

POINT MONROE LAGOON HOMEOWNER'S ASSOCIATION, INC.

15670 Point Monroe Drive N.E.

Bainbridge Island, WA 98110

206-940-7730

February 6, 2013

Bainbridge City Council
City Hall
280 Madison Avenue North
Bainbridge Island, WA 98110

Re: Point Monroe provisions within the Bainbridge
Shoreline Management Program

Dear Council Members:

The Point Monroe Lagoon Homeowners Association, Inc. (PMLHOA) wants to thank the council for recognizing the unique situation existing within the Point Monroe Lagoon area, especially the Sand Spit. We very much appreciate the opportunity that the association members have had to work with staff and the consultants to arrive at structure and use designations which both protect our cherished shoreline and permit the community on the Sand Spit continue in the manner we love and in the way we call "home".

We are all now seeing the end of a multi-year process. The finish line appears to be in sight. We believe that with a couple of comments, staff has presented a proposal for Point Monroe that the council should accept and adopt. Here are our comments.

Waterside setback increase to 30 feet. Assuming the continued requirement for onsite septic on the Sand Spit, it is probable that staff has correctly identified the six remaining lots on the Sand Spit that remain developable. An onsite review of these six lots should be undertaken to affirmatively determine that a home can be placed upon each lot with this setback and still provide sufficient room for the location of a septic system on each lot.

Accessory Dwelling Units (ADU's). Assuming homeowners will still be permitted to have their appurtenant structures such as garages and storage sheds we do not have an issue with the elimination of additional ADUs.

Overwater Structures. The consultant, staff and by now probably the Council has recognized that the Point Monroe Lagoon is a unique area. Unlike many bodies of water surrounding the island, the Lagoon is completely flushed twice a day with the tides leaving the Lagoon area nearly devoid of water. The Department of Ecology (Ecology) has, without promulgating a WAC, through positions taken in court cases and administrative proceedings promoted a desire that a nonconformity not be permitted to increase so as to preclude any modifications to the profile or footprint of overwater structures and to prohibit any new overwater structures. The association believes that this is an overly broad and

unsupportable interpretation of the statute and regulations by Ecology. The reasons and concerns behind Ecology's interpretation do not exist within the Point Monroe Lagoon.

Ecology provides two primary reasons to support the limitations on overwater structures. First, is the shade the structure creates over the water which permits predator fish to locate in areas where they would be otherwise be absent. As the Herrera Report indicates, this is not an issue in the Lagoon since it goes nearly dry twice a day. Predator fish do not congregate under either docks within the Lagoon or the shadows of the overwater homes. Second, DOE believes the overwater structures negatively impact view opportunities for passing boaters. Within the Lagoon, where the overwater structures are located, this is in essence a non-issue for the same reason. Shallow, often dry, and uncertain navigation channel make for few site seeing cruises within the Lagoon. Further, existing height restrictions within the zoning regulations adequately address this point.

The Association has members who own homes over the water within the Lagoon who would like to modify their roof line for health and safety reasons. They want to replace a flat roof with a pitched roof in order to control rain runoff, reduce leaks and prevent unnecessary flooding. The DOE's misinterpretation of nonconformity says no. Within the Lagoon this simply makes no sense. The health and safety issues associated with a pitched roof should trump this interpretation by DOE. This especially true here, where the roof line would be conforming as to present height limitations.

We also disagree with the DOE interpretation that prohibits the upward expansion (second floor) to overwater structures. Again, for the reasons discussed above, this makes no sense for the Lagoon. A second floor does not increase the footprint of the property. It does not increase the nonconformity. Many of these overwater homes have small front yards and abut the street. From the street you would not even know that some or all of the residential structure is over water. These properties should have the same space limitations as residences which are constructed totally on land. Ultimately, it might be best to have non-conformity decisions that do not affect the footprint of the structure determined in the variance process which could ultimately proceed to a judicial resolution.

Again, the Association thanks the Council, staff and the consultants for the collaboration and constructive dialog which has resulted in the proposed specific provisions for Point Monroe which are now before you.

Sincerely,

POINT MONROE LAGOON HOMEOWNERS
ASSOCIATION, INC.

By



Harold E. Snow, Jr.
President

cc: PMLHOA Members