

Jay Taber

Blaine Water Coalition, waterplanningmatters.org, is working on cleaning up Drayton Harbor through SEPA appeals, Growth Management challenges, and filing ERTS reports of SMP violations unenforced by Blaine Code Enforcement. Unfortunately, the state regulatory gap in forcing municipal compliance with the Clean Water Act or State Environmental Policy Act places that burden on citizens, whose only recourse is to hire a lawyer. Not exactly what the legislature had in mind for public participation.

You as scientists and educators don't set state enforcement policy, but it needs to be communicated to management in Olympia that this regulatory gap is contributing to the Drayton Harbor TMDL/303 problem, and the City of Blaine is now 14 months overdue in adopting the mandated 2024 Department of Ecology Stormwater Management Manual.

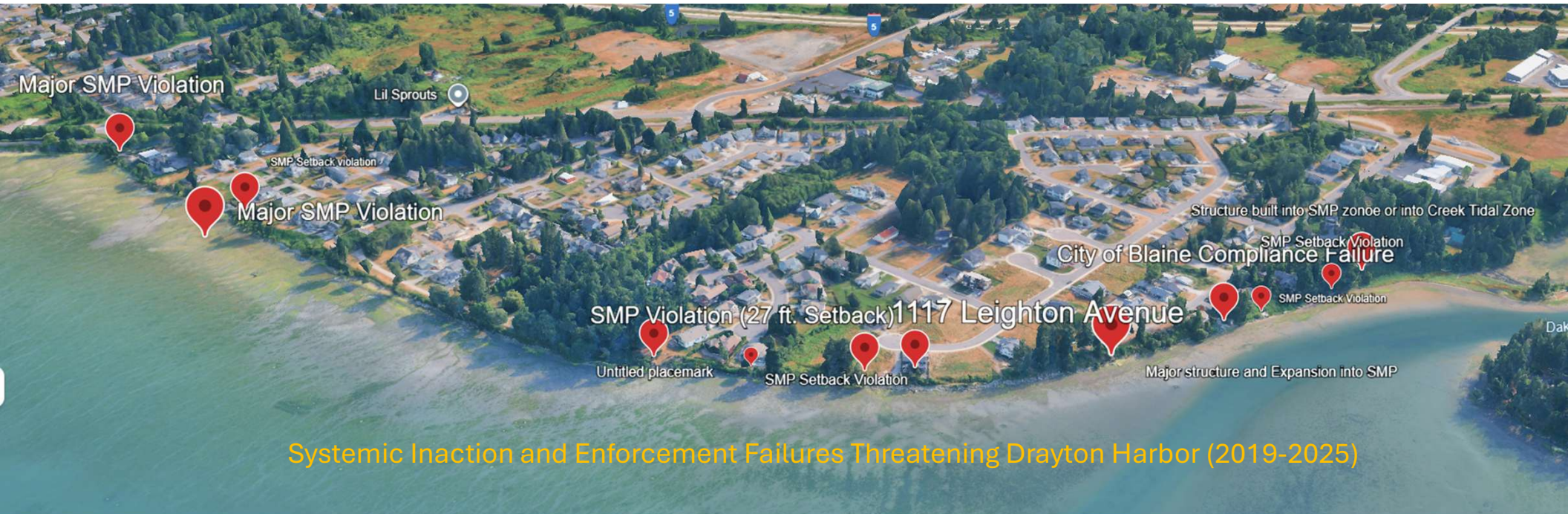
Hopefully, the 22 SMP violations sent to DOE by Water Planning Matters will compel DOE management to protect our harbor from this onslaught. While the City of Blaine has betrayed the public trust, I am hoping the state won't. Thanks again for educating us.



**WATER
PLANNING
MATTERS**



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



Systemic Inaction and Enforcement Failures Threatening Drayton Harbor (2019-2025)



Our Mission



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.



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

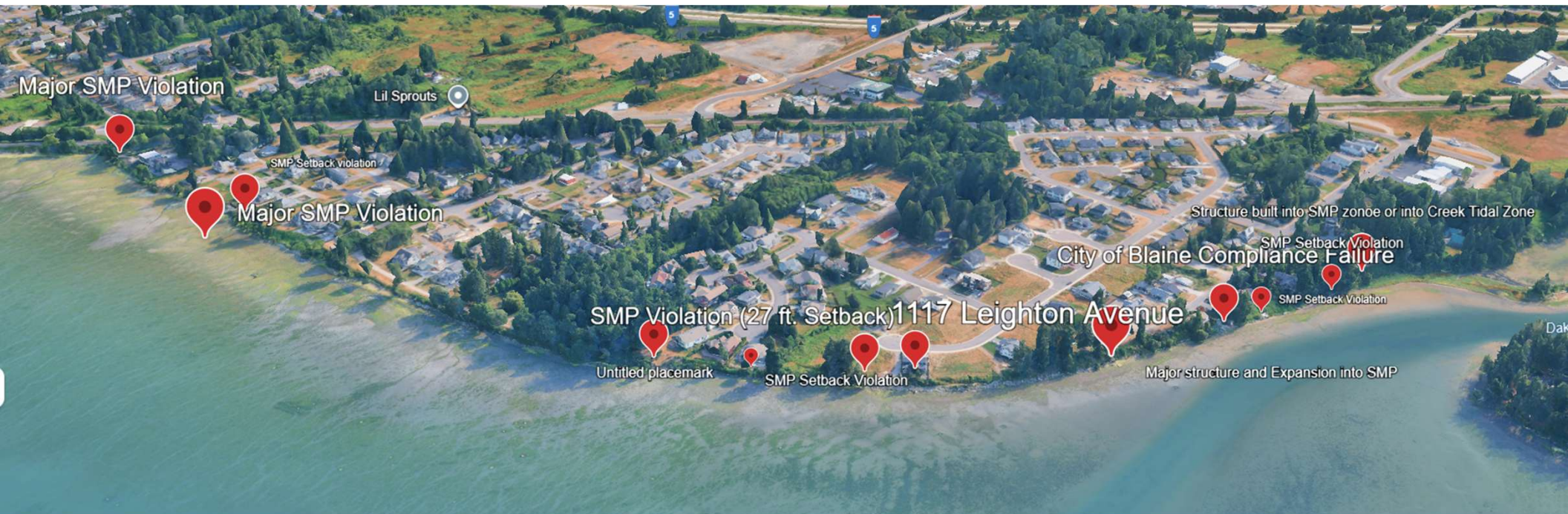
1. Based on the analysis of 22 Drayton Harbor SMP violations, many recent and underway, The City of Blaine Planning Department, City Manager and Planning Commission have no posture or intention of enforcing SMP and CAO city rules or supporting DOE efforts to remediate Drayton Harbor
2. The City Planning 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).

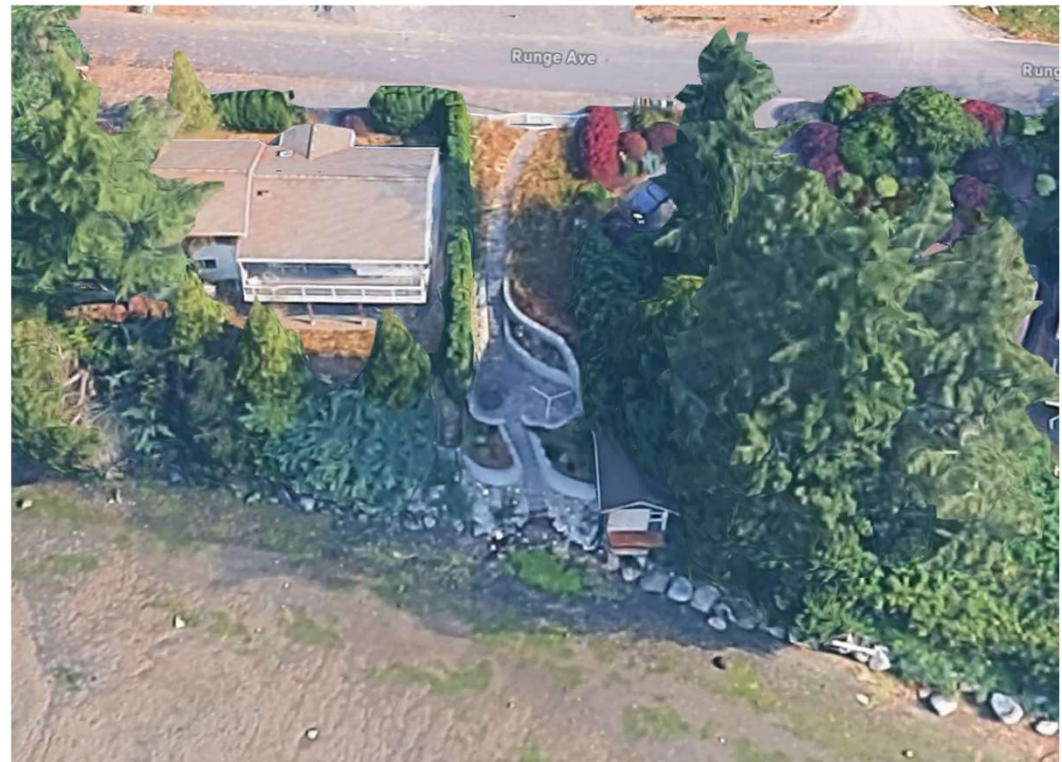


Violation Example 1: - Serious

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



Major structure and Expansion into SMP

Description

Media

Icon size
Extra large

More settings

Labels

Label size
Medium (default)

Placemark placement

Latitude
48.9744474

Longitude
-122.7353435

Altitude
3.0358188 m

Grounding
Clamp to ground

Camera view

Done

Saved on this device

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



<https://waterplanningmatters.org>

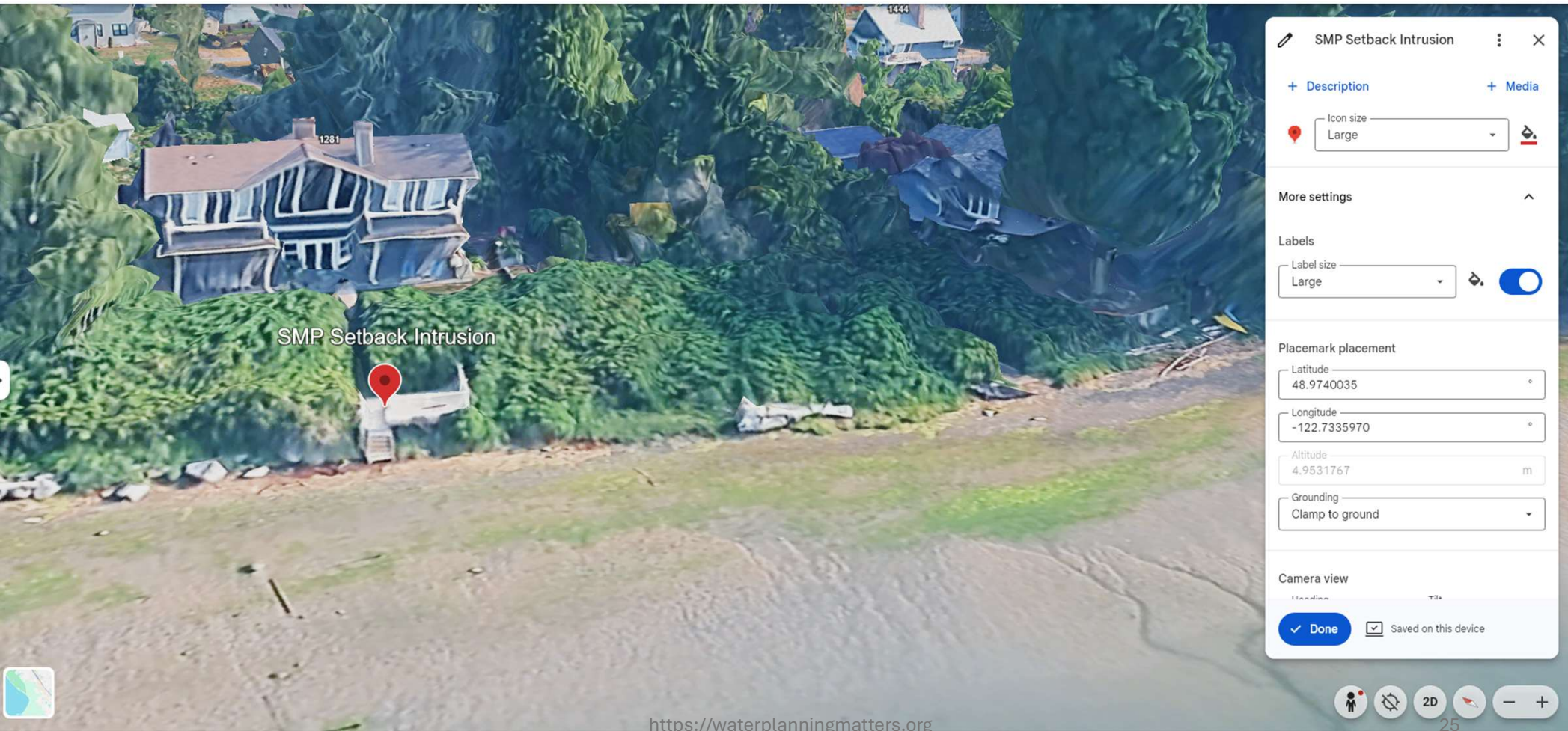




27.4 Ft SSSP Variance by
City Planning Department in violation
of SMP – 1141 Leighton Avenue

1117 Leighton Avenue

27.4 Ft SSSP



SMP Setback Intrusion

Description

Media

Icon size
Large

More settings

Labels

Label size
Large

Placemark placement

Latitude
48.9740035

Longitude
-122.7335970

Altitude
4.9531767 m

Grounding
Clamp to ground

Camera view

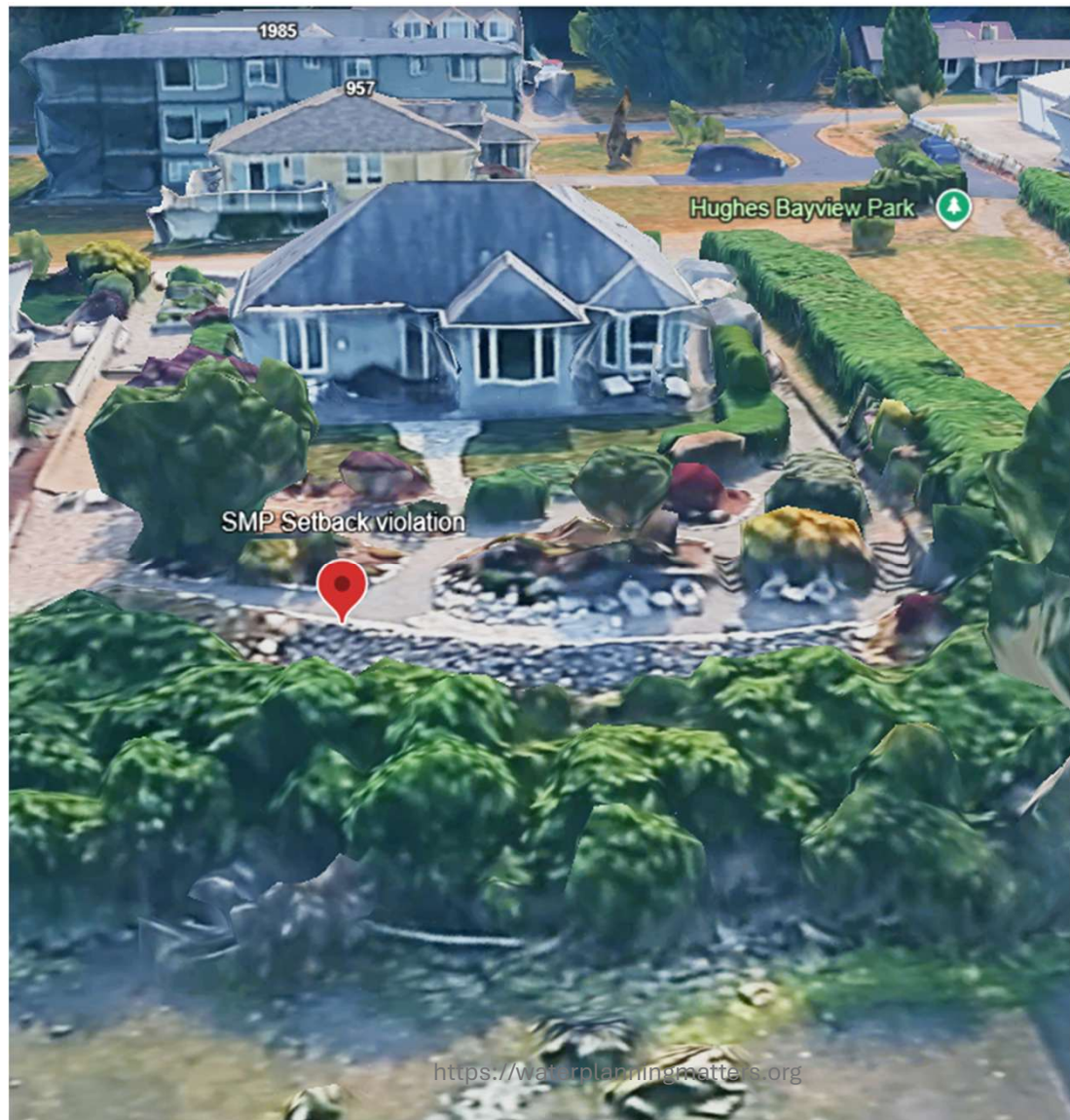
Location

Tilt

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1441 Runge Ave - Armoring & Setback Violation into high watermark



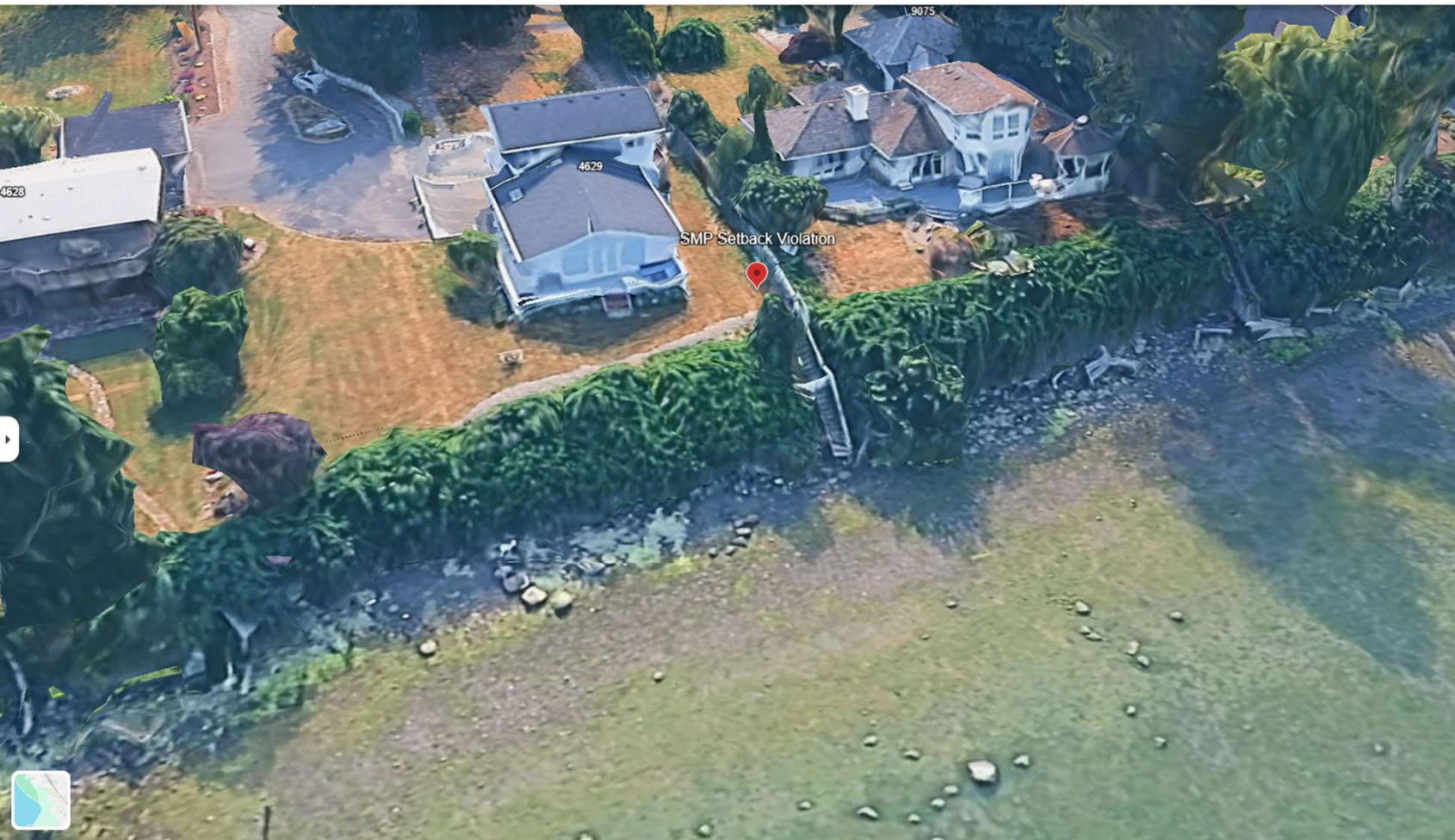




<https://waterplanningmatters.org>







✎ Untitled placemark

+ Description + Media

Icon size
Medium (default)

More settings

Labels

Label size
Medium (default)

Placemark placement

Latitude
48.9705555

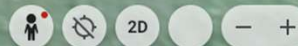
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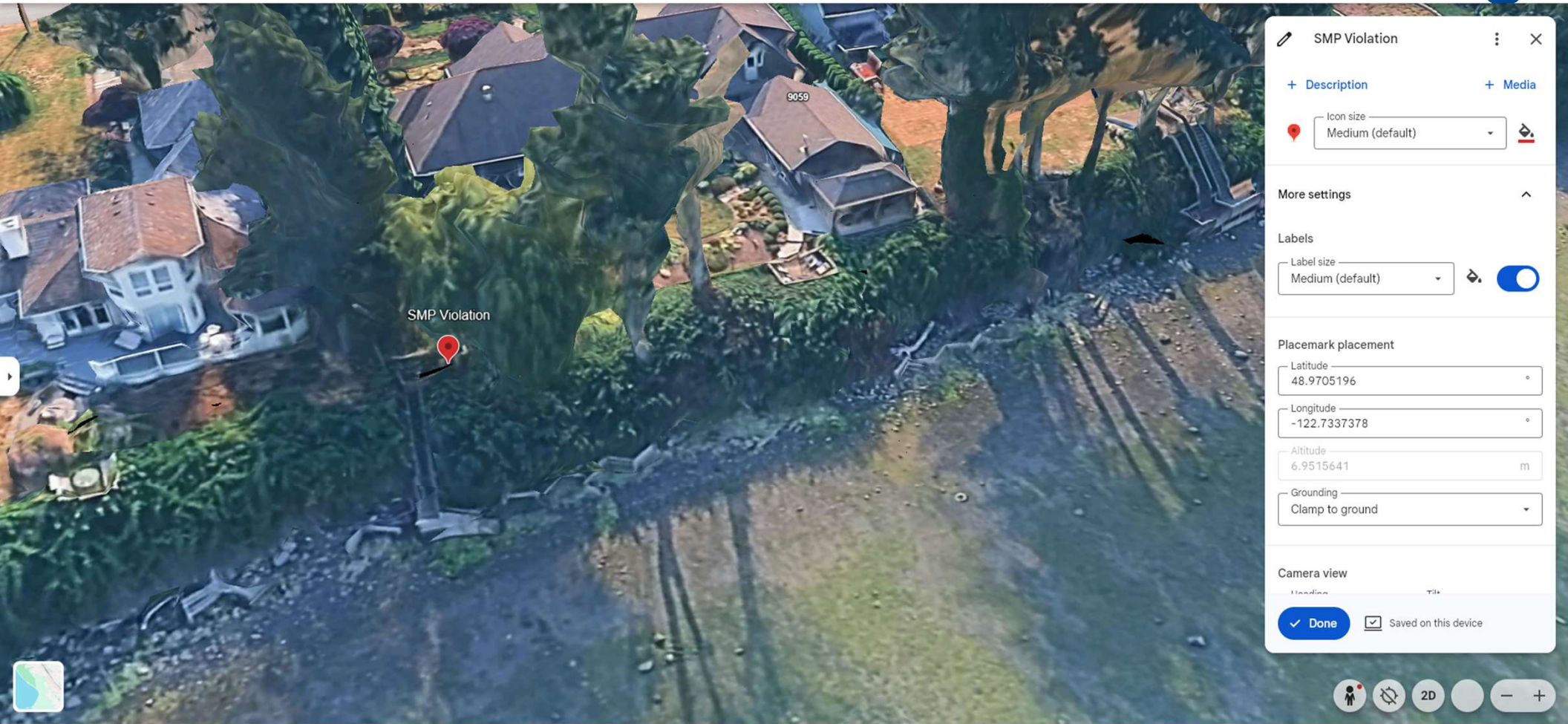
Altitude
6.6974645 m

Grounding
Clamp to ground

Camera view

Done Saved on this device





 **SMP Violation**  

 **Description**

 **Media**

 Icon size

Medium (default) 



More settings 

Labels

Label size

Medium (default) 

Placemark placement

Latitude

48.9705196 

Longitude

-122.7337378 

Altitude

6.9515641  m

Grounding

Clamp to ground 

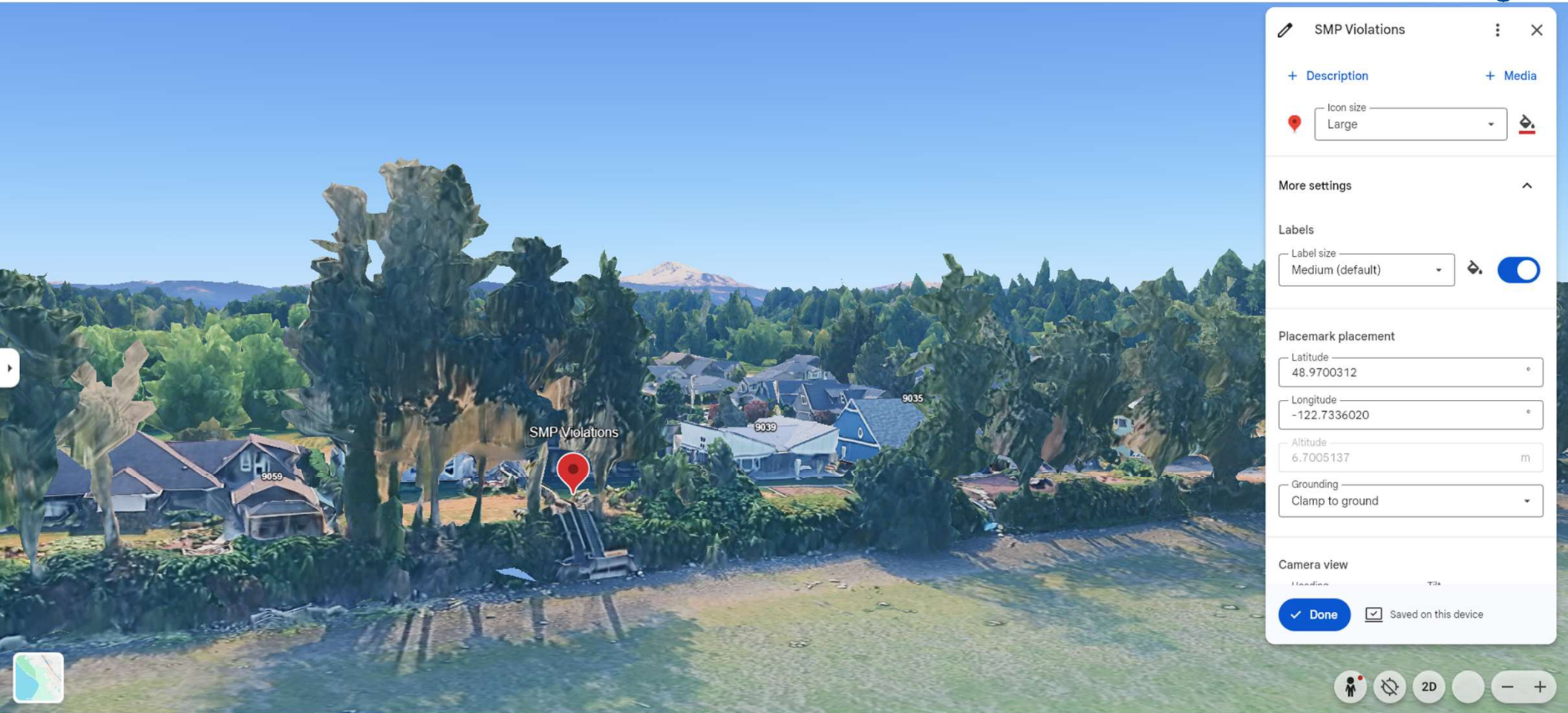
Camera view

Heading

Tilt

 **Done**

 Saved on this device



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).

<https://waterplanningmatters.org>

June 14, 2025

TO: **United States Department of Justice**, U.S. DOJ Public Integrity Section (or U.S. Attorney for Western District of Washington), Federal Bureau of Investigation

TO: **Washington State Attorney General's Office**, Public Integrity Unit, Government Compliance & Enforcement, Criminal Justice Division, OPMA Unit, Environmental Protection Division

TO: **Washington State Auditor's Office** (Pat McCarthy, Kelly Collins, Tina Wakins, Sadi Armijo, Washington Special Investigations Unit

FROM: Otto Pointer, Blaine Water Coalition (Alias protected by Anti-SLAPP Act)

RE: **Formal Complaint** – Unlawful Conduct, Altering of Public Records and Legal Violations by City of Blaine Officials – Request for State and Federal Investigation & Invalidation of Blaine Ordinance 25-3028

I. INTRODUCTION

This complaint is submitted on behalf of the Blaine Water Coalition (BWC). This complaint is not merely a land-use appeal. It alleges criminal conduct (RCW 40.16.010), ethical violations (RCW 42.23), focusing on prohibited contract interest, the Appearance of Fairness Doctrine (RCW 42.36), in connection with the City's 2025 Urban Mixed-Use (UMU) rezoning action and fraud (18 U.S.C. § 1346). These causes of action are not beholden to the SEPA appeal process and must be investigated independently.

This complaint is not an isolated incident but the latest example in a documented pattern of regulatory non-compliance and enforcement failures by the City of Blaine, which are the subject of existing complaints before the Department of Ecology and the EPA.

II. PARTIES INVOLVED AND ROLES

1. **Sam Randhawa**, Planning Commissioner and real estate agent (Freeman Real Estate), whose direct financial interest in properties within the UMU (2670 Bell Road) increased from an official assessed value of \$629,639 to a market listing price of \$2,700,000 (a 328.8% markup) listed 27 days after his vote to rezone the UMU. This represents a potential realtor commission of \$67,500 (compared to \$15,741 on assessed value).
2. **Ali Taysi**, Private consultant (AVT Consulting) hired by the City of Blaine who allegedly simultaneously represented developers poised to financially benefit from the zoning changes, creating an undisclosed conflict of interest.

Alex Wenger authorized payments of \$1,846.50 to **Ali Taysi (AVT Consulting)** to help rewrite City zoning laws in a manner that favored the financial interests of developers Mr. Taysi simultaneously represented. Mr. Wenger violated competitive procurement requirements under RCW 39.04 and city policy. Wenger failed to solicit competitive bids, document a sole source justification, or disclose the conflict of interest, in violation of RCW 42.23 and MRSC procurement standards.

3. **Alex Wenger – Director of Community Development Services (CDS), City of Blaine**, reporting to **Mike Harmon, City Manager** allegedly intentionally sanitized and omitted key public comments for Planning Commissioner Chair Calvin Armerding’s approval, including Department of Ecology 2024 Western Washington Stormwater requirements and critical protections under CRA (Critical Resource Area) – next to salmon running Dakota Creek) for the same property, from the official Planning Commission Recommendation (File #2025006) sent to the City Council before its vote on Ordinance 25-3028.

Property values appreciated in value as mitigation requirements such as creek setbacks, stormwater management were relaxed or eliminated in the rezoned areas. A pattern of City record sanitization is well documented constituting Injury to a Public Record, a Class C felony under RCW 40.16.010.

4. **Alex Wenger – Gatekeeper of Information for City Council & Planning Commission**

Director Wenger’s role was not merely administrative in the UMU rezone amendment and Hearing; he was the primary architect of the flawed and biased outcome. By using his dual authority as the CDS Director and SEPA Official without separation of duties, he controls the public record. At the outset of the public hearing, he actively discredited and dismissed the BWC’s substantive comments before they were even presented, shaping the Commission's perception. He then leveraged this authority to create sanitized recommendations for City Council to benefit favored parties, ensuring that no dissenting information would interfere with the predetermined outcome he and the conflicted parties sought. This constitutes a deprivation of the public's right to his honest services under 18 U.S.C. § 1346.

All three parties—**Randhawa, Wenger, and Taysi**—**failed to disclose their conflicts of interest when asked directly by the Planning Commission Chair Armerding.**

II. SUMMARY TABLE OF ALEGED LEGAL VIOLATIONS AND POTENTIAL CHARGES

Party	Position	Alleged Violations	Applicable Laws
Sam Randhawa	Realtor, Planning Commissioner	Conflict of interest, failure to recuse, false declaration	RCW 42.23.030, RCW 42.36, RCW 42.20.040
Alex Wenger	City of Blaine Community Development Services (CDS)	Felony Injury to Public Record; Misconduct, public records manipulation, conflict of interest, procurement violation, willful disobedience of law	RCW 40.16.010, RCW 42.23.030, RCW 42.23.070, RCW 42.20.080, RCW 39.04.280, 18 U.S.C. §1346 (federal)
Ali Taysi	Private consultant, AVT Consulting	Dual agency without disclosure, aiding misconduct, possible fraud	RCW 9A.08.020, RCW 18.86.030/.060, 18 U.S.C. §1346 (federal)

III. CHRONOLOGY OF KEY EVENTS

- December 9, 2024:** The Blaine Water Coalition (BWC) submits a formal objection to the City of Blaine regarding the appointment of Sam Randhawa to the Planning Commission, citing his real estate profession and the high potential for future conflicts of interest.
- February 21, 2025:** During a City ethics study session, City Attorney Peter Ruffatto explicitly warns all officials, including Commissioner Randhawa, that for direct financial conflicts, "recusal is not a cure" and the conflict "simply cannot coexist" with public office, directly referencing the controlling precedent of City of Raymond v. State Auditor.
- March 3, 2025:** BWC) files a formal SEPA appeal of the City's Determination of Nonsignificance (DNS-2025006) for the PC-to-UMU rezone. The appeal was denied standing due to insufficient funds (\$500) despite request for relief for seniors on fixed incomes (note - City of Blaine SEPA appeal fees are \$2500 per appeal – approximately 2.5X higher than Whatcom County).
- March 5, 2025:** Having been procedurally blocked from the SEPA process, the BWC submits its substantive environmental and procedural objections as written public comments directly to the Planning Commission for inclusion in the legislative record of the upcoming March 13 hearing.

- **March 7, 2025:** Director Wenger formally denies the BWC's request for intervenor status, stating the status does not apply to the Planning Commission.
- **March 10, 2025:** In response to BWC inquiries about the legality of the City's hearing process, Director Wenger refuses to address the specific legal questions. Instead, he issues a formal statement that the "City Planning Commission is an advisory body and does not review SEPA determinations."

Legal Significance: *Wenger's March 10 written statement provides crucial evidence that contradicts the City's earlier position. After denying BWC's SEPA appeal on March 3 and their intervenor request on March 7, Wenger explicitly confirmed that the Planning Commission process operates independently of SEPA review. This admission undermines the City's implicit argument that SEPA was BWC's sole legal remedy since Wenger himself acknowledged that the Planning Commission—where the actual zoning recommendation occurred—was separate from and not subject to SEPA oversight. This procedural acknowledgment supports BWC's position that their ethical and criminal law allegations exist independently of the SEPA process and require separate investigation.*

Evidence of Procedural Irregularity/Misdirection: *Mr. Wenger's statement can be interpreted as evidence that the City either intentionally or unintentionally misdirected BWC regarding the appropriate legal channels. If the Planning Commission was the body making the critical zoning recommendation, and it was not subject to SEPA review, then directing BWC to SEPA for issues related to that recommendation was misleading*

- **March 13, 2025 (The Hearing):** The Planning Commission holds a Type III-Legislative hearing. Despite direct inquiries from the Planning Commission Chair, Commissioner Randhawa, Director Wenger, and Mr. Taysi each fail to disclose their respective conflicts of interest. The Commission, with Randhawa participating, votes 6-0 to recommend the UMU rezone.
- **Post-March 13, 2025 (The Alteration of the Record):** Director Wenger prepares the official Planning Commission Recommendation for the City Council. This document is "sanitized" to deliberately omit all substantive public comments and, crucially, his own on-the-record acknowledgment that the 2024 Stormwater Management Manual would apply. The misleading document is then approved by Chair Calvin Armerding.

Exhibit

under City file number 2025006. Public Notice of this SEPA DNS was published in the Bellingham Herald and posted at city hall on the same day. The City received correspondence from Otto Pointer and Jay Taber. No other comments were received. The fourteen-day SEPA comment/appeal period concluded March 5, 2025.

Source: Ordinance 25-3028, Planning Commission Recommendation to City Council

- **April 28, 2025 (The Final Action):** Based on the sanitized and misleading recommendation document, the City Council passes Ordinance 25-3028, adopting the UMU zoning. The final ordinance omits the critical stormwater requirements and other environmental protections that were purged from the record.

IV. ALLEGATIONS AND CLAIMS

Allegation Count 1: Conflict of Interest (RCW 42.23)

Commissioner Sam Randhawa’s concurrent roles as Planning Commissioner and licensed real estate agent for properties directly impacted by the rezoning constitute a clear and prohibited “beneficial interest” under RCW 42.23.030. His affirmative vote materially increased the market value of these properties from assessed value of \$629,639 to \$2.7 million property listing, resulting in a personal financial gain, including an estimated \$67,500 in sales commissions, and windfall of \$2,070,361 (if sold at listing) to the Freeman Family Revocable Trust which owns the property¹ and is affiliated with Freeman Real Estate where Mr. Randhawa has agency relationship.

Despite explicit and direct inquiries during public hearings, Commissioner Randhawa failed to disclose this conflict and did not recuse himself, thereby violating his statutory and ethical duties. Washington Attorney General opinions, reinforced by City Attorney guidance², confirm that such direct, targeted financial benefits trigger mandatory recusal and that failure to comply renders any related contracts or decisions void ab initio and may warrant forfeiture of office.

Allegation Count 2: Appearance of Fairness Doctrine (RCW 42.36) and the Quasi-Judicial Nature of the Targeted Rezoning

Although the City of Blaine CDS classified the March 13, 2025 hearing as a “Type III-Legislative” action, the rezoning’s substance and effect were fundamentally quasi-judicial in nature, thereby invoking the mandatory fairness and disclosure requirements of the Appearance of Fairness Doctrine (RCW 42.36). The rezone fails the test for a true legislative act and instead meets the established legal criteria for a quasi-judicial decision (e.g., *Raynes v. City of Leavenworth*, 1992).

The rezone was not an area-wide legislative change. It was a targeted, highly localized rezone action designed to benefit two specific identifiable parties (Freeman Family Trust

¹ Whatcom County Assessor’s office ([4001075483020000](#), 4001075163010000, 4001075363600000)

² Washington Attorney General opinions, reinforced by City Attorney Rufatto’s explicit advice that for a ‘direct financial interest in that contract recusal is not going to be an option’ and that ‘the more direct the more targeted the financial benefit the more you’re going to have a problem’, confirm that such direct, targeted financial benefits trigger mandatory recusal. The *City of Raymond v. State Auditor* (1998) case strictly enforces RCW 42.23, holding that such actions are void and require forfeiture of office regardless of intent or recusal.

and Lincoln Village LLC) over the objections of identifiable opponents (BWC)) - *refer to appendices for maps, property records, property pictures and developer relationships.*

1. **The Action Was Not "Area-Wide" but Highly Localized.** The UMU rezone was not a broad policy change affecting the community at large. Its primary and immediate effect was to confer substantial development rights and financial benefits upon only two key properties: the Freeman Family Trust parcel at 2670 Bell Road (represented by Commissioner Randhawa) and the Lincoln Village LLC property (whose developer has an agency relationship with City consultant Ali Taysi). This targeted application, affecting a small group of citizens more acutely than the public, is a hallmark of a quasi-judicial action.
2. **Determined Legal Rights:** The vote was not an abstract policy debate but a decision that granted specific landowners new, valuable development entitlements, functioning as a site-specific rezone for their direct benefit.
3. **There Were Readily Identifiable Proponents and Opponents.** The proceedings were not a general policy debate but a contest between specific parties with vested interests. The proponents were clearly identifiable: Commissioner Randhawa, the Freeman Family Trust, and Mr. Taysi's developer client (Lincoln Village LLC). The opponents were also identifiable, including the Blaine Water Coalition, which was denied intervenor status.

Consequently, the strict standards of the Appearance of Fairness Doctrine apply. Commissioner Randhawa's direct and undisclosed financial stake created an impermissible "entangling influence" and a "pall of partiality" (*Buell v. City of Bremerton*, 1989) over the proceedings. His failure to recuse himself, despite prior legal warnings, constitutes a procedural defect that renders Ordinance 25-3028 void and unenforceable under Washington law.

Allegation Count 3: Public Misconduct and Ethical Breaches by Alex Wenger and Ali Taysi

The Municipal Ethics Act (RCW 42.23) prohibits public officials from having a beneficial interest in contracts they authorize. It does not provide an exception for "small amounts."

Director Alex Wenger authorized the disbursement of \$1,846.50 in public funds to Ali Taysi, a private consultant who simultaneously represented developers poised to benefit from the zoning amendments.

Arguing this is de minimus for multi-source bids ignores the scale of the resulting benefit conferred by Wenger worth an estimated \$500,000 in increased land value to Mr. Taysi's developer client. The actions of Mr. Wenger constitute **Procurement Misconduct** and an illegal conflict of interest under **RCW 42.23**, as it used public office to generate a private windfall, regardless of the contract's size upon a consultant with developer ties. The

minimal contract amount does not excuse the violation; under **RCW 42.23.050**, the contract is void and the action may be grounds for forfeiture of office.

Consequently, this violates the Washington State procurement law (**RCW 39.04.280**) and City of Blaine purchasing policy, and MRSC guidance. This contract was awarded without soliciting the required three bids, without documented justification for a sole source. The “small city” or “limited resources” argument is not a legal exemption under Washington law or city policy.

Neither Mr. Wenger nor Mr. Taysi disclosed these material conflicts of interest, thereby breaching their duties of transparency, good governance and the duty of care. The benefit to the developer (P. Blair Murray - Lincoln Village LLC) allegedly affiliated with Mr. Taysi exceeded an estimated \$500,000 in land value³, the benefit to Mr. Randhawa in approximately \$67,000 in commissions and \$2.1 million in rezoned land value.

Both individuals are potentially liable under federal and state fraud and false claims statutes. If after investigation this is proven, Mr. Taysi’s undisclosed dual agency breaches professional fiduciary duties and contractual obligations requiring full disclosure and fair dealing. Under RCW 9A.08.020⁴, Mr. Taysi may be held liable for aiding and abetting official misconduct.

Allegation Count 4: Omission of Material Facts, Altering Public Records and Public Comment by Alex Wenger

For Type III legislative hearings, such as the Planning Commission Hearing on March 13, 2025, Meeting minutes must include

- A summary or verbatim record of public comments, especially those relevant to the decision or recommendation.
- Key statements by officials addressing regulatory compliance or public concerns.
- Deliberations showing how input was considered.

The deliberate omission and sanitization of environmental comments from public records by **Director Alex Wenger demonstrates a pattern of public misconduct and potential class C felony "Injury to a Public Record" under RCW 40.16.010.**

For example, during the March 13, 2025 Planning Commission meeting, Director Wenger explicitly stated the applicability of the 2024 Western Washington Stormwater Management Manual and required critical area setbacks for the Freeman property. This

³(~ plats: 4001065725200000, 4001065725680000, 4001065415630000, 4001065305680000, list may not be all inclusive)

⁴ Mr. Wenger and Mr. Taysi failed to disclose these material conflicts of interest, thereby breaching their duties of transparency and good governance and potentially constituting **procurement misconduct**. Mr. Taysi may be held liable for **aiding and abetting official misconduct under RCW 9A.08.020**, as well as **false pretenses**. His undisclosed dual agency constitutes a **breach of professional fiduciary duties** and contractual obligations requiring full disclosure and fair dealing, particularly if it influenced legislation.

crucial information, along with other substantive environmental and procedural objections, was deliberately omitted from the official planning commission minutes and recommendations forwarded to the City Council for their vote on Ordinance 25-3028

"There were some comments about neglect for stormwater and sewage impacts. And I do want to point out that the city has opted into the 2024 [Dept of Ecology Western Washington] stormwater manual. So that will apply to this project. We've had a lot of discussion about that. So any new development that comes into the city or the zoning district, either one, of course, I'm going to be subject to the most current." – **Alex Wenger** (Source: Meeting Recording Transcript Timestamp: 09:24–09:53, March 13, 2025 Planning Commission)

By removing all substantive regulatory compliance protections⁵ afforded to Dakota Creek and procedural objections from the official recommendation sent to the City Council—including his own acknowledgment of the 2024 Stormwater Manual requirements—Mr. Wenger prevented council members from making informed decisions and exercising their duty of care, leading to their unanimous approval of Ordinance 25-3028 based on a sanitized and misleading record.

Note: The City has argued in the past that audio recordings of meetings constitute the complete record. This is incorrect.⁶ **The injury to the public record is the creation of a fraudulent derivative record—the official recommendation—with the clear intent to deceive the City Council and induce a legislative decision based on incomplete and misleading information.**

Implications of Record Alteration:

Such willful sanitization of planning commission minutes and public comments directly impeded the City Council's ability to engage in informed deliberation, make sound voting decisions, and fulfill their duty of care.

This deliberate record manipulation directly benefited property owners by facilitating a rezone that relaxed or eliminated critical mitigation requirements for properties like 2590 Bell Road, located in critical areas and groundwater recharge zones adjacent to the salmon-bearing Dakota Creek⁷. This was achieved by ignoring legally mandated

⁵ The southern portion of the rezoned property (Randhawa / Freeman real estate listing) in particular is in the [Blaine Groundwater Protection Management Program](#) subject to Critical Areas Ordinance (CAO)⁵ with connected hydrology to adjacent Drayton Creek and the 175 ft setback under U.S. WOTUS, and the shared shoreline with Whatcom County, including CAO setbacks⁵ in fragile ecological areas under the 2016 Shoreline Management Plan (SMP) and as such is also designated a Critical Resource Area (CRA).

⁶ The official Planning Commission Recommendation (File #2025006) is a distinct public record created for the sole purpose of advising the City Council. By deliberately omitting all substantive environmental comments, critical area ordinance concerns, and his own on-the-record statements regarding the 2024 Stormwater Manual, Director Wenger willfully altered this advisory record to present a false and misleading basis for the Council's legislative action, constituting Injury to a Public Record under RCW 40.16.010.

⁷ It's been well documented with the Department of Ecology that the City of Blaine consistently fails to enforce building codes and standards in sensitive coastline areas (i.e., Drayton Harbor Reach violations, coastline

environmental protections, including the 175-foot setbacks required under a combination of city, county, state, and federal critical area ordinances. The purpose of this manipulation was to clear the path for high-impact commercial development, such as gas stations and strip malls, thereby artificially increasing land values for private gain.

Finally, City Council members were not made aware of significant conflicts of interest within the planning commission recommendations. This includes the failure of Mr. Randhawa (Freeman Family Trust, Freeman Realty), Mr. Wenger, and Mr. Taysi (Lincoln Village, Tin Rock Development LLC) to disclose their relationships with property owners and affiliates who directly benefited financially from the rezoned properties.

This act of willfully altering and concealing official documents filed in a public office to influence a government decision constitutes **Injury to a Public Record, a Class C felony under RCW 40.16.010**. This criminal act is part of a broader pattern of public misconduct designed to suppress dissent and manipulate the quasi-judicial process.

This act is consistent with other documented incidents, including the manipulation of email timestamps to deny public comments demonstrating a clear pattern of altering public records to suppress public input and predetermine outcomes (e.g., Mott's Hill Overlook. February 28, 2025 email redaction of time stamp to deny public submission – Alex Wenger ⁸).

Additional Alleged Counts: Federal Law Violations

The collective actions of the parties involved may constitute violations of several federal criminal statutes, including but not limited to:

- **Honest Services Fraud (18 U.S.C. § 1346):** Criminalizes schemes to deprive the public of the intangible right to honest governmental services by public officials and private actors who conspire with them.
- **Racketeer Influenced and Corrupt Organizations Act (RICO, 18 U.S.C. §§ 1961–1968):** Potentially applicable given a pattern of fraudulent activity, concealment, and financial benefit that can be demonstrated for the City of Blaine.

V. REQUESTS FOR STATE AND FEDERAL ACTION

armoring) and has relaxed setback standards for influential realtors or developers (i.e., variance setbacks Leighton Street). This contrasts with Whatcom County which has adopted state recommended environmental standards (2024 Stormwater plan and Drayton Harbor shoreline setbacks of 175-200 ft).

⁸ **Sent:** Monday, March 3, 2025 at 08:43:50 AM PST

Subject: RE: Failure by CDS to include timely public comments for Hearing Examiner Record - BMC 13.01.05 compliance with the “most current” version of 2024 Washington State Department of Ecology’s Stormwater Management Manual. Please be advised that you will receive a copy of the City Council’s final decision as a party of record. Contrary to your statement, not all of your comments were not submitted in a timely manner. Unless the hearing examiner reopens the public hearing for this quasi-judicial application, no further response is warranted, and the application record is closed. Thank you, **Alex Wenger, AICP** CDS Director

Beyond the specific violations, the overarching harm is to the integrity of public governance. The actions of these officials have systematically impeded public oversight, violated the civil rights of citizens to participate in their government, and replaced transparency with a pattern of concealment and retaliation (City Manager Harmon Incident⁹, City Council Member Mike Hill accosting Citizen in City Council Meeting Police Report¹⁰). For this reason, we demand not only the prosecution of the individuals but also state-level intervention to restore accountable governance in the City of Blaine.

The following actions are respectfully requested under the authority of the Washington State Attorney General, Washington State Auditor, and the U.S. Department of Justice:

1. **Referral for Criminal or Civil Action:** Investigate, and if warranted, prosecute Commissioner Randhawa, Director Wenger, and Mr. Taysi under applicable state and federal statutes, including but not limited to RCW 42.23.050, RCW 40.16.010, and 18 U.S.C. § 1346, for knowing conflicts of interest, fraud, public misconduct, and injury to public records.
2. **Immediate Removal of Commissioner Randhawa:** Due to violations of RCW 42.23 and RCW 42.36, request removal from office and nullification of the UMU zoning decision (Ordinance 25-3028).
3. **Enforce Judicial Precedent:** *City of Raymond v. State Auditor (1998)* as precedent confirming that good faith is not a defense, and violations require forfeiture of office and contract nullification.
4. **Invalidate Ordinance 25-3028:** As an action tainted by financial conflict and lack of transparency, it is void under RCW 42.23 and RCW 42.36.
5. **Mandate Ethics Reform:** Compel the City of Blaine to immediately adopt a comprehensive Code of Ethics for all elected and appointed officials. This Code must include clear, mandatory disclosure, recusal and disciplinary procedures. The City of Blaine's persistent refusal to establish such a code, amidst a documented pattern of systemic ethical failures and lapses, constitutes a fundamental breach of its officials' fiduciary duties and a dereliction of their responsibilities to the citizens

⁹ **RCW 42.23.070(1) - Prohibited Use of Public Office – Mike Harmon**

Harmon violated this statute by using his official position as City Manager to publicly attack Otto Pointer with unsubstantiated claims. In the official Request for Council Action dated May 12, 2025, Harmon stated that Pointer's notice "contained various misstatements, false allegations, and disinformation". This constitutes using his municipal office to secure a special exemption from legitimate regulatory oversight by attempting to discredit a citizen's valid environmental notification. **Refer to Appendices**

¹⁰ Hill Retaliation during city council meeting - CCTV Footage and Case Progression (Case #24A39027)

<https://www.dropbox.com/scl/fi/qqz1e9zeuxiiy4hm81keu/HillAggressive.mp4?rlkey=f1uk4ewpy5zp5mvsiww8fmpe3&st=ynqayn92&dl=0>

of Blaine. This demonstrates a pervasive disregard for public policy, consistent with principles articulated in *Hubbard v. Spokane County (2002)*.

6. **Apply Remedies and Principles of the State Ethics in Public Service Act (RCW 42.52):** While primarily applicable to state officers, the principles of RCW 42.52—which prohibit the use of public office for personal gain and require avoidance of even the appearance of impropriety—constitute persuasive authority. Their application to the City of Blaine is essential to reinforce the gravity of the alleged violations and justify comprehensive state-level intervention and remedies for public misconduct.

We appreciate your consideration of these serious matters given the ongoing gravity of issues continuously reported at the City of Blaine. We respectfully request confirmation of receipt of this formal complaint and an update on the status of your initial review within the next thirty (30) days.

Sincerely,

Otto Pointer, Alias protected under Anti-SLAPP
Blaine Water Coalition

CC (courtesy copies):
Mary Lou Steward, City of Blaine Mayor
Mike Harmon, City of Blaine Manager
Calvin Armerding, Chair, Blaine Planning Commission
Whatcom County Comprehensive Plan Supervisors
Eric Ritchey, Whatcom County Prosecutor
U.S. Army Corps of Engineers
Casey Sixkiller, Department of Ecology
Lummi First Nation
MRSC Board of Directors

Key Citations

1. [Washington State Legislature RCW 42.23 Municipal Ethics Act](#)
2. [Washington State Legislature RCW 42.36 Appearance of Fairness Doctrine](#)
3. [Washington State Legislature RCW 39.04.280 Competitive Bidding Requirements](#)
4. [Washington State Legislature RCW 42.20 False Declarations and Disobedience](#)
5. [Washington State Legislature RCW 9A.08.020 Aiding and Abetting Misconduct](#)
6. [Washington State Legislature RCW 18.86 Real Estate Professional Conduct](#)
7. [Washington State Legislature RCW 42.52 State Ethics in Public Service Act](#)

8. [Cornell Law School U.S. Code Federal Laws on Fraud and RICO](#)
9. [Department of Ecology 2024 Stormwater Management Manual Western Washington](#)
10. [Department of Ecology Stormwater Manuals and Guidance](#)
11. [Whatcom County Critical Areas Ordinance and Regulations](#)
12. [Whatcom County Critical Areas Information and Maps](#)
13. [Whatcom County Assessor and Treasurer Property Search Portal](#)
14. [Washington State Legislature RCW 42.23.050 Forfeiture and Contract Voidance](#)