

POINT MONROE LAGOON HOMEOWNER'S ASSOCIATION, INC.
15670 Point Monroe Drive N.E.
Bainbridge Island, WA 98110

May 17, 2012

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

Re: **Shoreline Management Program Update**

Dear City Council Member:

On April 12, 2012, the Bainbridge Planning Commission passed a proposed update to the existing 1996 Shoreline Management Program ("SMP") and moved it forward to the City Council for consideration. The members of the Point Lagoon Homeowners Association, Inc. ("PMLHA") urged the City Council to adopt a recommendation of the Planning Commission which includes a Point Monroe District ("PMD") within the SMP reviewed and ultimately approved by the City Council and forwarded to the Washington Department of Ecology for adoption.

Point Monroe is a unique residential area on Bainbridge Island. It is one of the oldest and most densely populated single family residential subdivisions within the City. The residents co-exist in harmony with the healthy marine environment which surrounds them on three sides. The mutually-beneficial relationship with nature has been in existence for more than 70 years.

All homes and lots on Point Monroe would be designated as non-conforming under the proposed SMP. In order to obtain adequate protection for the residents of Point Monroe which will ensure their opportunity to maintain their lifestyle, PMD language must be included in the draft SMP. PMLHA has already invested significant time and money in preparing draft PMD language. We are diligently working towards presenting draft language which will confirm with the proposed SMP language and meet the needs of the Point Monroe community.

After careful review of an old draft of the proposed SMP, the members of PMLHA believe that the following needs additional attention:

1. Acceptable PMD Language Needs to Be Adopted. The language must include the repair and replacement of the over-water homes. If this is included within the PMD along with the other rights accorded to other homeowners, we should have an acceptable result.
2. Eliminate the Lagoon's Aquatic Priority B Designation. There is no need for this designation. As the Planning Commission member, Mack Pearl, noted at the conclusion of the meeting when all PC members were asked for comments: "Point Monroe Lagoon and Fletcher Bay have already significantly developed

shorelines and the residents along the shoreline appear to be doing a good job at caring for the environment.”

3. Sewer Line. Several years ago, we came close to tying into a new sewer system when a treatment plant was proposed for the adjacent Faye-Bainbridge Park. There is a generic prohibition for sewer lines in flood zones. Point Monroe Drive is in a flood zone. We need to have language inserted permitting a sewer line (and underground utilities) along Point Monroe Drive. This is not an issue for members along Lafayette.

4. “Billboard Language” at the Beginning of the SMP. At the March 29, 2012 Public Hearing before the Planning Commission, the Planning Commission asked staff (at the request of our own Tom Newlon) to prepare a bold, large faced type statement which would provide something similar to “anything within the SMP to the apparent contrary notwithstanding, it is the intent of the SMP to protect the property rights of the shoreline homeowner and to permit the repair or replacement of the single family residence and the primary appurtenant structures.” Language similar to this needs to be placed at the beginning of the SMP to clearly indicate that it is the intent of the SMP to protect the rights of the shoreline property owners.

5. Conforming vs. Non-Conforming. This is an important issue to the majority of homes along the Bainbridge waterfront since they are non-conforming. Existing homes and their appurtenances along the waterfront should be designated as a conforming use. This should include the replacement of the home and its appurtenances. Established case law is universally clear in Washington and across the United States that the public policy with regard to a non-conforming use is to bring it into conformance over time or, if that is not possible, to eliminate the non-conformity. Courts will have a difficult time interpreting the SMP, and its apparent attempt to permit the repair and replacement of non-conforming homes with a century of case law precedence that says the non-conforming home should disappear.

6. Clear Definition of “No Net Loss of Ecological Function”. Neither the SMP nor the DOE regulations (the Washington Administrative Code or “WAC”) provide clear guidance on what this term means. We believe that the only logical definition of this term is a definition which, in essence provides: “No further degradation of the ecological function which exists as of: a date certain” and that the continued use of the property in its condition as of that date does not cause continuing loss of ecological function.

7. Global Warming Effect Mitigation. People “in the know” say that the sea level is rising. Point Monroe Drive at its present height above sea level might become impaired over the course of forthcoming generations. Language should be inserted within the SMP which permits the raising and protecting of Point Monroe Drive so as to assure the continued existence of the community if global ecological conditions require that action.

Save the date. On Saturday and Sunday, June 9 and 10, the members of PMLHA will have an open house for the benefit of the City Council Members. Council Members in groups of two will have an opportunity to tour Point Monroe and see first-hand the unique issues that impact Point Monroe Drive and our proposed solutions. After the walking tour, City Council Members are encouraged to meet with the members of the Board of PMLHA and listen to our proposals for the PMD language. The total time commitment for a City Council Member will be approximately two hours.

We thank you for your attention to this important issue.

Sincerely,

**POINT MONROE LAGOON
HOMEOWNERS ASSOCIATION, INC.**



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cc: Board Members

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