<table>
<thead>
<tr>
<th>NAME</th>
<th>MAILING ADDRESS</th>
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<tr>
<td>Emmett Maloof</td>
<td>4835 Forest Ave SE</td>
</tr>
<tr>
<td>Art Verheer</td>
<td>8710 85th Ave S.E.</td>
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<tr>
<td>Mary McKeehan</td>
<td>7426 SE 71st St</td>
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<tr>
<td>Robert W. Wurster</td>
<td>5800 W. Mercer Way</td>
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<tr>
<td>Dwight Schaeffer</td>
<td>6358 56th Ave SE</td>
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<tr>
<td>H. Eugene McBride</td>
<td>4802 E. Mercer Way</td>
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<tr>
<td>Rita Moor</td>
<td>4509 E. Ingraham Rd.</td>
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<tr>
<td>Sam Lecceola</td>
<td>6005 77th Ave SE</td>
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<td>Paul T. Von Destino</td>
<td>6155 E. Mercer Way</td>
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<tr>
<td>Hunter Riley</td>
<td>7436 N. Mercer Way</td>
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<td>Bent Kjos</td>
<td>6308 SE 22nd St</td>
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<tr>
<td>Paul Hendriksen</td>
<td>1831 W. Mercer Way</td>
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</tbody>
</table>
13. Stephanie St. Mary  4400 E. Mercer Way
14. Richard Bergqvist  7244 E. 11th Ave
15. Mark Vanderwall  8101 SE 20th Street
16. Jor Vanderwall  7179 Agnes Hill Drive
17. Barb Nightingale  3190 - 160th Ave SE Bellevue
18. Peter Davis  2669 60th Ave SE  M.E.
19. Bruce Vanderwall  7779 Holly Hill Dr. Mercer Island

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*The mailing address is needed to ensure that any future information can be mailed to you, as a party of record.
Covenant Shores Email RE 3-16-11 Hearing

From: Anne Arakaki-Lock [AarakakiLock@covenantretirement.org]
Sent: Monday, March 14, 2011 3:59 PM
To: Travis Saunders
Cc: sbarchitecture@comcast.net; DXHodges@covenantretirement.org; JJLundeen@covenantsolutions.org
Subject: Re: Mercer Island Planning Commission Public Hearing 3/16/11 Agenda

Hi Travis,
I will try to attend your meeting, as I want to be sure Covenant Shores continues to stay abreast with the City's planning schedule.

However, if for some reason I cannot attend, please note that the following are our concerns. I would appreciate your continued interest in us. To refresh....our main areas of interest are:

- Setbacks from the shoreline
- Building heights
- Ground coverage /%green space
- Required parking ratios.
- Any new restrictions on partial/below grade parking.

Thanks, Anne

Anne Arakaki-Lock, Executive Director
Covenant Shores
(206)268 3013
(206)236-1438 FAX
aarakakiLock@covenantretirement.org
Dave Douglas Email RE 3-16-11 Hearing
From: Dave Douglas [integritypermitting@hotmail.com]
Sent: Tuesday, March 15, 2011 9:07 PM
To: Travis Saunders; George Steirer
Subject: RE: Mercer Island SMP Hearing Packet Update

Dear Travis, George and Mercer Island Planning Commission,

Hope all is well on Mercer Island. Please tell the Planning Commission I send my greetings as I cannot make the Public Hearing on Wednesday. I want to commend the DSG Staff and Planning Commission on the outstanding job they have done on the SMP Update and the recommended Draft as it stands. I hope the residents, and specifically the waterfront property owners on Mercer Island, can fully understand the time and hard work you have put into this very difficult endeavor.

I was able to review Ecology's comments and would like the following to go before the Planning Commission in time for the Public Hearing:

Number 1. Dredging is highly regulated and controlled by the Dredged Materials Management Office which involves 4 separate agencies one of which I believe is Ecology. Therefore, please question Ecology on what the benefit would be to change Dredging from a Permitted use to a Conditional Use would be. This simply turns over control to the state and the less local oversight you give away the better for your residents.

Number 2. Please keep the covered moorage guidelines as is and no not require them to be in a north-south direction, if feasible. This simply adds to the confusion and can result reviewers basing their decisions on opinions instead of facts. Moorage cover location and orientation are installed based on navigational safety, wind direction, property width. By adding another standard it will simply complicate things. State and federal agencies will evaluate orientation during their reviews.

Number 3: Please keep the dock widths as is to allow for flexibility and to encourage property owners to replace more impacting structures with more environmentally friendly structures. If you decrease the main walkway in the first 30 feet to 4' wide and the overall deck width to 6' it will deter people from replacing existing structures because they will be required to give up too much. The RGP-3 and other permit processes states the Corps evaluate these issues and they are very restrictive so the City will be covered. I can also say without hesitation that it is very hard to get a new or modified pier with a walkway wider than 4 or 5 foot wide approved by WDFW so there is another insurance marker.

Number 4. I am not familiar enough with how this will impact shoreline stabilization or overwater structures to comment.

Number 5.
No comment.

Number 6.  
No comment.

Number 7.  
I support the language the Planning Commission has already promoted which allows nonconforming structures to be repaired and totally replaced in-kind without bringing them into conformity. The less language adopted from Ecology the better for the City and its waterfront property owners. By allowing a property owner to provide proof that a project which exceeds the proposed development standards meet no net loss and requiring Corps and WDFW permits during the Building Permit Application it still ensure that those agencies who use biologists to evaluate ESA issues have approved the project. The City must still formulate a plan to approve such a project locally so there is no delay in the permit process since an applicant cannot submit to WDFW for an HPA until after SEPA review (which is done during the Shoreline permit process) is completed and a determination is issued.

Number 8.  
No comment.

Number 9.  
No comment.

Have a great Public Hearing and I look forward to working with you and the Mercer Island waterfront property owners in the future.

Sincerely,

Dave Douglas
Permit Manager/Shoreline Consultant
Integrity Shoreline Permitting
"Putting the Property Owner First"
integritypermitting@hotmail.com
C: (425) 343-2342
F: (206) 220-3737
Futurewise Comments for 3-16-11 Hearing cover

From: Dean Patterson [Dean@futurewise.org]
Sent: Wednesday, March 16, 2011 4:05 PM
To: Travis Saunders
Cc: htrim@pugetsound.org; Brock@futurewise.org; Tim@futurewise.org
Subject: Comments on Mercer Island SMP

Mr. Saunders,

Attached are the Futurewise and People for Puget Sound comments on the latest draft of the SMP. Please provide them to the Planning Commission. We also wish to ensure that our previous comments (including the attached science documents and guidance documents) are maintained in the record.

Brock Howell from Futurewise and Heather Trim from People for Puget Sound should be attending the hearing to provide testimony.

Thank you,

Dean Patterson - Shoreline Planner
futurewise
Celebrating 20 years of protecting Washington's future.

email: dean@futurewise.org
web: www.futurewise.org

814 Second Avenue, Suite 500, Seattle, WA 98104-1530
Direct Cell 509-823-5481 / HQ office 206-343-0681 / Fax 206-709-8218
March 16, 2011

Mr. Adam Cooper, Chair
City of Mercer Island Planning Commission
c/o Travis Saunders, Planner
Mercer Island Development Services - Planning
9611 S.E. 36th Street
Mercer Island, Washington  98040

Sent by email to: travis.saunders@mercergov.org

Subject:  Comments on the Mercer Island Shoreline Master Program March 2011 Draft

Dear Chair Cooper and Mercer Island Planning Commissioners:

Thank you for the opportunity to comment on the Mercer Island Shoreline Master Program (SMP). We appreciate the time and effort that Mercer Island staff, consultants, Planning Commissioners, and residents are devoting to this important update. Washington’s shorelines need improved policies to manage them and the shoreline master program is an opportunity to adopt those policies. Futurewise is a statewide citizens group that promotes healthy communities and cities while protecting working farms, working forests, and shorelines for this and future generations. People For Puget Sound is a nonprofit, citizens’ organization whose mission is to protect and restore Puget Sound and the Northwest Straits.

For last year’s May 5, 2010 hearing on the SMP, Futurewise submitted two comment letters. With these letters were included extensive scientific documentation on buffers and ecological functions of streams, wetlands and lakes. Also included were two guidance documents on restoration planning and establishing buffer while meeting the SMP Guidelines requirements. We wish to ensure that these documents are included in the record for future reference.

Many of our previous comments had to do with the use of inventory information in development of the policies and regulations, but we see that a link to the shoreline inventory is no longer available on the SMP update website. We would also like to point out that the regulations document that is the subject of the hearing was changed only 6 days before the hearing and the recommended changes responding to the Ecology letter was issued the day before the hearing, leaving inadequate time for public consideration under both state and local public comment regulations. Opportunity to comment should be extended to provide the required comment period.

Our previous letters commented on many items. With the exception of a few items, our previous comments continue to be applicable. We continue to recommend the changes in our previous letters. Our recommendations lay out a logical method for accomplishing the requirement to design no-net-loss and mitigation sequencing into the structure of the SMP (as is required by the SMP Guidelines), covering the variety of shoreline conditions, and preventing gaps in the shoreline protections. The draft SMP does not accomplish this.
Buffers and CAO

Changes to the buffer system made it more structured in how it's implemented, which is generally good, but the text changes made the previously inadequate system worse. The previous system created almost non-existent buffers, but at least it applied to all development. The new system is worse in the following ways:

- As in the previous draft, the inadequate buffer system only requires the nearest 5 feet to have native vegetation, and only on 25% of that area. A 5-foot width will be only one bush wide, which will have almost zero benefit to functions or ability to mitigate impacts. The 25-foot setback also only has to have 25% vegetation, which can be lawn and yard plants, with the remainder in decks or concrete. Our previous recommendations continue to apply.
- The current changes establish a large trigger threshold of 500 sq. feet before the buffer system is applied, and it does not consider the accumulation of improvements over time. We had recommended a small threshold for small de-minimus projects before a complete enhancement mitigation system was applied. This change uses a large threshold to apply a fragment of a buffer system. The result is a less protective buffer system than in the previous draft.
- In addition, the 500 sq. ft. threshold only applies to impervious surfaces. Thus new yard area, decks, pervious patios, gravel areas, etc. all can ignore the buffer system, even when they eliminate the few remaining pieces of native vegetation.
- The other components of complete buffer system that we had recommended for dealing with the wide variety of vegetation conditions on Mercer Island shorelines are not included. Of particular importance is a requirement to protect the remaining pieces of native vegetation in shoreline jurisdiction.
- The inadequate buffer system continues to be based on the closest to the water and most degraded conditions in the city. Thus the system “plans for” the degradation of the more intact areas to match the lowest common denominator.
- The one improvement in the new system is the built-in requirement to provide compensatory enhancement mitigation with new moorage. But even this uses nearly non-existent standards used in the buffer system.
- We see that the inadequate critical areas buffers continue to be incorporated by reference into the SMP. The SMP Guidelines require the protection of ecological functions. If a jurisdiction's CAO can do this, it can be used in the SMP. Some jurisdictions read the CAO/SMP integration provisions as meaning their CAO is automatically acceptable. This is not correct - an inadequate CAO that can’t fully protect ecological functions cannot be used in the SMP without supplementing the regulations. For example, many jurisdictions are incorporating the CAO, but updating parts that are inadequate (wetland and stream buffers for example).
- The staff’s response to Ecology’s comment letter includes a very troubling statement about WAC 173-26-221(2)(c) regarding the incorporation of a CAO into the SMP. The statement implies that the WAC means the opposite of what it does – specifically that Ecology can’t review the CAO for its adequacy in protecting critical areas in shoreline jurisdiction. The staff response quoted the WAC, but took it out of context and left out the most important part of the paragraph, which is provided below in full with the missing text emphasized. To be used in protecting shorelines, the CAO must adequately protect ecological functions.

“In conducting the review for equivalency with local regulations, the department shall not further evaluate the adequacy of the local critical area regulations. Incorporation of the adopted and valid critical area regulations in effect at the time of submittal by reference as provided in section 173-26-191(2)(b) shall be deemed to meet the requirement for equivalency. However, a finding of equivalency does not constitute a finding of compliance with the requirements of this section and section (3) flood hazard reduction, nor with the guidelines overall.”
So we recommend that buffer system be improved using the recommendations from our earlier comment letters.

**Uses and Modifications**

One of the primary improvements in the new draft SMP is the use limits. These are generally clearer and some inappropriate uses have been listed as not permitted. Of particular importance is that uses that are not listed are no longer allowed. This ensures that gaps are not created in the use limits, and greatly simplifies the development standards required by the SMP Guidelines.

We are still concerned that uses with characteristics found in commercial uses (including government offices and other buildings, churches, public event facilities, institutional care facilities, and other similar uses) are not being required to meet the SMP Guidelines requirements for commercial uses – namely the water-dependency requirements. Jurisdictions cannot create new land use categories to avoid the requirements for the similar land uses in the SMP Guidelines. At a minimum, the water-dependency criteria for commercial uses need to be included in the SMP and applied to uses similar characteristics.

**Development Standards**

While use limits have been improved, the minimal development standards continue to be a concern. In establishing development standards, the SMP largely repeats the Guideline provisions. This is a misapplication of the Guidelines, which as the name implies, are to “guide” the policies and regulations – not stand in place of them by simply repeating the Guideline requirement. The Guidelines typically state that the SMP must “establish policies and regulations,” “adopt provisions,” or “develop standards” (or similar language) to accomplish something. This is an important step in writing an SMP that addresses the unique character and environment of Mercer Island and responds to the city’s unique opportunities. However, the draft SMP typically repeats the requirements rather than developing specific policies and regulations for how to accomplish the Guidelines requirement.

**Review Processes and Exemption Review**

One of the areas of improvement in the draft SMP is the better description of the review process for the variety shoreline reviews, especially for Conditional Use Permits, but including others as well. We support these improvements.

There have also been improvements in the details of how exempt development is reviewed; however, these details specifically exclude the vast majority of the development that will take place in shoreline jurisdiction – residential development and its accessory facilities. These are listed as “categorical exemptions,” which do not have to follow the normal exemption process. Thus there are no details about how categorical exemptions will be reviewed. There is nothing stated about what materials are needed for the city to do the review; about how the city will actually perform the review; how any compensatory mitigation will be submitted, reviewed, approved, or kept track of; how any of these developments will be tracked; or even how the city will ensure that what is claimed to be exempt is actually what is built. None of the review process rules apply to most common type of shoreline development. Furthermore, "categorical exemptions" are not a review process provided for in the SMA or SMP Guidelines. Nor have we seen any other jurisdictions proposed something similar. We recommend that the concept of categorical exemptions be eliminated and all exempt development treated as proposed in the draft SMP.

We also note that the SMP exemption list seems to be abbreviated. Please note that the state regulations, in WAC 173-27-040, includes much more detail in the shoreline exemptions. These need to be included in the SMP or referenced.
Concepts of No-Net-Loss and Mitigation Sequencing

While our previous comments regarding no-net-loss of ecological functions and mitigation sequencing have not been incorporated, changes have been made to make the SMP even less protective on these subjects. The SMP still provides extensive nuances and details that will allow degradation of ecological functions, and still provides no details on how mitigation sequencing is to be implemented – particularly compensation for impacts remaining after the avoidance and minimization steps. But the SMP now includes a statement (in 19.07.110(B)(2)) that presumes any project that meets the inadequate SMP standards automatically accomplishes no-net-loss of ecological functions. Such a blanket waiver to protecting ecological functions is patently untrue and is unacceptable, even for a very protective SMP, which this SMP is not. The statement needs to be deleted and our previous comments included.

The SMA policy is particularly important for Mercer Island since Lake Washington is a Shoreline of Statewide Significance. Our concerns continue to apply. If nothing else, the SMA policy for shorelines of statewide significance needs to be converted to a regulation that applies during the review of proposals for in-water development.

Moorage and Boating Facilities

We continue to be concerned with major issues on docks and boating facilities. Boating facilities are multi-user recreational boating uses listed in the SMP Guidelines. In the proposed SMP they are apparently considered as recreational areas and are also allowed as shared docks. These facilities must meet the SMP Guidelines. They cannot be labeled as a different use or facility to avoid the SMP Guidelines requirements for Boating Facilities. This is important because, as we documented in our earlier letters, these facilities can have significant adverse impacts on lakes.

We are pleased to see that Boat Houses are no longer allowed. However, because of the significant adverse impacts we continue to object to convenience boating facilities such as covered moorage and boat ramps. We also object to the dock standards that promote maximization rather than minimization of dock area and length. There are no area limits, no lateral spur limits, and no length minimization limits. Such an approach is contrary to the protection of ecological functions and mitigation sequencing concepts of the SMP Guidelines. Docks should only be as long and as large as needed to provide a normal recreational boat with the minimum mooring depth. Most jurisdictions limit length to 6 feet or so of water depth, and have area limits. We recommend doing the same.

We are pleased to see that a minimum compensatory mitigation standard has been added. However it is inadequate in scope and the presumption that meeting the regulations accomplishes the no-net-loss provision means that even the largest of dock developments is presumed to have no impacts.

Restoration Planning and Cumulative Impacts

As we state in our previous letters and in this letter, the SMP provides extensive options for allowing new impacts to shoreline ecological functions. These impacts are not identified in the Cumulative Impact Analysis. Furthermore, these impacts must be compensated for by the City in its Restoration Plan and the plan does not addresses and compensate for them. Given the lack of ecological protections in the SMP, the city will need to implement extensive restoration projects in order to mitigate the impacts allowed by the SMP. These will be costly, but that is the price of developing an SMP that does not protect ecological functions. However, if such a strategy is proposed it must explicit in the restoration plan, which it is not.
Thank you for considering our comments. If you require additional information please contact me at dean@futurewise.org or 509-823-5481.

Sincerely,

[Signature]

Dean Patterson, Shoreline Planner
Futurewise

[Signature]

Heather Trim, Urban Bays & Toxics Program Manager
People For Puget Sound
City Of Mercer Island Public Hearing
March 16, 2011
Comments by Rita Moore, 4509 Ferncroft Rd., Mercer Island

According to Exhibit 5 the Shoreline Restoration Program for the City of Mercer Island Shoreline Master Program, Urban residential lands on Mercer Island have approximately 47.5 over water structures (docks and piers) per mile and almost 82% armored (bulkheads), non ecologically functioning, shoreline.

This compares to 36 piers per mile and 71 percent armored for the entire Lake Washington shoreline.

Thus, for Mercer Island, both pier density and shoreline armoring are slightly higher than the lake-wide figures. Plus many of the piers have one or more boatlifts further increasing overwater structure coverage.

With the exception of some portions of the shoreline along Luther Burbank Park (Urban Park), the shoreline zone itself is generally deficient in high-quality biological resources and critical areas, primarily because of the extensive residential development and its associated shoreline modifications.

There are no longer enough places else for our birds, butterflies and other wildlife to live. Our song birds are declining. We as a community need to improve the ecological functioning of our shoreline. This can be done by pulling back bulkheads and creating beaches, however, this is an expensive solution. The one best thing we as a community can do is to plant native plants along our shoreline. This does not impair property owners from the use of their land but will greatly enhance habitat for birds, butterflies, salmon and other wildlife.

The current proposed Shoreline Management Plan does not adequately promote shoreline restoration. Only 25% native plants are required in the first 5’ landward of the OHWM for new construction. Nothing is required for renovations. The next 20’ only require 25% vegetation total.

If we are to reach the goals of improving the shoreline ecological function and habitat as stated in the Shoreline Restoration Program for the City of Mercer Island Shoreline Master Program and the WRIA8 agreements the city has signed, we need to increase the vegetation requirements for the shoreline. The minimum should be:

- First 10’ landwards of the OHWM must require a minimum 50% native vegetation
- Subsequent 15’ landward must require 50% vegetation with 25% that being native vegetation.

Just maintaining the status quo is inadequate, our current shoreline ecological function is basically nonexistent and natural habitat is totally inadequate.
George Steirer

From: Steve [Steve@waterfrontconstruction.com]
Sent: Wednesday, March 16, 2011 5:06 PM
To: George Steirer
Subject: Moorage Triangle Option
Attachments: Moorage Triangle Option.pdf

George,

After meeting last year in Olympia with over 30 reps from local, state and federal agencies to discuss construction issues along state shorelines, one of the topics that came up was the need to minimize structures and shading in the near shore areas, in particular the discussion focused on components of piers and boatlifts. As you may know the Corps and WDFW pushes all structures but the main walkway a minimum of 30' off shore.

If an applicant proposes a pier structure of 80' or less on a lot 75' or narrower, the moorage cover triangle as currently proposed would push the moorage cover closer to shore than state and federal regulators would like to see. The attached sketch shows an option to consider for moorage cover areas. Instead of using a triangle that pushes the cover closer to shore Mercer Island should consider a rectangle shape defined by an increased side setback of 15' (could be more on lots over 100'); the outer extent would be the 100' limit or maximum extent of the pier, and the closest shoreward extent would be 30' minimum from shore.

Defining the covered moorage area using something along these lines allows an applicant to locate a moorage cover farther off shore to minimize shadows that may harbor predator fish such as bass and perch.

Please present this to the Planning Commission for review before the SMP updates are finalized. Thanks for considering this change.

Best regards,
Steve Zuvela
Permit Dept Supervisor
Waterfront Permits and Construction
10315 19th Avenue SE, Suite 106
Everett, WA 98208
425-357-0312 office
206-786-6455 cell
steve@waterfrontconstruction.com
Figure A: Area of Permitted Covered Moorage, Individual Lots

LATERAL LINE
SETBACK

10'-0"
15'
90°
TO BASE LINE
30° OFFSET MINIMUM

CENTERLINE OF PROPERTY AT ORDINARY HIGH WATER LINE

EQUAL ANGLES
EQUAL
EQUAL

100'-0"
150'-0"
MAXIMUM

BASE LINE
OHWM

'10/2011

AB 46XX
Exhibit X
Page 15
NAME: Art Verther

ADDRESS: 8710 85th Ave S.E.

PHONE: 206-659-3890

EMAIL: alv@comcast.net

COMMENTS: Those of us that own property adjacent to street ends are denied the opportunity to use our setbacks for mooring piles or boat lifts as granted to two private property owners (they can agree to use their respective setbacks)

I request a setback exception allowing mooring piles and boat lifts within the setback when adjacent to a street end - for those properties adjacent to street ends.

Art Verther

Note: Street ends are not "Urban Park Environments" according to the map.

*The mailing address is needed to ensure that any future information can be mailed to you, as a party of record.
COMMENT FORM

In addition to verbal comments, you may use this form to provide additional written comment.

Name: Rita Moore
Address: 4509 Ferncroft Rd
Phone: 206 275-3863
Email: rmoore@eds.org

Additional

Comments: Based on exhibit 5 there are 475 over water structures per linear mile along the Mercer Island shoreline. This results in a dock approximately every 100' along the shoreline. If one takes an average dock width of 8', that results in almost 1/4 mile of linear shoreline mile is covered by a dock. This is a huge amount of covered water. I would request you follow ecology's requirement of 4' graded meander width in the first 30' waterward. I also request as does ecology that non-conforming structures gradually be required to become conforming, maybe within 28 years.

*The mailing address is needed to ensure that any future information can be mailed to you, as a party of record.*
3. Since several local jurisdiction prohibit covered moorage, I request Mercer Island prohibit the building of new covered moorage and phase out all covered moorages within 25 years.

*The mailing address is needed to ensure that any future information can be mailed to you, as a party of record.*
COMMENT FORM

In addition to verbal comments, you may use this form to provide additional written comment.

Name: Bent Kjøs
Address: 6308 SE 22ND ST
Phone: 206 232-9538
Email: bokjos@comcast.net

Comments: Given the lack of scientific evidence regarding shade and significant effect on salmon, the extensive rules regarding translucent canopies, perforated docks, shade trees on the shore, etc. should be eliminated. Narrow docks close to shore should not be mandated for the same reason. A 4 ft wide dock close to shore will increase the risk of a child falling into the lake and drowning.

Bent Kjøs

*The mailing address is needed to ensure that any future information can be mailed to you, as a party of record.