

March 29, 2013

City Council Members Bainbridge Island

Re: Shoreline Management Plan

Dear Council Members,

The plan revisions promulgated by City Staff need significant revisions to meet the original intent of the Shoreline Management Act that is the law of the State of Washington. The SMA provided for preferred development on shorelands by owners of single family residences for his or her own use and the term shorelands includes all wetlands associated with tidal waters. Additionally, the Washington legislature saw fit to enact SSB 5451 in 2011 which allows local municipalities to exempt existing shoreline homes and structures from new regulations such as setbacks and buffers and remove the stigma of non-conforming for those structures.

Bainbridge Island shorelines are 80 % developed and qualify as an urban shoreline. The Department of Ecology recognizing that fact have with other jurisdictions made setbacks less restrictive to recognize the urban environment. As such, the SMA as set forth is designed to protect the ecological functions of the State while at the same time protecting the private property interests consistent with public interest. The draft of the SMP unduly burdens property owners with the non-conforming designation and could result in a taking requiring compensation to the landowner.

Mitigation far exceeds the impact. The requirement of vegetation replanting required for all development uses within the 200 foot setback whether a permit is required or not that is not linked to a loss of ecological function. Further restoration and conservation are required in the new residential conservancy zone and these were not requirements when the actual proposed activity took place. The SMA had no requirements for restoration and or conservation for existing structures and may in fact be a taking. Mitigation such as vegetation management for new development should not be applied to all shoreline designated areas but should applied on a site by site basis.

The Shoreline Residential Conservancy and Island Conservancy zones should be eliminated and replaced with Shoreline Residential designation and the language therein. Protection currently in place in the Shoreline Residential designation are more than adequate to protect areas, since residential uses will still have to demonstrate no net loss of shoreline ecological function.

The City Council has a chance to modify the present draft to provide equal protection under the law for all of the homeowners on Bainbridge Island.

Respectfully submitted,

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