

**Theresa Rice**

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**From:** CLAESHAG@aol.com  
**Sent:** Monday, February 27, 2012 1:31 PM  
**To:** PCD  
**Subject:** Attention Planning Commission

Re: Nonconforming structures

To: Planning Commission Members

We copy below email from Jess Browning since we believe it succinctly states one problem with calling some existing shoreline structures nonconforming.

As you probably know SB5451 that was passed in 2011 gave COBI the authority to call these structures conforming by using the word "may" (call these structures conforming) in section 2 of the bill. Section 1 says that these structures "must" be called conforming.

When we asked Senator Rockefeller's office why the Legislature used "must" in section 1 and "may" in section 2 we were told that section 1 spells out WA state's intent that these structures "must" be treated as conforming but the legislators felt it was easier to get everybody's approval by still giving local governments the option to call them nonconforming! They explained to us that if it goes to court there is no question that these structures are conforming per this state law.

In this light, it seems that all COBI is doing by insisting on the "nonconforming" language is to irritate shoreline property owners (nobody wants to be told they live in an "illegal" house when they got all proper permits to build it in the first place!), decrease shoreline property values, violate the intent of the state law as spelled out by SB5451 and invite potential lawsuits without in the end accomplishing any improvement of the environment. So why is the Planning Commission so far insisting on the "nonconforming" language when you can write in basically the same restrictions for a presently "conforming" structure that rebuilding/remodeling should not be any closer to the shoreline than what is legal in the new SMP, etc.?

Thus, if it's just a labeling issue and the same result will be accomplished why invite more aggravation, costs and lawsuits?

Jenny and Claes Hagstromer

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From: [gary@tripp.net](mailto:gary@tripp.net)  
To: [gary@tripp.net](mailto:gary@tripp.net)  
Sent: 2/27/2012 11:39:33 A.M. Pacific Standard Time  
Subj: Non-Conforming Uses

**From:** Jess Browning [JHBrowning@comcast.net](mailto:JHBrowning@comcast.net)

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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