Theresa Rice

From: Bainbridge Citizens [gary@tripp.net]
Sent: Saturday, February 16, 2013 4:17 PM
To: *Bainbridge Citizens
Subject: Nonconforming is not just a word

Nonconforming is not just a word

Nonconforming is not just a word, it is a legal status backed by 100 years of case law.

There is only one legal reason to classify a structure or use as nonconforming and that one reason is to use the force of government to eliminate the nonconformity over time.

Waterfront homeowners are asking that the city to use the authority granted to them by RCW 90.58.620, an amendment to the SMA, to declare existing waterfront homes and their appurtenant structures "Conforming" with regard to the **SMP buffers and setbacks**.

Let's not get confused – properties that are nonconforming because of building codes or health and safety issues would still be nonconforming and required to be brought into conformity, the same as upland properties. For example:

1. Nonconformity due to wiring and insulation must be brought up to code when the home is remodeled or rebuilt.

2. Nonconformity due to health and safety (exposed wires, no smoke detector, or leaking septic system) are required to be fixed immediately.

3. Nonconformity due to Buffers and Setbacks require the house be moved when the home is rebuilt and the buffers and setbacks established. This is not possible for small waterfront lots.

Waterfront homeowners are asking the city to declare shoreline homes **Conforming as to SMP buffers and setbacks.** With this the City would be committing not to force the houses to move off the shoreline.

The argument that upland properties and shoreline must be treated the same is fallacious. The uplands are regulated as to Buffers and Setbacks by the GMA / CAO and the Shoreline is regulated by the SMA / SMP.

Upland and shoreline properties are already treated differently because of their location; for example, there are different height limits, lot coverage, side yard setbacks and sight lines (views of the water) for shoreline and upland properties.

If upland properties and shoreline properties were to be treated the same, then a nonconforming shoreline house within a buffer would be forced to move when it is rebuilt just like a nonconforming upland house within a buffer would be. Maybe in trying to declaring waterfront homes nonconforming and arguing at the same time that shoreline properties and upland properties must be treated the same, you are showing your real intent.

The City Council should protect existing waterfront homes, accessory structures and uses by declaring them to be **Conforming with regard to SMP buffers and setbacks.**

Bainbridge Defense Fund
Protecting Private Property Rights

Bainbridge Citizens
Commonsense Environmental Regulations and Accountable Government
PO Box 11560
Bainbridge Is., WA 98110
206-383-2245 Gary Tripp, Director

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