Countryman, Ryan

From: Tom McCormick <tommccormick@mac.com>
Sent: Thursday, May 14, 2015 5:24 PM
To: Countryman, Ryan
Cc: White, Clay; Clifton, Stephen
Subject: Re: EIS fourth alternative; DEA Technical Memorandum

Ryan,

This email supplements my May 12 email (below). In that email, I expressed the view that because the Point Wells project is not "located near a high capacity transit route or station," a request to approve a building height in excess of 90 feet must be denied. See SCC 30.34A.040(1) (2011 version), which provides that, "A building height increase up to an additional 90 feet may be approved under SCC 30.34A.180 when the additional height is documented to be necessary or desirable when the project is located near a high capacity transit route or station and the applicant prepares an environmental impact statement …." (emphasis added.)

Under SCC 30.34A.040(1) (2011 version), a permit cannot be issued for a building height in excess of 90 feet unless, at the time the permit is issued, the project is located near a high capacity transit route or station.

A plan to build a high capacity transit station in the future, or to arrange for a high capacity transit route in the future, does not meet the requirement of SCC 30.34A.040(1) (2011 version). The high capacity transit route or station must exist before a permit can be approved for heights in excess of 90 feet.

If the Code was meant to apply to planned routes and stations, and not just existing routes and stations, then SCC 30.34A.040(1) (2011 version) would have said so. It did not, and does not. The Code drafters knew how to use the word "planned." The word "planned" was used in three other Code provisions, but not in SCC 30.34A.040(1) (2011 version). The three other Code provisions are: (1) SCC 30.34A.085(1) (2011 version), which says that buildings within an urban center shall "be constructed within one-half mile of existing or planned stops or stations …." (emphasis added); (2)SCC 30.21.025 (2011 version), which says that the intent of the urban center zone is to provide a mixed use zone with public and community facilities and pedestrian connections "located within one-half mile of existing or planned stops or stations …." (emphasis added); and (3) SCC 30.91U.085 (2011 version), which says that an urban center means a mixed use area with public and community facilities and pedestrian connections "located within one-half mile of existing or planned stops or stations …." (emphasis added)

Because the Point Wells site currently is not "located near a high capacity transit route or station," it would be contrary to SCC 30.34A.040(1) (2011 version) to approve a building height in excess of 90 feet. A request to approve a building height in excess of 90 feet must be denied.

It is imperative that the EIS contain a "90-foot maximum building height alternative," as it is highly likely that a 90-foot height limit will apply to the project.

Thank you.

Tom McCormick

> On May 12, 2015, at 12:54 PM, Tom McCormick <tommccormick@mac.com> wrote:
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> Ryan,

I have received a first draft of the DEA Technical Memorandum, the purpose of which "is to summarize the methods and assumptions used for the transportation analysis for the Point Wells Mixed-Use Development Project." The analysis is being prepared in conjunction with the EIS for the project.

Next week, I will be sending you a number of comments and edits for your consideration. But there is one huge concern that I wish to address now.

The Memorandum indicates that the "land use alternatives for the Project will include the No-Action Alternative, Urban Center Alternative, and Urban Village Alternative."

I.

EIS Fourth Alternative Needed.

The EIS needs to include a fourth land-use alternative, and it needs to be addressed in the DEA Technical Memorandum.

A "**90-foot maximum building height alternative**" is a fourth alternative that needs to be included in the EIS for the Point Wells project. If this fourth alternative is not included, the EIS will be challenged and likely be found to be legally inadequate for failure to comply with RCW 43.21C.030(c)(iii).

SCC 30.34A.040(1) (2011 version) provides that, "The maximum building height in the UC zone shall be 90 feet. A building height increase up to an additional 90 feet may be approved under SCC 30.34A.180 when the additional height is documented to be necessary or desirable when the project is located near a high capacity transit route or station ...." Thus, a building height limit of 90 feet is the norm, but a variance may be granted to permit a maximum building height of 180 feet if the project is "located near a high capacity transit route or station" and other conditions are met.

II.

The Point Wells project is not "located near a high capacity transit route or station."

A high capacity transit route is a commuter rail route or a high-frequency, express bus route with multiple lines. A project is located "near a ... route" if there's a train or bus stop for the route at or near the project, perhaps up to 1/8 mile away, as current SCC 30.34A.040(1) provides. A high capacity station is like the Edmonds commuter rail station. Neither a high capacity transit route or a high capacity transit station is likely to exist at or near the Point Wells project site (see below for excerpts from the 2011 GMHB decision), so the applicant does not meet the requirements for a variance. Without a variance, the 90-foot maximum building height applies.

Because a 90-foot maximum building height will likely apply to the project, a fourth alternative is required. With a 90-foot maximum building height, in order to have the same number of residential units as projected in current alternatives #1 (urban center) and #2 (urban village), the applicant will need to build more buildings than the number of buildings under alternatives #1 or #2. If the applicant builds more buildings, what will be the environmental impacts and mitigations? More buildings means less open space, more impervious surfaces, etc. More environmental impacts.

III.

As you read this email, you may be thinking, if my line of reasoning is correct (i.e., that a 90-foot building height limit will apply to the project), then why should the EIS include the other alternatives #1 and #2 which both include buildings taller than 90 feet?

Please take steps to ensure that the EIS includes a fourth land-use alternative, a "90-foot maximum building height alternative." And perhaps alternatives #1 and #2 should be stricken?

Thank you.

Tom McCormick

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Excerpts from the 2011 GMHB decision.

In support of the above conclusion that the Point Wells project is not "located near a high capacity transit route or station," please consider the following statements from the 2011 GMHB decision which invalidated the County's urban center zoning for Point Wells (City of Shoreline, et al., v. Snohomish County, CPSGMHB Coordinated Case Nos. 09-3-0013c and 10-3-0011c, Corrected Final Decision and Order (May 17, 2011)).

"Sound Transit, which operates commuter rail, has no present plan to provide a Point Wells station. [And] even if the King County Metro bus line which now terminates half a mile from Point Wells were extended to Point Wells in the future to serve the anticipated population, this would not be express or high-capacity service." GMHB decision, at page 11 (emphasis added).

"In sum, the Board finds the County‟s Urban Center policies as a whole require ready access to both the road system and transit services. Mere location on an inaccessible transit route is not sufficient and not consistent with these policies." GMHB decision, at page 18.

"BSRE generally contends its project will, over time, meet the transit access criteria of LU 3.A.2 and LU 3.A.3. BSRE points out transit agencies will not plan to provide additional service until population growth is assured. [Footnote omitted.] BSRE states it is negotiating with King County Metro to extend local bus service 0.5 miles into Point Wells, where BSRE proposes to provide a transit center. Metro‟s present routes provide all-day half-hour service to Northgate and peak hour runs to downtown Seattle. [Footnote omitted.] BSRE also provides a letter from Sound Transit expressing "interest" in serving Point Wells if the developer funds construction of the commuter rail station. [footnote 73; it reads as follows: "The Board notes that Sound Transit‟s letter explains some of the regional complexities involved in adding service in Snohomish County and the considerations of rail line availability and scheduling. Sound Transit‟s letter makes no commitment, regardless of developer financing."] However, it is undisputed as of today, there is no regional transit solution in the plans of any of the transit agencies to serve an additional population of 6000 at Point Wells. [Footnote omitted.] … The Board does not find BSRE‟s assurances persuasive. The Board agrees with petitioners that a "highly efficient transportation system linking major centers" is not satisfied by providing van pools to a Metro park-and-ride two and a half miles away. Nor is "high capacity transit" satisfied by an urban center on a commuter rail line without a stop." GMHB decision, at page 21 (emphasis added).

"BSRE asserts that its promises to fund the building of a commuter rail station, a transit center, and an on-site police and fire station – promises contained in its promotional PowerPoint and referenced in correspondence in the record – stand in for the governmental commitment required by the GMA. [Footnote omitted.] … 'Trust us' is not a GMA plan." GMHB decision, at pages 20-21.

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