

## THE FALL OF 1994, THE CITY OF BURLINGTON'S PLANNER MARGARET FLEEK AND MR. MADLUNG [THE DEVELOPER]; PARTNERSHIP BEGINS

What we now have determine in 2016, is that all vital and pertinent information regarding the previous usage of Burlington Hill, was available for Margaret Fleek's [Planner] City of Burlington's EIS, and her January 13, 1999 SEPA application. One may note that there was considerably more information available, (*at the press of a button*) to help Ms. Fleek determine the facts, and the legal requirements, during their 1999 application process, in the years of 1995, 1996, 1997, 1998, through the use of city, county, and state archive records.

All this was a clear blatant disregard of statutory (*RCW, WAC*) law, and Ms. Fleek's [Planner] actions were nothing short of "abuse of discretion," referring to the misuse of her powers and decision-making facilities. The best way to describe what took place on Burlington Hill, was nothing short of "corruption inside the walls of city hall."

The "*genesis*" of the Burlington Hill partnership started in the year of 1994, with the northwest side of Burlington Hill which was annexed into the city in 1978.



A required Forest Practice activities permit in the year of 1994; which required a complete Environmental Review prior to the issuance of a 4G permit; was never acquired. \*\*\*

Washington's Forest Practices Act (FPA). The FPA, originally adopted in 1974, is found in **RCW 76.09**. Forest practices are activities related to growing, harvesting, or processing timber, including, but not limited to, road and trail construction and maintenance, thinning, harvesting, salvage, reforestation, brush control, suppression of diseases and insects, and using fertilizers (**RCW 76.09.020(17)**). These practices are regulated by the FPA and its corresponding rules, found in **Title 222, WAC**, promulgated by the Department of Natural Resources (DNR). DNR is

the agency that is primarily responsible for regulating forest practices associated with commercial forestry operations.

If a landowner harvests without forest practices authorization, or begins conversion to a non-forest use without stating an intent to convert in the forest practices application, DNR must issue a notice of conversion to the local government where the property is located. The local government must then deny all applications for permits and approvals on that property, including those for building or subdivision permits. Margaret Fleek [Planner] was required to enforce this moratorium with regard to a permit approval for a period of six years from the forest practices approval date, or the date that DNR became aware of the harvest activities (**RCW 76.09.460**). The moratorium may be lifted subject to the requirements of **RCW 76.09.460 & RCW 76.09.470**; (*this never happen*).

Washington's Growth Management Act (GMA) requires that each county and city shall adopt development regulations that protect critical areas that are required to be designated under **RCW 36.70A.170**. **RCW 36.70A.060(2)** Geologically hazardous areas, one of a number of "critical areas" identified by the Growth Management Act (GMA), are defined as areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns. **RCW 36.70A.030(9)** Because geologically hazardous areas are not valued resources like wetlands or wildlife habitat, but rather are hazards to human health, safety, and welfare. *The point is not to 'protect' geologically hazardous areas, but rather to protect the public from those geologic hazards.*

In the fall of 1994, Margaret Fleek [Planner] and Mr. Madlung [Developer] had undeniably allowed and conducted several non-exempt Forest Practices. The City and the Developer had knowingly conducted all these illegal activities, (5) years before the January 13, 1999 SEPA Environmental Review of record.

What Margaret Fleek [Planner] (as acting lead agent for the Burlington Hill SEPA review) *had not!* included in her January 13, 1999 Environmental Impact Statement (EIS) submitted to the Washington State Department of Ecology, (*but was well aware of!*) was that the Burlington Hill site, had previously been used as a rock quarry mining operation, and that Mr. Madlung [the developer], (5 years before the 1999 SEPA submittal) had illegally Harvested/logged off over 70 +/- acres, conducted extensive land clearing, had blasted fractured rock called "Greenschist" in a Critical and Environmentally Sensitive Geologically Hazardous Area, and in a seismic zone 3 location, situated on 50 to 70 degree slopes; excavating and moving over 500,000 yards of potentially asbestos laced rock call "Actinolite." And, had illegally constructed roads well in excess of 6,000 feet, knowing that the proposed development contained or was adjacent to an American Bald Eagle nest, and a American Bald Eagle communal roost location.

Finally, after you review all the facts and carefully consider both the law and the policy implications, confirmed in writing and apply it to the facts presented, Margaret Fleek [Planner] and Mr. Madlung [Developer] were legally required to make application for a permit under the Forest Practices Act, and Margaret Fleek [Planner] was the legally responsible party and the lead agent to make sure that all required **RCW** and **WAC** codes rules were be administer under Preliminary plats of any proposed subdivision **RCW 36.70A.050, RCW 36.70A.060**; and under the Subdivision Act (**58.17 RCW**); and all rules of law pertaining to a complete **SEPA** environmental review that was to be conducted prior to any work commencing on the Burlington Hill site.

In closing, Burlington Hill was an extremely challenging site to develop for high density housing purposes. The comparatively rugged topography required massive reshaping in order to make it sufficiently level to build roads to current standards and to place the planned buildings and other facilities. The forest had to be removed from most of the site, ridges had to be cut down and the basins filled. In addition, significant expenditures were needed for extending roads and utilities to conform to this rugged site and be technically or financially feasible - but if all the facts, applications, and permits were submitted to the proper government agencies to be evaluated (SEPA/EIS) virtually no option could have been implemented without significant financial resources being spent, and full disclosure of the facts to Burlington Hill's sites history, and site

conditions being disclosed. Had Margaret Fleek [Planner] submitted the facts in her EIS on January 13, 1999, it most certainly would have made it *impossible* for this development to ever been approved, and financially impossible to ever recover its costs from any current development scheme.

Urban infill on the Burlington Hill site should never had come at the expense of destroying urban green space where "environmentally critical areas cover almost the entire site". It's unfathomable to think this has cost us all in the long run, now and in the future.