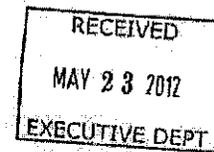


**POINT MONROE LAGOON HOMEOWNER'S ASSOCIATION, INC.**

15670 Point Monroe Drive N.E.

Bainbridge Island, WA 98110

206-940-7730



May 22, 2012

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

Re: Point Monroe District

Dear Council Member:

The members of the Point Monroe Lagoon Homeowners Association, Inc. (PMLHOA) believe very, very strongly that provisions regarding a Point Monroe District (PMD) should be included within the Shoreline Management Program (SMP) update presently being reviewed by the City Council which will be forwarded to the Washington Department of Ecology (DOE) this fall.

1. Timeline of Efforts to Date. While developing the SMP, the Planning Commission (Commission) on September 15, 2011, acknowledged that the Point Monroe Drive area, as a unique part of Bainbridge, deserved special consideration within the SMP process. They encouraged the concerned homeowners around the Point Monroe Lagoon to develop a proposal for a special district and added placeholders to the current SMP for a PMD.

In order to develop the proposal the Commission requested for the PMD in a memo dated September 22, 2011, we organized the PMLHOA community, solicited and received donations, retained a land use consultant and spent a significant amount of time and money in preparing PMD language as an insert into the SMP. Following the Commission's direction, and within the time constraints proposed, we prepared a draft section for the SMP which dealt with the Point Monroe District and submitted it to staff for review as promised in October of last year.

After we submitted the draft PMD language to the Commission what happened? City staff did not offer to meet with either PMLHOA or their consultant to review the draft PMD language. After notice from City staff PMLHOA presented their PMD proposal to the Commission at a January 12, 2012 meeting. After that meeting staff provided written comments to the draft PMD language prior to a January 26, 2012 Commission meeting. At the January 26 meeting further action on the draft PMD was not taken due to lack of time. When the process was challenged by PMLHOA, the Commission said they might possibly readdress it sometime after the SMP is finalized. Current plans are apparently to subject the PMD to the same exhaustive consideration process that led to the SMP, with a possible amendment to be submitted to the DOE in 2013.

2. No Certainty DOE Will Act if the City Waits. Unfortunately there is no certainty that the DOE will take up an amendment to the SMP once they approve the first submission sent to them by the City. Budgetary constraints may well preclude the DOE from allocating any additional resources to a consideration of the City's request to amend the SMP. They are certainly under no obligation to do so, and surely if the city sees no need to include the PMD there is little reason for the DOE to consider doing so. See WAC173-26-201(i)(c) which provides that the DOE's review and acceptance of an amendment to a SMP is permissive rather than mandatory. Further an amendment to an SMP can only be made if certain enumerated conditions exist and it is not certain that the amendment would qualify under any of the listed conditions.

3. Issues of Specific Concern to the PMD.

The revised SMP increases restrictions on a number of issues that directly affect the homeowners of the PMLHOA. The new restrictions may have validity elsewhere on the island but if applied to the area around the Point Monroe lagoon would actually endanger the homes and the future of the community.

Bulkheads. The majority of the homes along Point Monroe Drive have some form of bulkhead or hard armoring along the seaward side of the lot line. In most instances, the lots and homes would not exist without the bulkhead. Special consideration needs to be given to the homeowner's ability to repair and replace their bulkhead in order to maintain their property.

Overwater Single Family Structures. The Planning Commission, in its review of the PMD, wanted to exclude the 12 overwater, single-family residences on Point Monroe Drive from the district claiming their particular concerns were an island-wide issue. It is not. The vast majority of the overwater, single-family homes on this island are located on Point Monroe Drive, and house about 20% of our population. They need to be included in the PMD.

Setbacks. All of the homes on Point Monroe Drive would be nonconforming under the proposed setback regulations. A majority of the homes would be nonconforming under the 1996 SMP urban classification which provided for a 25-foot setback. All homes need to be considered conforming within the district and special consideration needs to be afforded these property owners in the repair and replacement of the home and primary appurtenant structures.

Mitigation. The lots along Point Monroe Drive are all very small and do not offer the normal opportunities for mitigation in the event of the expansion of the footprint for the single-family structure. Special provisions for either modified on-site mitigation or offsite mitigation need to be included in the PMD.

Point Monroe Lagoon Aquatic Priority B Designation. Both the 2004 Bainbridge Island New Shore Habitat and Characterization and Assessment Management Strategy Prioritization and Maintaining Recommendations and the subsequent January 2012 Preliminary Final Shoreline Restorization Plan reviewed the marine environment surrounding Point Monroe Drive and the Point Monroe Lagoon area and found no adverse environmental impacts associated with the manner in which the lagoon is currently zoned and utilized except for the discharge from the storm water culvert which enters the lagoon at its south end. Accordingly, the designation of the lagoon as Aquatic Priority B

makes no sense. The designation will not increase the quality of the marine environment because the current quality is positive. Additional regulation and restrictions on use should not be imposed upon the property owners when there is no quantifiable benefit either to them or to the marine environment or to the community.

Conforming vs. Nonconforming. The issue of conforming and nonconforming use is an island-wide issue and is not limited to just waterfront residences. It is a universal proposition within the courts of all 50 states that a non-conforming use must either, over time, be made conforming or disappear. Such a limitation has a chilling effect on the maintenance and marketability of a nonconforming residence. The dark cloud of a nonconforming designation should be removed from all homeowners in the Point Monroe District. All residences and primary appurtenant structures should be designated conforming. This designation would permit the existing structures to be repaired and replaced as they are now. Any expansion of the footprint of the structure would still need to comply with SMP mitigation requirements.

4. Scope of the Point Monroe District. While the majority of the above listed issues affect the homes on Point Monroe Drive, many of them affect the homes and lots on Lafayette Street that abut the Lagoon as well. The PMD should include all properties which have issues in common with the Point Monroe Lagoon, and should therefore encompass not just all homes and lots on Point Monroe Drive but also all homes and lots on Lafayette Street that abut the Point Monroe Lagoon.

5. Scheduling. PMLHOA has a draft PMD which was submitted to staff for the City last October. We request that the scope of the PMD be expanded and amended as set forth within this letter and the City Council direct staff to coordinate a time for all of us to have a work session to review the draft PMD language and bring it back before the City Council for review in a timely fashion. With diligent action the PMD can be included within the draft SMP and submitted to DOE in a timely manner.

Very truly yours,

*POINT MONROE LAGOON HOMEOWNERS  
ASSOCIATION, INC.*

By



Harold E. Snow, Jr.  
President