmail.com

Hire a Vet! Integrity Shoreline Permitting is managed by a Retired Veteran with 21 Years of Distinguished Military Service to the United States of America.

April 7, 2011

City of Medina
Attn: Robert Grumbach
Citizens Advisory Committee
PO BOX 144
8398 NE 12th Street, Unit A
Medina, WA 98039

Subj: COMMENTS ON THE CITY OF MEDINA SMP DISCUSSION DRAFT ON SHORELINE MODIFICATIONS

Dear Mr. Grumbach and Citizens Advisory Committee,

Thank you for taking the time to review and make ready a preliminary draft of the Shoreline Master Program (SMP) Update for the City of Medina and its residents. Medina has a long and remarkable history of serving its citizens well, especially those living along the shorelines of Lake Washington.

I have been involved with property owners, homeowner associations and planning departments in over 12 waterfront communities around Lake Washington, Lake Sammamish and the Puget Sound by providing practical and balanced guidance based on 9 years of shoreline permitting of over 300 waterfront projects. Eight of those years were as a Permit Coordinator with Waterfront Construction and 1 year as a private Permit Manager/Shoreline Consultant with Integrity Shoreline Permitting, a company I started after being laid off in April 2010. I have invested over 2,500 hours into SMP issues over the past 4 years and have worked with Planning Commissions and City Councils in providing expert testimony and presentations on the Shoreline Permitting Process. I am experienced with how the local permitting process works in cooperation with the state and federal regulatory processes and how the overlapping of certain regulations can serve as a detriment for property owners resulting in onerous rules and regulations. Some local governments have adopted regulations and requirements, typically through mitigation, which simply place another layer of unnecessary review and restrictions on applicants resulting in longer review times and additional expenses.

I am a strong advocate for property owners and property rights and have witnessed firsthand many of the rules, regulations and restrictions which have been aimed at waterfront property owners simply because they are blessed to live along the shoreline, a privilege for which they have worked hard. Much of the science being referenced is questionable, inconclusive and non-peer reviewed but has been widely accepted by local, state and federal regulators in an effort to reduce the size of overwater structures and remove shoreline armoring such as bulkheads from residential properties. There is no plan to quantify or measure the results from these regulatory goals so no one will know if they are making a difference, and one must question whether it is needed. Recent fish runs have been high and healthy indicating that the presence of docks, both large and small, and bulkheads along the shoreline have not had an impact on fish or habitat. Many of the studies on shoreline armoring have been conducted for marine water applications and not for fresh water lakes.

As you work with the City and on behalf of the nearly 200 property owners who have overwater structures and most likely some form of hard shoreline armoring I would ask that you keep in mind that there are two opposing sides to this issue and while they are not compatible there is a balance that can be reached. It has been my observation that compromise on these issues typically come from property owners and not the state so please be guarded in your approach to each issue. I have found that in communities where the planning department is pro-citizen and public participation is heavy (such as Sammamish, Bellevue and Redmond) the outcome for property owners is much more positive. It is vital that the public is kept informed.

I would like to offer my assistance to the City and the Citizen Advisory Committee based on my experience with the design and permitting of shoreline projects and my involvement with the SMP Updates in your neighboring communities. I believe if you contact any of the Planning Departments, Planning Commissions or City Councils around Lake Washington and Lake Sammamish they will speak positively of my efforts.

It is concerning that only 2 of the over 200 waterfront properties are represented through the Citizens Advisory Committee, or less than 1%. How does the City plan on gathering input from a strong sampling of waterfront property owners during this initial phase before things get too far along? Is the City aware of any waterfront homeowners association it can work with to get the word out so at the end of the day no property owner is surprised at the changes to the SMP and the impacts it will have on their property?

I have reviewed the original Discussion Draft on Chapter 20.65 Shoreline Modification and offer the following comments. I do apologize that these comments are not directed toward the latest Discussion Draft as I just received it on April 6, 2011 and started this letter several days ago. I believe it is still applicable on all issues.

20.65.010 General provisions

C. (page 1)- Is MMC 20.66.010 available for review? Other local governments do not require a comprehensive analysis of the site-specific conditions since these are typically satisfied by meeting the development standards outlined in the SMP itself. What type of projects will require this site specific analysis and will it be something that the average property owner, agent or contractor can complete or require an additional study, report, or technical report that will require a biological firm? I do not believe such a report is required under the SMP Update requirements and may represent an added expense for applicants.

20.65.020 Piers, docks, buoys, moorage piles, boatlifts, swim floats- general

D.1 (page1)- Can you clarify if this applies to properties with a large shoreline frontage that is divided into two waterfront lots or only to those that have a single property at the shoreline and provide access to the lots upland? Please clarify. If a large waterfront lot is subdivided and sold to a different party that owner should have all the rights to have an individual single family pier.

F. Staff Comment 2 (page 2)- While the state does require additional dimensional standards they are very minimal and it should be noted that the state adopted the Construction Specifications contained within the Army Corps Regional General Permit 3 (commonly known as the RGP-3) without conducting any additional research with the Corps on how projects are reviewed and the RGP-3 applied. This document was designed to determine that projects would have a "not likely to adversely affect" (NLAA) listed species and their critical habitat under Section 7 of the Federal Endangered Species Act (ESA) which is totally different from Ecology' "no net loss" criteria. The RGP-3 has expired but the criteria are still being used to review projects. I have personally submitted dozens of projects using the RGP-3 Application and while none of them met the development standards in the RGP-3 and many far exceeded the size limits they were all approved with a determination of "not likely to adversely affect". Ecology haphazardly pushing these same development standards onto local governments in order to meet "no net loss" in their SMP updates has caused major controversy in each community as they have scrambled to work around this issue.

F. Staff Comment 4 (page 2)- Please differentiate and define "no net loss" as it applies to <u>new</u> and <u>replacement</u> piers as the "no net loss" standard for piers was designed for a new pier proposed where a pier does not currently exist.

F. Staff Comment 7 (page 3)- Although the 480 square feet appears to the default standard for federal approval in writing this standard has been very flexible and I have had piers in excess of 800 square feet approved using the RGP-3 criteria from where they City has attained this figure. It is vital that local governments understand the federal review process and how they work cooperatively with applicants. Ecology failed to research the federal review process prior to adopting and promoting these standards on local governments and as stated earlier it has lead to much controversy.

F. Staff Comment 8 (page 3)- While the recommendation to allow new piers to be 900 square feet with mitigation measures, the City and Citizens Advisory Board should allow the state (WA Dept of Fish and Wildlife) and federal (Army Corps of Engineers, USFWS and NMFS) decide what the additional mitigation should be. Multiple and overlapping mitigation standards are onerous and redundant and state and federal regulatory agencies are staffed with fish biologists who can assess and

apply appropriate mitigation standards to projects. Prescriptive and inflexible mitigation placed on applicants by local governments, which are typically in the form of planting plans, only serve to agitate most property owners because they obstruct views and remove usable yard area. An example is requiring a property owner to plant a 10 foot wide strip of native plants across their property which is unreasonable, excessive, and somewhat punitive in nature. Although the SMP is about satisfying Ecology as stated, it is also about taking care of residents through reasonable and balanced regulations.

Table 20.65.030(A) Dimensional & Design Standards- New

Maximum Surface Overage (page 4)- Why are boatlifts included in this figure? Boatlifts are not included in the RGP-3 nor are they required to be included in the maximum square footage of piers by Ecology. Boatlifts and personal watercraft lifts are reviewed under a totally separate federal process known as the Regional General Permit-1 (RGP-1) as are canopy covers. There are no other local waterfront communities on Lake Washington, Lake Sammamish or anywhere else I am aware of that boatlifts are counted toward the overwater coverage of a pier. This is not required by Ecology and will single out Medina's residents as the only property owners where this would apply. I strongly recommend this be removed from inclusion in maximum surface coverage for single, two, and three or more property owners.

It should be noted that while lifts do place additional structure in the water the alternative would be to have a watercraft sitting in the water. Lifts are typically viewed favorably by regulatory agencies because they reduce shading and prevent the obstruction of littoral drift around the lake.

Minimum Water Depth (page 4)- Although requiring Ells to be over 9 feet water depth and floats to be over 10 feet water depth is outlined in the RGP-3 it is rarely enforced and typically reviewed on a project-by-project basis. In many cases this can cause a pier to be longer than necessary to meet this requirement resulting in additional overwater coverage. The Medina Shorelines tend to attain adequate water depth relatively quickly but should the City decide to retain this requirement it should also adopt exceptions allowing property owners to have additional overwater coverage or exceed the 100 foot length limit without a variance for the projects impacted by such a requirement.

Skirting (page 4)- Skirting has not been allowed under any circumstances by state and federal regulations for nearly 10 years, for new or replacement piers or the repair of existing structures. In order to avoid any confusion or controversy between Medina, state and federal regulators, or waterfront property owners I believe it would be most prudent to simply disallow skirting since it will be disapproved at the state and federal levels.

Materials- I applaud your decision to set the minimum percentage of light transmission to 40% as this will allow Medina residents to choose from a variety of residentially friendly products. Thank you.

1.c. (page 4)- Mitigation should be regulated and directed by state and federal agencies such as WA Dept of Fish and Wildlife and Army Corps and not the SMP. This will ensure that Medina residents are not required to do more than those in neighboring communities and will be held to the same mitigation measures state and federal regulatory agencies are placing on waterfront owners in other Lake Washington areas. Many local communities have agreed to accept planting plans and mitigation required by WDFW and the Army Corps.

2.b. (page 5)- Due to wind, wave and wake action in Lake Washington, emergent vegetation is rarely successful. As noted above it is recommended the City accept the planting plan approved by state and federal regulatory agencies.

2.c.i. (page 5)- A blanket requirement of 1,000 square feet of vegetation, not only is unreasonable and excessive, but does not take into consideration the width of the property. As noted above it is recommended the City accept the planting plan approved by state and federal regulatory agencies.

2.c.ii. (page 5)- Adjoining the OHWM is not always possible. I currently have a project where there is a sidewalk immediately behind the bulkhead so it would be unreasonable to expect this property owner to remove the existing sidewalk to install vegetation. State and federal regulators require that riparian planting plans be installed as close to the OHWM as possible and in the case of an existing bulkhead that typically means immediately behind it. As noted above it is recommended the City accept the planting plan approved by state and federal regulatory agencies.

2.c.iii (page 5)- Requiring a planting strip to average 10 feet in depth and have no segment less than 5 feet is unreasonable and overly restrictive. You are essentially taking usable yard area and impacting the quality of life for many residents. While the more affluent communities like Medina, Hunts Point and Yarrow Point tend to have a higher percentage of property owners who willingly participate in the shoreline permitting process if the City places unreasonable and onerous mitigation requirements such as this it could push property owners to work outside the permit process altogether. It is estimated that 30% to 40% of work on Lake Washington and Lake Sammamish already occurs without permits so this is not an unreasonable presumption even in a City like Medina. As noted above it is recommended the City accept the planting plan approved by state and federal regulatory agencies.

2.d. (page 5)- There are already initial and annual planting and monitoring reports in use by the Army Corps very similar to the requirement you are outlining. For my customers I actually offer to do the initial planting mitigation report and also prepare 5 years of future reports where they simply fill in the blanks on what has died (if any) and what was replanted. This is submitted with photos to the local planning department, WDFW and the Army Corps. Subsequently the owner (or their representative) takes yearly photos from the same locations, fills out the reports and submits them each June through September to each of these agencies for 5 years.

2.d.vi. (page 5)- Why does the maintenance and monitoring plan need to be prepared by a "qualified professional" with expertise in riparian vegetation? This is unnecessary as the maintenance and monitoring plan is already available on the Army Corps website or I can provide a copy of past plans I have completed to the City. While it is helpful to have a landscape architect or designer knowledgeable with native riparian vegetation prepare the planting plan itself (unless the property owner is knowledgeable) it is unnecessary to require the property owner to hire a "qualified professional" to prepare the maintenance and monitoring plan. This can be done by anyone who regularly works in the area of shoreline permitting and understands the mitigation and monitoring requirements. I recommend this requirement be eliminated.

2.e. (page 5)- Is it legal for the City to require a native growth protection area to be recorded on the Title with King County since it is not a structure? This seems extreme and will be impossible to monitor and enforce beyond the 5 year period the City is requiring. Is the City being over "big brother" and operating from a position of mistrust towards its property owners? Success is dependent upon a shared trust and responsibility between government and citizen and I believe this undermines that trust and questions the integrity of property owners. This seems more punitive than program oriented. I am not aware of any other local government going to this extent.

2.e.ii. (page 5)- Is this statement intended to place the City in the position of enforcer against its residents? I believe it should read in a more cooperative and partnership way so it once again does not have that "big brother" feel. How does the City plan on enforcing such a thing and who is authorizing this enforcement on private property? This is not to say the City cannot do such a thing it choose to but how will it be done?

Table 20.65.030(B) (pages 6 and 7) Dimensional & Design Standards- Existing
Basically, I offer the same comments as the table for dimensional & design standards for new piers with the following additions.

Maximum Width (page 7)- By restricting the ell and float to 6 feet in width it will deter many property owners from replacing much larger piers with more environmentally friendly structures since there is essentially no incentive. The average property owner with an 8 or 10 foot wide ell who enjoys gathering on their pier with family and friends will no longer be able to do so with a 6 foot wide ell and by further limiting the length you are treating them the same as you are someone asking for a new pier. The only exception is you are allowing a 5 foot wide walkway. I can't imagine any property owner finding this appealing.

20.65.050 Repair of Existing Pier or Dock
B.1 (page 9)- Medina is taking a much more restrictive position on the repair and replacement of legally existing nonconforming structures than all other local communities and while it is Ecology's unwritten goal that all structures are brought into conformity as quickly as possible, there are no provisions in the WAC to require such a thing unless certain criteria in WAC 173-27-080 are triggered. Because the adoption of new development and dimensional standards will declare a large percentage if not all overwater structures legally nonconforming this may be the most important and impacting regulation the City places on its waterfront property owners. There is nothing in the WAC or the SMP Update requiring nonconforming structures to come into conformance. Here are a few statements from this WAC which addresses nonconformities:

WAC 173-27-080

Nonconforming use and development standards.

When nonconforming use and development standards do not exist in the applicable master program, the following definitions and standards shall apply:

(2) Structures that were legally established and are used for a conforming use but which are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density **may be maintained and repaired and may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity** by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.

(4) A use which is listed as a conditional use but which existed prior to adoption of the master program or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use. A use which is listed as a conditional use but which existed prior to the applicability of the master program to the site and for which a conditional use permit has not been obtained shall be considered a nonconforming use.

(7) A nonconforming structure which is **moved any distance must be brought into conformance** with the applicable master program and the act.

(8) If a nonconforming development is **damaged** to an extent not exceeding seventy-five percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within six months of the date the damage occurred, all permits are obtained and the restoration is completed within two years of permit issuance.

With the above WAC Section outlining the minimum standards that will be enforced if the Shoreline Master Program does not list different standards for its residents, I must question why Medina is proposing to require property owners who repair or replace 40 percent of piles over an 18 month period to bring the structure into conformance. Those familiar with piers and piles will acknowledge that piles deteriorate at a relative rate and often total replacement of a pier is the common method of repair for this type of structure.

B.2. (page 9)- While this regulation sounds generous in all of the projects I have done and heard of over the past 9 years not a single one involved the replacement of treated piers apart from maintenance of an existing structure simply to install more environmentally friendly piles

In summary of the regulations on repairs of existing piers or docks I encourage the CAC recommend that property owners are permitted to replace nonconforming structures in kind or raise the thresholds in regard to repairing or replacing piling. Many local governments totally separate a pile repair from a pile replacement since it does not require disturbance to the substrate or pile driving. The WAC clearly allows the total replacement of a nonconforming structure and there is nothing in the SMP Update requirements from Ecology forbidding this.

Table 20.65.060 (A) Dimensional & Design Standards- Covered Moorage

Maximum Height- Thank you for removing the previous regulation limiting the total pitch to 16 inches from top to bottom of a cover. The standards for covered moorage seem very reasonable but I do have one concern regarding the maximum height. Other communities are recognizing that many boats have ski bars and other superstructure on their boats and the fact that people need to be able to comfortably and safely board and disembark from watercraft so they have made the typical height maximum 10 foot above the deck of the pier or 12 feet above the OHWM.

Based on the 7 foot above the top of the decking to the top of a canopy of moorage cover where the vertical distance from the roof top to the bottom of the side is roughly 3 feet this will only leave a vertical clearance of 4 feet between the deck and bottom of the cover. This will also greatly limit and risk damage to the cover when boats with ski bars are raised to a reasonable height above the water. Even though the material is required to be translucent there is far more sunlight reaching the water beneath from the sides of a moorage cover rather than through the canopy material itself. All regulatory agencies

prefer the cover to be as high above the water surface as possible while understanding that obstructing neighboring views must be taken into account.

Can the CAC consider recommending that the maximum height of the moorage cover be 10 feet above the decking or 12 feet above the OHWM? This would allow more light to reach the water and will give dock users 7 foot of vertical room to pass beneath the cover to and from a watercraft. Because canopy covers are adjustable this will be impossible to track or regulate so the higher the better since most property owners will tend to have the cover high during heavy use and lower during storms, longer periods on non-use or in the winter if they keep their boat on the lake.

Thank you for your time and hard work on this important document that will impact all of your waterfront property owners. If you have any questions I can be contacted at 425-343-2342.

Sincerely,

David Douglas
Permit Manager/Shoreline Consultant

May 17, 2011

Mr. Robert Grumbach
Director of Development Services
City of Medina
P.O. Box 144
Medina, Wa 98039

Dear Mr. Grumbach:

The purpose of this letter is to make you and the members of the Planning Commission and the City Council aware of some of my concerns about the proposed amendments to the Shoreline Master Program (SMP), the contents of the Discussion Draft and the Final Shoreline Analysis Report, and the process by which the citizens of Medina are being notified of what is going on. As I will be out of town on May 24, I will be unable to express these concerns in person at the Planning Commission meeting. I request that you forward my letter electronically to the Planning Commission and the City Council.

No Significant Public Outreach

Public participation is crucial to the process of developing or updating an SMP. In fact, the Dept. of Ecology requires that a public participation plan be developed to "lay out how local governments will encourage broad participation throughout this process." (SMP Handbook Chapter 6, available at www.ecy.wa.gov/) Submitting the plan to the Dept. of Ecology is Task 1.2 of the SMP update process. Task 1.2 comes immediately after the task of identifying shoreline jurisdiction, and immediately before the task of conducting a shoreline inventory, both of which appear to have been completed in Medina. Where is Medina's written public participation plan? I would like to see it.

Chapter 6 of the SMP Handbook describes the type of measures that a city like Medina should take to notify its citizens and obtain their input, and suggests that local governments "look for new and diverse ways to reach out and inform residents." Some of the suggested methods of obtaining citizen input are:

- Conducting a mail, online, or telephone survey early in the process to determine public opinion on shoreline management issues
- Advertising the SMP planning process and specific meetings and activities on local radio and public television stations and in community event columns of local newspapers, both print and online editions
- Holding open houses or forums to inform people about the SMP update and to elicit citizen participation
- Using the City website to provide detailed information on the planning process and offering draft products for public review

Other than posting documents on the City website, has the City of Medina conducted any sort of public outreach program to make its citizens aware of the SMP process and their opportunity to be heard? If so, I would like to see the documentation.

Defective and Inadequate Notice

At a Planning Commission meeting in March 2011, you reported that a postcard had been sent to every Medina resident requesting input into the proposed changes to the SMP, but only one person responded. (Minutes of the 3/22/11 Planning Commission Meeting, available on the City of Medina website.) This lack of response to the postcard speaks volumes about its inadequacy as a notification method. Medina residents are deluged with postcard type mailings from a wide variety of businesses. Postcards are often mistaken for junk mail and thrown out, especially if they are addressed to "boxholder" or "resident."

In addition, the postcard notice is extremely vague in terms of describing the true import of the proposed changes to the SMP. Under "Opportunity to Comment" the notice states: "Proposed changes affecting shoreline setbacks, pier and dock standards, and shoreline stabilization (i.e. bulkheads) have been consolidated into a discussion document that is available for public review. This is your opportunity to provide input and help us balance the community's vision with state requirements." This language fails utterly to advise waterfront property owners of the impact of the proposed changes to shoreline setbacks. The notice should have included language such as the following:

The City is proposing to double the shoreline setback from 30 ft to 60 ft along Evergreen Point Road and on Groat Point and from 50 ft to 100 ft around Fairweather Bay. On Overlake Drive East the new proposed shoreline setback will be 70 ft and in areas of Medina where the string line method was used to determine shoreline setback, the new proposed shoreline setback will be 100 ft. If your home or accessory structure was built in accordance with the pre-existing shoreline setbacks it will be considered nonconforming following the passage of the amendments to the Shoreline Master Program, and will be subject to the provisions of MMC 20.66.080.

The postcard notice is also defective in terms of informing residents where and how to obtain the documents that are on the City's website. In the section entitled "How to Comment" the postcard states "Please visit the City's website or contact City staff below for more information." I followed those instructions and went to the City website. Nowhere on the home page is there an obvious link to the SMP updates. Even though I consider myself a competent user of most websites, I could not find the SMP updates by myself. I had to call you and have you "walk me through" finding the SMP updates under City Departments, Development Services. The information is more-or-less hidden on the City website in a place that few would think to look for it. The postcard notice should have informed citizens exactly how to find the SMP update page on the City website. Even better would be a highlighted link to the SMP update page on the home page of the City website, in the same way that "Map Your Neighborhood" is currently highlighted in the box for "Emergency Preparedness

News." As an aside, as I drove through Medina last night after a dinner out in Bellevue, I saw all of the banners and "sandwich boards" asking "Are we prepared for an earthquake?" and advising citizens of an upcoming meeting on earthquake preparedness. Shouldn't the City be taking the same care to notify its citizens of the precise nature of the proposed changes to the SMP as they are taking to notify them of an earthquake preparedness meeting?

In my opinion, at the very least the City of Medina should be taking steps to identify the individual stakeholders in this process, such as the waterfront homeowners who will be most impacted by the proposed changes. These stakeholders should be notified personally of the significance of the proposed changes, as applied to their homes and properties. They should be sent a letter by certified mail with a copy of the proposed changes to the SMP included as an attachment and a clear statement of how the proposed changes will affect their specific property. Alternatively, City staff should hang-tag their front doors with this information. To require such stakeholders, who are also some of the City's top taxpayers, to dig out this information from deep within the City website creates the false impression that the City is playing a game of "hide the ball."

Discussion Draft Missing Vital Information

Chapter 20.63 of the Discussion Draft contains the following provision:

20.63.010 General Provisions

B. The requirements of this Chapter apply when a property owner initiates new development or redevelopment of their property. Existing uses and/or conditions that do not comply with the requirements in this Chapter may continue unbothered subject to the limitations for nonconformity set forth in MMC 20.66.080.

I have searched the Discussion Draft and the City of Medina website in an effort to find MMC 20.66.080. If it is present in either of those places, I cannot find it. Does it exist? If not, how can the Planning Commission, the City Council or the public comprehend what the impact will be to homeowners whose homes were legally built under pre-existing shoreline setbacks, once their homes are deemed nonconforming? To have a discussion about increasing shoreline setbacks without simultaneously addressing the issue of how many homes in Medina will become nonconforming and what that designation will mean to those homeowners (and to the City, for that matter) is to take an extremely one-sided approach to the important task of balancing ecological goals with the rights of Medina's waterfront property owners.

In addition, in the section of the Discussion Draft describing the mitigation measures waterfront property owners might take to reduce the new shoreline setback, the following Staff Comment appears:

Staff Comment: The primary purpose for shoreline setbacks is to protect shoreline ecological functions from the impacts of development. It is accepted practice to use mitigation

measures such as planting enhancements to allow reduced wetland buffers provided the functions of the buffer is maintained or improved. This approach is proposed to be applied to shoreline setbacks with the intent of creating flexibility if the property owner employs enhancement measures. The outcome of this approach would allow property owners, **except for those next to Fairweather Bay**, who take advantage of the reduction options to have their current shoreline setbacks unaffected or reduced from today's standards while improving the conditions of the lake. It is also again worth noting that the new setbacks apply only when new development is proposed. (Discussion Draft, page 19. Emphasis mine.)

What is the rationale and justification for depriving waterfront property owners in Fairweather Bay of the opportunity to use mitigation to reduce their shoreline setbacks or have them unaffected by the proposed changes? If the basis for this provision is in the Discussion Draft, the Final Shoreline Analysis Report, or on the City website, I am unable to locate it. This section seems to make Fairweather Bay homeowners "second class citizens" compared to other waterfront homeowners in Medina. As Fairweather Bay is also one of the areas where the City proposes to double the existing 50 ft setback to 100 ft, this distinction seems especially onerous and unfair. How can the Planning Commission, the City Council or the public have a meaningful discussion about this provision when there is no rationale or support for it presented in the Discussion Draft?

Shoreline Analysis Report Fatally Flawed

The SMP Guidelines establish the standard of "no net loss" of ecological functions when properties are developed or redeveloped. The very concept of "no net loss" means that there must be a baseline for comparison purposes. The baseline for the three "reaches" of Medina is described in the Final Shoreline Analysis Report, prepared by The Watershed Company.

One conclusion in the Report is that there is too much impervious surface coverage within the City, which leads to "increased surface water flows and contaminants that impact the ecological functions in Lake Washington." (Final Shoreline Analysis Report, Section 4.1.3) As a corollary, the authors state that: "In Medina's Lake Washington shoreline jurisdiction, the major issues with impervious surface relate to water quality of run off from any pollution-generating impervious surfaces (mostly driveways) and the associated loss of vegetation related to introduction of any new impervious surfaces." (Final Shoreline Analysis Report, Section 1.1)

One would assume from the confident, forceful manner in which these conclusions are set forth that the authors have site-specific scientific and technical data to support their conclusions.

And yet, in Section 3.3 of the Report, entitled "Data Gaps", the following information appears:

GIS information was not located or was incomplete for the following parameters:

Impervious surfaces: local information was not available, so a national data set based on aerial photo interpretation at a 30-meter scale was used. This information provides

a reasonable visual impression of impervious surface coverage on a map, but may not be entirely reliable for true calculations.

Vegetation. Again, local information was not available, so a national data set based on aerial photo interpretation was used. Reliability of this information is marginal.

Stormwater system

Although more reliable and locally developed information about each of the above items might help develop a fuller picture of shoreline conditions and processes, it is not expected that the absence of these items would have significant impacts on the selection of environment designations or the development of the SMP. The presence/absence in shoreline jurisdiction of other environmental conditions for which data is available (or was specifically collected for this project, e.g. shoreline armoring and setbacks) is expected to be more relevant to decision making.

So although one conclusion central to the Final Shoreline Analysis Report is that Medina's surface water flows and contaminants coming off impervious surfaces are a problem, the authors of the Report themselves reveal that this conclusion is not supported by evidence-based local data but rather a type of data that "may not be entirely reliable." In fact, on page 16 of the Report the authors essentially admit that they don't know exactly how much impervious surface exists in Medina right now. What kind of baseline is that? How can we ever hope to accomplish "no net loss" with respect to ecological functions if we don't have accurate data on the amount of impervious surface that exists in the city today? Furthermore, where is the scientific proof that Medina homeowners' driveways are a significant source of the pollution in Lake Washington? If it exists, I could not find it in the Report. In this regard, the map entitled "Water Quality Impairments" which is part of the Final Shoreline Analysis Report is extremely instructive. It shows no evidence of hydrocarbons from automotive oil and grease in the shoreline areas immediately around Medina. Where it does show contaminants abundantly present in the water is immediately adjacent to the 520 floating bridge.

The same map shows that Fairweather Creek, which is fed from the ponds on Overlake Golf Course, has significant issues with temperature, dissolved oxygen, and fecal coliform. It is well known that the ponds on Overlake Golf Course receive stormwater from impervious surfaces in Clyde Hill. Yet there is no mention in the Final Shoreline Analysis Report of the impact of this practice by an "uphill" jurisdiction on the quality of the water in Fairweather Bay. Instead, the authors of the Report have chosen to lay all the responsibility for pollution entering Fairweather Bay, on the 30-some homeowners who live next to it. They are the ones being burdened with the proposal of 100 ft shoreline setbacks, and being denied the right to use mitigation to reduce those setbacks, according to the Discussion Draft.

Even more glaring in its absence from the Final Shoreline Analysis Report is the fact that since the time SR520 was constructed in the 1960s` its untreated stormwater

runoff has been discharged straight into Lake Washington, and more specifically in Medina, directly into Fairweather Bay.

In addition, the Final Shoreline Analysis Report makes no mention of the fact that the potential for Fairweather Creek to act as a spawning ground for salmon was destroyed decades ago when it was put into a culvert during the original construction of SR520. Subsequently, portions of its banks have been armored with rocks, and scouring of its banks has occurred during periods of high water outflow from the detention ponds on Overlake Golf Course. According to WSDOT's Supplemental Draft EIS on the Bridge Replacement and HOV Project,

Ecology placed Fairweather Creek on the 303(d) list because the stream exceeds the fecal coliform, dissolved oxygen, and temperature water quality criteria (Ecology 2009). This same listing identified pH in Fairweather Creek as meeting water quality standards (a 303(d)listing of Category 1). Metro (1989) sampled water quality in 1988 and between 1990 and 1993. The sampling showed that high-temperature violations occurred during the summer low-flow months when the stream was nearly dry (King County 1994). Metro also measured exceedances of fecal coliform and dissolved oxygen water quality criteria (Metro 1989), as well as elevated levels of copper, zinc and nickel in sediments located at the mouth of the stream (King County 1994).

A study by the Watershed Company also showed water quality to be poor in Fairweather Creek during the summer (the study was limited to the summer). Ammonia levels exceeded the state standard. For salmon, the creek's manganese and iron levels were unacceptably high, dissolved oxygen levels were marginal to low, and temperature levels were higher than ideal during summer low flows and acceptable during summer high flows. The Watershed Company also noted a lack of stream shading and stream channel complexity, as well as a prevalence of nonnative and invasive vegetation along the stream corridor (Anderson et al. 2001). Potential stormwater pollutant sources in this basin, in addition to SR520, include single-family residential neighborhoods, a golf course, and local roads. (SR520: I-5 to Medina Bridge Replacement and HOV Project Supplemental Draft EIS. Water Resources Discipline Report December 2009, page 39)

Here is clear evidence that a significant amount of the pollution entering Fairweather Bay comes from uphill sources that flow through Fairweather Creek, and yet nowhere in the Final Shoreline Analysis Report is this discussed. Indeed it is barely mentioned (except a few brief references to the presence of SR520). Instead, in their description of the "low" ecological functioning of the Fairweather Bay "reach" the Report's authors imply that the pollution in Fairweather Bay is from driveways and lawns of the waterfront homes around the bay, and further, that shoreline armoring is what makes this reach unfriendly to salmonids. Although the authors are certainly aware of all of the issues associated with Fairweather Creek that make it completely inhospitable for use by salmon as a spawning ground, apparently they chose to omit this vital information from the Final Shoreline Analysis Report. The bottom line: increasing shoreline setbacks and de-armoring the shoreline in Fairweather Bay is not going to change the degraded and polluted

conduit called Fairweather Creek, which is the real obstacle to making the bay viable for salmonids. If the City is serious about cleaning up the pollution entering Fairweather Bay, it should focus its efforts on the uphill sources, not the downhill recipients.

Another example of an important but virtually unsupported conclusion in the Final Shoreline Analysis Report is the authors' statement that 60% of Medina's shorelines are deforested and that vegetative conditions in the city are a degrading factor in the lake's ecological functioning. (Final Shoreline Analysis Report, page 17) Yet in the section on Data Gaps they admit that they have no local information on vegetation in Medina, and that the reliability of the national data set based on aerial photo interpretation is "marginal."

The parenthetical remark in the final sentence of the Data Gaps section says it all: the authors of this report have pre-determined that the statistics they collected on shoreline armoring and setbacks are more relevant to decision making than the data on impervious surface coverage and vegetation that they did not collect.

This is the policy-making equivalent of a "rush to judgment" in a criminal case. A "rush to judgment" occurs when a person focuses only on those portions of the evidence that support a pre-determined conclusion, and does not seek out other evidence that might support another conclusion, or in fact exculpate the defendant. By analogy, the defendant here is the waterfront homeowner whose legally-built home sits closer to the water than the new proposed setbacks will allow, and/or one who has a bulkhead in place to prevent erosion from wind and waves.

In this letter I have identified only a few of the flaws that "jumped out" at me during an initial, cursory review of the Final Shoreline Analysis Report, but they alone are fatal to its credibility as a scientific document being used by the City to support the proposed changes to the SMP. Medina's SMP should be based on actual scientific data reflecting the current status of our community and not on a "national data set" from which at best, marginally relevant conclusions are drawn. Medina is a relatively small city with only 4.5 miles of shoreline. Shouldn't we do the right thing by our citizens and the environment and go back and conduct a careful and painstaking physical inspection and documentation of our shorelines, our impervious surfaces, our stormwater system and other relevant conditions? Whatever the Planning Commission and the City Council ultimately decide with regard to the proposed changes to the SMP, it is certain that the lives of a very many citizens in Medina will be impacted. Shouldn't these citizens be able to rely on the integrity of the process and that decisions will be based on scientific evidence, not on biased assumptions and unsupported conclusions?

No Net Loss is Achievable without Increasing Shoreline Setbacks

Chapter 4 of the SMP Handbook gives this definition of "no net loss": "Over time, the existing condition of shoreline ecological functions should remain the same as the SMP is implemented." (SMP Handbook Chapter 4, page 1)

According to the Final Shoreline Analysis Report, "When compared with functions necessary for supplying ecological conditions sufficient to support and sustain fish and wildlife associated with Lake Washington and the associated upland areas, the overall, 'true' function in the City of Medina would be Low based on prevalence of armoring, overwater cover, impervious surface, and lawn areas, and paucity of native forested riparian conditions." (Final Shoreline Analysis Report, page 29)

Although I am certain that many Medina homeowners would disagree with this assessment given the number of bald eagles and other wildlife regularly present in our neighborhoods, this is the determination that the consultants have made, and is the baseline that we must use in determining whether we can achieve "no net loss" over time.

Looking at each one of the areas identified as contributing to this designation of "low" ecological functioning, it can be seen that increasing our already generous shoreline setbacks is completely superfluous and totally unnecessary in the pursuit of "no net loss" of shoreline ecological functions.

Armoring. Shoreline setbacks in Medina have no bearing on the prevalence of armoring along the shoreline. The armoring is in position to prevent erosion from wind and waves from winter storms and wake generated from substantial boat traffic in the summer months. No evidence has been presented that increasing shoreline setbacks will result in a reduction in armoring along the City's shorelines. Armoring is better addressed by specific provisions in the Medina Municipal Code.

Overwater cover. Overwater cover is primarily from docks and piers, as there are relatively few boathouses in Medina. Overwater cover has nothing to do with shoreline setbacks. This issue is best managed by code provisions related to new docks, as is being proposed.

Impervious Surface. As stated earlier in this letter, we can't begin to determine how to create "no net loss" in terms of the effect of impervious surface, or even establish a baseline, because we don't have good data on the amount of impervious surface in Medina. However, the consultants have stated that pollution-generating impervious surface in Medina is "mostly driveways." (Final Shoreline Analysis Report, Section 1.1) If that is the case, increasing shoreline setbacks will not reduce the amount of damage-causing impervious surface in Medina, because driveways to waterfront homes are almost always located on the uphill, non-waterfront side of the property. I submit that if impervious surface is contributing to the low ecological functioning of the shoreline areas in Medina, the City should immediately undertake a scientific study to determine and document (a) how much impervious surface exists in Medina (b) what is the precise nature of the harm to ecological functions as a result of the impervious surface (c) whether the City's stormwater system is playing a role

and (d) what we can do to improve the situation, including but not limited to "best management practice" techniques that have been proven to reduce the amount of surface water run off and pollution discharge into a waterway. Treating Medina's stormwater discharge before it enters Lake Washington would likely make a huge improvement in the ecological functions of the lake, but there is apparently no consideration being given to this by either the City or the consultants.

Lawn Areas. Increasing shoreline setbacks is very likely to increase lawn areas, not decrease them. In addition, while there is nothing referenced in the Final Shoreline Analysis Report to support the implication that homeowners in Medina are improperly managing their lawns, thereby rendering them the equivalent of an impervious surface, one can well imagine that the use of fertilizer and pesticides on lawns throughout Medina and Clyde Hill might enter the stormwater system and be carried into the lake. This issue should be addressed through education outreach programs offered to homeowners in both jurisdictions to show them how to manage their lawns using less-damaging alternatives to traditional fertilizers and pesticides. It might also be relevant to find out how much and what kinds of chemicals are being used at Overlake Golf Course, and at Wells Medina Nursery. Increasing shoreline setbacks on Medina's waterfront properties will not decrease the amount of pesticides and fertilizers reaching the lake, but eliminating the use of these types of chemicals throughout the City could be hugely beneficial to the ecological functioning of the lake, and go a long way to helping us achieve "no net loss." Encouraging "green roofs", rain gardens and water detention swales on large properties undergoing development could also create a win-win for homeowners and the environment, as these measures have been proven to filter chemicals from run off and reduce surface water flows. The City of Portland has been a national leader in developing green stormwater management, and the City of Medina should take advantage of Portland's expertise in this area, not only as these green stormwater techniques may be used on private property, but also in association with streets and other public facilities.

Paucity of Native Forested Riparian Conditions. Medina is a built-out suburban city. "Native forested riparian conditions" haven't existed here for decades, with the possible exception of the properties on Evergreen Point Road that are part of the Conservancy program. Increasing shoreline setbacks is not going to bring about a return to an earlier time when "native forested riparian conditions" existed in Medina. Usually, waterfront property owners choose to live on the water because of the associated views of, and access to, the water. It is completely unrealistic to expect that increasing shoreline setbacks will encourage waterfront property owners to block their views of, or their access to, the water with trees.

Concluding Remarks

I submit that most if not all of Medina's residents, and particularly its waterfront residents, would agree that Lake Washington and its shoreline ecosystem should be made as healthy and wildlife-friendly as is feasible. At the same time, it should go without saying that rules and regulations proposed to accomplish these goals

should count for something. By this I mean that they should actually do some good for the ecological functions of Lake Washington and its shoreline ecosystem, and not represent a "check off the box" type behavior as a reaction to Dept. of Ecology mandates. Where the proposed increased shoreline setbacks are concerned, it seems to me that the City is doing just that. The City has chosen to "check off the box" called "increase shoreline setbacks", without really investigating the source of the pollution entering the waters around Medina and making a scientific determination whether doubling our existing shoreline setbacks will have any meaningful impact on that pollution. I submit that it will not, and that the next time the SMP is amended, we will be faced with many of the same issues that are not being addressed now, such as the City's apparent decision not to treat its stormwater and not to address stormwater entering Medina's shoreline waters from Clyde Hill/Overlake Golf Course detention ponds.

Furthermore, Medina's current shoreline setbacks are in many cases already far greater than the shoreline setbacks being proposed by other cities around the lake. Although a comparison of shoreline setbacks in neighboring cities is irrelevant to the determination of "no net loss" within Medina, it is most certainly relevant to the discussion whether the proposed doubling of many of the existing shoreline setbacks in the City is a reasonable and fair course of action. With the City of Mercer Island proposing to leave their existing shoreline setbacks of 25 ft in place and Bellevue proposing a 50 ft setback (except in Newport Shores, where it is proposed to be 25 ft) (Sources: City websites of Mercer Island and Bellevue) I would submit that increasing Medina's existing shoreline setbacks to 60, 70 and 100 ft is completely unnecessary, unreasonable and impractical. There are so many other ways not only to achieve "no net loss" of shoreline ecological functions but also to actually improve them, without creating a "nonconforming structure" nightmare for dozens of homeowners in the City who built their homes and beach cabins legally, in accordance with Medina's existing ample shoreline setbacks. When combined with WSDOT's improvements to the stormwater system associated with the new SR520 corridor and other actions that the City could take to address runoff from impervious surfaces in Medina, our existing shoreline setbacks are more than sufficient to protect the ecological function of Lake Washington, now and in the future.

Respectfully submitted,

Suzanne Cohen
3411 Evergreen Point Road
Medina, WA 98039
suzanne@seattlestudyclub.com
425-454-6999 home
206-396-7310 cell

May 22, 2011

Mr. Robert Grumbach
Director of Development Services
City of Medina
P.O. Box 144
Medina, Wa 98039

Dear Mr. Grumbach,
Following submission of my letter of May 17, I reviewed a few more sections of the Discussion Draft and I have some additional comments and questions. I trust you will not only make my comments part of the public record, but also forward them to the Planning Commission and the City Council, as I will be out of town next week.

Transportation Zone Uses Too Broad
My first area of concern is with respect to the list of permitted or conditionally permitted uses in the Transportation environment. (Shoreline Use Table MMC 20.62.030) The purpose of the Transportation environment is to accommodate the infrastructure necessary for the SR 520 corridor. (MMC 20.61.060) The Shoreline Use Table includes the following as permitted or conditionally permitted uses and structures in the Transportation zone:

Accessory buildings/uses, adult family homes, detached single-family dwellings, wireless communication facilities, water-enjoyment recreational development, motorized or non-motorized boat ramps, piers, docks, boat lifts, moorage pilings and covered moorage, city government facilities and trams providing access in steep slope areas.

Many of these activities, uses and associated structures go far beyond necessary infrastructure for the SR 520 corridor. Once the SR 520 project is completed, will the lid over Evergreen Point Road and the waterfront public access area be considered part of the Transportation zone? If so, I suspect the residents of Medina would be shocked if a detached single family dwelling or city government facilities suddenly appeared on what they thought was going to be "green space" over the new freeway, or if a motorized boat ramp were to be installed in an area they were led to believe would be a quiet pedestrian-oriented waterfront access path.

While I recognize that WSDOT is not proposing to build anything as diverse as would be permitted under the Shoreline Use Table, why take a chance of these uses or structures ever being permitted in future? In my opinion, the language used in the table leaves the door wide open for more intensive development to occur at some point in the future. The table should be changed to limit the uses and structures in the Transportation zone to the minimum necessary to accommodate the infrastructure for the SR 520 corridor, and such other public recreational facilities as are reasonable and appropriate given the single family residential nature of the neighborhoods adjacent to the Transportation zone.

By the way, I note that in the Final Shoreline Analysis Report, page 49, The Watershed Company is recommending that following completion of the SR 520 project, the City should work with WSDOT to provide additional public access to the waterfront within any remnant property that may exist. I would suggest that if that situation should arise, the access should be pedestrian-only and should not include any type of infrastructure that impacts the shoreline (such as docks and piers) or increases impervious surface (such as roads and parking lots). In addition, the shoreline should be left natural and non-stabilized, or restored to that condition.

Urban Conservancy Uses Incompatible With Purpose of Zone
My second area of concern surrounds the permitted or conditionally permitted uses in the Urban Conservancy zone. The purpose of the Urban Conservancy designation is to protect and restore ecological functions of open space and other sensitive lands while allowing a variety of compatible uses. (MMC 20.61.040) Table 20.62.030 in the Discussion Draft references wireless communication facilities and boat ramps (motorized/non-motorized) as being permitted or conditionally permitted uses in the Urban Conservancy zone. In my opinion, these types of uses and their infrastructure are incompatible with the underlying purpose of the zone.

Furthermore, neither one of these uses is allowed in the Shoreline Residential zone. How surprising it would be for a waterfront property owner in the Shoreline Residential zone to look next door at an Urban Conservancy property and see a wireless communication facility or a motorized boat ramp being installed. These uses should not be permitted on Urban Conservancy properties (with the exception of the City Hall property, due to the public safety interest in providing reliable wireless service for the police, and the goal of providing public access to the lake).

Minimum Width/Frontage Standards Inconsistent With Medina's Character
My third area of concern surrounds the lot width/water footage requirements. I believe these requirements will, over time, greatly change the character of the City.

Currently, the waterfront areas of the City contain both large estates and groupings of smaller properties. As beautiful as the large estates may be, there is, in my opinion, a greater charm and vitality in the neighborhoods that consist of smaller waterfront properties. This mixture of property sizes is part of Medina's character, and it should be preserved. While I recognize that the lot width and frontage requirements only apply to subdividing and creation of new lots, I also believe that ultimately there will be another, unintended consequence of these rules: the amalgamation of smaller properties into larger ones that meet the new standards.

According to the Staff Comment on page 15 of the Discussion Draft, the lot width and water footage standards are designed "to encourage the configuration of new lots to have better uniformity rather than allowing irregular shaped lots." However, irregularity of lot size and shape is undeniably part of Medina's historical pattern of development and, in my opinion, part of its charm.

There is also a socioeconomic effect from the proposed new standards. In general, smaller, irregular lots tend to be more affordable than the larger properties, making it possible for people with different levels of wealth to live on the waterfront. This mixture of incomes and socioeconomic backgrounds of its citizens is part of Medina's character, too.

Furthermore, Medina's Comprehensive Plan states under policy LU-P1, "The City shall minimize changes to existing zoning and land use patterns except as to meet above goals when deemed necessary by its citizens." The goals referenced in policy LU-P1 are to:

- Maintain Medina's high-quality residential setting and character;
- Maintain, preserve and enhance the functional and historic contributions of Medina's public facilities and amenities;
- Maintain active community involvement in land use policy and regulations, and
- Preserve community treasures, including, but not limited to, those structures and uses that reflect the City's heritage and history.

(City of Medina, Comprehensive Plan, page 14)

I believe that the effort to bring about uniformity in lot widths and water frontage is inconsistent with the goals and policies of Medina's Comprehensive Plan. Nevertheless, if State law mandates minimums, I submit that they should be lower than what is proposed for the Shoreline Residential zone in Table 20.63.020(B), not only to maintain Medina's waterfront character, but also its relative affordability.

Additionally, while I understand that economic impact is not a factor in achieving "no net loss" I also question the fairness of the new lot width and frontage standards. In many cases, the land under people's homes is their most valuable asset. This can be particularly true for older waterfront homes occupied by senior citizens—some of whom have lived in Medina for decades, paying huge property tax bills year in, year out. I imagine that some of these people are relying on that one asset to fund their needs for the rest of their lives, once the time comes for them to sell their property and transition into another living situation. Properties that can be subdivided usually command a higher price on the market, because they have greater value. If the value of these properties diminishes because they can no longer be subdivided, some owners may feel that they have suffered great economic harm as a result of the City's actions, especially during a time when real estate values have already been impacted by the local and national economy.

City Government Facilities Should Meet Same Standards as Private Development

My fourth concern is in regard to the exception from the new proposed shoreline setbacks for City Government Facilities. MMC 20.64.030(B) in the Discussion Draft allows City Government Facilities to be placed 32 feet from the ordinary high water mark. I assume this is because the prior City Hall building may have been 32 feet

from this line. While I have no problem with the notion that the new City Hall should be located at or near the location of the prior, historic building, I do have a problem with the idea of allowing other new government facilities to be placed 32 feet from the ordinary high water mark (for example, if City Government Facilities were proposed to be built in the waterfront areas of the Transportation zone).

With all due respect, why should the City be allowed to build something 32 feet from the shoreline, when under the new proposed rules, other waterfront property owners, depending upon their zone, must build either 60, 70 or 100 ft back from the water?

MMC 20.64.060(L) May Lead to Public Access Over Private Property
My fifth point may at first glance seem preposterous, but please bear with me a moment. MMC 20.64.060(L) states:

Utilities shall, through coordination with local government agencies, provide for compatible, multiple uses of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, or endanger public health and safety.

In the Definitions section of the Discussion Draft, the following is found under "Utilities":

"Utilities" means Services, facilities and infrastructure that produce, transmit, carry, store, process or dispose of electric power, gas, water, sewage, communications, oil, stormwater, and similar services and facilities.

I think it is fair to assume that almost every waterfront property in Medina has on its legal title easements for utility rights-of-way related to such things as sanitary sewers, which generally run down the length of one side of the property and across the width of the property at the waterfront. Under these circumstances, if our code is ambiguous about which utility rights-of-way may be used for shoreline access points and trail systems, the situation is set up for public access across private property to reach the lake. Indeed, the Shoreline Master Program Handbook indicates that public access is one of the three major policies of the Shoreline Management Act (SMP Handbook Chapter 9, available at www.ecy.wa.gov/). The SMP Handbook also states that while "generally" public access is not required at "privately owned and developed single family residences" it should be required for new residential subdivisions of more than four lots. (SMP Handbook Chapter 9, page 11) Had the authors of the SMP Handbook not intended to leave open the possibility of public access across private property, they would have said "Public access is never required at a privately owned, single family residence." In my opinion, the equivocal nature of the word "generally" and the use of the word "developed" before "single family residences" suggests that at some point in the future, individuals who are developing or redeveloping a piece of property for a single family residence may

be required to provide public access to the shoreline. Preposterous? Perhaps. But absolutely within the realm of possibility, given the language of MMC 20.64.060(L).

If this scenario were to become a reality, I believe that it would be intolerable to most of Medina's residents. We all want to enjoy privacy and security in our own homes, but some of our high-profile residents have unique security concerns, as they or their families may be targets for personal violence or ransom kidnappings at the hands of domestic or foreign criminals and/or terrorists. (Again, it may sound preposterous, but it happens all the time in Mexico and Colombia.) In addition, we know from experience that the community as a whole is a target for criminals who see Medina as a fertile field in which to commit thefts and burglaries. Add a public access path down the sewer right-of-way that runs past three or four single family residences and ends at the water, and you have just handed criminals and other ill-doers a perfect place to lie in wait for their prey, be it a person or their property. For all of these reasons, I submit that MMC 20.64.060(L) should be redrafted to clarify that its provisions apply ***only*** to rights-of-way that exist on public property, and ***not*** to rights-of-way that may exist now or in the future on private property.

Shoreline Setbacks Should Be Based on a Percentage of Lot Depth

My final point in this letter relates to the proposed doubling of most of the existing shoreline setbacks, which I also touched on in my letter of May 17. I have some additional questions and concerns about this proposal.

First, I question the applicability to Medina of the theory that is set forth in the Staff Comment on page 17 of the Discussion Draft, as follows:

One of the accepted methods for demonstrating "no net loss" is to establish setbacks based on existing conditions utilizing an analysis of the mean, median and mode of the existing shoreline setback conditions. The idea is that over time, half the structures will move closer to the shoreline and the other half will move back; theoretically resulting in a neutral effect. The standards setback numbers shown on the map are the result of this analysis.

The notion that some Medina homes will be rebuilt closer to the lake fails to take into account our unique topography. With the exception of some of the huge estates on relatively level land such as on Overlake Drive West, in many cases the existing homes on Medina's waterfront properties are placed on the only portion of the lot that is suited for use as a building site. For example many of the homes that are 100 or more feet from the shoreline sit on a high bank with waterfront that can only be accessed by trams, and these lots often do not have enough flat land at the water to use as a building site. In other cases, homes have been legally built on a larger plot of land at the bottom of the hill, with tram access from the bluff. In either situation, if the homes on these properties are rebuilt I submit that it is more probable that they will be rebuilt exactly where the prior structure was located, than that they will be moved closer to the water. This pattern of land use is compatible with "no net loss." At the very least, any waterfront home that cannot possibly be rebuilt closer to the

water due to lot topography should be omitted from the calculation of existing mean, mode or median setback for purposes of establishing a new standard setback. Otherwise, the existing shoreline setbacks associated with these homes skews the ultimate calculation toward a greater setback than is necessary for "no net loss."

Second, although I still believe that Medina's setbacks should not be increased, if an increase is mandated by the Dept. of Ecology, I would suggest that the only fair way to do it is as a percentage of lot depth, with a maximum and a minimum. As has been pointed out in the Discussion Draft, Medina has a number of substandard lots and lots that are irregularly shaped. When these lots exist in areas where the proposal is to increase the setback to 100 ft, in many cases more than half the property will become a setback, when we tally up the 100 ft shoreline setback, the 30 foot street setback and the 10 or 11.25 ft sideyard setbacks. That is completely unreasonable and untenable. We simply must come up with another method of determining a shoreline setback that may be equitably applied to small and shallow lots, but that still achieves "no net loss."

Kirkland faced a very similar situation when it amended its SMP. Attachment B to the City of Kirkland's SMP submittal to the Dept. of Ecology summarizes the City's findings and conclusions on this matter, as follows:

Existing development patterns generally established upland structures located at the minimum (15-foot) setback in the urban core of the City, contrasted by large variation throughout the City's residential shoreline segments, ranging from a median 43-foot setback in the low density residential segment to a 25-feet (median) setback in the medium/high residential shoreline segment. With the exception of both the Juanita and Yarrow Bay wetland areas, past shoreline development resulted in characterization of a majority of the City's shoreline as moderate to highly impaired. However, within residential shoreline segments, future redevelopment potential was not consistent, indicating lot-by-lot variation, largely as a result of variation in lot depth or overall parcel size and the ability to accommodate future expansion. Therefore, the City proposed a variable shoreline Setback/Buffer of 30% of the lot depth within a range of a minimum of 30-feet and a maximum of 60-feet. As illustrated within the City's Cumulative Impact Analysis and based on the existing residential development pattern and variation in redevelopment potential the 30% (lot depth) setback was determined to be the minimum Setback/Buffer to satisfy no net loss[1] of shoreline habitat requirement for the variable residential shoreline parcels.

---

[1] *In other words, a setback buffer based on a lower % of lot depth would increase overall redevelopment potential resulting in a larger net loss of shoreline habitat (upland buffer area), which would then have to be offset with some type of restoration. Alternatively, establishment of a Setback/Buffer based on a higher lot percentage would further restrict redevelopment to locations further away from the shoreline edge, increasing overall (potential) shoreline habitat area above existing conditions.*

Kirkland's SMP has been approved by the Dept. of Ecology, without any changes to the method by which the shoreline setbacks are determined. Kirkland's new SMP is codified in Chapter 83, available on the City of Kirkland website.

In my opinion, the City of Medina should follow Kirkland's lead and come up with a percentage of lot depth setback scheme (including a maximum and a minimum) that can be applied equitably in all areas of the City, without creating a situation where owners of deep lots come out just fine, but owners of smaller and shallower lots end up with half their property being devoted to setbacks. And while you have indicated to me in an email that mitigation is available in every area of the City (contrary to what is stated in the Discussion Draft), owners of smaller waterfront properties, such as may exist around Fairweather Bay, Meydenbauer Bay, and on 73rd Ave NE, should not be required to use mitigation that will be recorded on title to escape the imposition on their property of what is a fundamentally unfair and inequitable setback scheme. In addition, many smaller properties are not candidates for full mitigation as described in Table 20.63.050(E), for example because they are in an area of the shoreline where removal of a "hard" bulkhead would result in rapid erosion, or because they lack sufficient square footage to create an effective biofiltration/infiltration system. To tell the owners of small or shallow waterfront properties that they must either accept that half of their property will go to setbacks or perform full mitigation that will be recorded on their titles leaves them "between a rock and a hard place." This can't be the only way to achieve "no net loss." City Staff, the Planning Commission and the City Council need to start thinking more creatively, and come up with a better and more equitable solution.

Concluding Remarks

City Staff, the Planning Commission and the City Council should take a thoughtful and reflective approach to the difficult task ahead. They should think about unintended consequences from the proposed changes to Medina's SMP, and what could happen in the future. The language used in the Discussion Draft should be tightened up to eliminate the possibility that our citizens' quality of life will be affected by future development or uses that are incompatible with the goals and policies of our Comprehensive Plan.

In the interests of both equity and the environment, City Staff, the Planning Commission and the City Council should also take a hard look at our stormwater system. With respect to the stormwater flow in Medina, the "Major Drainage Basins" map on page 57 of Medina's Comprehensive Plan is extremely informative. This map shows which areas of Medina are tributary to Fairweather Bay/Creek and which areas are tributary to Medina Park ponds and the unnamed creek that flows toward Overlake Drive West. It is very obvious from this map that the stormwater run off from a huge number of non-waterfront homes and streets is feeding these two drainage basins. When we cross-reference the location of the shoreline outfalls of the two creeks with the Water Quality Impairments map in Appendix C of the Final Shoreline Analysis Report, it is evident that the bulk of the pollution in the near shore areas of Medina is coming from the interior of Medina, and it is being funneled

into Lake Washington via the pond and creek system. Clearly, this is a community-wide problem and we need to find a community-wide solution. Medina's waterfront homeowners should not bear the entire burden of mitigating decades of stormwater management practices that have had as their goal ridding the City of stormwater as fast as possible, as opposed to retaining it in a way that would allow biofiltration, infiltration, and/or evaporation to perform the function of removing pollutants. In that regard, I note that both the Comprehensive Plan and the Final Shoreline Analysis Report recommend that the City seek to purchase more waterfront land for public access. (City of Medina Comprehensive Plan, page 50; Final Shoreline Analysis Report, page 49) I would suggest that an equally or perhaps even more important goal would be for the City to purchase properties adjacent to Fairweather Creek or Medina Park, for the purpose of creating wetlands that could act as a natural filter for the stormwater with which these bodies of water are currently being burdened. Grants from Federal agencies, such as the EPA, and various private organizations, such as the National Fish and Wildlife Association, may be available to fund such a purchase and development of a "green" solution to the problem of polluted stormwater run off. And, if Medina is to continue accepting a portion of Clyde Hill's stormwater, or if Clyde Hill's stormwater is entering our shoreline waters in some other way, that jurisdiction must be financially involved in the "fix."

I firmly believe that the citizens of Medina are good people who want to do right by the environment. At the same time, I think they will find it difficult to accept unreasonable restrictions that create inequitable results. This can only lead to disharmony and resentment between the City and its residents. The City should strive to create fairness and balance with the proposed changes to the SMP, while simultaneously accomplishing the goal of "no net loss."

Respectfully submitted,

Suzanne Cohen
3411 Evergreen Point Road
Medina, WA 98039
suzanne@seattlestudyclub.com
425-454-6999 home
206-396-7310 cell

Robert Grumbach

From: robert h rudolph [hemrhr@earthlink.net]
Sent: Sunday, May 22, 2011 10:11 AM
To: Robert Grumbach
Subject: Additional input on proposed Shoreline Regulations
Attachments: Setbacks for All Structures.doc; ATT61105.txt

May 22, 2011

Robert,

Since my letter of 5/20/2011 to you and the Planning Commission I have reviewed the dimensions of our property. The depth of our property on the north is 173 feet and on the south property line it is 105 feet.

Our house was built in 1978. It is a wooden framed northwest contemporary style home, which we have maintained well. However, at some point in the future it will become a teardown, as will most homes. When that time comes, if these shoreline regulations should pass as proposed, the depth of the buildable area on the southern part of the property would be only 45 feet and most of that 45 feet is an impossibly steep slope. The grade is such that currently the highest point of our roof is below the level of our access road. I have reviewed the proposed ways that the setback can be reduced on the website. The major one is to eliminate the bulkhead, which is impossible in the Edgecliff plat. Most of the other possibilities reduce the proposed setback requirement by only a few percentage points. Essentially this legislation would make it impossible to build a new home on our property.

The property adjacent to ours on the south, owned by Rob Short and Emer Dooley, has a depth of 105 feet on its north (our property line) and 72.5 feet on the south. A 60-foot setback requirement would leave 12.5 feet on which to build.

After review, I note that you are trying to satisfy a "no net loss" requirement that the State has proposed. In Medina that creates a flawed situation because many of the properties that are set far back from the shore are estates, or are homes that sit on the bluff with a tram or steep steps on an embankment that will not be buildable. So to include this data in calculating a mean or median desired setback seems inappropriate.

There must be a better way of satisfying the state requirement than what is under current consideration by the City of Medina, which would render some properties unbuildable. In reviewing the Mercer Island Shoreline Management Plan update, the Planning Commission and City Council of Mercer Island do not propose extending the shoreline setback requirements for residential development beyond the current 25 feet. They do propose expanding the vegetation buffer to meet requirements. I am attaching the relevant sections of the Mercer Island Shoreline update.

Please pass my comments on to the Planning Commission and the City Council since the Council will be reviewing this at their Monday night Study Session. I am sorry that I will not be able to attend the 5/24/11 Planning Commission meeting because I will be out of town.

Thank you,

Bob Rudolph

Integrity Shoreline Permitting

Permit Manager/Shoreline Consultant

Professional • Affordable • Reliable

integritypermitting@hotmail.com

Hire a Vet! Integrity Shoreline Permitting is managed by a Retired Veteran with 21 Years of Distinguished Military Service to the United States of America.

May 23, 2011

City of Medina
Attn: Planning Commission
P O Box 144
8398 NE 12th Street, Unit A
Medina, WA 98039

Subj: COMMENTS ON THE CITY OF MEDINA SMP MAY 2011 DISCUSSION DRAFT ON SHORELINE MODIFICATIONS

Dear City of Medina Planning Commissioners,

As you develop the updated Shoreline Master Program (SMP) for the City of Medina I know you will carefully consider how this document will impact many of your waterfront property owners and the unique character of your City. The SMP update has been a controversial and sensitive issue in many Lake Washington and Lake Sammamish communities as civic leaders and property owners try to strike a balance between that which is required and that which goes too far. Medina has a long and remarkable history of serving its citizens well, especially those living along the shorelines of Lake Washington. It is important as a leader in one of the cities that defines the Lake Washington waterfront lifestyle that a sense of balance is achieved. It is also vital that you recognize that communities like Medina, Hunts Point, Yarrow Point and Mercer Island, where most properties have bulkheads and overwater structures that tend to be larger, are in the crosshairs of Ecology's push for the removal of hard shoreline stabilization and sizeable docks.

I reviewed the April 13, 2011 Discussion Draft on Chapter 20.65 Shoreline Modification and provided comments to the Citizens Advisory Committee. I have recently reviewed the May 2011 Discussion Draft and provide the following comments.

20.62.030 Shoreline Use Table
Shoreline Modifications
Fill Waterward of the Ordinary High Water Mark is listed as a Conditional Use Permit in all applications. Some forms of fill are considered favorable for the environment and in the case of the repair, replacement or installation of shoreline stabilization fill is typically required as mitigation to enhance habitat and promote spawning.
REQUEST: In order to simplify the more complex and onerous Condition Use process can there be an exception to the Conditional Use Requirement when fill is part of mitigation requirements from WDFW or the Army Corps?

Table 20.65.030(A)
Lifts
a. While the City is proposing to accept Ecology's hastily adopted dimensional and design standards for new overwater structures which were taken without further research from the Army Corps Regional General Permit 3 (RGP-3), it is failing to accept the standards from the Army Corps RGP-1 for watercraft lifts in Washington State. This widely accepted and most frequently used permit document allows each property to have up to 3 lifts with 2 of them permitted to be freestanding. This document also allows lifts to be within 30 feet of the shoreline as long as appropriate mitigation is offered.
REQUEST: Please review the Army Corps RGP-1 and align the City of Medina's standards for lifts with this document.

b. Please explain Note 6 as it applies to lifts located directly "over" the decking? Federal and state requirements do not allow the grated surface of the dock to be covered or obstructed.
REQUEST: Please consider removing this from the proposed SMP.

20.65.030(D)
Covered moorage, especially in the case of canopy covers, are evaluated differently than piers and docks. They are higher above the water surface and consist of translucent material making the impacts insignificant. These structures are also regulated under the Army Corps RGP-1. The City is essentially saying that a property owner who has a structure that meets or exceeds the maximum overwater coverage cannot have a canopy or other type of covered moorage.
REQUEST: Please reevaluate the City position on this standard and allow covered moorage (typically in the form of a canopy) if approval from state and federal agencies is received.

20.65.030(E)(1)
Existing boatlifts, regardless of location, should not be required to be removed unless they are a part of the project itself. This is not specified in the SMP Update requirements which are primarily directed at additional piers, secondary walkways, concrete boat ramps, and other structures.
REQUEST: Please exclude boatlifts from this requirement.

20.65.030(E)(2)
Emergent vegetation is rarely if ever required by WDFW and the Army Corps of Engineers. These agencies typically require a native riparian planting plan landward of the ordinary high water mark because they understand Lake Washington, especially in the more exposed areas, are not conducive to emergent vegetation. Property owners should not be required to demonstrate that emergent vegetation is not feasible.
REQUEST: Consider removing this requirement and accept the planting plan approved by WDFW and the Army Corps.
20.65.030(E)(3) and (4)
Riparian Vegetation Landward of the Ordinary High Water Mark
(3) Requiring a planting strip to average 10 feet in depth and have no segment less than 5 feet is unreasonable and overly restrictive. You are essentially taking usable yard area and impacting the quality of life for many residents. While the more affluent communities like Medina, Hunts Point and Yarrow Point tend to have a higher percentage of property owners who willingly participate in the shoreline permitting process if the City places unreasonable and onerous mitigation requirements such as this it could push property owners to work outside the permit process altogether. It is estimated that 30% to 40% of work on Lake Washington and Lake Sammamish already occurs without permits so this is not an unreasonable presumption even in a City like Medina.

(4) The City is willing to accept vegetative planting plans approved by state and federal agencies if the planting plan provides a minimum equivalency of "no net loss" of ecological functions. Can the City explain what this means and how it is proven?
REQUEST: For projects that do not require planting plans from state and /or federal agencies can the City consider reducing the unreasonable and excessive requirements in 20.65.030(E)(3)?

20.65.040(A) and (B)
Additions to a pier or dock
A. The City is proposing to label boatlifts as an "addition" to a pier or dock. This is unreasonable and excessive and is not a consideration in any other waterfront community. Lifts are processed entirely separate under federal regulations and freestanding lifts are not regulated by WDFW. Lifts remove a watercraft from and store it above the water and are viewed as positive environmentally since they reduce inwater obstruction and shading.

Moorage piles are also being labeled as an "addition" to a dock and while they may increase the moorage capabilities of a structure they actually eliminate the need for additional overwater pier coverage.

This section is unnecessary, onerous and overly restrictive. Please explain the City's position for such a recommendation, especially where it applies to boatlifts and moorage.
REQUEST: Please consider removing this section from the proposed SMP as it is unnecessary.

B. If the City is not going to allow the overwater surface coverage to increase then this cannot be classified as an "addition". This is better described as modification or reconfiguration. How does the City support its position that boatlifts and moorage piles result in an addition in pier size per se when both of these structures are viewed positively by state and federal regulatory agencies?
REQUEST: Please consider renaming this section to Additions, Modifications and Reconfigurations to a Pier or Dock. It may be beneficial for the City to eliminate this section altogether since it is not necessary.

20.65.070(C)(1), (2) and (3)
Shoreline Stabilization
Replacement, Major Repair Not Involving Replacement, and Minor Repair- The City is essentially disallowing hard structural stabilization measures either through replacement or major repair. There are very few if any existing properties that will be able to substantiate the need for hard structural stabilization measures based on the criteria from the State.

Replacement of hard structural stabilization measures with soft shoreline measures will always result in a loss of useable property and in most cases will relocate the ordinary high water mark landward whereby pulling in additional upland properties within the 200 foot shoreline jurisdiction.

The wording the City is proposing makes it appear to property owners that their existing shoreline stabilization structures, primarily in the form of rock or concrete bulkheads, can be repaired (minor and Major) and even replaced, but this is misleading since few if any will qualify.

On page 39 of the Discussion Draft the City begins laying out the conditions for Replacement, Major Repair Not Involving Replacement, and Minor Repair of existing shoreline stabilization measures. WAC 173-26-231 provides specific guidelines aimed at "new" and "replacement" structures and has classified total replacement of existing structures as being "new".

There are no guidelines on how a local government should handle "repair" to an existing shoreline stabilization structure, whether it is minor (60% or less) or major (61% or more). In the case of the Medina Discussion Draft there are only slight differences between replacement and minor repair. Minor repair still has the following conditions:

- Replacement is with a similar structure including replacing hard measures with soft measures;
- Replacement does not increase the height width, or depth of the existing structure;
- The replacement structure is designed in a manner that will not result in a net loss of shoreline ecological functions.

The only additional requirement placed on a major repair to an existing shoreline stabilization structures is:

- Geotechnical analysis demonstrating a need to protect primary structures or single-family dwellings.

QUESTION: What if a property owner proposes minor repair (60% or less) of an existing hard shoreline stabilization measure with another hard measure? If this is not allowed then an existing structure cannot be repaired in-kind.

Can the Planning Commission look more closely into this scenario since it will be the most common request? Up to this point a standard shoreline stabilization proposal involved total replacement. It is paramount to the City's good name that all waterfront property owners are made aware that they will more than likely lose their rock and concrete bulkheads in the future, with few exceptions.

In a couple places the City has stated that standards have been added for clarity and predictability for property owners. While this may have some ring of truth it is also important to point out that in each case the dimensional standards are at the expense of the property owner.

It is my professional opinion that the City has made the SMP more complicated than necessary and in several instances it is placing unnecessary rules, regulations and restrictions not required by Ecology on its waterfront property owners. The SMP should also be an easy-to-read document which everyone can understand and not a technical manual sending the user from page to page and to other references.

I have included a copy of an April 7, 2011 comment letter outlining issues to the Planning Director and Citizens Advisory Committee for consideration. Staff comments are included within the text. I thought you might find it some interesting reading as you work though the update.

Thank you for your time and hard work on this important document that will impact all of your waterfront property owners. I respect that you are all very busy. If you have any questions I can be contacted at 425-343-2342.

Sincerely,

David Douglas
Permit Manager/Shoreline Consultant

Were the requirements pertaining to Shoreline Stabilization in WAC 173-26-231 intended to address impacts from structures along marine (salt water) shorelines and rivers? Were fresh water lake shoreline stabilization structures inadvertently pulled into the fray? Please review the following section taken directly from WAC 173-26-231 and pay close attention to the terminology, references, and shoreline processes.

WAC 173-26-231
Shoreline modifications

(3) *Provisions for specific shoreline modifications*.
(a) Shoreline stabilization.
(i) Applicability. Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods. (Are these actions more associated with marine or tidal waters?)

Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, planning and regulatory measures to avoid the need for structural stabilization.

(ii) Principles. Shorelines are by nature unstable, although in varying degrees. Erosion and accretion are natural processes that provide ecological functions and thereby contribute to sustaining the natural resource and ecology of the shoreline. Human use of the shoreline has typically led to hardening of the shoreline for various reasons including reduction of erosion or providing useful space at the shore or providing access to docks and piers. The impacts of hardening any one property may be minimal but cumulatively the impact of this shoreline modification is significant.

Shoreline hardening typically results in adverse impacts to shoreline ecological functions such as:

Beach starvation. Sediment supply to nearby beaches is cut off, leading to "starvation" of the beaches for the gravel, sand, and other fine-grained materials that typically constitute a beach. (Is beach more associated with a marine water application?)

Habitat degradation. Vegetation that shades the upper beach or bank is eliminated, thus degrading the value of the shoreline for many ecological functions, including spawning habitat for salmonids and forage fish. (Are upper beach and forage fish terms oriented toward Marine Water Applications?) (Google forage fish and it takes you to marine water references.)

Sediment impoundment. As a result of shoreline hardening, the sources of sediment on beaches (eroding "feeder" bluffs) are progressively lost and longshore transport is diminished. This leads to lowering of down-drift beaches, the narrowing of the high tide beach, and the coarsening of beach sediment. As beaches become more coarse, less prey for juvenile fish is produced. Sediment starvation may lead to accelerated erosion in down-drift areas. (Are beaches, feeder bluffs, down-drift beaches more associated with marine water applications?) (This says “may”, not will)

Exacerbation of erosion. The hard face of shoreline armoring, particularly concrete bulkheads, reflects wave energy back onto the beach, exacerbating erosion. (Is this a marine water application?)

Ground water impacts. Erosion control structures often raise the water table on the landward side, which leads to higher pore pressures in the beach itself. In some cases, this may lead to accelerated erosion of sand-sized material from the beach.(Is this a marine water application?) (This doesn’t occur behind properly designed rock bulkheads and seawalls which allow water to freely flow in and out.)

Hydraulic impacts. Shoreline armoring generally increases the reflectivity of the shoreline and redirects wave energy back onto the beach. This leads to scouring and lowering of the beach, to coarsening of the beach, and to ultimate failure of the structure. (This says “generally”. Does it or don’t it?) (Is this a marine water application?)

Loss of shoreline vegetation. Vegetation provides important "softer" erosion control functions. Vegetation is also critical in maintaining ecological functions. (For the past 10+ years shoreline armoring includes the installation of riparian native vegetation with guaranteed of survival through monitoring.)

Loss of large woody debris. Changed hydraulic regimes and the loss of the high tide beach, along with the prevention of natural erosion of vegetated shorelines, lead to the loss of beached organic material. This material can increase biological diversity, can serve as a stabilizing influence on natural shorelines, and is habitat for many aquatic-based organisms, which are, in turn, important prey for larger organisms. (Is this a marine water application?) (Large woody debris provides additional predator habitat.)

Restriction of channel movement and creation of side channels. Hardened shorelines along rivers slow the movement of channels, which, in turn, prevents the input of larger woody debris, gravels for spawning, and the creation of side channels important for juvenile salmon rearing, and can result in increased floods and scour. (This is a river application)

Additionally, hard structures, especially vertical walls, often create conditions that lead to failure of the structure. In time, the substrate of the beach coarsens and scours down to bedrock or a hard clay. The footings of bulkheads are exposed, leading to undermining and failure. (This rarely occurs in a fresh water lake application but is very prevalent in marine water applications.)

This process is exacerbated when the original cause of the erosion and "need" for the bulkhead was from upland water drainage problems. (This is Rarely the Case in Fresh Water Lake Applications) Failed bulkheads and walls adversely impact beach aesthetics, may be a safety or navigational hazard, and may adversely impact shoreline ecological functions. (This says may, not will.)

Colin W Radford
3663 Fairweather Lane
Medina, WA 98039
c.radford@comcast.net
425.830 6854 cell

To City of Medina
July 5, 2011

Subject: Medina Shoreline Management Plan (SMP)

Dear Neighbors,

As I wrote before, on Monday June 6, I attended a meeting of the Hunts Point Town Council and was impressed by how the City Staff, Council and Citizens are working together on a new Shoreline Management Plan. Sunday June 29, Suzanne Cohen gave me a copy of the draft SMP and correspondence regarding the proposed changes to the Medina SMP. I have read all that and have talked with some of you about the subject: Much good work has gone into an updated Medina SMP by staff and citizens despite inability to interest affected property owners.

I bring to the subject observations based on the fact that I have lived at 3663 Fairweather Lane on and off since 1941. My grandfather Wallace H Foster acquired several acres at the end of Evergreen point in 1921. My father Fenton Radford barged a house onto what is now my tax lot in 1941, built a dock in 1946, built a partial bulkhead in 1950. I rebuilt on the property in 1980 after a fire destroyed our home, improved the dock in 1997 and 2006, and improved the bulkhead in 2005. I received permits and Certificates of Occupancy from the City of Medina for these improvements. Might they become non-conforming?

Mine is one of 7 waterfront residences on Fairweather Lane (Radford, A Panos, Suskin, S Panos, Cheng, Bellamy, Hokonson) and we are neighbors to many more. We share similar concerns and will be attentive and helpful to the process at hand, now that we are alerted. Here follow some of our concerns:

We would like first and foremost to ask the City Council and Staff of Medina to represent the interests of Medina's citizens over and above any pressures for increased regulation. We are water oriented. We swim, boat, fish, garden, enjoy our increasingly urbanized wildlife (beaver, muskrat, otters, raccoons, possums, etc), and struggle against the imported hoards of Canadian geese that overwhelm our native mallards, grebes, buffleheads, mergansers, etc. We can tell by the fish carcasses and shells in our driveways and gutters how well the eagles, herons and crows are doing. We can tell by the songbirds in our eves, trees, shrubs and birdhouses that we have a resurgency in martens, barn swallows, chickadees, woodpeckers, and wrens. We do have fewer robins and starlings this year. Many of us plant and preserve native or compatible grasses,

shrubs and trees. We do not want to be forced into unnecessary regulation. My sense is that there is inadequate research and factual data to require or even recommend some of the proposed increased regulation.

THEREFORE:
We ask the City of Medina to adopt and authorize the new section added to chapter 90.58 RCW approved by the governor May 12, 2011, and filed in the office of the Secretary of State May 13, 2011, to authorize homes as conforming.
This is important for the financing, insuring and maintenance of the existing residences and appurtenant structures (The new section does not include/affect regulations of bulkheads and other shoreline modifications or over-water structures). Or instead, the standard set by the state is No Net Loss, so even better would be not to create non-conforming properties. Would not changing setbacks make moot the non-conformancy issue?

Let's not fix stuff that works for our existing citizens unless mandated:
Please clearly state that the proposed SMP does not create rules that impact legal non-conforming bulkheads or other shoreline modifications or over-water structures unless there is clear and overriding proof that the change is necessary..

Perhaps the City of Medina can collaborate in a 'good neighbor' way with the nearby Cities of Hunts Point, Yarrow Point and Clyde Hill to form its renewed SMP in a way to both improve our greater community and preserve property rights? Medina-3 Points is still a community, even if there are now 4 towns involved.

We ask that the City carefully research sources of pollution; and where the sources are from inland or government properties to assign an equitable responsibility as one would in apportioning special benefit vs general benefit LIDs. It is my belief that the contamination the DOE is concerned about is exponentially higher from run offs from 520, city streets and major chemical users than from waterfront properties; and that remediation should be aimed at where it helps relieve the problem, not only at the waterfront property owners. (This time of year, I swim in Lake Washington almost daily. It reminds me of how much water quality has improved since the 1950's when METRO saved Lake Washington from becoming our metropolitan cesspool.)

The dimensions and areas for piers and docks seems to be targeted to the smallest and least useful docks and not to their function or need. For instance, my and Tim Panos's pier is about 110 feet in length and only reaches water 6 ft deep (too shallow for a sailboat during summer low water). Our main pier is 5' 10" wide which permits a 4' wide cart to service for repairs or load a boat and be passed by a pedestrian (or get around the cart). We rcommend the max width be 6'. The finger walkway around the boat lift is Just over 4', and works. The ell at the end is 9' 8" x 18', which allows loading, sitting, children hopping in and out of the water with or without parental supervision, etc. The pier and walkways and lift were designed for the utility of boaters, fishers, and our children and grandchildren, who are as important to us as the environment. The dimensions set forth in the proposed regs do not appear to be based on experience.

Actually, in our climate, the waterfront and over-water improvements are heavily used only June through September in good years. Nature, the fish, animals and birds, have it to themselves at least 8 months a year, which is probably why all of them seem to be thriving.

The property size, frontage and setbacks language seems contrived to deal with rectangular flat lots. Fairweather Lane lots include 3 triangles which would be devastated by the proposed rules. The steep bank areas would be impacted badly. The proposed changes may impact conforming vs non-conforming uses (financing, insurance, saleability), and give nothing to the ecology or the community or the homeowners. Why are we talking about exceeding the setbacks already in place? They seem to have worked well. What important additional benefits are gained? It seems more important to focus on water quality as it leaves the properties. We ask that these changes be set aside for future consideration.

We ask for the proposed regulatory changes not to force waterfront owners to plant native vegetation buffers between them and the Ordinary High Water (OHM) where none have existed for more than 2 decades. (Much of the buildable waterfront in Medina is a shelf of land created by the lowering of Lake Washington 95 years ago, much of which has never been covered by native growth.) The spirit of the SMA/SMP says what we should not do harm, not that we should build 'nature' that was never there before.

Please take into account what the Medina disaster readiness consultant Kris Finnegan teaches: Be ready for the Big One! The SMP should take into account that the shorelines and improvements thereabout may take a hit from earthquake, huge storm or some other natural or man-made catastrophe; and that repairs in such case should not require a long permit process for things that need to be done in emergency.

There are many smaller changes that can be discussed, but please take into account our concerns about these major issues. We stand ready to meet and to work with you toward a satisfactory solution.

Cordially,

Colin Radford