

# What is the cost of shoreline regulations?

The Shoreline Management Act says that “the department (Ecology) and local governments shall to the extent feasible... utilize a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts...” and “utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data” in preparing their Shoreline Master Programs (SMP).<sup>1</sup>

It is the position of Bainbridge Shoreline Homeowners that the requirements placed on homeowners under the updated SMP should be based on facts not speculation, must show a rational connection to the issues involved, and should be designed to yield positive, measurable results.

We believe that the economic impacts of regulations have not been considered in the current draft of goals and policies and that the SMA makes it clear that they must be. There are two economic issues that concern us:

- Every well-meaning regulation adds to the cost of building or remodeling a home, and
- Regulations that make legally-built homes “non-conforming” place an unfair burden on their owners.

## Regulations add expenses for homeowners and the community.

To begin a discussion of economic impacts, we were referred to a study<sup>2</sup> by Dr. Theo Eicher, at the University of Washington. Looking at some 250 cities over 17 years, he used statistical analysis to isolate the impacts of regulations in the cost of housing.

Professor Eicher’s conclusions suggest that there is a significant impact to the cost of home ownership due to land use regulations — state regulations have the greatest impact, but local jurisdictions add a significant burden, too.

How do regulations add cost?

- More layers of permits are required, and each involves payment of a fee.
- Each new permit adds time to the project, and time is money.
- Costly reports by professional engineers and other licensed consultants are required.
- When reports are rejected by unlicensed staff, additional expenses are incurred.
- Legal actions challenging the application or interpretation of regulations add personal and community costs.
- Higher levels of government are required to deal with disparities, adding time and expense.

Two messages are very clear — the cost of owning a home is dramatically affected by land use regulations AND if those regulations vary greatly from those of surrounding communities, they will reduce the value of homes by making them less attractive to prospective buyers. That will affect homeowners personally, and reduce the City’s property tax base in the near term.

In time, however, property values are likely to increase. This will happen when the cost of regulations exceeds the current population’s ability to absorb them.

Wealthier buyers will negotiate reduced prices based on the cost burden of new regulations. They will hire the engineers, consultants and attorneys necessary to implement their vision for the acquired properties and enjoy them when construction is completed.

Subsequent buyers will be offered substantially “upgraded” properties at significantly higher prices. The tax base will climb.

If our only goal were to drive up the price of shoreline properties, Professor Eicher's study, and the others that he cites, show unequivocally that added regulations will help achieve it. Unfortunately, the cost will be borne on the shoulders of our community's current residents.

## **Mortgage lenders don't like non-conforming homes.**

The limit for FHA, Fannie Mae and Freddie Mac loans in Kitsap County is \$475,000. They may approve a mortgage for a legally constructed, non-conforming<sup>3</sup> home if local ordinances allow it to be rebuilt when and if it is destroyed.

*"It's typically the appraiser's job to identify a property as 'legally non-conforming' and to comment on its status as to whether or not it can be rebuilt sufficiently to collateralize the loan. Most appraisers will make a copy of the zoning code that covers the subject property's 'neighborhood' as evidence of its status.*

*"In typical cases, FHA itself does not require a special letter, but is satisfied with the appraiser's 'certification & evidence' in the appraisal report. But, it's possible that some lender's FHA-approved underwriter will require such a letter for his/her files before approving the loan."*<sup>4</sup>

Of course, this question is probably moot, since few shoreline homes on Bainbridge Island fit within the \$475,000 loan limit.

Individual lenders may set their own limits based on their ability to hold the "paper" or resell it to private investors or other entities. However, an appraiser's note regarding legal, non-conforming status will often affect rates and fees.

The only "sure thing" for the seller of a legally non-conforming home is a cash buyer who simply doesn't care about the property's legal status. This would be a rare individual indeed.

During a recent meeting of the Citizens Task Force, city staff passed along a recommendation from the Dept. of Ecology to change the references to "non-conforming" uses and structures to "pre-existing." If adopted, it is unknown, but highly unlikely, that lenders will confuse the true meaning of the term to be lawfully built, but non-conforming.

Bainbridge Island's current SMP includes a 50 foot vegetation buffer upland from the Ordinary High Water Mark. If this vegetation buffer or side yard setbacks are increased substantially in the SMP Update, many more -- some say "all" -- shoreline homes would become non-conforming.

It is likely that this status would decrease shoreline property values in the short term and increase them substantially in the long term as wealthier, cash buyers become the norm. In the intervening years, the Island's current citizens would suffer the economic hardships caused by these new regulations.

## **Voters don't like to be called "non-conforming."**

Bainbridge Shoreline Homeowners has conducted an online poll that asked, "Would you vote for a city council member who thinks it's OK for your home to be declared nonconforming in the new SMP?" A total of 212 homeowners, or 90% of the sample, voted "No way!"<sup>5</sup>

Poll results show that this is a significant issue for those affected by shoreline regulations and that the political costs is likely to be very high.

## References:

<sup>1</sup> RCW 90.58.100 Section (1)(a) and (e), available online -- <http://tinyurl.com/3p3qzvz>

<sup>2</sup> *Housing Prices and Land Use Regulations: A Study of 250 Major US Cities*, T. Eicher, U. of W., 2008, see <http://depts.washington.edu/teclass/landuse/>

<sup>3</sup> This use of the word “non-conforming” refers to the legal status of a structure after zoning ordinances have changed. It should not be confused with properties that do not conform to lending regulations set by HUD, Fannie Mae, Freddie Mac, or individual lenders. These are called “non-conforming” loans.

<sup>4</sup> James Root, a Licensed Realtor, Residential Appraiser & Mortgage Banker in the "Private Sector" and serving as a GS-12 Realty Officer with HUD/FHA for over a decade. Worked as Deputy Chief of the HUD Property Sales Division in Alaska and as Chief FHA Appraiser for HUD's Washington State Jurisdiction.

<sup>5</sup> With 235 responses, limited to one response per computer, the results are statistically valid, plus or minus 5%, based on a shoreline population of approximately 1650 homes.