

Merrill, Hannah

From: zSMP
Subject: RE: SMP Non-conforming - What is Your Loss?

From: pearl hewett
Sent: Wednesday, March 13, 2013 11:26 AM
To: zSMP
Cc: Karl Spees; Brian and Brooke; Randy Dutton; info@justwateralliance.org; Lois Perry; Jo Anne Estes; notac@olyphen.com; Keith Olson; Frank M Penwell; marv chastain; Sue Forde; Rick Forschler -; harry bell; Jay Petersen; mary pierce pfaff; Dick Pilling; Gary Tripp
Subject: SMP Non-conforming - What is Your Loss?

**Revised SMP comment on
Non-conforming - Grandfathered
Pearl Rains Hewett Trustee
George C. Rains Sr. Estate
Member SMP Committee**

SMP Non-conforming - What is Your Loss?

**LOSS OF PROPERTY VALUE, SELLING, BUYING AND FINANCING OF
DOE SMP NON-CONFORMING (grandfathered) PRIVATE PROPERTY**

Clallam County SMP, SED proposed setbacks and NON-CONFORMING homes.

**Shoreline Committee Meeting March 27, 2012 (Notes are on line)
88% of 347 private homes on 234 miles of the coast line in Clallam County will become non-conforming.
Of the 29% (142 parcels) THAT DON'T HAVE BUILDABLE AREA OUTSIDE THE BUFFER, 40% ARE UNDEVELOPED, 60% are already developed**

What you may want to be concerned about is the decrease in value of the waterfront lots, parcels with wetlands and future non-conforming underdeveloped properties and their subsequent impact to not only you directly, but also to our tax rolls and the revenues that our county services depend upon.

Don't let the use of the word "Grandfathered" lull you into a false sense of security.

**10/06/12 The banking industry, International Capitol Group Inc. used Non-Conforming to deny refinancing to my sister and her husband for their million dollar home in Marysville WA. The Banker, named John did not say "It's OK, we will refinance your home, because you are Grandfathered".
A request to put the Non-Conforming, to deny refinancing in writing was promised by Banker John, but to date has not been received.**

I asked the Sequim loan officer if she could give me anything in writing regarding the buying and selling of DOE SMP non-conforming shoreline property? Her answer, "Not without writing it up, sending it to corporate headquarters and having it reviewed and approved by their attorneys".

Date: Thu, 17 May 2012 07:29:24 -0700

MY RESEARCH at the two largest banks in Port Angeles (Clallam County)

1. 5/01/12 I spent 45 minutes being transferred, from one person to another, and finally spoke to a loan officer, at my bank (of 30 years). He was sympathetic, he used to live in Port Townsend. He had information on non-conforming loans, but no information on loans on non-conforming property. He suggested I talk with the president of my local bank branch.
2. 5/02/12 I drove to and talked with the local bank manager. There is only one loan officer for this bank, in this area, located at the Sequim Branch.
3. 5/02/12 I drove from PA to Sequim, the loan officer and I talked for over 30 minutes. She was very helpful. She lives on a local marine bluff.
4. 5/03/12 called another local bank (they have two loan officers) The loan officer I spoke with indicated she was not qualified to answer my question.
I was given the bank's Mortgage Director's phone number.
5. 5/04/12 Mortgage director returned my call, after a 30 minute conversation. She said, only the information recorded with the auditor's office shows up on applications for home loans.

CONCLUSIONS? (getting it in writing is not an option)
OF RESEARCH ON SELLING AND BUYING DOE SMP NON-CONFORMING PROPERTY

1. Home mortgages are never black and white.
2. Times have changed, with all of the foreclosures and bank ownership of homes, all applications for home loans are under more scrutiny.
3. Appraiser's may RED FLAG the appraisal for your home loan application.
4. Underwriters may require additional inspections, geological report, etc.
5. Availability of WATER can red flag your property
6. Can a buyer rely on Seller disclosure?
How can a seller disclose what NOBODY KNOWS?
With all Clallam County marine and freshwater shoreline property in limbo?
(DOE) Dept of Ecology
(SMP) Shoreline Management Update
(SED) Shoreline Environmental Designations
Proposed regulations and restrictions of setback and buffer?
7. Shoreline Environmental Designations (SED) are all black and white
8. DOE SMP 175 feet plus 150 feet plus 10 setbacks and buffers, mitigate?
9. Mitigation is a thousand unknown shades of grey area.
10. Only the information recorded with the auditor's office shows up on the title search, applications for home loans.

Will the SMP Update require all FEMA flood information to be recorded with the Auditor's office?

11. I asked the loan officer could give me anything in writing regarding the buying and selling of DOE SMP non-conforming shoreline property? Her answer, "Not without writing it up, sending it to corporate headquarters and having it reviewed and approved by their attorneys".

12. The value of non-conforming undeveloped or under developed property is at the greatest risk.

January 9, 2012 from the Wisconsin Realtor Association

When a home is classified as "nonconforming," significant restrictions are often placed on the ability to improve, expand or replace the building.

These restrictions impact the value of the property because purchasers are obviously unwilling to pay the same amount for a home with these restrictions as they would for the same home with no restrictions.

In addition, lenders are reluctant to offer financing because these homes are considered "higher risk" due to the fact that restrictions placed on the ability to maintain, repair and improve these structures reduces the functional life on the structures

2/3/2012 San Juan Island letter to the editor of the Editor last week

In a letter to the editor of the Editor last week three objections to some fundamental points were raised. The question was brought up why expanding the setbacks of the CAO would reduce property valuations.

The first point should start with what we have and what could be proposed. Currently we have a 50 foot shoreline setback for buildings if there is screened landscaping, and 100 ft if there is no screening. The new setbacks have not been firmed up but they will be tied to what is agreed to for the upland portion which is being proposed at 150-300 feet (Clallam County 325'). Let's say you go out today and buy a million dollar house on a waterfront lot, and the lot is 149' X 149', the house burns down next year. In the mean time the new CAO is past and setbacks have been moved to 150 feet. Under the new CAO; your property would become nonconforming and unbuildable without a variance. The county would still assess the value of the land, let you pay taxes and use it for picnics as long as no permanent structure was built. If a lot becomes unbuildable do you think its value will be reduced?

The second point was that nonconforming properties have been around for years, what is the big deal. Nonconforming means illegal in a real estate law. Outhouses have been around for years but they are now illegal in the shoreline and you must put in a septic system that conforms to current code. If your property does not have enough room for a septic system your property is unbuildable unless you can buy an easement from a neighbor. If a lot becomes unbuildable do you think its value will be reduced?

The third point was about supply and demand. I agree here that conforming lots will become more valuable. The question becomes what happens to the value of nonconforming lots? Will

the county be able to raise enough tax's from the conforming lots to keep the roads up and our county government functioning?

If the CAO setbacks are expanded, will the local government be forced to buy lots they have condemned under current law? Our county used to rely on the fishing economy. We now rely on real estate, building and tourism. Property values have been driven down during the last four years. Store fronts in town have closed up due to the down turn. A new radical CAO

Paul Le Baron, San Juan Island

**SAN JUAN ISLAND REAL ESTATE MARKET SUMMARY
Spring 2012 Issue Real Estate News—Page Two**

General Advice: In the old days, we use to advise clients that waterfront homes and anything with a dock would appreciate at the highest rate in our market. We would say “buy waterfront, and lots of it”.

Unfortunately, due to the Critical Area Ordinance update we have had to change what we recommend. We now must caution buyers on the purchase of waterfront lots, parcels with wetlands, and those homes or cabins that are underdeveloped and may become non-conforming should the update increase the buffers to undesirable levels and make a high percentage of the buffer “no touch”. Homes that are already developed to their highest and best use, such as a large waterfront home, with guest house and dock, in all likelihood should increase in value since you may not be able to create those improvements or have those views in the future. As those homes are already in place, you won't be concerned over the non-conforming growth restrictions as contained in the current regulations; however, the next owner may have wanted to expand the home. What you may want to be concerned about is the decrease in value of the waterfront lots, parcels with wetlands and future non-conforming underdeveloped properties and their subsequent impact to not only you directly, but also to our tax rolls and the revenues that our county services depend upon.

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Clallam County SMP Draft Chapter 5.12

5.12 Grandfathered Use/Development

There is a significant improvement in the SMP Draft, previously the ability to rebuild NON-CONFORMING HOMES was based on , the extent of damage is less than fifty percent 50% of the replacement cost of the structure, it has been changed to less than seventy-five percent (75%)

SMP Draft Chapter 5.12

5.12 Grandfathered Use/Development

7. Rebuilding After Minor Damage: If a grandfathered residential structure or appurtenant structure sustains structural damage due to fire, flood or other natural disaster, but the extent of damage is less than seventy-five percent (75%) of the replacement cost of the structure, the structure may be reconstructed upon its original site and to the configuration existing immediately prior to the damage, provided that:

a. The structure is located outside of geologically hazardous areas as defined in this Program. If the structure is within a geologically hazardous area, the Administrator may allow the reconstruction if the proponent provides a geotechnical evaluation by a qualified professional which indicates the structure will be safe for a period of 75 years. The geotechnical study shall conform the applicable provisions in Section 4.2;

8. Rebuilding After Major Damage: If a legal, grandfathered structure sustains structural damage due to fire, flood or other natural disaster, but the extent of damage is equal to or more than seventy-five percent (75%) of the replacement cost of the structure, it shall not be repaired or reconstructed unless it is done to conform to the development requirements of this Program, unless a variance is issued by the Board of Adjustment or Hearing Examiner.

By definition 157. Grandfathered uses/developments means legally established uses, buildings, structures and/or lots of record that do not meet the specific standards of this Program but which existed on the effective date of initial adoption of the Program (August 5, 1976), or any subsequent amendment thereto, or was authorized under a permit, variance or conditional use approval, or is otherwise vested to the Program.

The use of the word **Non-conforming** is defined in the SMP Draft

231. Nonconforming means a legal use or development which conformed to the applicable codes in effect on the date of its creation but which no longer complies because of changes in code requirements. Nonconforming is different than and not to be confused with illegality (see Illegal use).

232. Nonconforming lot means a legal lot of record in existence prior to the effective date of this Program and any amendments thereto, on which it is not possible to construct as structure outside of/landward of the shoreline buffer or which does not otherwise meet the minimum lot size requirements as set forth in this Program.