

Countryman, Ryan

From: Tom McCormick <tommccormick@mac.com>
Sent: Wednesday, June 10, 2015 2:30 PM
To: White, Clay
Cc: Countryman, Ryan; Clifton, Stephen; County Executive; Debbie Tarry; Eric Faison
Subject: A 90-foot maximum building height alternative in the Point Wells EIS (11-101457 LU)
Attachments: Transportation Assumptions Memo Response 20150527.pdf

To: Clay White, Director of PDS, and Snohomish County's Responsible SEPA Official

BSRE's Point Wells Urban Center application assumes there will be a single public access road (Richmond Beach Drive) to the site.

BSRE's application shows that BSRE plans to build twenty-two towers taller than 90 feet.

I.

The EIS is studying a second public access road because County rules require a second road unless a deviation is granted.

EDDS Section 3-01(B)(5) and various Snohomish County Code sections require two public access roads to Point Wells. An applicant can seek a deviation from the two-road requirement, but until the applicant is granted a deviation, the operative rule is that two public access roads are required. Recognizing that it is premature to count on a deviation being granted, the Environmental Impact Statement (EIS) Scoping Summary for the Proposed Point Wells Development provides, at page 6, that, "Additionally, the EIS will evaluate the potential environmental impacts of providing a secondary access road from the Point Wells site to an existing Town of Woodway right-of-way for Alternatives 1 and 2." The phrase "secondary access road" was clarified in Darryl Eastin's 8-15-2014 email to me: "The phrase "secondary access road" on page 6 could have been worded "second access road". The wording in the scoping summary was not intended to imply any conclusions, but to simply state that another access road in addition to Richmond Beach Drive will need to be analyzed and evaluated in the Draft EIS for Point Wells."

A recent letter from Ryan Countryman to Kirk Harris makes it clear that the EIS will be studying a full second public access road to Point Wells, and not just an emergency road. See Ryan Countryman's 5-27-2015 letter to Kirk Harris at page 6 (copy attached).

II.

The EIS must study a 90-foot maximum building height alternative because County rules do not permit buildings taller than 90 feet unless an exception is approved.

According to SCC 30.34A.040(1), "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 [by the hearing examiner] 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 . . ." Effectively, the Code requires the developer to obtain an exception to build towers taller than 90 feet. Until the applicant is granted an exception under SCC 30.34A.180 to construct buildings taller than 90 feet, the operative rule is that the maximum building height at Point Wells is 90 feet.

It is unlikely that an exception to construct buildings taller than 90 feet will be approved under SCC 30.34A.040(1), because the Point Wells site does not satisfy SCC 30.34A.040(1)'s core requirement that the site be "located near a high capacity transit route or station." For a thorough analysis of this issue, see my 6-9-2015 email.

It would be both premature and irresponsible to count on an extra 90 feet in building height being approved under SCC 30.34A.180. Accordingly, for the same reason that the County is requiring that the EIS to study a second public access road (premature to count on a deviation being granted), the County should require the EIS to study a 90-foot maximum building height alternative (premature to count on an exception being approved).

Because there is a good chance that an exception will not be approved, SEPA requires the County's EIS to study a 90-foot maximum building height alternative. SEPA requires the EIS to include an urban center alternative that fits within the existing regulatory framework — a 90-foot maximum building height alternative fits within the existing regulatory framework.

A preliminary draft of the County's DEIS states that, "For purposes of environmental review, the Urban Center Application (Alternative 1) and Urban Village Alternative (Alternative 2) have been included for consideration. These alternatives are intended to represent a reasonable range of land uses and densities to address the development objectives for the site, the existing regulatory framework, and economic factors." (Page 2-20 of the 3-11-2015 preliminary draft; emphasis added.) Contrary to what the preliminary draft says, the two alternatives fail to address the "existing regulatory framework." Only by including a 90-foot maximum building height alternative in the EIS can it be said that the range of alternatives addresses the existing regulatory framework, a framework which (unless an exception is approved) includes a 90-foot maximum building height.

In addition to studying a 90-foot maximum building height alternative, the County can study other alternatives as it pleases. It can continue to study Urban Center Alternative 1, with its twenty-two towers taller than 90 feet. That's the County's prerogative. "The fact that proposals may require future agency approvals or environmental review shall not preclude current consideration" WAC 197-11-055(2)(a)(i).

Requiring another alternative (a 90-foot maximum building height alternative), is in keeping with BSRE's assurances to the Growth Management Hearing Board. "At the Hearing on the Merits, BSRE stated that alternatives will be enthusiastically considered during the permitting process." City of Shoreline, et al., v. Snohomish County, CPSGMHB Coordinated Case Nos. 09-3-0013c and 10-3-0011c, Corrected Final Decision and Order, at page 58 (May 17, 2011).

WAC 197-11-402(9) provides yet another reason for including a 90-foot maximum building height alternative: "The range of alternative courses of action discussed in EISs shall encompass those to be considered by the decision maker." Its quite clear that the decision maker (the hearing examiner) must consider a 90-foot maximum building height alternative as he or she assesses whether to approve an exception to the County's 90-foot maximum building height.

A 90-foot maximum building height alternative will also serve as a useful benchmark for the decision maker to assess the impacts of BSRE's Urban Center Application (Alternative 1— twenty-two towers taller than 90 feet). As stated in subsection (5)(c)(v) of WAC 197-11-440 (EIS contents), "One alternative (including the proposed action) may be used as a benchmark for comparing alternatives."

There also are very practical and time- and expense-saving reasons for including a 90-foot maximum building height alternative in the EIS. If the hearing examiner determines that a site without existing high-capacity transit access fails to qualify for an extra 90 feet under SCC 30.34A.040(1), then the examiner would need to examine the impacts of a project with buildings no taller than 90 feet. The examiner cannot do so without being informed of those impacts. What will the applicant's proposed development look like if towers can't be taller than 90 feet? Will the project have more buildings to make up for the lost height (more buildings would result in less open space and more impervious surfaces)? What will be the project density and traffic impact with 90-foot towers? Will the project have fewer residential units than originally proposed, but the same square footage of retail and commercial uses, or some other

mix? How will road access and circulation issues change? These are just some of the many issues that the examiner would need to address if building height is limited to 90 feet.

III.

Even though preparation of the EIS for the applicant's Point Wells project has begun, Snohomish County can still revise the the scope of the EIS, It can add a 90-foot maximum building height alternative. For the reasons discussed above, it should do so. Snohomish County Code may even require that the County add a 90-foot maximum building height alternative at this time. "The lead agency shall revise the scope of an EIS if substantial changes are made later in the proposal, or if significant new circumstances or information arise that bear on the proposal and its significant impacts." WAC 197-11-408(5).

IV.

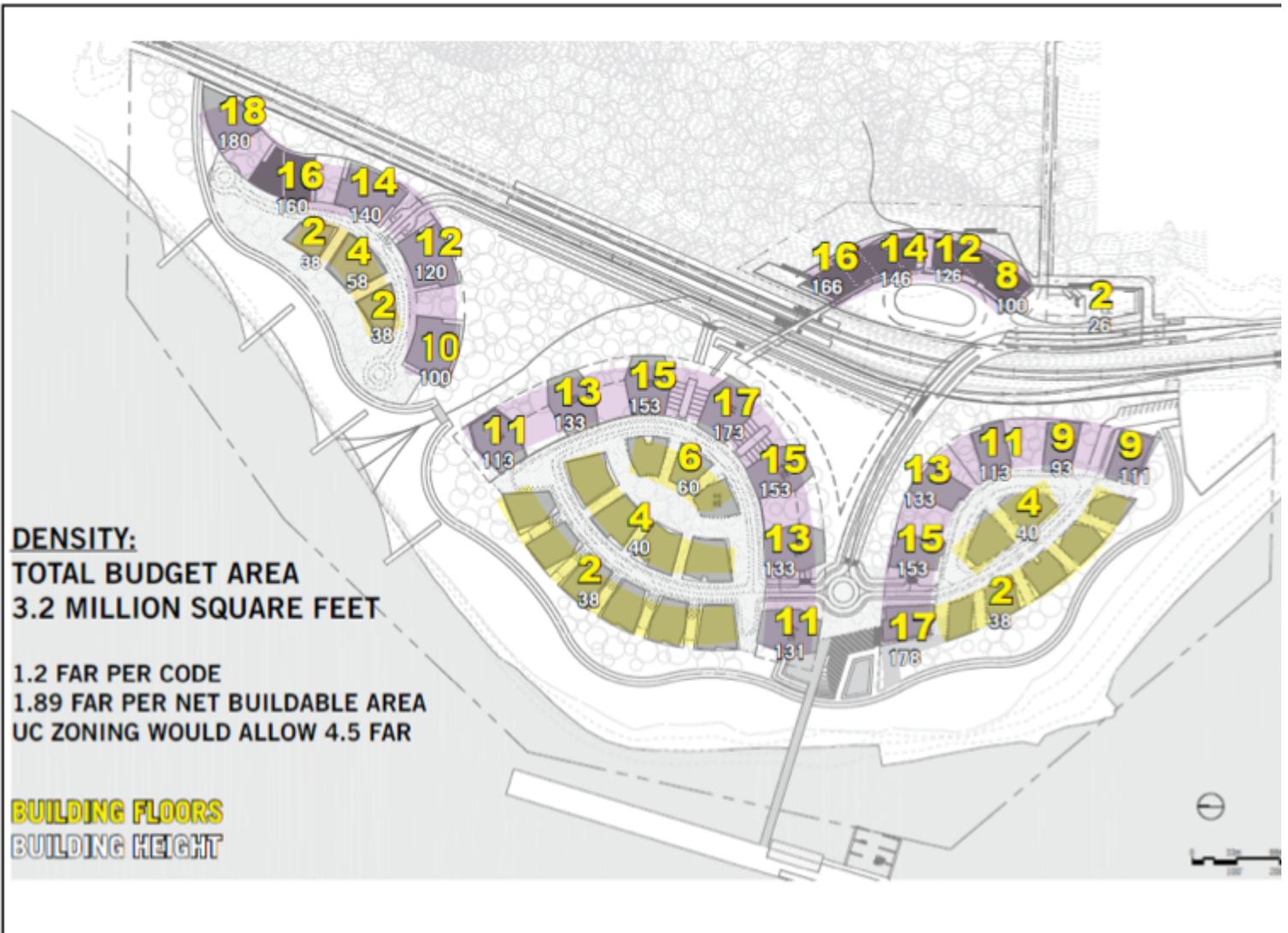
I respectfully request that a 90-foot maximum building height alternative be added to the EIS.

Please note I am not at this time asking the County to make a decision on the merits as to whether the maximum building height at Point Wells is 90 feet. That decision will be made by the hearing examiner.

Thank you for considering this request.

Tom McCormick

**Point Wells Mixed-Use Redevelopment Project
Draft EIS**



Source: Perkins+Will, 2011.



FI
Alternative 1—Build