

Countryman, Ryan

From: Tom McCormick <tommccormick@mac.com>
Sent: Tuesday, July 18, 2017 5:54 PM
To: Countryman, Ryan
Cc: MacCready, Paul; Mock, Barb; Cummings, Jason; Kisielius, Laura
Subject: Point Wells - floods and landslides

Ryan,

Your Feb 9, 2017, email to Gary Huff states that, "flood hazard regulations do not vest."

Yet the County takes the position that landslide hazard regulations DO vest.

But both regulations were adopted with the same purpose in mind: to protect the public health, safety and welfare. See SCC 30.65.010 (special flood hazard areas), and SCC 30.62B.010 (geologically hazardous areas).

Please advise if I am correctly stating the County's position — the County is so concerned about flooding risks and the potential impact on lives and property, that a developer who wishes to build structures in a flood hazard area must comply with the most recent regulations in effect at the time of permitting; however, a developer does not need to comply with the most recent regulations governing landslide hazards that are in effect at the time of permitting (complying with outdated regulations is sufficient), even though the potential impact on lives and property from landslides is at least as great as that from floods (consider what happened at Oso).

If the above is indeed the County's position, then the public needs to be informed of this.

The public rightfully expects that the County will apply the post-OSO 2015 rules to the Point Wells development, not some outdated rules that were in effect in 2011 when the developer submitted its first applications to develop Point Wells as an Urban Center.

As I have stated in earlier emails, no developer has a vested right to endanger the public's health and safety. Safety always trumps vesting. "There is no such thing as an inherent or vested right to imperil the health or impair the safety of the community." *Hass v. Kirkland*, 78 Wn.2d 929, 931-32, 481 P.2d 9 (1971) (quoting *City of Seattle v. Hinckley*, 40 Wn. 468, 471, 82 P. 747 (1905)). The post-OSO 2015 rules governing landslide hazards were designed to protect public health and safety.

Please advise if you are aware of any court case or other legal authority that would give a developer a vested right to endanger the public's health and safety. **And please advise if** you are aware of any court case or other legal authority saying that safety does not trump vesting.

I look forward to your reply.

Thank you.

Tom McCormick