

Theresa Rice

From: Jess Browning [JHBrowning@comcast.net]
Sent: Monday, February 27, 2012 10:13 AM
To: PCD
Subject: Attention: Planning Commission

Bainbridge Island Planning Commission

Dear Commission Chair and Members,

Re: SMP's Non-Conforming Use

The Northwest Multiple Listing Service (NWMLS) and the Washington Association of Realtors (W. A. R.) have accommodated the law of Washington State that sellers of residential property must disclose all *material facts or defects* regarding their property.

Following the State's requirement, these agencies developed a combined Form 17 and Form D-5, respectively, which requires all sellers of residential property to disclose "*EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER*" in the legal transfer of property.

On the first page of the combined form (Form 17), under Seller's Disclosures regarding item 1." Title", the homeowner is required to answer the following question:

*Are there any zoning violations, **nonconforming uses**, or any unusual restrictions on the property that would affect future construction or remodeling?*

A "yes response to this question requires the seller to explain the answer and provide documents."

The SMP draft presented, *as is*, raises many difficulties with regard to the above State disclosure law. Section "4.3.4 Regulations – General" explicitly states:

*1. **Nonconforming uses**, building , structures, and/or development which were lawfully constructed or existed prior to the effective date of initial adoption of this Program (Date), but which do not meet the specific standards of this Program, may be continued subject to the provisions of this section; provided that, shoreline modifications shall conform to SMP Section XXX.*

The words "**nonconforming**" place a *stigma* on the value of anything to which it is attached.

Existing structures have historically been given "*grandfathered status*" as opposed to "*nonconforming*".

Most waterfront property owners on Bainbridge Island will be faced with *declining property values* if they have to comply with both of the above requirements - those by the NWMLS and the draft SMP as presented by the City of Bainbridge Island Planning & Community Development's Staff.

If the City declares "*existing waterfront structures*" to be "*nonconforming*" there will be many, many *legal battles*, not to mention *loss of real estate tax revenue to the City*.

Sincerely,

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