

From: Tom Mailhot
To: [Davis, Kris](#)
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Subject: Point Wells Pre-Hearing Memorandum
Date: Wednesday, May 16, 2018 10:36:27 AM
Attachments: [2018-05-16 Tom Mailhot Pre-Hearing Memo re Public Testimony.pdf](#)

Kris - could you please provide the attached document to the Hearing Examiner so he can read it prior to the hearing. It concerns BSRE's request to limit the scope of public testimony.

I apologize for sending this in so late, but the pre-trial briefs were just published a few days ago.

Thanks!
Tom Mailhot

**I-407 Mailhot, Tom re Public Testimony -- May 16, 2018
PFN: 11 101457 LU**

TO: The Office of the Snohomish County Hearing Examiner
FROM: Tom Mailhot
DATE: May 16, 2018

RE: BSRE's request for limited testimony

CC: Matt Otten, Laura Kisielius, Jason Cummings - Snohomish County
Prosecuting Attorneys Office
CC: Gary Huff, Douglas Luetjen, Jacque St. Romain, J. Dino Vasquez - Karr Tuttle,
Attorneys for BSRE
CC: Barb Mock, Paul MacCready, Ryan Countryman - PDS
CC: Debbie Tarry - City of Shoreline
CC: Eric Faison - Town of Woodway

I am a Richmond Beach resident and board member of Save Richmond Beach and the Sno-King Environmental Protection Coalition, two organizations of local residents who, like me, oppose the proposed Point Wells Urban Center development. This Pre-Hearing Memorandum addresses BSRE's claim that public testimony taken during the hearing should be limited.

I apologize for the late filing of this memorandum, but the pre-trial briefs have only been available since May 14.

A. Introduction — BSRE's claim that public testimony should be limited

BSRE claims, in its pre-hearing brief, that public testimony should be limited to the adequacy of their April 2018 Revisions and any subsequent revisions (point V., page 6), and asks the Hearing Examiner to advise the public to limit their testimony to solely that issue.

B. Public testimony should not be limited

BSRE cites no authority for asking the Hearing Examiner to limit testimony, stating only that the public will have a second chance to voice their concerns after the completion of the SEPA review process. The existence of a second chance to testify at a hearing that may never take place is hardly a convincing argument to limit testimony at this first hearing.

As is clear from the Growth Management Hearings Board ruling on the original Urban Center regulations passed in 2010 and 2011 by the County Council, Point Wells should never had been designated an Urban Center. Its isolated location far from any high capacity transit access is the exact opposite of where Snohomish County said Urban Centers are supposed to be sited.

Despite this ruling, BSRE was able to use their vesting rights to continue their effort to build an Urban Center at a location that simply won't support that level of development, but those rights are not unlimited; they are in fact limited by reasonable time constraints.

When deciding whether to grant BSRE an extension of the application termination date, the Hearing Examiner should consider whether this application is in the public interest. This public interest test cannot be a reason for terminating the application, but it should be used when considering whether to grant an optional extension, especially a fourth extension. BSRE had already been granted three extensions and has had more than 7 years to complete the application, much more time than is ordinary. The County is under no obligation to indefinitely extend any application, and should consider the public interest when asked to allow applications to remain active for extraordinarily long periods.

This hearing is the first chance for the local residents, those who will be most directly impacted by the poor siting, to testify about how the project affects them. It's entirely appropriate to allow local residents to express their views on whether this application benefits them or their neighborhood. I ask that the Hearing Examiner not put an artificial limit on the topics allowed in public testimony.
