



## Dennis D. Reynolds Law Office

200 Winslow Way W, Suite 380 Bainbridge Island, WA 98110

Land Use • Fisheries Law • Environmental Law • Business Law • Indian Law • Real Estate  
206.780.6777 206.780.6865 fax www.ddrlaw.com

August 14, 2013

By Email (barbara.nightingale@ecy.wa.gov) Only

Barbara Nightingale  
Washington State Department of Ecology  
Northwest Regional Office  
3190 – 160<sup>th</sup> Avenue SE  
Bellevue, WA 98008

Re: City of Bainbridge Island Draft Shoreline Master Program: Request to Cure  
Process Violation

Dear Ms. Nightingale:

My clients submit this comment on the City of Bainbridge Island Shoreline Master Program Draft adopted May 15, 2013 (“Draft SMP”). See Resolution No. 2013-10.

These comments are submitted on behalf of the Bainbridge Shoreline Homeowners (“BSH”) and its members and its officers, the Bainbridge Defense Fund (“BDF”) and its members, Gary Tripp, its Director, and many shoreline owners on the Island, including but not limited to Nancy Strehlow, Jack Sutherland, Gary Ames and many others who have commented on the City of Bainbridge Island’s (“the City’s”) Proposed Updated Shoreline Master Program (“DDR Law Client Group”).

BSH is a Washington non-profit corporation organized in the City of Bainbridge Island. Its membership is composed of property owners who own homes on the City’s shorelines. BSH and its members actively participated in the Bainbridge Island SMP update process. Some of its members served on the Citizens’ Work Group and Task Force for the SMP Update. BSH and many of its members provided comment on the proposed SMP draft, as did the BSH on behalf of its members.

BSH submitted “Eight Principles” to the City for effective and balanced shoreline regulation:

1. The SMP update must declare existing, lawfully built homes to be “conforming” structures as per SSB 5451.
2. Any new regulations, including vegetation buffers, must apply to future development only.
3. Shoreline armoring regulations must balance the need to protect private property from erosion with the positive effects of onsite

mitigation or participation in restoration programs at other locations in the city.

4. Any measure of “cumulative impacts” must account for restoration and mitigation projects undertaken by individuals, nonprofits and government entities.
5. New regulations must fairly allocate the burden of addressing “cumulative impacts” of predicted future development.
6. Except in Aquatic Conservancy Areas, docks and floats must be permitted if they follow WDFW and Army Corps of Engineers specifications.
7. Encourage the State of Washington to establish a senior level, peer review panel of scientists, separate from the DOE to assist the City in the preparation of future SMP Updates.
8. Properties containing existing, lawfully built residential structures may not be included in a “Shoreline Residential Conservancy” designation without the Property Owner’s consent.

BDF is an association of Bainbridge Island property owners who participate in legislative processes relating to consideration and possible adoption of new land use regulatory proposals. Its members support protection of private property rights, common sense environmental regulations and accountable government decision-making. BDF and its members participated in the SMP Update process. Mr. Tripp served on various committees created for the SMP Update.

On July 22, 2013, the Department of Ecology received information from the BDF and Ms. Linda Young that the City of Bainbridge City Council made 17 material (substantive) changes to the Proposed SMP after the May 8, 2013 public hearing and prior to the May 15, 2012 City Council Meeting without notice of public comment. *See* enclosure. This process violates the law since Bainbridge Island plans under the Growth Management Act (“GMA”)

When considering adoption of proposed legislation, each amendment or change requires at least one additional opportunity for public comment with appropriate notice and time to review the amendments prior to adoption. “No other interpretation of [the statute] makes sense given the importance the GMA places on public participation.” *1000 Friends of Washington and Neighborhood Alliance of Spokane v. Spokane County*, EWGMHB No. 01-1-0018 (2001) at p.8 (“[T]he Spokane BOCC adopted the Comprehensive Plan with 21 textual amendments and 51 land use map changes, while providing no opportunity for public participation or comment on these amendments. We are convinced that failure to hold a public hearing before adopting the amendments was clearly erroneous and not compliant with the GMA”).

Barbara Nightingale  
Washington State Department of Ecology  
August 14, 2013  
Page 3

The Shoreline Management Act ("SMA"), RCW 90.58.130, sets out a strong, mandatory policy for citizen participation in development of shoreline master programs.

My clients also refer Ecology to the State Guidelines, WAC Chapter 173-26, which set out the process and standards for revising a SMP. According to the Guidelines:

Counties and cities planning under chapter 36.70A RCW, shall establish and broadly disseminate to the public a public participation program identifying procedures whereby proposed amendments of the comprehensive plan and development regulations relating to shorelines of the state will be considered by the local governing body consistent with RCW 36.70A.130. Such procedures shall provide for early **and continuous public participation** through broad dissemination of informative materials, proposals and alternatives, opportunity for written comments, public meetings after effective notice, provision for open discussion, **and consideration of and response to public comments.**

WAC 173-26-090 (emphasis supplied). *See also* WAC 173-26-100.

Citizens are the "backbone" of land use planning issues. *Shaping Washington's Growth Management Future: Citizen Participation and Community Visioning Guide*, at p. 9, published by Washington Department of Community, Trade and Economic Development (Oct. 1991, updated June 2008). The GMA, as noted, requires specific public participation procedures (RCW 36.70A.140) and includes citizen participation and coordination as one of the goals of the Act (RCW 36.70A.020(11)). In this regard, the applicable legal standard is "meaningful" public participation. *E.g., Wells v. Western Washington Growth Management Hearings Bd.*, 100 Wn. App. 657, 674, 997 P.2d 405 (2000).

Public participation is one of the hallmarks of the GMA. Where citizens are denied the opportunity to review and comment on all aspects of proposed legislation before adoption, public participation is reduced to mere "lip service." To preserve trust in and efficacy of government decision-making, interested persons need assurance that a meaningful opportunity for public participation will be offered by local government and enforced by the courts.

No one wants a process violation. It is respectfully urged that the Department work with the City to effectuate withdrawal of the current SMP proposal and that Bainbridge Island take whatever steps are necessary to secure compliance with mandatory public participation requirements before re-adopting its proposed SMP.

Barbara Nightingale  
Washington State Department of Ecology  
August 14, 2013  
Page 4

Thank you for your kind attention to these comments and my clients' request for cure.

Very truly yours,

DENNIS D. REYNOLDS LAW OFFICE



Dennis D. Reynolds

Enclosure

cc: Client List (by email)  
Linda Young (by email [lawfulpatterns@msn.com](mailto:lawfulpatterns@msn.com))  
James Haney, City Attorney (by email [jhaney@omw.com](mailto:jhaney@omw.com))  
Robert Ferguson, AAG (by email [judy@atg.wa.gov](mailto:judy@atg.wa.gov))  
Tim Ford, Deputy AAG (by mail and email [agoombudsman@atg.wa.gov](mailto:agoombudsman@atg.wa.gov))  
State of Washington Office of Attorney General, Dept. of Ecology Legal Division (by mail)  
Gordon White, Department of Ecology (by mail and email [Gwhi461@ecy.wa.gov](mailto:Gwhi461@ecy.wa.gov))  
Brian Hodges, Pacific Legal Foundation (by mail and email [bth@pacificlegal.org](mailto:bth@pacificlegal.org))

DDR/cr

**Dennis D. Reynolds Law Office**

---

**From:** Bainbridge Defense Fund <gary@baindf.org>  
**Sent:** Monday, July 22, 2013 11:29 AM  
**To:** \*Bainbridge Defense Fund  
**Subject:** Official Protest of SMP Submission by City of Bainbridge Island: Violations of State Law re Proper Enactment of Local Regulations  
**Attachments:** OFFICIAL PROTEST to DOE.docx; Attachment A to Official Protest.docx; Attachmnt B to Official Protest.docx; SMP Version 1.pdf; SMP Version 2.pdf; SMP Version 3.pdf

---

**From:** Linda Young [lawfulpatterns@msn.com](mailto:lawfulpatterns@msn.com)

PAPER ORIGINAL OF THIS LETTER WITH SIGNATURES  
SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED

321 High School Rd. N.E.,  
Suite D-3, #296  
Bainbridge Island, WA 98110

July 22, 2013

Office of the Attorney General  
State of Washington  
Attn: Bob Ferguson  
1125 Washington Street S.E.  
P.O. Box 40100  
Olympia, WA 98504-0100  
By email to: [judyg@atg.wa.gov](mailto:judyg@atg.wa.gov)

Department of Ecology  
State of Washington  
Attn: Barbara Nightingale  
3190 - 160<sup>th</sup> Avenue S.E.  
Bellevue, WA 98008-5452  
By email to: [Barbara.Nightingale@ecy.wa.gov](mailto:Barbara.Nightingale@ecy.wa.gov)

Re: Official Protest of SMP Update Submission by the City of  
Bainbridge Island to the DOE When Substantive Changes  
Were Made to it Without Public Notice or Hearings;  
Procedural Violations of State Law Render This SMP Invalid.

Dear Mr. Ferguson and Ms. Nightingale:

The purpose of this letter is to hereby make an Official Protest of the action by the City of Bainbridge Island in submitting to the Department of Ecology an SMP Update ("SMP"), parts of which were never made available to the public and with respect to which parts no public hearings were ever held.

That the City Council was aware of State requirements regarding public notice and hearings in advance of substantive changes to regulations and that their actions were, therefore, unlawful is evidenced by the City's own

video recording of the May 15, 2013 City Council Meeting. In this meeting the propriety of making substantive changes without public notice or input was discussed by the Council; nevertheless, following such discussion, the City Council enacted the SMP, with the inclusion of many substantive changes made after the last public hearing on May 8, 2013 and with no notice to the public. In addition, perhaps even without the knowledge of the City Council, City staff made yet more substantive changes to the SMP after its enactment and submitted them to the DOE on June 10, 2013 as if they had been enacted by the City Council.

Attached hereto is our Official Protest of such submission, together with precise references to at least *some* of the substantive provisions altered by the City Council and City staff members without public knowledge. The undersigned citizens of the City of Bainbridge Island only became aware of these unpublicized alterations to the SMP draft only *after* their enactment and/or *after* their submission to the DOE.

Given these facts, we request that the DOE return the SMP Update to the City of Bainbridge Island for such further action as shall include public notice of such changes and public hearings with regard to those changes, and any additional governmental action as shall be required to comply with State law.

Should you require any additional information with respect to these issues, please feel free to contact either of the undersigned.

Thank you for your assistance.

Sincerely,

Linda J. Young, Esq.,  
representing herself  
[lawfulpatterns@msn.com](mailto:lawfulpatterns@msn.com)  
(206) 780-3208  
Mail address given above

Gary Tripp,  
representing himself  
[gary@tripp.net](mailto:gary@tripp.net)  
(206) 383-2245  
9605 Olympus Beach Road,  
Bainbridge Island, WA 98110

Gary Tripp,  
representing the  
Bainbridge Legal Defense Fund  
[gary@baindf.org](mailto:gary@baindf.org)

**OFFICIAL PROTEST**  
**OF THE SMP SUBMISSION TO THE DOE**  
**BY THE CITY OF BAINBRIDGE ISLAND**

We, Gary Tripp, the other members of the Bainbridge Defense Fund, and Linda J. Young, Esq. do hereby officially protest the submission to the DOE by the City of Bainbridge Island of an SMP Update with substantive changes that were never disclosed to the public and with respect to which the public was never given any opportunity to comment. Further, City staff made additional substantive changes to the SMP Update after its enactment on May 15, 2013 that were never officially approved by the City Council, but which were included in the SMP package submitted to the DOE as if they were, in fact, lawfully enacted – which they were not. In addition, the City Council never actually voted on, or enacted, the Appendices to the SMP Update, but they were submitted as part of the SMP package to the DOE as though they were, in fact, lawful parts of the SMP Update.

The facts supporting this Official Protest are as follows:

1. The last Bainbridge SMP Update draft made available to the public was that considered at the May 8, 2013 public hearing (“SMP V-1”), which was the final public hearing on the SMP Update. Between the May 8, 2013 hearing and the City enactment of the SMP Update on May 15, 2013, at least four substantive changes were made to the SMP Update by City staff. The public was never advised of these changes and was never given an opportunity to comment on them.
2. The City Council was aware that substantive changes had been made by staff to the SMP Update after May 8 and before its May 15 meeting, and that the public had never been informed of such changes and had never had the opportunity to comment on such changes. In addition to these staff changes that were included in the newly-presented draft, the City Council had additional changes presented to them by City staff *in the form of seven amendments* to the SMP Update. The City Council was aware that the public had not been made aware of these amendments and never had an opportunity to comment on them.
3. At this meeting – on May 15, 2013 - the City Council expressly discussed the propriety of making changes to the last version the public had seen without official notice to the public and without providing an opportunity for public comment. This discussion was documented in the form of a video recording made by the City itself of the May 15, 2013 City Council Meeting. The clear inference from this discussion was that most members considered the changes made to the draft and the separate amendments presented to it for adoption to be substantive, even as one City Council Member quickly dismissed all propriety questions by asserting that such changes were mere ‘clean-up.’

3. Notwithstanding this discussion and the City Council's knowledge that none of these changes and amendments had been disclosed to the public, and that the public had not had any opportunity to comment on such changes and amendments, on May 15, 2013 the City Council enacted the SMP Update containing such changes, as well as enacting all the amendments making even more changes. The resultant version, as of the end of the day on May 15, 2013, is version 2 of the SMP ("SMP V-2"). The changes to the SMP Update from the version last presented to the public on May 8 are detailed on Attachment "A," which is incorporated herein by reference; this analysis reflects the fact that at least *eleven* substantive changes were made to the SMP Update between May 8 and the close of business on May 15, 2013.

4. In addition to (a) the changes made to the Bainbridge SMP Update after May 8, 2013 but before May 15, 2013; and (b) the changes made by amendments to the SMP Update by City Council at its May 15 meeting – after such dates, (c) City staff made yet more changes to the SMP Update, without any official Council action, prior to submitting it to the DOE on June 10, 2013. At least six of these changes were substantive. The public was never advised of such staff changes, nor were they given any opportunity to comment on such changes. The City Council never officially approved these changes by staff; it is unclear whether the City Council was even aware that more substantive changes were made to the SMP following May 15, 2013, although the City Council had, in general terms, told the staff to 'do whatever they needed to do' to get the SMP into a finished form for submittal to the DOE. The substantive changes made by staff after May 15 resulted in version 3 of the SMP Update ("SMP V-3"). These staff changes to the SMP Update in SMP V-3 are compared to SMP V-2 on Attachment "B" hereto, which is hereby incorporated by reference..

5. By the aforementioned actions, the City Council of Bainbridge Island and City staff have violated Washington State law, which law requires that the public be completely advised of any and all proposed City Council action and be afforded the opportunity to comment on such proposed action in advance of a vote by the City Council. All substantive changes made by City staff without any official action by the City Council are completely *ultra vires* and invalid for lack of authority.

6. As an additional issue, the Appendices submitted to the DOE as a part of the SMP are not, in fact, validly enacted parts of the SMP because they were not referenced in the enactment resolution and they were not included in the SMP materials presented to the City Council for its vote on May 15, 2013. Therefore, as a legal matter, these Appendices do not constitute a valid part of the Bainbridge SMP and should not be considered by the DOE as such.

Based on the above recitation of facts, the undersigned do hereby Officially Protest the submission by the Bainbridge City Council to the DOE of the Bainbridge SMP Update and do hereby request that said SMP Update be returned to the City of Bainbridge Island for such further action as shall provide the public notice of all changes that were made to the May 8, 2013 SMP after said date and the opportunity to comment on said changes in an open hearing and otherwise, and to allow for such other action as

shall be necessary to comply with State law pertaining to the proper enactment of local ordinances and regulations.

Date: July 22, 2013

---

Gary Tripp, representing himself

---

Gary Tripp, representing  
The Bainbridge Defense Fund

---

Linda J. Young, Esq., representing herself

**Substantive Changes Made by the City of Bainbridge to its SMP  
Update after May 8, 2013 Public Hearing and prior to the May 15, 2013  
City Council Meeting Without Public Notice or Comment.**

---

*All page numbers set forth below are taken from the PDF pagination numbers of these versions on the City's website.*

1. Change made to SMP V-1, section 3.2.1.3.2 as it existed on page 18.  
SMP V-2 page 25 – The City shifted the burden of proof from itself to the development applicant to prove that the new development would result in ‘no net loss.’  
(This change now appears on SMP V-3 at page 18.)
  - 3.2.1.3 **Management Policies**
    2. Assure new development applications should demonstrate they will not result in a net loss of shoreline ecological functions and ecosystem-wide processes.
2. SMP V-1 - page 100  
SMP V-2 - page 114  
SMP V-3 – page 94  
The City added a new clearly permit requirement for any shoreline home – existing or new.
  - 4.1.4.4 **Regulations - General**
    1. Clearing and/or grading within shoreline jurisdiction shall require an approved clearing or grading permit in association with an existing legal use or a new permitted or allowed shoreline use or development.
3. SMP V-1 -page 149.  
SMP V-2 - page 164  
The City gave the Planning Department the authority to prohibit aquaculture for various reasons.(This change now appears in SMP V-3 at page 144.)
  - 5.2.2 **Policies**
    4. Prohibit intensive aquaculture where such development or activity would:
      - b. Results [sic] in the spreading of disease, the introduction of non-native species, or impacts to shoreline aesthetic qualities; or

4. SMP V-1 page 205  
SMP V-2 page 202

The City changed the permissible length of docks from that necessary to reach depth of minus 4.5 feet to that necessary to reach a depth of a minus 4.0 feet at extreme low tide.

**6.3.7.5 Regulations – Commercial/Industrial Facilities Piers and Docks**

2. Commercial or industrial piers or docks shall not extend offshore farther than the most shoreward of the following:

- c. Elsewhere, the distance necessary to obtain a depth of four feet ~~(4.5')~~ (4') of water as measured at extreme low tide at the landward limit of the moorage slip;...

These changes are substantive changes that should have been disclosed and made available to the public, and the public should have had the opportunity to review and make official comments on such changes prior to enactment by the Bainbridge City Council and submission to the DOE.

**Bainbridge Defense Fund**  
*Protecting Your Home*

PO Box 11560  
Bainbridge Is., WA 98110  
Gary Tripp, Director  
206-383-2245  
[gary@tripp.net](mailto:gary@tripp.net)

**Substantive Changes Made by the Bainbridge City Council by  
amending the SMP Update After May 8, 2013 Public Hearing and at  
its May 15, 2013 City Council Meeting Without Public Notice or  
Comment.**

---

*All page numbers set forth below are taken from the PDF pagination numbers of these versions on the City's website.*

**Amendments made by Bainbridge City Council to SMP V2**

1. SMP V1 page 29  
SMP V2 page 36  
SMP V3 page 28 -29

Passed by the City Council on 5/15/2013

**3.3.2.7 Priority Aquatic Category A Management Policies**

3. Public use and access should be permitted for scientific, cultural, educational, and recreational purposes if such use is compatible with the purposes of this designation and no significant adverse impact to the biological and visual resources of the areas will result. Motorized vessels should not be allowed.

2. SMP V1 page 30  
SMP V2 page 37  
SMP V3 page 30

Passed by the City Council on 5/15/2013

**3.4 Island Conservancy, Shoreline Residential and Shoreline Residential  
Conservancy Designation Strategy**

5. All publicly owned open space or park properties shall be designed Island Conservancy or Natural.

3. Approved making grammatical, syntax, and spelling changes
4. The City passed amendments 4, 5, 6 and 7 described by staff as their reproduced below from SMP V2 Page 279 – 280 ATTACHMENT C Suggested amendments

<b>SMP Draft (Clean) Sec. #</b>	<b>Intent of City Council Motion</b>	<b>Staff's Proposed Language for Consideration on May 15</b>
SMP	<b>Modify to:</b> Use the term "existing development" in place of "nonconforming structure" (Motion March 13, 2013)	Clean up of use of the term "existing development"
5.8	<b>Modify to:</b> Prohibit motorized vessels in Priority Aquatic A (Motion March 13, 2013)	Active recreational development is prohibited in the Priority Aquatic designation; however, vessels shall be allowed in Category B when operated at 5 knots or less, or such that a wake is not created and operated at a noise decibel that does not cause adverse impact to wildlife. Passive recreational development shall be allowed in the Priority Aquatic designation
6.2.5(3)	<b>Modify to:</b> Continue requiring a Conditional Use Permit for new, hard bulkheads in areas where there is not bulkheading within 100 feet. (Motion – August 1, 2012)	New or replacement shoreline stabilization measures require a minor Conditional Use Permit when the nearest adjacent existing shoreline stabilization is greater than 100 feet from the proposed shoreline stabilization on the subject property
4.2.1.6.3 (2)(a)	Need to clarify that a 25% expansion of a building configuration within the Shoreline Buffer may occur only once within the lifetime of the development.	2. An existing primary residential structure may be altered or expanded to the extent allowed by this Program, provided: a. The enlargement or expansion of the building configuration, including any new impervious surfaces located within the Shoreline Buffer, shall in no case exceed 25% of the original building footprint; the expansion shall be located landward of the existing or original building footprint; and only one such expansion may occur within the lifetime of the development.

**Bainbridge Defense Fund**  
*Protecting Your Home*  
 PO Box 11560  
 Bainbridge Is., WA 98110  
 Gary Tripp, Director 206-383-2245  
[gary@tripp.net](mailto:gary@tripp.net)

**Changes Made to the SMP Update by the City of Bainbridge Island  
(the "City") Without Public Notice or Comment after May 15, 2013  
City Council vote and before its June 10, 2013 Submission to the DOE**

---

*All page numbers set forth below are taken from the PDF pagination numbers of these versions on the City's website.*

Set forth below in yellow are some of the substantive changes made between SMP V-2 and SMP V-3, those changes that led to the document finally submitted to the DOE by the City of Bainbridge Island on June 10, 2013.

1. SMP V-2 - page 78  
SMP V-3 - page 57

The City gave the Planning Department the unlimited authority to reduce, alter or deny any proposed development, use or activity solely on the basis of factors listed in 4.1.1.3, which factors do not include the protection of private property rights, as required by the SMA.

**4.1.1.2 Applicability**

Within the City's jurisdiction all those areas lying waterward from the line of extreme low tide are shorelines of statewide significance. [RCW 90.58.030(2)(f)(iii) or its successor]. Development, use, or activities located within shorelines of statewide significance shall follow all the provisions of this program. Proposed development, use, and activity within shorelines of statewide significance shall be reviewed in accordance with preferred policies listed in 4.1.1.3. The Administrator may reduce, alter, or deny proposed development, use, or activity to satisfy the preferred policy.

2. SMP V-2 - page 92  
SMP V-3 - page 71

The City added prohibitions on the use of pesticides in the shoreline buffer zone.

**4.1.3.5 Regulations - General**

4. c. The use of pesticides are prohibited unless specifically allowed in Section 4.1.6, Water Quality and Stormwater Management.

3. SMP V-2 - 116  
SMP V-3 - page 96

A new section was added by the City to give the Planning Department the authority to monitor – on an on-going, unlimited basis - all private developments, uses and activities. There is no requirement that advance notice be given to the property owner prior to such inspection. This monitoring is not limited to new development; it can be used to violate the right of privacy of the owners of both new and existing homes. This section involves a governmental taking of the private property owner's constitutional right to exclude others from his property.

#### 4.1.5.4 Regulations – General

2. Development, uses, and activities adjacent to critical areas, including critical saltwater habitats and fish and wildlife habitat conservation areas, proposed within shorelines of the state shall [sic] monitor to assure that these areas are not being adversely impacted by approved development or restoration projects.

4. SMP V-2 - page 119  
SMP V-3 - page 99

A new section was added to impose the City's safety regulations contained in Appendix B on public access developments and "minor development" in the shoreline jurisdiction.

#### 4.1.5.8.3 Special Reports and Determination of Buffers

b. Minor development for public access (e.g., public trails, stairs, or view points) may be allowed, provided that environmental impacts are mitigated and the development can meet the factor of safety in Appendix B; subsection-B-9(E)(1); and

c. Minor development permitted in the Shoreline Buffer and Site-specific Vegetation Management Area pursuant to Sections 4.1.3.8 through 4.1.3.11 such as boathouses, decks, stairs, trams, piers, and docks except at the toe of unstabilized feeder bluffs and the development can meet the factor of safety in Appendix B; subsection-B-9(E)(1).

5. SMP V-2 - pages 207 and 208  
SMP V-3 pages 187 and 188

The City added a sentence to permit the use of sheet pilings in remediation projects.

#### 6.2.4 Regulations – Prohibited

1. Gabions, groins, vertical, concave, and flat (hard) faced structures not including near-vertical rock riprap bulkheads in shoreline stabilization construction. Sheet pile style hard stabilization may be allowed for remediation projects in accordance with Section 6.2.5.

#### 6.2.5 Regulations - General

3. New or replacement shoreline stabilization measures are an administrative conditional use for the following:

c. Sheet pile style hard stabilization used in remediation projects to contain contaminated soils or sediments when demonstrated to the satisfaction of the Administrator to be the most appropriate solution.

6. SMP V-2  
SMP V-3 page 230

The City adds the definition of "Existing Development" which serves to make all existing shoreline structures "nonconforming" under the zoning laws. Please note that this provision is also not complete, inasmuch as it lacks detail on what ordinance number on what date amended the prior SMP.

**Existing Development** – Legally established structures which do not conform to the provisions in the 1996 Shoreline Master Program, as amended by ordinance xx on xx xx, 2013.

These changes are substantive changes that should have been disclosed and made available to the public, and the public should have had the opportunity to review and discuss such changes prior to enactment by the Bainbridge City Council and/or submission to the DOE.

**Bainbridge Defense Fund**  
*Protecting Your Home*

PO Box 11560  
Bainbridge Is., WA 98110  
Gary Tripp, Director  
206-383-2245  
[gary@tripp.net](mailto:gary@tripp.net)