

**Theresa Rice**

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**From:** Bainbridge Defense Fund [gary@baindf.org]  
**Sent:** Tuesday, May 07, 2013 10:37 AM  
**To:** \*Bainbridge Defense Fund  
**Subject:** SMP Amendment V2  
**Attachments:** 2013 Amendments to draft SMP V2.docx

## **Remember SMP Public Hearing Wednesday 7 to 10**

**Complete suggested amendments attached**

## **Added as part of Version 2**

### **Existing Yards and Vegetation**

#### **The SMP reads**

Page 75

#### **4.1.3.4 Regulations – Exceptions**

1. Vegetation management standards shall not apply retroactively to existing lawfully established conforming and nonconforming uses and developments, including maintenance of existing residential landscaping, such as lawns and gardens.

WAC 173 26 221(5)(a) specifically states: "Like other master program provisions, vegetation conservation standards do not apply retroactively to existing uses and structures..."

#### **Comment:**

**Single Family Residence Shoreline Mitigation Manual** requires native vegetation be planted when current yards and landscaping are replanted. This goes against the draft SMP 4.1.3.4.1 and WAC 173 26 221(5)(a)

**Delete:** All requirements for mitigation for replanted current yards and landscaping.

### **Accessory Structures**

**Comment:** The City Council agreed to treat all existing accessory structures the same. The draft tries again to force restoration on existing accessory structures located in Zone 1 or which someone considers non-essential. The City should allow existing accessory structures including decks, gazebos, stairs, boat houses and other appurtenances to be repaired and rebuilt.

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#### **4.2.1.6.5 Existing Structures – Residential: Accessory Structures**

1. If an existing residential accessory structure is damaged, destroyed or intentionally demolished, the reconstruction shall be in conformance with all standards of the Program, except:

- a. An existing essential single family residential accessory structure may be reconstructed as follows:

- i. Replacement structure is the same size, location or bulk dimension as the existing structure.
- ii. Replacement structure may be located within Zone 2 provided mitigation occurs in accordance with 4.1.2.5.
- iii. Attached decks essential to a single family residence may be replaced in the same location.

**Delete:** The essential from 4.2.1.6.5.1 a. and a. iii.

**Delete:** 4.2.1.6.5.1 a. ii.

**Add New:** 4.2.1.6.5.1 a. ii. Replacement structures may be rebuilt where originally located.

**Comment:** The draft ties to force existing Accessory Structures to be moved to conform to the new SMP if they are damaged or destroyed and to decrease the size of existing decks that provide outdoor living space and view of the water by allowing only decks "essential" to the residence be rebuilt. What does that mean? It means only a deck that provides access to the house is essential, any outdoor living space is not essential.

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  - iii. Attached decks essential to a single family residence may be replaced in the same location.

**Delete:** section of 4.2.1.6.5.1 "the reconstruction shall be in conformance with all standards of the Program, except:" and sections a., i., ii., iii.

**Add:** "it may be replaced in the same size, location or bulk dimension as the existing structure."

#### Destroyed by Natural Causes

**Comment:** Natural Causes means only an act of god and does not include fire, insect damage or wood rot. All existing residences and appurtenances should be able to be replaced where they were located and in their original size.

Page 12

#### 1.3.5 Applicability of Bainbridge Island Shoreline Master Program

1. The provisions of the Program apply to new development and activities and are not retroactive. All existing legally constructed single-family residences and accessory structures, including lawns, landscaping and recreation areas, which do not meet the adopted standards of this Program are allowed to continue, and may be maintained, repaired, and remodeled if destroyed or damaged by natural causes ....

**Delete:** natural causes from 1.3.5.1

**Replace:** natural causes with "unintentional causes"

#### Interpretation of the code

**Comment:** We have had an ongoing and continuous problem with the changing Interpretation of all of Bainbridge's municipal code and the SMP is no different. One day and with one city employee the code means one thing and the next day or the next city employee it means something else. There is a simple and fair way to resolve this.

**Add a provision to the SMP that all residents shall be given the best interpretation of the code and if the City Council does not like the result they can change the code. But it inherently unfair to have the code constantly changed by the interpretation of city employees.**

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**Bainbridge Defense Fund**  
***Protecting Your Home***

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## 2013 Vote No on SMP

1. SMP does not recognize existing homes as conforming. Breaks our commitment to homeowners who legally built their homes
2. Because the SMP does not treat all homes and docks the same by creating Shoreline Residential Conservancy and Aquatic Priority
3. Because the SMP does not recognize the preferred water-dependent status of single family residences by banning docks.

## Amend the 2013 Draft SMP

### SSB 5451 Conforming

#### **Comment**

People who followed the rules and legally built their home and their lives around the shoreline should not now be punished or made into second class citizens.

SSB 5451 clearly stated the "Classifying existing structures as legally conforming will not create a risk of degrading shoreline natural resources."

#### **Add**

Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following to be considered a conforming structure: Setbacks, buffers, or yards; area; bulk; height; or density; and

Redevelopment, expansion, change with the class of occupancy, or replacement of the residential structure if it is consistent with the master program, including requirements for no net loss of shoreline ecological functions.

### Honesty, Enforceability and Readability

#### **Comment**

Honesty and Clarity are important aspects of law. If something is permitted in one section, that section must also include, directly or by reference, any and all limitations to the permitted use. That is only fair. Drafting that does not directly link all relevant section for action is not property written. **There is no section like this is the CAO**

4.0.1 Regulations - General

7. Where provisions of this Master Program or other provision in BIMC conflict, the more restrictive provisions shall apply unless specifically stated otherwise.

**Delete:** 4.0.1 7.

**Water-dependent Uses**

**Comment:** The entire purpose of living on the shoreline is to enjoy water-dependent uses. Stairs, docks, marine railways, swim floats and buoys. The Shoreline Management Act, GMA and DOE Guidelines all call for giving *preference* and *encouraging* water dependent uses, but the draft SMP designates the entire outside of the Island, Fletcher Bay, Point Monroe Lagoon, the head of Eagle Harbor and Port Madison as not suitable normal water-dependent uses. To do otherwise would violate the SMP's Master Goal page 15

**1.5 Master Goal**

..... It is the intent of this program to manage the shorelines of Bainbridge Island consistent with the requirements of the Shoreline Management Act, the Shoreline Master Program Guidelines, and the Growth Management Act, giving preference to water-dependent and water-related uses, and to encourage all reasonable and appropriate development and other activities to occur in a manner which will promote and enhance the public interest and protect environmental resources.

**Delete:** All sections and references to Shoreline Residential Conservancy and designation these Shoreline Residential.

**Delete:** 3.2.3 Shoreline Residential Conservancy

**Add:** Designate **Shoreline Residential** all shorelines previously designed at Rural and Semirural

**Delete:** Priority Aquatic B and designation these shorelines as Aquatic.

**Docks**

**Comment:** Docks, marine railways and floats are the most import way we access the water of the state and are critical for water-dependent uses. Narrow residential docks do not any environmental harm and actually act as reefs that attract and promote health pant and fish communities.

Page 198

**Delete:** 6.3.3.1 b. Prohibited at locations where physical limitations exist, such as shallow, sloping tidelands bottoms; areas of frequent high wind, wave, or current exposure; high littoral drift areas; or landslide-prone areas and/or feeder bluffs.

**Add:** Docks shall be permitted where engineering solutions can overcome the physical limitations.

Page 105

4.1.5.8.3 c. Minor development permitted in the Shoreline Buffer and Site-specific Vegetation Management Area pursuant to Sections 4.1.3.8 through 4.1.3.11 such as bathhouses, decks, stairs, trams, piers, and docks ~~except at the toe of unstabilized feeder bluffs.~~

**Delete:** except at the toe of unstabilized feeder bluffs.

**Add:** Where engineering solutions can overcome the physical limitations.

**Add:** Docks shall be allowed where the proposed the proposed dock meets the standards and requirements of the Department of Fish and Wildlife, Department of Natural Resources, Department of Ecology and Army Corps of Engineers, as well as requirements of Suquamish Tribe. Docks and floats shall be limited to the minimum necessary for the purpose.

Page 202-3

**Delete:** 6.3.7.3.1.

a. For a single-use structure, the float width must not exceed eight (8) feet and the float length must not exceed 30 feet. Functional grating must be installed on at least 50% of the surface area of the float.

b. For a joint-use structure, the float width must not exceed eight (8) feet and the float length must not exceed 60 feet. Functional grating must be installed on at least 50% of the surface area of the float.

c. To the maximum extent practicable, floats must be installed with the length in the north-south direction.

**Add:** new 6.3.7.3.1.

a. For a single-use structure shall be the minimum necessary for the purpose.

b. For a joint-use structure shall be the minimum necessary for the purpose.

c. Arrange the location and direct of the float to best accommodate the wind, wave, current and beach conditions.

## **Buoys**

**Comment:** the 1996 SMP allowed one buoy per lot. Proper buoy design and installation can both protect shell fish beds and allow access to sailing, fishing and boating. There is no reason to prohibit property owners with less than 100 foot lot from having a buoy. There are huge numbers of 50 foot lots.

Page 115

**Delete:** 6.3.7.8.1. In order to protect shellfish beds, new moorings buoys shall not be permitted where density will exceed one buoy per 100 linear feet.

**Add: new** 6.3.7.8.1. Owners of waterfront property are permitted to install one (1) mooring buoy. The design and placement of the buoy shall be done in a manner to protect shell fish beds and the use of adjacent buoys, floats and docks.

## **Stairs**

**Comment:** Property owners have a right to access their beach, which they also own. Putting arbitrary limits on the size of stairs does not take into account the unique configuration of each property or the importance of providing this important aspect of water-dependent use. All three stairs on Olympus Beach including the one at the city owned road end exceed the 250 foot limit and could not be built under this limit. There is also no reason to force property owners to go through a long and expensive variance process just to assure the city that the stairs are the minimum necessary for the purpose.

Page 84-5

### 4.1.3.8.3

e. All structures must meet the following standards:

iii. Stairways shall not exceed 250 square feet and are not included in the total square footage allocations prescribed in subsections a through c above. Stairways shall conform to the standards of the International Residential Building Code as adopted in BIMC Chapter 15.04. Larger stairways serving a single-family residence may only be allowed through approval of a Shoreline Variance.

**Delete:** "not exceed 250"

**Replace with:** be the minimum necessary for the purpose

**Delete:** "Larger stairways serving a single-family residence may only be allowed through approval of a Shoreline Variance."

**Comment:** Many of us do not have bulkheads and new bulkheads are not permitted and many of us live on bluffers and need stairs to get to the water. There is no reason to

prohibit stairs, decks and boat houses where there is no bulkhead. If the owner can find a way of engineering his desired use and is willing to that the risk that structure will have limited life, the city should not prohibit these water-dependent uses.

Page 105

4.1.5.8.3.

c. Minor development permitted in the Shoreline Buffer and Site-specific Vegetation Management Area pursuant to Sections 4.1.3.8 through 4.1.3.11 such as boathouses, decks, stairs, trams, piers, and docks ~~except at the toe of unstabilized feeder bluffs.~~

**Delete** 4.1.5.8.3. “except at the toe of unstabilized feeder bluffs”.

### **View Protection**

**Comment:** Views are very important and planting trees along the shoreline will adversely affect the view of the property owner by also the views from the neighboring properties both to the side and behind the shoreline. The requirement to plant trees is an attempt to force restoration property and does not contain the necessary nexus to

Staff has said before the Council that “canopy” and “multistoried plant community” does not mean trees. Councilmember Blair believes the SMP allows property owner to select the type of native vegetation they plant, but Mitigation Manual requires trees be planted every 20 feet. The Council should clear up this confusion, recognize the importance of protecting views and

**Delete:** All references to “canopy cover”, “multi-storied” and “trees”

**Add:** Property owners may select the number and type of plants to be used in their restored vegetation zones from a list of approved native species.

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