

Submitted to CC
3/12/13

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I would like to comment on the perspective from which the council will be discussing and deliberating on the Critical Areas Ordinance. Last week the council expressed the importance of protecting the environment. Everyone agrees with that.

However, the city council does not represent the environment, you represent the interests of Sammamish citizens, including those that assert that environmental regulations infringe unfairly on their property rights. The environment is a subset of your representation.

A resource that I would encourage you to read is at least the first five pages of the Attorney General's Advisory Memorandum on Avoiding Unconstitutional Takings of Private Property. It supports the need of a regulating body to know that there is a limit to the scope of their ability to regulate and avoid over regulating. These include:

- Regulations should be sensitive to the constitutional limits to regulate property rights.
- There is a risk of a violation of due process by over regulating
- To avoid over regulation, there should be a process to evaluate less restrictive means for protecting against the identified harm posed.
- There needs to be balance of property rights and the government's intended purpose.
- Substantive due process requires that legislation must be fair and reasonable in content.

We had been told the city attorney would provide an opinion on this to the Planning Commission in July. All we got was the Attorney General's Memorandum. We suspect there may have been an opinion given to the city, but that attorney/client privilege kept it private. However, I would suggest that if you haven't already, council members should meet with the city attorney to learn more about the parameters or limits on regulations.

Finally, I would ask that as we continue through this deliberative process, that we avoid labeling ourselves and each other as property rights or environmentalists. As citizens who own property, we all have property rights. Asserting a property right does not make one an enemy of the environment. I would suggest that anyone who faces the loss of a reasonably anticipated financial benefit from their property would be concerned that every effort was made by the city to insure that the impact was no greater than absolutely necessary. I would hope that standard of governing would be characteristic of that level of caring for each citizen.

Sammamish enjoys the title of one of the Friendliest cities in the US, for its size. Let's make sure that fairness is also a part of the city's identity. Trust me, even though there are ^{not} hundreds of citizens here now, as each property owner butts up against what they perceive as an unreasonable regulation, the city's reputation among its citizens will depend on the quality of its decision making process and the ability to stand behind each regulation as fair and reasonable.

EXHIBIT NO. CC 14