WATER PLANNING MATTERS

City of Blaine Shoreline Management Plan Compliance Failure Landscape 22 Violations, 7 Significant

Our Mission

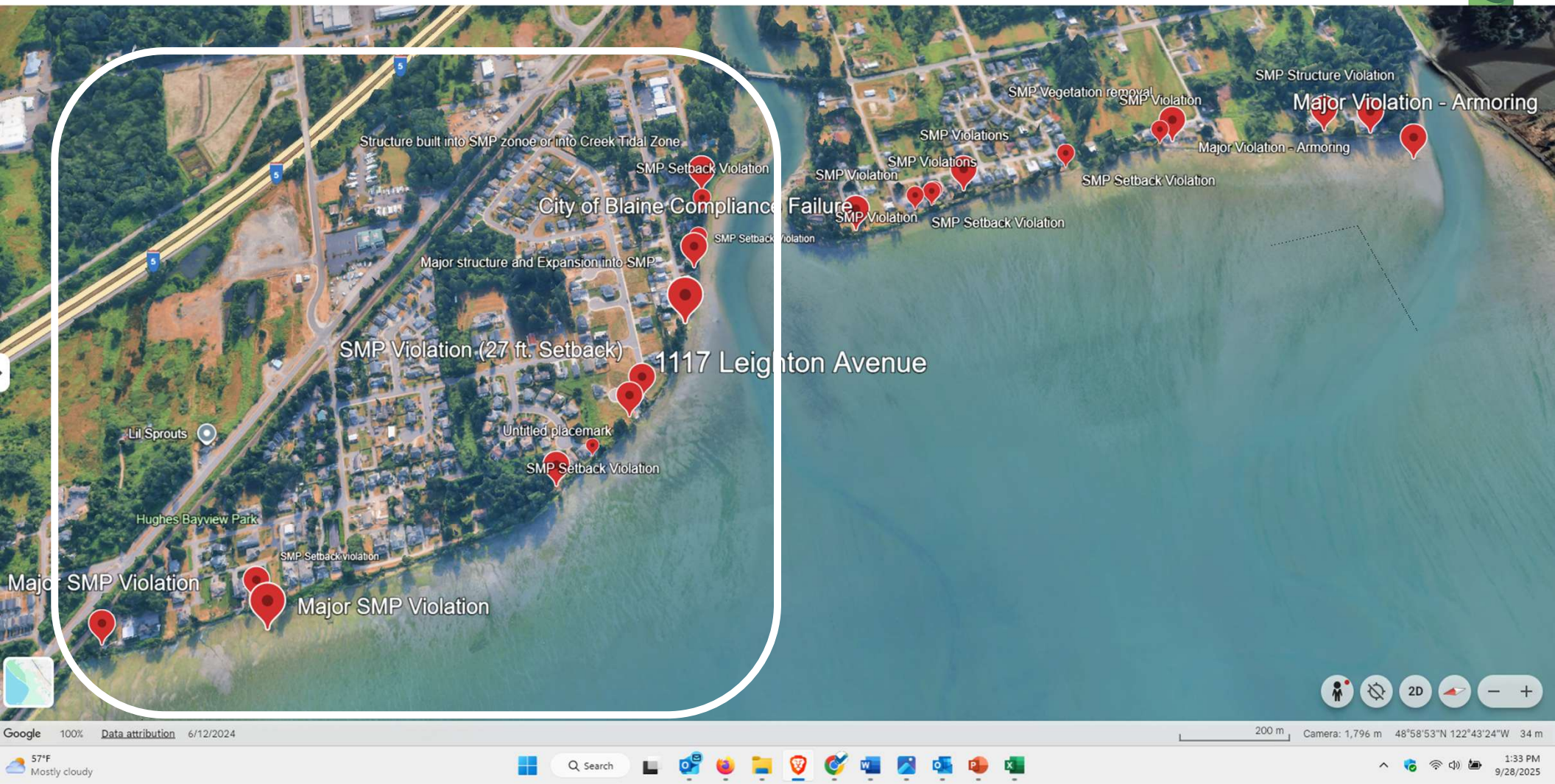
WATER PLANNING MATTERS

Protecting water resources while advocating for compliant, transparent and accountable planning department practices.

Supporting Birch Bay, Blaine residents in Northwest Whatcom County

Disclaimer and Commitment to Free Speech

- Volunteers working under the unincorporated Water Planning Matters (WPM) group attempt to fact-check their research as possible and practical. WPM does not have perfect information, as municipal and state organizations may not have disclosed all relevant information publicly.
- We attempt to use both publicly accessible information and records retrieved through the Public Records Act (RCW 42.56).
- We encourage all individuals reading these findings to independently verify the accuracy of claims.
- This report is provided for informational and advocacy purposes only and is based on our good-faith interpretation of available public records. It is not intended to defame any party or entity, nor to provide legal advice. WPM disclaims all warranties, express or implied, regarding the completeness, accuracy, or availability of the information contained herein. WPM assumes no liability for any errors, omissions, or damages arising from the use of this report.
- Our goal is to secure local government action that results in better stewardship of our drinking water and water resources while assuring compliance and transparency.
- This report constitutes protected speech and petitioning activity under Washington's anti-SLAPP statute (RCW 4.24.525), as it addresses matters of public concern, including government compliance with environmental laws, shoreline management, and wildlife protection. Any lawsuit arising from this report that seeks to chill such protected activity may be subject to a special motion to strike under RCW 4.24.525.
- This notice is provided to affirm our commitment to free speech on public issues and to deter meritless litigation.


Structure built into SMP zonoe or into Creek Tidal Zone
SMP Setback Violation
City of Blaine Compliance Failure
SMP Setback Violation
Major structure and Expansion into SMP
SMP Violation (27 ft. Setback)
1117 Leighton Avenue
Lil Sprouts
Untitled placemark
SMP Setback Violation
Hughes Bayview Park
SMP Setback Violation
Major SMP Violation
SMP Vegetation removal
SMP Violation
SMP Violations
SMP Violations
SMP Violation
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SMP Setback Violation
SMP Structure Violation
Major Violation - Armoring
Major Violation - Armoring
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Camera: 1,796 m
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1:33 PM
9/28/2025

Summary

The Problem

22+ documented SMP violations*, including 7 major cases of unpermitted construction, vegetation removal, and armoring in priority habitats. **No enforcement action taken by the City. No effort has been taken to update or follow the plan since 2019. SSDP variances are used excessively to under mine the intent of SMP setbacks.**

Regulatory Breakdown

The City's combined Planning/Enforcement structure and lack of segregation of duties create **unavoidable conflicts of interest**, resulting in neglect of environmental law for the pursuit of tax revenue.

Citizen Oversight

The Planning Department is hand-picked by the Mayor and City Manager to ensure a quorum of developers and real-estate agents dominate the commission. Turn over is minimal since commissioners can run for 3 consecutive four-year terms. The Planning department has reduced oversight and uses Commission for policy. As recently as 2025, serious public misconduct charges were filed with Whatcom County for commissioner and Planning self-dealing.

Environmental Harm

This systemic inaction directly **impedes the Drayton Harbor TMDL** and poses an **immediate threat** of erosion/landslide on unstable slopes (e.g., 1117 Leighton), resulting in pollution of a shellfish- and salmon-bearing water body.

Conclusion

The City of Blaine is **functionally non-compliant** with the Shoreline Management Act and its own SMP.

Why is compliance failure in Blaine important?

- Safe seafood to eat
- Local shellfish industry & restaurants
- Tourism water sports, bird watching
- Natural resources benefit everyone not just wealthy landowners
- A healthy place for beach walking and kids to play
- Quality of life
- Violations contribute to TMDLs for phosphates/nitrates, violating DOE standards*
- Drayton Harbor shellfish beds closed for 98 total days in 2024 due to pollution and biotoxins, up from prior years

Drayton Haror Sewage Foam after Heavy Rainfall

*see 9/26/2025 WPM response

Is there really a problem? Evidence of Violations

- 22 Total SMP Setback, Structure, and Vegetation Removal Violations
- 5 serious violations of superstructures, building expansions, non-enforcement, vegetation removal
- 1 Violation reported twice, no action taken by city, including DOE intervention
- 1 Violation past year with SSDP made public
- 12 SMP Setback violations on north side of Drayton Creek
- 10 SMP Setback violations on south side of Drayton Creek (2 Whatcom County)

City of Blaine Planning Department - Systemic Inaction: No SMP Update Since 2019

(1) The City's SMP was last approved by DOE on September 10, 2019 (Ordinance No. 09-2729).
(2) State law (RCW 90.58.080) requires periodic reviews every 8 years—due by 2027—**but no efforts documented in City records or budgets despite cumulative impact of near 50% increase in population**
(3) Meanwhile, Whatcom County completed its periodic SMP update in 2023, including stronger nonconforming development rules and increased buffer widths.
(4) Failure to update contributes to ongoing violations, such as outdated stormwater standards violating NPDES permits.

Enforcement Structure: Conflicts and Underfunding

Mike Harmon City Manager → Alex Wenger Planning Director → Combined Planning/Enforcement Staff (e.g., 2.8 FTEs)

1. Planning and Enforcement Report to the Same Director (City Manager/Planning Director), Creating Conflicts of Interest.
2. 2025 Budget: Planning Dept. $629,370 (6.50% of General Fund); Building Inspection (includes enforcement) $291,886 (3.01%).
3. Public Works: $998,344 total (10.31%), but no dedicated allocation for DOE compliance or inspections beyond $43K estimate.
4. No Standalone Enforcement Funding; Integrated Roles Prioritize Development Over Environment.
5. Lack of Code of Ethics – Failure to Adopt, Citations for Conflicts of Interest, and Strike Against Council Member Eric Lewis Mayor Steward for introducing ethics
6. EPA Complaints Cite OPMA Violations and Biased Variances (e.g., to Council Member Sarbie Baines)

If Blaine laws and SMP, why is it failing enforcement?

The City is conflicted and is not incentivized to protect Drayton Harbor

1. The City is conflicted and is not incentivized to protect Drayton Harbor
2. The City of Blaine benefits from increased property values and taxes when shoreline vegetation and trees are removed to enhance property views
3. The City of Blaine planning and enforcement do not have separate functions and report to the same person responsible for increasing property tax revenues (City Manager & City Planning Director)
4. Sales tax revenues from in the food chain for seafood is less meaningful than the cost of 2024 stormwater plan compliance for the city and developers (Creekside, East Maple Ridge, Motts Hill, etc.)
5. The City of Blaine has made variances to a City Council member Sarbie Baines
6. City of Blaine Planning Department has been repeatedly notified but either refused, ignored or not taken action on DOE and BMC compliance violations
7. To our knowledge the planning department with developers and real estate agents has never reviewed or expressed any interest in reviewing SMP violations
8. To our knowledge, no effort has been undertaken by Alex Wenger and Planning to update the SMP plan from 2019 or to review protection of critical areas

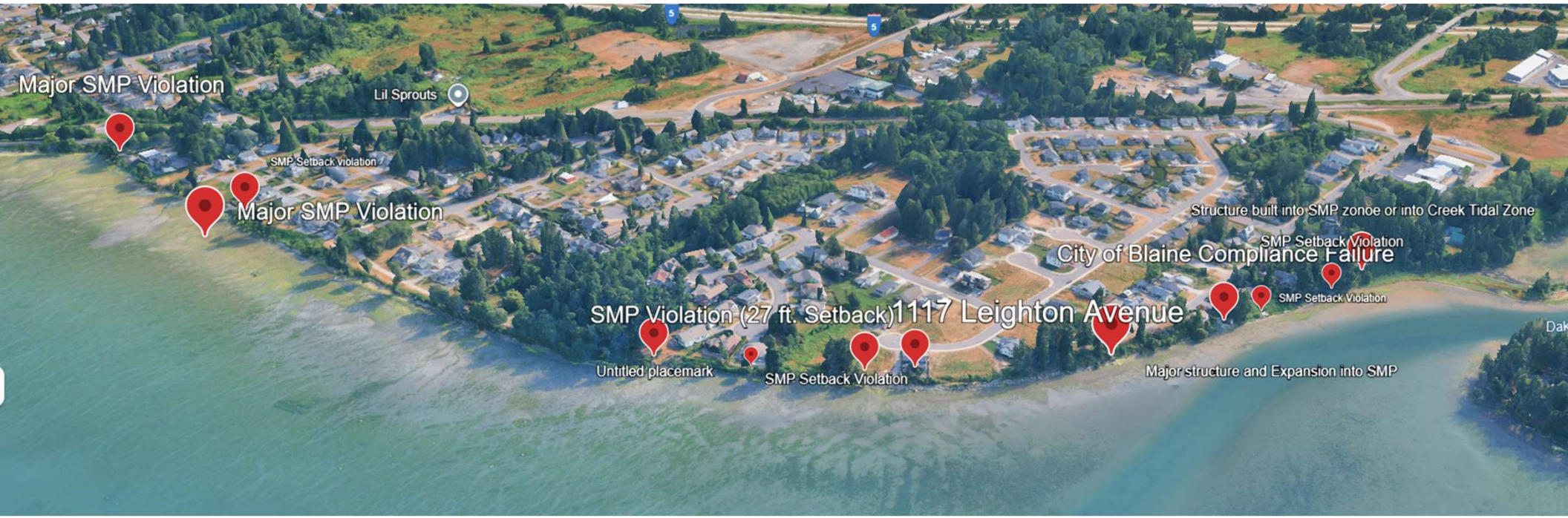
City Fails to Enforce SMP/CAO

1. Based on the analysis of 22 Drayton Harbor SMP violations, many recent and underway, The City of Blaine Planning Department, City Manager and Planning Commission have no posture or intention of enforcing SMP and CAO city rules or supporting DOE efforts to remediate Drayton Harbor
2. The City Planning and Public Works Department position (see DOE Drayton Harbor) run counter efforts to reduce Drayton Harbor TMDLs, phosphate and nitrate run-off into Drayton Harbor (see 9.26.2025 WPM position response on recent Public Works Department statements)
3. The City of Blaine has indicated repeatedly in its actions (not words) that it has no intention of applying the 2024 Western Washington Stormwater Plan to protect the water resources, wildlife, shellfish, salmon of Drayton Harbor
4. The City Planning Department issues excessive SSDP variances to homeowners as “Single Family Residences” undermining the intent of the SMP and CAO compliance laws
5. The City of Blaine has failed to harmonize its protection efforts for SMP setbacks with Whatcom County which shares Drayton Harbor
6. Luxury homeowners have been increasing property values for views, harbor access by armoring or establishing large structure enhancements that negatively impact fish foraging areas, herons, fowl and other wildlife, including salmon.

DOE & Whatcom County Recommendations

Category	DOE Immediate Relief (Serious Violations)	City of Blaine, Whatcom County
Enforcement	Stop-Work Orders for ongoing (e.g., 1117 Leighton tree girdling, armoring at 935 Ruby); enforce within 7 days or DOE/USFWS referral	DOE/Whatcom County to mandate **Separation of Planning and Enforcement Functions**. Require budget reallocation to create a dedicated compliance program (e.g., 5-10% of General Fund).
Restoration	Require Perch Tree/Wildlife Plans (biologist/arborist) within 30 days; no-net-loss mitigation	Update SMP from 2019; allocate $100K+ in 2026 budget for reviews
Penalties	Max fines ($1,000/day SMA; $100,000 Eagle Act); retroactive for reported	County/DOE oversight for SSDP variances; harmonize with Whatcom County
Referrals	USFWS (Eagle Act), WDFW, DOE (TMDL), EPA (Clean Water Act)	Public dashboard for violations; mitigation funds for Drayton Harbor
Other	Revoke invalid variances (e.g., 1141 Leighton); investigate negligence	Stop using SSDP variances to skirt CAO and SMP. Blaine to adopt 125 ft. setback on SMP for Drayton Creek and Drayton Harbor for all new and approved development and requests.

Infractions and Compliance Actions Required by City of Blaine



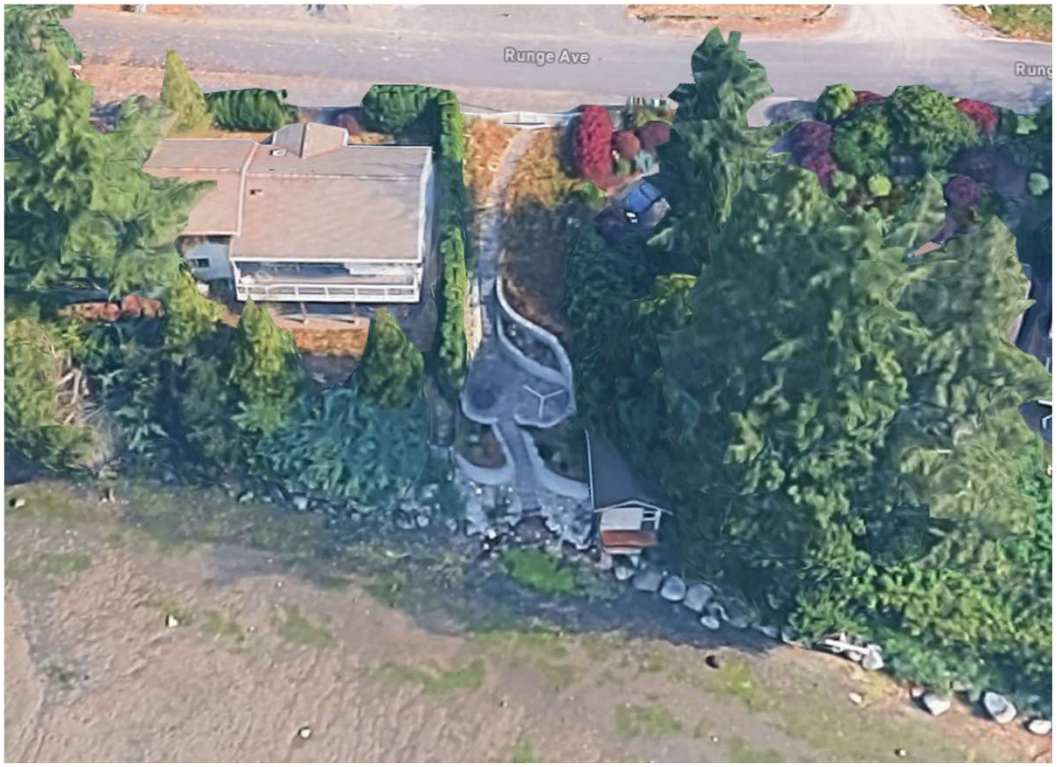
Specific Violation Focus: Key Setback & Armoring Examples

Issue	Problem	Impact	Key examples
Unpermitted hard armoring and setback encroachment	Widespread bulkheads, rock walls, and structures installed at or waterward of the OHWM and within required shoreline setbacks without authorization, contrary to the SMP's preference for non-structural solutions.	Loss of natural shoreline processes, intertidal habitat degradation, and erosion displacement to adjacent properties and down-drift shorelines.	1265 Runge Ave; 935 Ruby St.
Unauthorized structural expansions and over-water structures	Major additions, decks, stairs, and utilities constructed or expanded within shoreline jurisdiction beyond nonconforming allowances and without required shoreline authorization.	Increased impervious surface and shading that reduces nearshore productivity, along with public access encroachment.	1218 Runge Ave.
Destruction of critical habitat and bank destabilization	Unpermitted removal, girdling, and damage to mature native trees on steep embankments that provide bank stability and priority wildlife habitat, violating the SMP's no-net-loss standard and triggering state/federal protections.	Elevated landslide/erosion risk, direct loss of salmonid and bald eagle perch/forage habitat, and increased fine sediment to Drayton Harbor.	1117 Leighton Ave (bald eagle perch tree girdling, concealed cuts, setback violation).
Unjustified and invalid variances	Variances or administrative reductions issued without adequate findings, setting precedents that undermine SMP buffers/setbacks and critical-area protections.	Institutionalizes buffer encroachment, erodes no-net-loss compliance, and signals administrative failure or bias.	1141 Leighton Ave (27.4-ft SSSP variance cited as invalid/unsupported).

Violation Example 1: - Serious
1265 Runge Ave - Armoring & Setback Violation

ERTS Submission (09.28.2025)

1. Armoring into high watermark, violating SMP setbacks
2. Impacts: Negative effects on fish foraging and wildlife
3. City notified twice, over 4 years took not action (2021, BWC, 2024), included requested action by DOE
4. Remove all structures



Violation Example 2: - Serious
935 Ruby Avenue - Armoring & Setback Violation

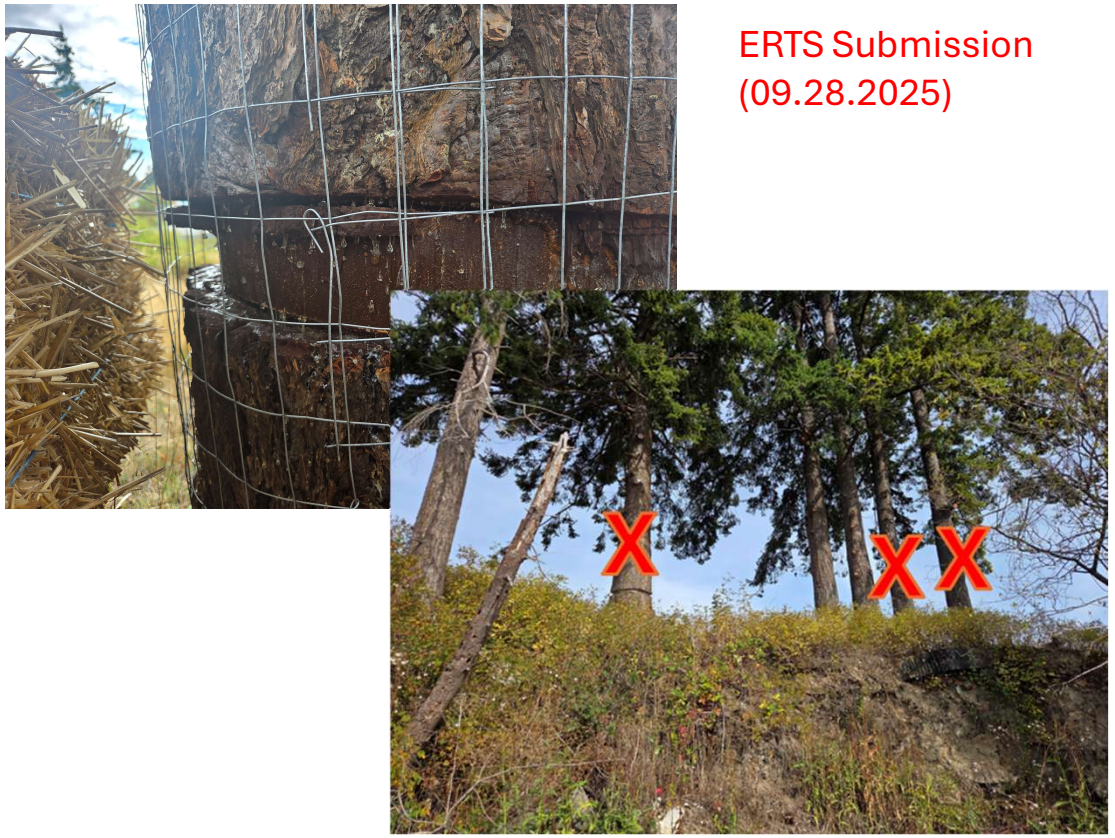
- Homeowner built revetments for sliding hillside, expanded into full armoring
- Before: 32 ft setback; After: Violation into buffer

Violation Example 3: - Serious
1218 Runge Avenue- Major Structure

1218 Runge Ave Violation. Major structure enhancements, new stairs, heat lamp

Violation Example 4: Serious (SMP Setback & Bald Eagle Habitat) - 1117 Leighton Avenue

- Within 13 feet of the SMP setback, 3 out of 5 Douglas Fir trees have been cut in manner to kill them slowly. Removal of these trees increases property view while de-stabilizing the hillside.
- Douglas-fir trees in shoreline buffer girdled (cambium cuts)
- Impacts: Destruction of bald eagle perch trees in salmon foraging corridor; failure to enforce after notice
- Allegedly violates Bald and Golden Eagle Protection Act (federal "take/disturb"), BMC 17.82 (Fish & Wildlife Habitat), and SMP no-net-loss
- Findings: ≥3 trunks with concealed cuts; negligence in enforcement



ERTS Submission (09.28.2025)

Violation Example 5: Serious (SMP Setback, SSDP Variance- 1141 Leighton Avenue

December 9, 2024

Mr. Alex Wenger, Community Development Services Director
City of Blaine
435 Martin Street, Suite 3000
Blaine, WA 98230

Subject: Formal Notice of Violations of Shoreline Management Act (SMA), Clean Water Act (CWA), and Critical Areas Ordinance at 1141 Leighton Street, Blaine, WA

Dear Mr. Wenger,

On behalf of the Blaine Water Coalition, I am writing to formally request immediate enforcement action and remedies for severe violations of the Shoreline Management Act (SMA), Clean Water Act (CWA), and Blaine's Critical Areas Ordinance (CAO) at the property located at **1141 Leighton Street.** Based on the provided documentation, BMPs and photographic evidence, this property is the site of significant ecological harm, unauthorized construction, and blatant disregard for statutory shoreline protections.

Given the lack of collaboration and unwillingness to resolve citizen concerns by the City of Blaine, SEPA agency and CDS, this letter serves to notify the City of its ongoing violations and confirms our 60 day Intent to Sue under the Clean Water Act. You were first notified of our Intent to Sue on December 2, 2024.

Violations Identified

1. **Shoreline Setback Violation**
   - The property is located 27.5 **feet from the Ordinary High-Water Mark (OHWM)**, which is a flagrant violation of the **150-foot shoreline buffer** mandated under the SMA and Blaine SMP (**RCW 90.58.140**).
   - The 27.5-foot setback at 1141 Leighton Street contrasts sharply with the 45-foot buffer stakes located northwest of the property (See photographic evidence), highlighting inconsistent buffer enforcement within the Drayton Reach Division II project.
   - The data analysis shows that Blaine's current SMP buffer requirements (50-75 feet) fall significantly below both county and federal standards for protecting critical shoreline functions and salmon habitat.
   - Refer to Appendix C for scientific evidence and comparison with City of Blaine setback.
2. **Increase in Net Loss**
   - The 27.3 foot buffer contributes to increased sedimentation rates into Drayton Harbor, degrading water quality and thermal conditions critical for salmon migration and foraging. This fails to meet the SMA's "no net loss" standard.

Appendices

Not all Inclusive

1218 Runge Ave Violation. Major structure enhancements, new stairs, headlamp

935 Ruby St –Homeowner built revetments for sliding hillside then expanded into full hillside armoring


2316
SMP Setback - Armoring
SMP Setback - Armoring
+ Description
+ Media
Icon size
Large
More settings
Labels
Label size
Medium (default)
Placemark placement
Latitude
48.9760540
Longitude
-122.7377852
Altitude
4.4241663
m
Grounding
Clamp to ground
Camera view
Done
Saved on this device
2D
Google
100%
Data attribution
6/12/2024
6 m
Camera: 26 m
48°58'32"N 122°44'17"W -15 cm

27.4 Ft SSSP Variance by
City Planning Department in violation
of SMP – 1141 Leighton Avenue

1117 Leighton Avenue

1117 Leighton Avenue

Placemark placement

Latitude 48.9754747 °

Longitude -122.7371639 °

Altitude 4.8284602 m

Grounding Clamp to ground

Camera view

Heading 40.3033071 ° Tilt 73.7068269 °

Range 75.2387058 m

Latitude 48.9754136 ° Longitude -122.7371794 °

Altitude 3.8757946 m

Capture this view Reset to defaults

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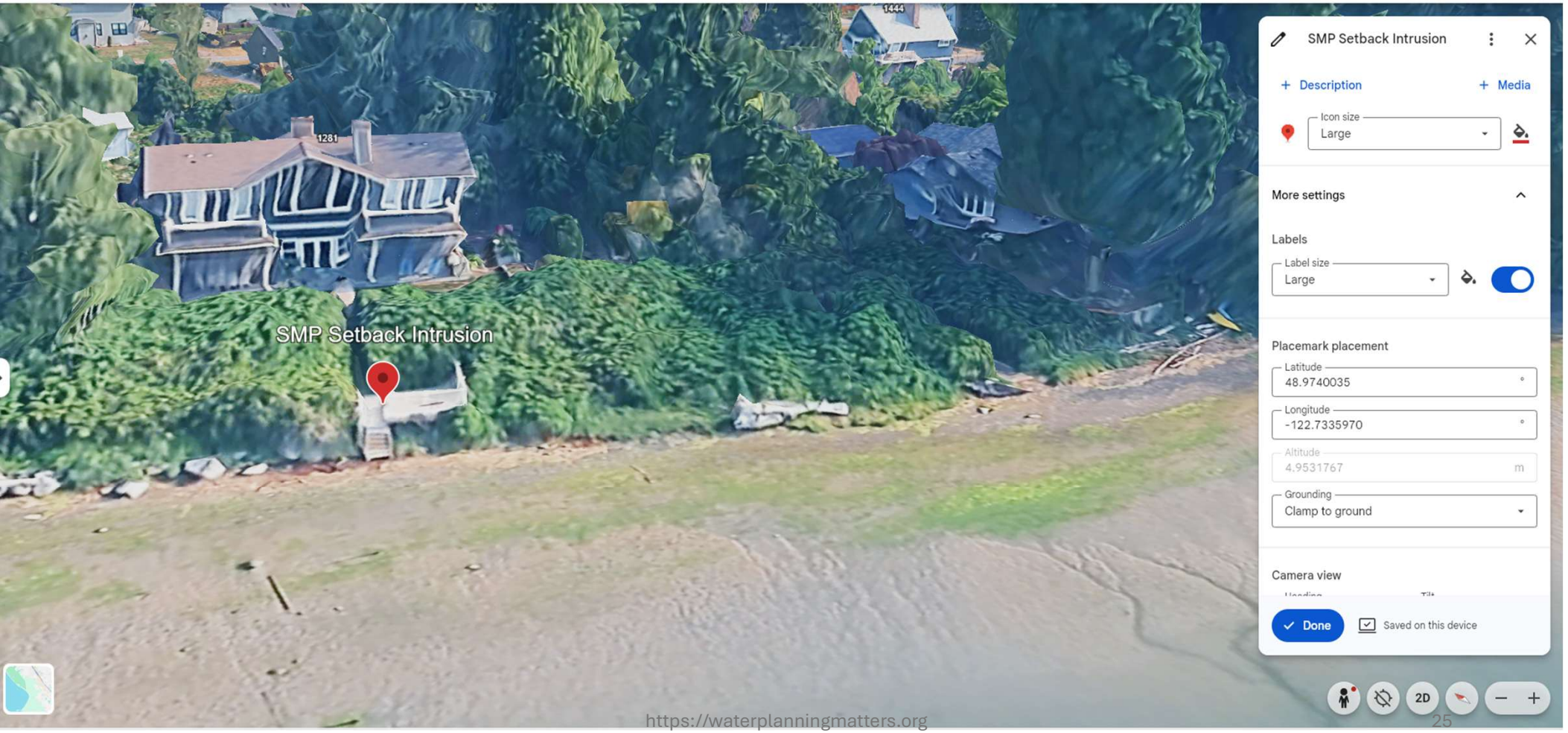
Google 100% Data attribution 6/12/2024 6 m Camera: 25 m 48°58'30"N 122°44'14"W -33 cm


1444
1281
SMP Setback Intrusion
SMP Setback Intrusion
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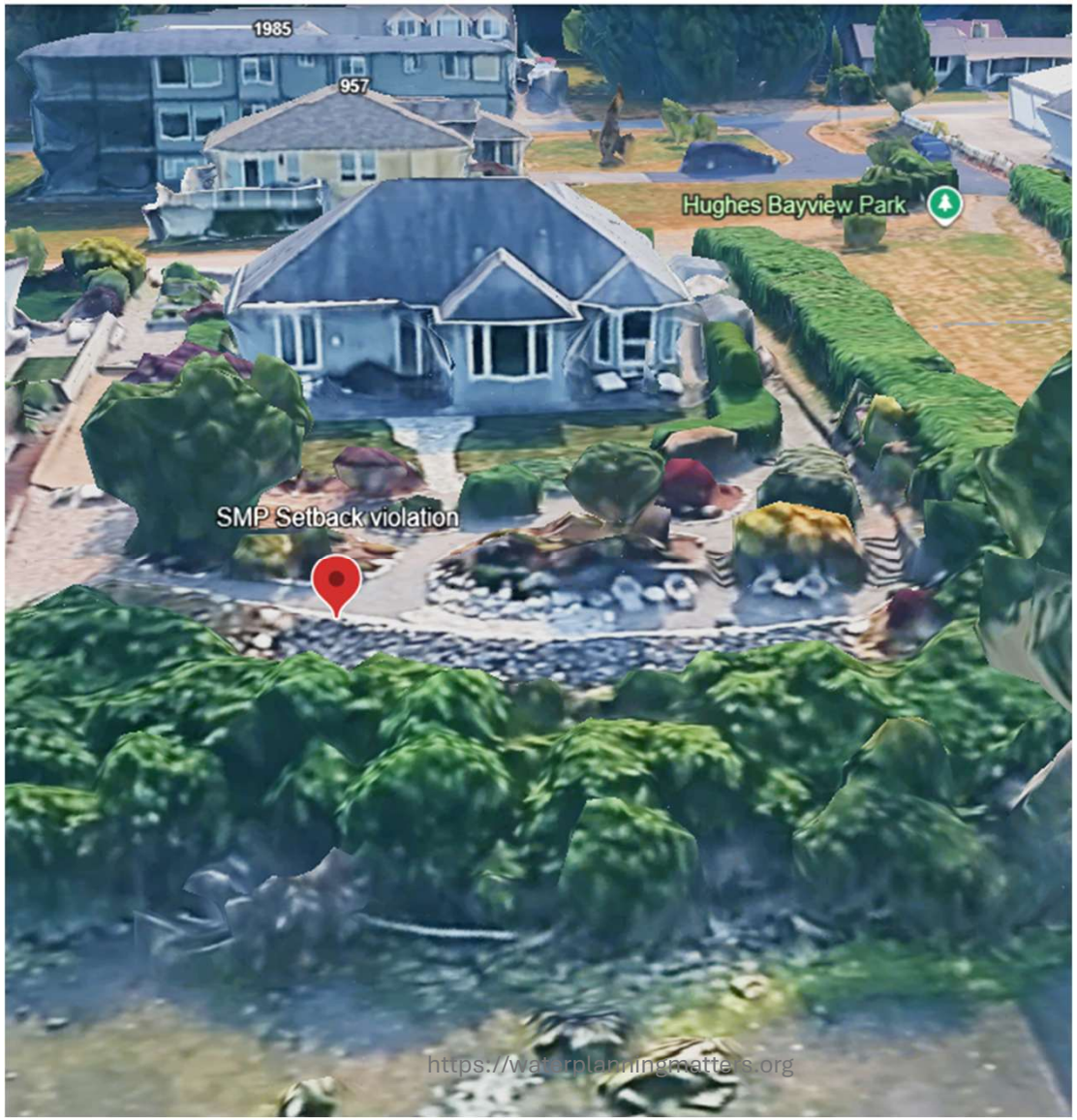
1441 Runge Ave - Armoring & Setback Violation into high watermark


1985
957
Hughes Bayview Park
SMP Setback violation


Untitled placemark
2309
Untitled placemark
Location
48°58'35"N 122°44'17"W
Advanced measurements
Ground elevation
20 ft
Edit
2D
Google
100%
Data attribution
6/12/2024
8 m
Camera: 25 m
48°58'36"N 122°44'18"W
21 m


Major SMP Violation
Major SMP Violation
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More settings
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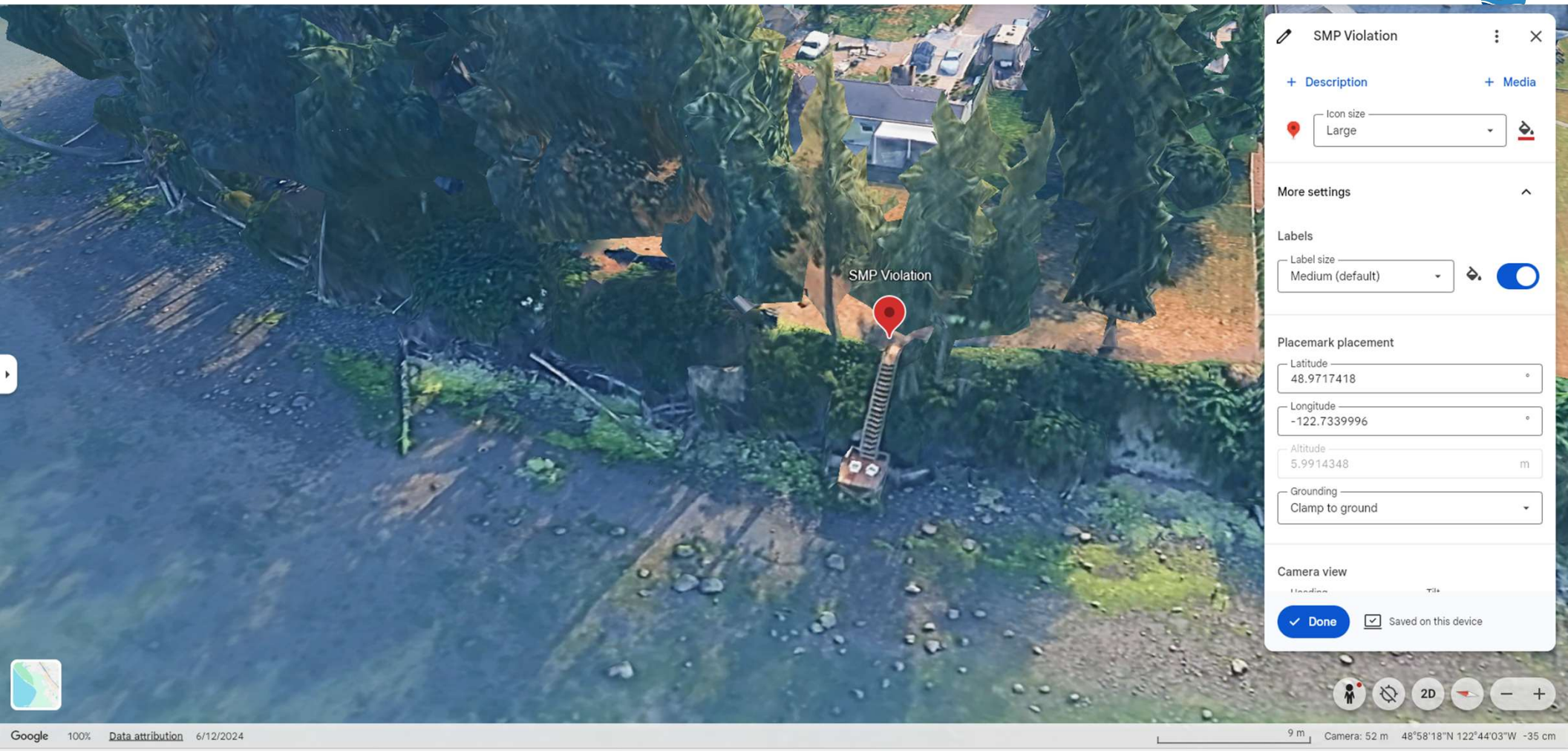
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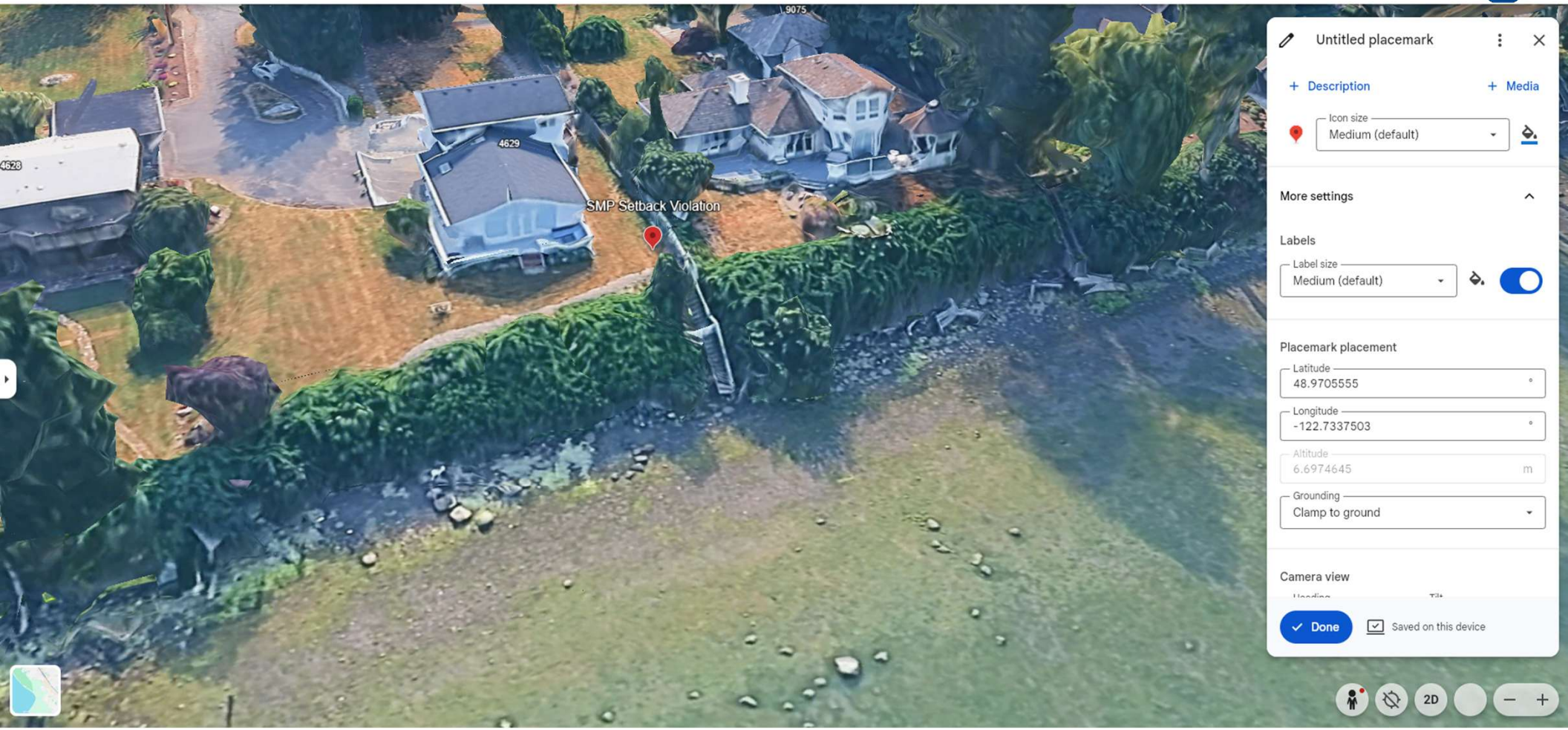
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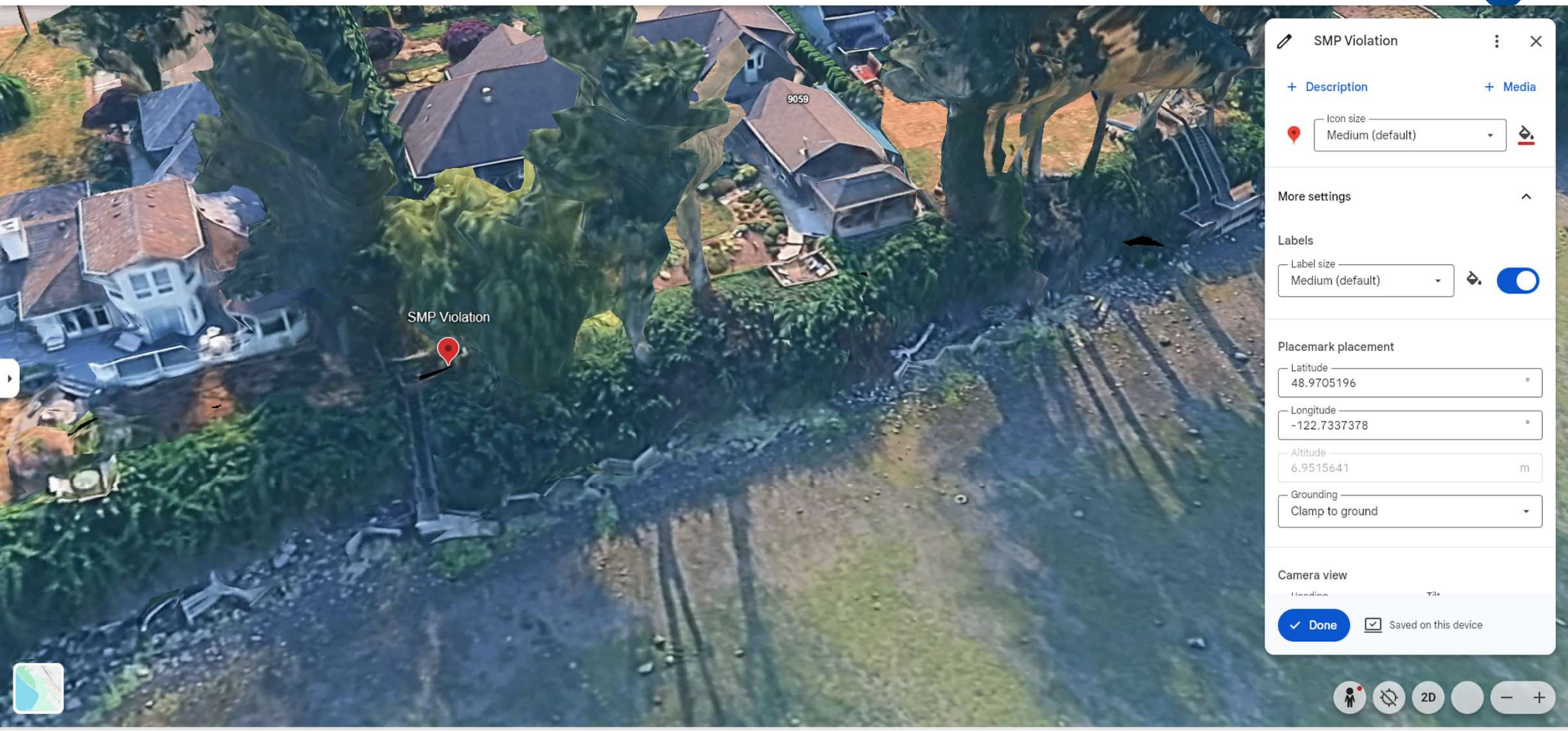
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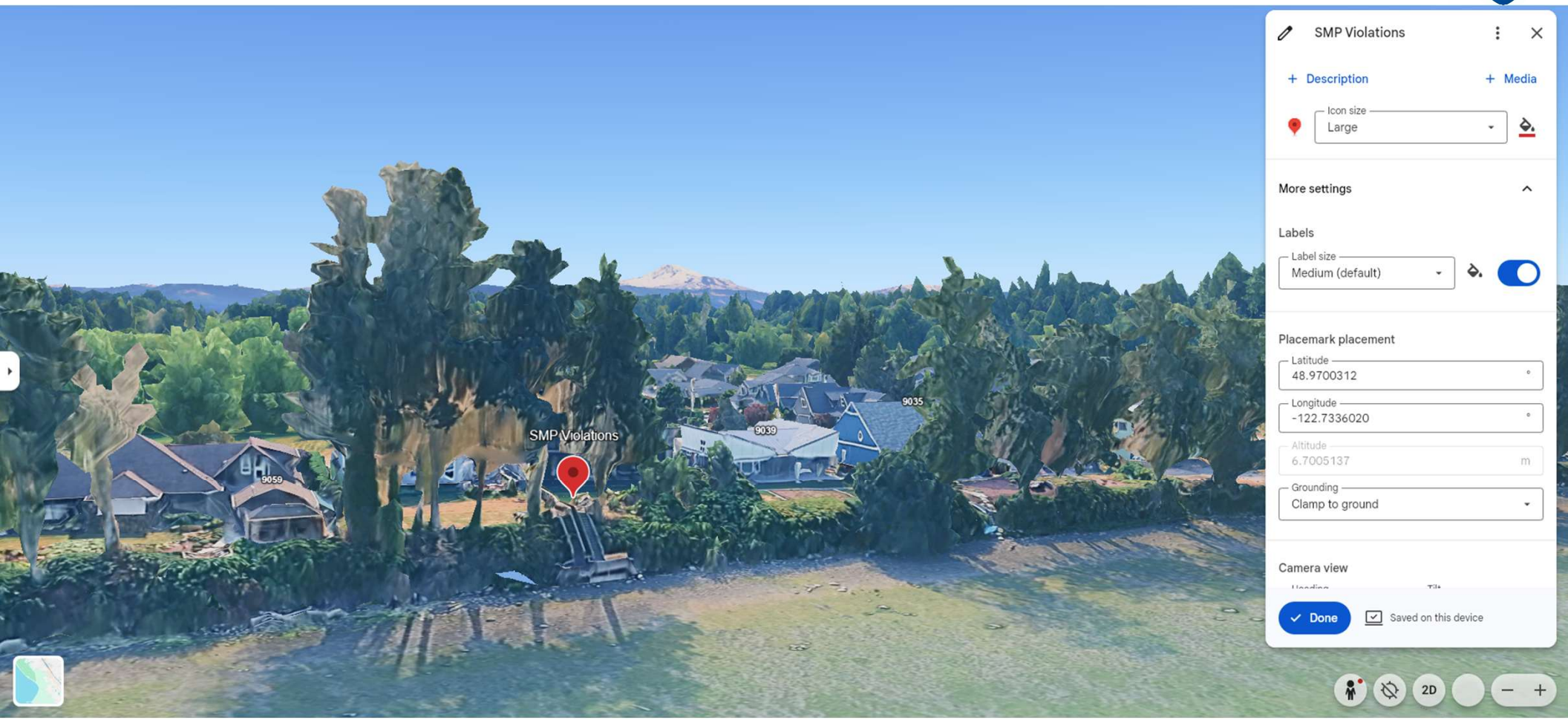
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Longitude
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Comparative Analysis of Shoreline Buffer Widths

Shoreline designation	Blaine SMP (2019)	Whatcom County SMP
Urban Conservancy	150 ft minimum;	Marine buffers at 150 ft; shoreline streams were increased to 200 ft buffers
Shoreline Residential	100 ft minimum; may be reduced to 50 ft only with an approved enhancement plan and title notice. [Blaine SMP 2019]	Confirms streams in shoreline jurisdiction now require 200 ft buffers, with marine buffers commonly shown at 150 ft in County/Ecology materials
High-Intensity	0 ft for water-dependent uses; 30 ft for water-related; 100 ft for water-enjoyment reducible to 50 ft only with shoreline conditional use approval. [Blaine SMP 2019]	Buffer requirements reference WCC 23.30.040 by use/designation; site-specific standards apply by reach and environment designation. [WCC Title 23 linkage]

(A) Administrator may approve up to a 50% reduction only with an approved enhancement plan and recorded conditions. [Blaine SMP 2019]
(B) Marine riparian buffers are set by designation/reach in WCC Title 23, with public-facing County materials summarizing marine buffers at 150 ft and confirming 2025 periodic-update adoption; shoreline streams were increased to 200 ft buffers in the 2020–2025 periodic update. [Whatcom SMP update; WCC Title 23 linkage]
(C) Marine riparian buffers administered per WCC Title 23 shoreline buffer standards; County's update confirms streams in shoreline jurisdiction now require 200 ft buffers, with marine buffers commonly shown at 150 ft in County/Ecology materials. [Whatcom SMP update; WCC Title 23 linkage]

Citations
City of Blaine Shoreline Master Program (effective 2019),
Whatcom County Shoreline Program update summary (effective Mar. 13, 2025)
Ecology Shoreline Master Program Handbook, Chapter 11 (Vegetation Conservation, Buffers and Setbacks).