

## Countryman, Ryan

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**From:** Tom McCormick <tommccormick@mac.com>  
**Sent:** Wednesday, October 21, 2015 4:29 PM  
**To:** Wright, Stephanie; Somers, Dave; Klein, Ken; Sullivan, Brian; Ryan, Terry  
**Cc:** County Executive; Clifton, Stephen; Crawford, Lenda; White, Clay; Thomsen, Steven; Countryman, Ryan; Bloodgood, Jim; McCrary, Mike  
**Subject:** Fwd: Point Wells -- very significant challenges ahead for BSRE

Council Members:

Important issues concerning Point Wells are discussed in the email below. Please feel free to contact me should you have any questions.

Thank you.

Tom McCormick

*"A small development at Point Wells  
with a second public access road,  
or no development at all."*

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Begin forwarded message:

**From:** Tom McCormick <[tommccormick@mac.com](mailto:tommccormick@mac.com)>  
**Subject:** Point Wells -- very significant challenges ahead for BSRE  
**Date:** October 19, 2015 at 1:14:52 PM PDT  
**To:** Ryan Countryman <[ryan.countryman@snoco.org](mailto:ryan.countryman@snoco.org)>  
**Cc:** Debbie Tarry <[dtarry@shorelinewa.gov](mailto:dtarry@shorelinewa.gov)>, Eric Faison <[eric@townofwoodway.com](mailto:eric@townofwoodway.com)>, Gary Huff <[ghuff@karrtuttle.com](mailto:ghuff@karrtuttle.com)>

Ryan,

"A small development at Point Wells with a second public access road, or no development at all."

That's been the rallying cry of concerned residents for years.

BSRE submitted its permit applications with Snohomish County in 2011. It wants to build 3,081 residential units and over 120,000 square feet of retail/office/commercial at Point Wells.

BSRE faces significant challenges, many of which will require substantial downsizing of its proposed development, and some which could leave Snohomish County decision-makers with no real choice but to deny BSRE's application.

Below is a recap of significant challenges that residents have raised recently. I am hoping that this recap might bring all parties, including BSRE's owners, to a common understanding of some of the challenges that lie ahead.

## Second public access road

There are numerous provisions in Snohomish County's Code, Comprehensive Plan, and EDDS that require a second public access road for an Urban Center development at Point Wells. We expect that Snohomish County will follow its rules and require BSRE to construct a second public access road, not merely an emergency-only access road. And we expect that the County will deny BSRE's forthcoming deviation request, thereby putting the burden on BSRE to challenge the denial in court. The risk of loss should be borne by BSRE, not by the public for whom the two-public-access-road requirement is designed to serve and protect.

In the unlikely event that the County would choose to disregard its rules and not require BSRE to construct a second public access road, concerned residents will challenge that decision in court, and in the media. There is a strong likelihood that the County and BSRE would lose a legal challenge. In addition to the weight of the County's rules, no reasonable land use or other expert would approve of a huge development at Point Wells being served by a single access road—especially a narrow, two-lane access road that winds through a residential neighborhood.

When BSRE purchased the Point Wells site, BSRE knew, or should have known, that a second public access road would be required. BSRE took a risk, knowing that it likely would not be able to develop the site if it couldn't construct a second public access road. It doesn't matter why BSRE might not be able to construct a second public access road; possible reasons could be its inability to acquire property or easements, the difficulty of constructing a road on sloping land, and/or the high cost involved.

If BSRE is unable to construct a second public access road, then we expect that the County will put a stop to the proposed Point Wells development.

## Due to Shoreline and Woodway traffic constraints, the proposed development must be significantly downsized

All traffic to/from Point Wells must travel through the City of Shoreline and the Town of Woodway. Both jurisdictions have rules in effect that severely limit the volume of traffic that can flow to/from Point Wells.

Shoreline has a 4,000 ADT limit for Richmond Beach Drive (before 2011 it was a 8,250 ADT limit).

Shoreline also has LOS D and 0.90 V/C standards. With Shoreline's long-planned 3-lane configuration for Richmond Beach Road, the road doesn't have much spare capacity. It appears that the City's LOS D and 0.90 V/C standards will be breached for Richmond Beach Road at relatively low volumes of traffic to/from Point Wells, estimated to be in the 1,000 - 6,000 ADT range, depending on how far east Richmond Beach Road's 3-lane configuration continues. There are also many other bottleneck spots, including, for example, the N. 185th St. legs to the east and west of SR 99, the N. 185th St. & Meridian Ave. N. intersection, and the Westminster Way N. leg near N. 145th St. While some spots might be improved slightly with mitigations, others will not; for example, Richmond Beach Road just west of 8th Ave. NW cannot be widened beyond its planned 3-lane configuration.

What effect will the above limits on traffic volume have on the size of the Point Wells development? Let's assume either that the parties agree or Snohomish County determines that, in order to satisfy Shoreline's rules limiting traffic volume, no more than 5,500 ADTs can travel to/from Point Wells (a 1,833 % increase over the current 314 ADTs crossing the County line). Based on my rough estimates, this translates to roughly 850 residential units and 33,000 square feet of retail/office/commercial space. If a second public access road is constructed, that might increase the number of permissible residential units slightly, depending on various assumptions and depending on how far east the 3-lane configuration continues for Richmond Beach Road. If instead, it's agreed or determined that the 4,000

ADT limit applies, then the size of the development would need to be even smaller: 625 residential units and 25,000 square feet of retail/office/commercial space.

Woodway too has rules limiting traffic volume. Woodway has a LOS A standard, which, per its Comprehensive Plan, translates to a 273 peak hour limit. That's equal to about 3,400 ADTs to/from Point Wells via Woodway's portion of Richmond Beach Drive. With Woodway's limit, the number of residential units and square footage of retail/office/commercial would be even lower than the lowest numbers above.

Applying Shoreline's rules, we expect that the County will conclude that the proposed Point Wells development needs to be downsized to about 625 - 850 residential units and 25,000 - 33,000 square feet of retail/office/commercial (the numbers would be lower with Woodway's rules). We are aware of statements made by BSRE attorney Gary Huff in a Sept. 24, 2009, letter to the Snohomish County Council, saying, "[R]ecent economic analyses confirm in no uncertain terms that an 800 unit development will result in substantial financial losses. Paramount [(BSRE's predecessor)] will abandon the project if this limitation is adopted." While we understand that a project must "pencil out" from a developer's standpoint, we also understand that a project must not exceed the adopted constraints on roads leading to the project site. If it is not possible for both to happen, then perhaps the project is not meant to proceed.

A development of 625 - 850 residential units is still a very large development. By way of comparison, there are only 261 residential condominium units located on 23 buildable acres at Point Edwards, the former Edmonds bulk fuel terminal site which was cleaned up by Chevron before construction began about ten years ago (a final phase of cleanup is to begin next year before an additional 68 units are built—the last units that will be built at the site).

We know that if BSRE is unwilling to accept a downsized development of 625 - 850 residential units, it could choose to challenge the County's decision and the various rules and plans of Shoreline and Woodway that impose limits on traffic volume (in 2011 it challenged Shoreline's 4,000 ADT limit; the GMHB case is still pending). It is highly unlikely that BSRE would prevail in its challenges, especially challenges to Shoreline's and Woodway's city-wide LOS and V/C standards.

By law, Shoreline and Woodway control their roads, and they are the ones that establish standards and designs for their roads. It is highly unlikely that BSRE could convince a court to require the City and the Town to modify their LOS and V/C standards just to accommodate a proposed development outside their jurisdictions. And it is highly unlikely that BSRE could convince a court to require the City to abandon its long-standing plans to convert Richmond Beach Road to a 3-lane road.

#### Buildings limited to 90 feet instead of 180 feet

We expect the County will decide that, until such time that there are high capacity transit stops at Point Wells, no buildings taller than 90 feet can be built at Point Wells. See my prior emails on the subject. If BSRE challenges the County's decision to limit building heights to 90 feet, there is a strong likelihood that BSRE will lose the challenge.

BSRE should face the reality of a Point Wells development with buildings no taller than 90 feet.

We expect that the DEIS will include and discuss a scenario with building heights no taller than 90 feet. And we expect that BSRE will need to do further design work to avoid "a very institutional 'dormitory style' development." After all, BSRE "is not interested in that kind of unimaginative and unattractive development." (See BSRE attorney Gary Huff's Sept. 24, 2009, letter to the Snohomish County Council regarding a proposal to limit building heights to 65 feet.)

## Tolling as a viable revenue option for Shoreline, and perhaps Woodway

The City of Shoreline continues to consider tolling of Richmond Beach Drive as a possible revenue source from Point Wells traffic. Tolling can be used to improve and maintain the Richmond Beach corridor and surrounding streets; tolling might also encourage future Point Wells residents to travel by alternative means to avoid the tolls (e.g., ride sharing, buses, etc.).

The City Council passed an Ordinance earlier this year to add tolling to the City's Transportation Benefit District rules, as a possible revenue source. The next step is for the City to study the costs/benefits and implementation tasks for various tolling facility alternatives on Richmond Beach Drive (several Council members have expressed their support to launch such a study early next year).

With tolling as an available option (subject to voter approval), the City is not dependent on annexation of Point Wells to secure a revenue source, and the City may be less inclined to pursue a development deal with BSRE.

Another aspect of tolling surfaces if BSRE decides to withdraw its application to develop Point Wells. A preliminary draft chapter for the DEIS indicates that a possible "no-action" scenario would have BSRE significantly expanding the current industrial operations. Truck trips from the asphalt oil operations would rise to an average of 14 round-trip truck trips per day/5,110 per year. Moreover, there would be a new light fuels storage and distribution operation with an average of 160 round-trip truck trips per day/58,400 per year. The grand total would be an average of 174 round-trip truck trips per day/63,510 per year. This high level of truck traffic would severely damage City roads, costing taxpayers huge sums. Fortunately, tolling is an option. The City could decide to assess a toll only on commercial trucks. Per RCW 47.56.850(4), "Tolls may vary for type of vehicle," so it would be permissible to charge no toll for cars while charging a toll for commercial trucks. If the trucks were charged an average of \$30 per round trip (nationally, it's not unusual to see toll rates for commercial trucks exceeding \$50/round trip, with rates varying based on the number of axles), the City could realize \$1,905,300 gross annual revenue (= \$30 \* 63,510 round-trip truck trips per year).

## Covenants running with the land

The County and BSRE are working to sort out what assumptions should be used to determine how much traffic will travel to/from Point Wells. Early indications are that the applied-for proposed development is expected to generate 20,000 or more ADTs.

The developer might seek to reduce the number of projected trips by employing various mitigation efforts, like increasing the number of residential units for seniors. If so, we expect that the County will require covenants running with the land to enforce the promised mitigation efforts.

If, for example, BSRE says that it is going to have 900 senior units, then there needs to be covenants in the deeds for those units that prohibit the units from being sold to or resided in by anyone less than age 60. Also, for example, if BSRE says that only Point Wells residents will be able to use the on-site health club(s), then there needs to be an appropriate covenant running with the land so that non-residents can never use those facilities, even fifty or more years from now. Any other mitigations that BSRE proposes to reduce traffic volume also must be secured by covenants running with the land, ensuring that the proposed mitigations will be in place forever.

If BSRE is unwilling to provide the above covenants running with the land, then its proposed mitigations must be disregarded in determining the volume of traffic that will flow to/from Point Wells.

Conclusion — a small development at Point Wells with a second public access road, or no development at all

There are many other matters besides those mentioned above that present significant challenges for the Point Wells project, including site cleanup and a host of other matters that the DEIS is supposed to address.

Our group of concerned residents continues to monitor and research how the proposed Point Wells development will adversely impact our communities. Our group continues to advocate for a much smaller-than-proposed development with minimal impacts on our communities. And if necessary, our group is prepared to bring whatever legal challenges are appropriate to ensure that our interests are protected—to protect the livability of our communities and the health, safety and welfare of all residents.

We believe in our mission: "A small development at Point Wells with a second public access road, or no development at all."

Thank you.

Tom McCormick