

BEFORE THE HEARING EXAMINER
IN AND FOR THE COUNTY OF SNOHOMISH

In Re Point Wells Urban Center,

No. 11-101457 LU/VAR
11-101461 SM
11-101464 RC
11-101008 LDA
11-101007 SP

HEARING EXAMINER
RECEIVED
08/03/2018

BSRE Point Wells LP,

Applicant,

FILE NO. 11-101457 LU

R-4 Amended Decision issued
August 3, 2018

Amended Decision Denying Extension
and Denying Applications Without
Environmental Impact Statement

Snohomish County Planning and
Development Services Department,

Respondent.

1 Applicant BSRE Point Wells LLC asks for an extension of the June 30, 2018 expiration date
2 of its urban center development applications.¹ SCC 30.70.140(2)(b) (2017). BSRE did not
3 pursue its applications with reasonable diligence. The Hearing Examiner denies BSRE's
4 request for an extension.

5 Snohomish County Planning and Development Services Department (PDS) asks that
6 BSRE's applications be denied without an environmental impact statement because of
7 alleged substantial conflicts with county code. SCC 30.61.220 (2003). The Hearing
8 Examiner grants PDS' request to deny the applications without prejudice pursuant to SCC
9 30.72.060(3) (2013) because some of the conflicts with county code are substantial.

¹ Testimony during the open record hearing indicated that BSRE asked PDS for a code interpretation regarding whether county code establishing application deadlines applied to completed development applications filed before the county code established the deadlines. That question is not before the Hearing Examiner at this time. Therefore, the Hearing Examiner assumes without deciding that BSRE's applications expire on June 30, 2018.

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1 **I. FINDINGS OF FACT**

2 An open record hearing on BSRE's request for extension and PDS' request for denial
3 commenced on May 16, 2018.

4 The Hearing Examiner visited the site unaccompanied on May 21, 2018. He did not enter
5 the subject property but visited all roads immediately surrounding around the site, observing
6 the types, density, and characteristics of land uses, terrain, traffic, and roads.

7 The Hearing Examiner considered the admitted exhibits and sworn testimony of the
8 witnesses listed in appendix A.

9 The Hearing Examiner finds the following facts and makes the following conclusions of law
10 and decision.²

11 **A. TIMELINE**

12 F.1 BSRE Point Wells, LP, submitted a short plat application and land disturbing activity
13 permit application on February 4, 2011, and land use permit application for an urban
14 center site plan, shoreline management permit application, and retaining wall –
15 commercial permit application on March 4, 2011.³ BSRE also submitted a traffic
16 impact analysis and critical areas report.

17 F.2 On April 25, 2011, the Puget Sound Growth Management Hearings Board invalidated
18 Snohomish County's urban center code and designation of Point Wells as an urban
19 center.

20 F.3 The King County Superior Court enjoined Snohomish County from processing BSRE's
21 applications on September 12, 2011.

22 F.4 Despite the injunction, BSRE conferred with the city of Shoreline regarding traffic.

23 F.5 On December 20, 2012, the Growth Management Hearings Board found Snohomish
24 County complied with its prior order.

25 F.6 PDS wrote to BSRE on April 12, 2013, describing needed information for further
26 evaluation of BSRE's applications. PDS identified 62 separate items.⁴

27 F.7 The Washington State Court of Appeals reversed the King County Superior Court
28 injunction on June 7, 2013.

29 F.8 BSRE met with Shoreline in February and March 2014 to discuss traffic.

² An electronic record of the hearing is available in the Office of Hearings Administration.

³ Ex. A.40.

⁴ Ex. K.4.

- 1 F.9 BSRE proposed a transportation corridor study on February 2, 2014.
- 2 F.10 BSRE and Shoreline conducted six public meetings between February 12, 2014 and
3 April 3, 2014 to obtain public comment regarding the proposed transportation corridor
4 study and mitigation of transportation impacts.
- 5 F.11 On March 21, 2014, BSRE requested an extension of the application expiration date,
6 which PDS granted.⁵
- 7 F.12 The Washington State Supreme Court affirmed the Court of Appeals' decision on April
8 10, 2014.
- 9 F.13 BSRE continued working with Shoreline on transportation issues between April 20,
10 2014 and April 20, 2015.
- 11 F.14 On April 15, 2015, BSRE requested a second extension of the application expiration
12 date, which PDS also granted.⁶
- 13 F.15 On May 27, 2015, Snohomish County and the town of Woodway commented on
14 BSRE's proposed traffic methods and assumptions memo.
- 15 F.16 BSRE submitted a revised critical areas report in June 2015.
- 16 F.17 On July 6, 2015, BSRE submitted a revised traffic methods and assumptions memo.
17 During July, the county commented on the revised critical areas report.
- 18 F.18 BSRE submitted a secondary access report to the county on August 26, 2015, for
19 which the county provided comments on September 17, 2015.
- 20 F.19 The county commented on the second traffic methods and assumptions memo on
21 October 14, 2015.
- 22 F.20 BSRE submitted another revised traffic methods and assumptions memo on
23 December 14, 2015. The county's third party reviewer, Transpo, commented on this
24 third memo on January 18, 2016.
- 25 F.21 On March 30, 2016, BSRE requested a third extension.⁷ PDS granted BSRE's
26 request, extending the expiration to June 30, 2018. PDS notified BSRE of Amended
27 Ordinance 16-004, which applied new expiration regulations to pending applications,
28 including the Point Wells applications. PDS also advised BSRE that the applications
29 could be heard by the Hearing Examiner if the alleged deficiencies were not remedied,

⁵ Ex. G-1.

⁶ Ex. G-2; Ex. P-11.

⁷ Ex. G.5.

1 though PDS would recommend denial. PDS told BSRE that it would receive no further
2 extensions absent “extraordinary circumstances.”⁸

3 F.22 On May 5, 2016, BSRE submitted a second updated traffic impact analysis to the
4 county. The county authorized Transpo to review it on May 11, 2016.

5 F.23 Transpo commented on the second traffic impact analysis on May 26, 2016. The
6 county’s and Shoreline’s comments followed the next day.

7 F.24 PDS provided BSRE with a draft environmental impact statement for review on July
8 29, 2016.

9 F.25 BSRE submitted a third traffic impact analysis to PDS on September 1, 2016.

10 F.26 Four years after PDS’ initial review completion letter, BSRE comprehensively
11 responded on April 17, 2017, including a revised urban center application, project
12 narrative, response to PDS, drawings, targeted drainage report, the revised critical
13 areas report, a transportation demand management plan, information regarding
14 secondary access and fire apparatus turning radius.

15 F.27 On May 2, 2017, PDS confirmed receipt of the additional information and advised
16 BSRE that its applications would expire a little over a year later on June 30, 2018.⁹

17 F.28 PDS commented on the second traffic impact analysis on May 10, 2017.

18 F.29 BSRE and PDS met on June 16, 2017 to discuss BSRE’s April submissions.

19 F.30 PDS commented on the third traffic impact analysis in July, August, and September
20 2017. PDS and BSRE met to discuss traffic in July and September.

21 F.31 PDS sent BSRE a review completion letter on October 6, 2017. More than half of the
22 issues identified in the April 12, 2013 letter were still unresolved due to lack of
23 adequate information.¹⁰ PDS again advised BSRE of the June 30, 2018 expiration of
24 the applications. PDS reiterated that a further extension of the expiration date would
25 only be granted in extraordinary circumstances.¹¹

26 F.32 BSRE and PDS met on November 13, 2017. BSRE asked PDS attendees whether
27 there was any reason BSRE might not receive another extension? PDS attendees did
28 not assure BSRE that it would receive another extension or advise BSRE that it would
29 not. BSRE left the meeting with the belief that a further extension was likely.

⁸ Ex. K.13

⁹ Ex. K.19.

¹⁰ Ex. K.31.

¹¹ Ex. K.32.

- 1 F.33 BSRE and PDS met again in December 2017.
- 2 F.34 BSRE advised PDS by letter on December 29, 2018 that it would not be able to
3 submit responsive materials by January 8, 2018.
- 4 F.35 On January 9, 2018, PDS wrote BSRE that it would proceed to review the project
5 materials on hand and process the urban center application. BSRE understood that
6 PDS would likely recommend the Hearing Examiner deny the application without
7 proceeding with environmental impact statement.
- 8 F.36 BSRE wrote PDS on January 12, 2018 to request a fourth extension. BSRE asked for
9 at least another two years.¹² BSRE also advised that it would submit revised materials
10 by April 30, 2018.
- 11 F.37 PDS denied the request for an extension on January 24, 2018.¹³
- 12 F.38 Five years after receiving the first review completion letter, BSRE authorized its
13 consultant, David Evans and Associates, to ascertain the ordinary high water mark in
14 March 2018.¹⁴ BSRE had not ascertained the ordinary high water mark prior to this
15 time, though locating the ordinary high water mark is necessary to delineate the
16 shoreline buffer and to configure the location and footprint of buildings in the proposed
17 urban center.
- 18 F.39 In April 2018, BSRE asked its consultant HartCrowser to prepare a deviation request
19 from landslide hazard area requirements.¹⁵
- 20 F.40 On April 11, 2018, the Hearing Examiner scheduled an open record hearing on PDS'
21 request to deny the applications and BSRE's request for an extension.
- 22 F.41 On April 27, 2018, BSRE filed:
- 23 A. Updated master permit application and checklist for land disturbing activity permit.¹⁶
- 24 B. Variance request to allow tall buildings near low density zones.¹⁷
- 25 C. EDDS deviation request to allow private roads.¹⁸

¹² Ex. G.8.

¹³ Ex. K.40.

¹⁴ Testimony of Gray Rand.

¹⁵ Testimony of John Bingham.

¹⁶ Ex. A.28.

¹⁷ Ex. A.29.

¹⁸ Ex. A.30.

- 1 D. Updated master permit application for Urban Center Development Plan and
2 Shoreline Substantial Development Permit.¹⁹
- 3 E. Updated Point Wells development project narrative.²⁰
- 4 F. Initial application for a flood hazard permit.²¹
- 5 G. Updated preliminary short subdivision submittal checklist.²²
- 6 H. Supplement to Urban Center narrative.²³
- 7 I. Architectural plans for Urban Center site plan.²⁴
- 8 J. Secondary access road exhibit.²⁵
- 9 K. Initial coastal engineering assessment.²⁶
- 10 L. Updated critical areas report.²⁷
- 11 M. Updated targeted stormwater site plan reports.²⁸
- 12 N. Landslide area deviation request.²⁹
- 13 O. Updated subsurface conditions report.³⁰
- 14 P. Fire turning studies.³¹
- 15 Q. Hydrogeologic report.³²
- 16 R. Remediation memo.³³
- 17 F.42 BSRE submitted more information the day before the open record hearing began:

¹⁹ Ex. A.31 (April 27, 2018).

²⁰ Ex. A.32 (April 24, 2018).

²¹ Ex. A.33

²² Ex. A.34.

²³ Ex. A.35, superseded by A-38 submitted on May 15, 2018.

²⁴ Ex. B.7 (April 24, 2018).

²⁵ Ex. B.8.

²⁶ Ex. C.25 (April 23, 2018).

²⁷ Ex. C.30

²⁸ Ex. C.32 (April 27, 2018).

²⁹ Ex. C.27 (April 24, 2018).

³⁰ Ex. C.33 (April 20, 2018).

³¹ Ex. C.23.

³² Ex. C.26.

³³ Ex. C.29.

- 1 A. Updated Point Wells development project narrative.³⁴
- 2 B. Updated Shoreline Management Act consistency narrative.³⁵
- 3 C. Updated landslide area deviation request.³⁶
- 4 D. Urban Center development application supplement.³⁷
- 5 E. Revised phasing drawing showing transit station in Phase 1.³⁸

6 F.43 The open record hearing began on May 16, 2018.

7 **B. SETBACKS AND VARIANCE**

8 F.44 BSRE's proposed development consists of 46 buildings in an Urban Plaza, North
9 Village, Central Village, and South Village.³⁹ The Urban Plaza portion of the
10 development is located east of the Burlington Northern Santa Fe (BNSF) railroad
11 tracks on the portion of the site referred to as the upper bench, and identified in the
12 revised phasing drawing as Phase 2.⁴⁰

13 F.45 At the time BSRE filed its urban center application in 2011,⁴¹ the property adjacent to
14 the Urban Plaza was located in unincorporated Snohomish County and zoned R-
15 9,600. R-9,600 is the least dense urban residential zoning in the county. The adjacent
16 property was later annexed by Woodway and zoned R-14,500 and Urban Restricted.⁴²

17 F.46 The Urban Plaza is comprised of three residential towers (UP-T1, UP-T2, and UP-T3)
18 and two service buildings (Service Building 1 and Service Building 2).⁴³ Tower 1 is 180
19 feet tall, tower 2 is 170 feet tall, and tower 3 is 150 feet tall. The service buildings are
20 both 35 feet tall.⁴⁴ The Urban Plaza is a substantial element of BSRE's urban center
21 application.

³⁴ Ex. A.40.

³⁵ Ex. A.36.

³⁶ Ex. A.37.

³⁷ Ex. A.38.

³⁸ Ex. A.39, sheet A-056.

³⁹ Ex. A.40, pp. 5-13. Exhibit B.7, sheet A-050. Ex. P.3.

⁴⁰ Exhibits A.39 and A.40.

⁴¹ Regulations pertaining to Urban Center Development were amended significantly in 2013 under Amended Ordinance No. 13-007. BSRE's application vested to a Comprehensive Plan Designation of Urban Center. The Comprehensive Plan Designation for the property was changed to Urban Village in 2012 by Amended Ordinance 12-068.

⁴² Exhibits N.1 and N.2.

⁴³ Exhibits A.39 and A.40.

⁴⁴ Ex. A.40, p. 10.

1 F.47 PDS advised BSRE on April 12, 2013, that several proposed buildings in the Urban
2 Plaza must comply with building height and setback requirements of SCC
3 30.34A.040.⁴⁵

4 F.48 SCC 30.34A.040(2)(a) requires buildings within 180 feet of R-9,600 zones must be
5 scaled down and limited in height to half the distance of the building to the adjacent
6 property. For example, a building 90 feet from an R-9,600 zone cannot exceed 45 feet
7 in height.

8 F.49 All of the buildings on the Urban Plaza exceed SCC 30.34A.040(2)'s height limit.

9 F.50 On April 26, 2018, BSRE requested a variance from the zoning code for the height of
10 the Urban Plaza residential towers. The request did not seek a variance for the
11 service buildings.⁴⁶ The 35 foot tall service buildings are approximately 20 to 30 feet
12 from adjacent property zoned R-14,500 by Woodway.⁴⁷

13 F.51 PDS did not include the variance request for the residential towers in the notice of the
14 open record hearing because BSRE did not submit the request in time to include it in
15 the notice.⁴⁸

16 C. ACCESS TO HIGH CAPACITY TRANSIT

17 F.52 Twenty-one of the 46 buildings will be over 90 feet in height: three in the Urban Plaza;
18 five in the North Village; seven in the Central Village; and six in the South Village.⁴⁹

19 F.53 These buildings are a substantial element of the proposed development.

20 F.54 Burlington Northern Santa Fe (BNSF) railroad tracks run through the development.
21 BNSF runs freight trains on the tracks and Sound Transit, the central Puget Sound
22 transit agency, runs a commuter train (Sounder) on the tracks. Sound Transit
23 purchased an easement from BNSF to run Sounder and BNSF operates Sounder.

24 F.55 In 2010, the year before BSRE applied for approval of an urban center development,
25 a mid-level manager at Sound Transit advised BSRE that Sound Transit might be
26 interested in providing commuter rail service by Sounder to the development, but that
27 Sound Transit had no plans to fund a platform.⁵⁰ BSRE is willing to construct a

⁴⁵ Ex. K.4, p.4, comment v.

⁴⁶ Exhibits K.29 and K.37.

⁴⁷ Ex. A.29, p.2.

⁴⁸ Ex. N.2.

⁴⁹ Ex. A.40, pp. 10-13; Ex. P.3

⁵⁰ Ex. H.24.

1 platform and shows a platform in its current plans.⁵¹ BSRE's proposed site plan does
2 not show any parking for the platform, however.

3 F.56 The final Supplemental Environmental Impact Statement in 2014 for a Sound Transit
4 plan and bond issue included a Sounder station in the Shoreline/Richmond Beach
5 area as a representative project in the appendix.⁵² The putative Sounder station was
6 only generally located in the Shoreline/Richmond Beach area. No evidence indicated
7 that the notional station would be at or close to Point Wells or that Sound Transit had
8 the Point Wells development in mind when it listed a representative project in the
9 Shoreline/Richmond Beach area.

10 F.57 BSRE had no contacts or meetings with Sound Transit between 2010 and May 2018,
11 other than to comment publicly on a draft environmental impact statement:

12 "Sound Transit staff are not aware of additional recent contact between BSRE and the
13 agency since the Long Range Plan FEIS [in 2014]. The ST3 package approved by
14 voters in 2016 does not include a station at Point Wells. To construct a station there
15 (or any other additional location along that corridor) would require an additional
16 easement from Burlington Northern Railroad, something that likely would be very
17 challenging to obtain."⁵³

18 F.58 Other than a single letter of mild interest in 2010 from a mid-level Sound Transit
19 manager to Paramount Petroleum and a public comment submitted on a draft
20 environmental impact statement, BSRE did not make any substantive efforts to obtain
21 any commitments, memoranda of understanding, agreements, or criteria for future
22 approval and implementation from decision makers at either Sound Transit or BNSF.⁵⁴

23 F.59 The Hearing Examiner finds that BSRE did not diligently pursue approval of a
24 Sounder platform or stop with Sound Transit or BNSF. The Hearing Examiner
25 acknowledges that BSRE thought it may be premature to do so and agrees that formal
26 approval from either BNSF or Sound Transit takes considerable time and effort to
27 obtain and that they are not likely to give formal approval to a land use proposal that
28 has not been approved. However, more progress and more formality could and should
29 have been made in the past years. BSRE could have appeared before the Sound
30 Transit board of directors and attempted to negotiate a memorandum of
31 understanding that at least outlined the elements and steps needed for formal
32 approval of commuter rail service at Point Wells. BSRE did not attempt to obtain a

⁵¹ Ex. A.40, p.6; Ex. H.24, pp. 4-8.

⁵² Ex. H.24, p.1.

⁵³ Ex. H.30.

⁵⁴ Mr. Huff, counsel for BSRE, commented to Sound Transit on the draft environmental impact statement in 2014 that a Point Wells stop should be included in the final environmental impact statement. The final environmental impact statement was not changed to be any more specific than the draft upon which Mr. Huff commented.

1 formal document from decision makers at either Sound Transit or BNSF that
2 described the conditions under which service could be provided.

3 F.60 BSRE has not had any contact with Community Transit regarding bus rapid transit
4 service for Point Wells. Bus rapid transit, such as Community Transit's Swift
5 operation, is an example of high capacity transit.

6 F.61 BSRE offered to operate a water taxi between Point Wells and Edmonds to provide
7 Point Wells' residents with access to the Sounder station in Edmonds.⁵⁵

8 F.62 The pier at Point Wells is on state land and is subject to an aquatic lands lease from
9 the Washington State Department of Natural Resources. The lease only permits
10 "commercial ship/barge berthing and loading, off-loading, and bunkering of cargo . . .
11 and . . . no other purpose."⁵⁶ Establishing water taxi service would require amendment
12 of the lease. There has been no contact between BSRE and DNR to determine the
13 level of interest by DNR, requirements, and timing for amending the lease. BSRE did
14 not diligently pursue providing a water taxi.

15 F.63 Further, water taxi service appears to be prohibited by the Shorelines Management
16 Master Program because it is a commercial use.⁵⁷ If it is not a commercial use, it
17 requires a conditional use permit. BSRE has not applied for a conditional use permit
18 nor acknowledged that one might be needed.

19 **D. SHORELINE MANAGEMENT REGULATIONS**

20 F.64 Shoreline jurisdiction extends 200 feet in all directions horizontally from the Ordinary
21 High Water Mark (OWHM).⁵⁸

22 F.65 BSRE's application depicts Mean Higher High Water (MHHW), rather than OWHM.⁵⁹

23 F.66 BSRE located buildings and other facilities based on MHHW, not OWHM.⁶⁰

24 F.67 For the purposes of the applicable Shorelines Master Management Program, the
25 project landward of the OWHM is Urban Environment, while seaward is Conservancy
26 Environment.⁶¹

⁵⁵ Ex. G.14, p.32.

⁵⁶ Ex. D.11, p.1.

⁵⁷ Ex. P.12, p. F-29.

⁵⁸ RCW 90.58.030(2)(d), (e).

⁵⁹ Ex. B.7, sheet C-203.

⁶⁰ *Id.*

⁶¹ Testimony of Middaugh.

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1 1. Stabilization

2 F.68 BSRE proposes an esplanade along the beach. The esplanade will be set back from
3 the surf line and would only be overtopped by waves in extreme storm events. The
4 esplanade is not intended or designed to protect any structures or features landward
5 of it from waves. The design of the rehabilitated shore and the esplanade calls for
6 wave action to dissipate on the beach and not against any structure or the esplanade.

7 F.69 The purpose of the concrete edge is to maintain the integrity of the esplanade sub-
8 base. The sub-base will be structural fill supporting the esplanade. Beach fill will not
9 provide structural support for the esplanade. Without a physical barrier separating the
10 sub-base from the beach fill, mixing occurs and the boundary between them can
11 become less defined. Intrusion of beach material under the esplanade potentially
12 weakens the structure. The physical barrier of the concrete edge or geotextile fabric
13 does not protect the esplanade from flooding by waves.

14 F.70 A geotextile fabric can be substituted for the concrete edge and maintain the integrity
15 of the sub-base boundary instead of a concrete wall.⁶²

16 F.71 Neither a subgrade concrete edge beam nor a geotextile fabric between the
17 esplanade subgrade and beach fill will stabilize the beach or protect any structures
18 from waves or flooding. Neither will prevent waves from progressing shoreward.

19 F.72 The esplanade is not a levee. It does not protect any structures against flooding and
20 does not stabilize the shore.

21 F.73 The edge beam is not shore armoring or a hard wall and is not necessary for a stable
22 shoreline.

23 2. Commercial Uses on Pier

24 F.74 The pier is located in the Conservancy Environment.

25 F.75 The project narrative describes the pier as incorporating, "water dependent uses
26 utilizing the existing renovated structures, which could include small water craft rental,
27 fishing supplies, café, public art walk, and access to a floating dock used by non-
28 motorized watercraft."⁶³ The project application does not discuss or otherwise
29 document the necessity for these activities.

⁶² Testimony of Gerken.

⁶³ Ex. A.40, p. 31.

1 E. CRITICAL AREAS

2 1. Landslide Hazard Area Deviation

3 F.76 The project site contains landslide hazard areas on the east side of the railroad
4 tracks.⁶⁴ The proposed secondary access road, retaining wall, and the entire Urban
5 Plaza portion of the development are within a landslide hazard area or its setback.
6 These are substantial and material features of the proposed development.

7 F.77 PDS advised BSRE in 2013 that development activities were generally not allowed
8 within the landslide hazard area⁶⁵ and asked BSRE to address the issue.⁶⁶ BSRE
9 could either redesign the project or ask PDS to approve a deviation.⁶⁷

10 F.78 BSRE asked HartCrowser in April 2018 to prepare a deviation request.⁶⁸ BSRE
11 submitted the deviation request to PDS on April 27, 2018.⁶⁹

12 F.79 BSRE's deviation request explained the lack of alternate location for the secondary
13 access road. The deviation request did not explain the lack of alternate location for the
14 Urban Plaza. The deviation request relied on a subsurface conditions report.⁷⁰

15 F.80 PDS identified several concerns with the deviation request and subsurface conditions
16 report in its supplemental staff report.⁷¹ BSRE responded to those concerns by
17 submitting a revised deviation request on May 15, 2018, the day before the open
18 record hearing started.⁷²

19 F.81 Randolph Sleight, P.E., is PDS' Chief Engineering Officer to whom the PDS Director
20 delegates decisions on deviations such as this. Mr. Sleight has granted less than half
21 a dozen landslide hazard area deviation requests in his long career and those only for
22 single family residences which had no alternate locations on the lots.

⁶⁴ Ex. B.7, Sheet A-051.

⁶⁵ "Development activities, actions requiring project permits and clearing shall not be allowed in landslide hazard areas or their required setbacks unless there is no alternate location on the subject property." SCC 30.62B.340(1).

⁶⁶ Ex. K.4, p.7.

⁶⁷ Deviations from setback requirements are allowed only when: (1) there is no alternate location for the structure on the subject property; and (2) a geotechnical report meeting the requirements of SCC 30.62B.320 demonstrates that the alternative setbacks provide protection which is equal to that provided by the standard minimum setbacks. SCC 30.62B.340(2)(b).

⁶⁸ Testimony of Bingham.

⁶⁹ Ex. C.27.

⁷⁰ Ex. C.33.

⁷¹ Ex. N.2, pp. 21-22.

⁷² Ex. A.37.

- 1 F.82 There is no alternate location outside of the landslide hazard area for the secondary
2 access road.⁷³
- 3 F.83 BSRE has not demonstrated by a preponderance of evidence that there is no
4 alternate location for the buildings in the Urban Plaza outside of the landslide hazard
5 area or that the buildings are necessary. The project architect considered alternate
6 locations, but discarded those ideas, preferring building locations closer to the hillside
7 to minimize visual impact and based on urban design principles.⁷⁴ A preference to
8 minimize visual impact does not equal necessity and no alternate location.
- 9 F.84 The geotechnical report does not adequately demonstrate the proposed deviation
10 provides protection equal to that provided by the prescribed minimum setbacks.⁷⁵
- 11 F.85 The soils of the hillside are not cohesive and bad for construction.⁷⁶
- 12 F.86 The revised deviation request demonstrated the retaining wall achieves the required
13 safety factor under pseudo-static conditions.⁷⁷
- 14 F.87 Mr. Sleight had three concerns about the revised deviation request submitted in May
15 2018: (1) the retaining wall appears to be intended to be constructed in the first phase
16 of the project, but the foundation walls of the Urban Plaza buildings supporting the
17 retaining wall will not be built until phase 2; (2) the geotechnical report does not
18 describe the plans for collection and distribution of groundwater; and (3) the deviation
19 request does not adequately show its calculations and development of the retaining
20 wall.
- 21 F.88 BSRE's geotechnical consultant testified that appropriate sequencing of construction
22 activities likely resolves the first issue. Although the foundation walls of the Urban
23 Plaza will laterally support the retaining wall when they are built in phase 2, the soil
24 will not be excavated until phase 2. The undisturbed soil will laterally support the
25 retaining wall until phase 2.⁷⁸
- 26 F.89 The subsurface conditions report and revised deviation do not provide the required
27 information regarding the proposed method of drainage⁷⁹ and locations of all existing
28 and proposed surface and subsurface drainage facilities.⁸⁰ This information is required

⁷³ Testimony of Sleight.

⁷⁴ Testimony of Stinn and Seng. Neither witness identified or explained the urban design principles that drove their decision.

⁷⁵ SCC 30.62B.340(2)(b)(ii).

⁷⁶ Testimony of Sleight.

⁷⁷ Testimony of Sleight.

⁷⁸ Testimony of Bingham.

⁷⁹ *N.B.* The drainage regulations of chap. 30.63A SCC and the Snohomish County Drainage Manual were significantly revised in 2016 by Amended Ordinance No. 15-102 to comply with the most recent NPDES Phase I Municipal Stormwater Permit issued by the Washington State Department of Ecology.

⁸⁰ Compare SCC 30.62B.140(2)(j) with Exhibits C.33 and A.37.

1 by code and needed by Mr. Sleight to determine whether the retaining wall will
2 function adequately.⁸¹ The most recent stormwater site plan only deals with surface
3 water, not groundwater.⁸²

4 F.90 The revised deviation request describes the resisting force of the retaining wall as
5 78,000 lbs./ft. and static and pseudo-static safety factors (1.966 and 1.109
6 respectively). The deviation request does not, however, explain or show how these
7 numbers were calculated, such as what surcharges were included.⁸³ Mr. Sleight is
8 therefore unable to verify them.

9 F.91 While the retaining wall is designed to protect structures and people downslope of it,
10 no protection has been designed for people and vehicles on the road in the event of a
11 smaller slide.⁸⁴

12 2. Geotechnical Report

13 F.92 PDS informed BSRE in April 2013 that development could only occur within 200 feet
14 of a seismic hazard area if an approved geotechnical report confirmed the site was
15 suitable for the proposed development and met the requirements of the International
16 Building Code and chap. 30.51A SCC. PDS asked BSRE's geotechnical engineer to
17 confirm the site was suitable for the proposed development.⁸⁵

18 F.93 Most, if not all, of the site is susceptible to liquefaction in an earthquake.⁸⁶ The
19 geotechnical report defers characterization of liquefaction hazard until the building
20 permit phase, i.e., after the location, size, setbacks, etc. of buildings have already
21 been approved.

22 F.94 The geotechnical report does not confirm the site is suitable for the proposed
23 development.

24 3. Buffer from Ordinary High Water Mark

25 F.95 The site contains streams, wetlands, and marine shorelines, all of which are
26 characterized as critical areas by county code.

27 F.96 Marine waters require a 150 foot buffer, measured horizontally landward from OHWM.

28 F.97 At least four residential structures in the South Village intrude on the marine buffer.

⁸¹ Testimony of Sleight.

⁸² Ex. C.32.

⁸³ For example, testimony during the hearing revealed that weight of traffic on the retaining wall was not included in calculating the safety factors. Testimony of Bingham.

⁸⁴ Testimony of Sleight.

⁸⁵ Ex. K.4, p. 7.

⁸⁶ Testimony of Sleight. Ex. B.7, sheet 051.

1 F.98 BSRE did not delineate the OHWM until March 2018.⁸⁷

2 4. Innovative Development Design

3 F.99 The project site contains streams, wetlands, and marine shorelines. The streams are
4 depicted in the Critical Areas Report with 50-foot buffers, which means they are typed
5 either Np or Ns.⁸⁸ Extensive wetlands are east of the BNSF railroad tracks and around
6 the second access road.⁸⁹ The wetlands were typed Category III systems and
7 provided a 110-foot buffer.⁹⁰

8 F.100 BSRE's critical areas report quantified the expected impacts: Wetland buffers
9 (24,656 square feet); streams (677 square feet; 91 linear feet); stream buffers (16,654
10 square feet); stream buffer over existing developed area (6,202 square feet); marine
11 shoreline over existing developed area (400,345 square feet).⁹¹

12 F.101 BSRE proposes to mitigate the project's impact on wetlands, streams, marine
13 waters, and their buffers by Innovative Development Design (IDD).⁹²

14 F.102 IDD requires the proponent to demonstrate that the innovative design "will achieve
15 protection equivalent to the treatment of the functions and values of the critical area(s)
16 which would be obtained by applying the standard prescriptive measures."⁹³

17 F.103 Proposed IDD must therefore compare the existing functions and values of affected
18 critical areas and buffers with functions and values after development to ensure the
19 IDD protects the functions and values at least as well as the standard prescriptive
20 measures.

21 F.104 The critical areas report⁹⁴ does not contain this important comparison. It contains a
22 conclusory statement that IDD will allow significant improvement in net ecological
23 function. It does not discuss the functions and values that would result from following
24 the standard prescriptive measures and does not discuss the functions and values
25 expected from the proposed IDD techniques. The report does not differentiate
26 between the functions and values of streams and wetlands and the functions and
27 values of marine waters.⁹⁵

⁸⁷ Testimony of Rand.

⁸⁸ Ex. C.30, p. 33, Figure 10; SCC 30.62A.320.

⁸⁹ Ex. C.30, p. 32.

⁹⁰ Ex. C.30, pp. 32-33, Figure 10. SCC 30.62A.320 (Table 2b).

⁹¹ Ex. C.30, p. 76, Table 15.

⁹² Ex. C.30, pp. 106-07.

⁹³ SCC 30.62A.350(1)(a).

⁹⁴ Ex. C.30, p. 106.

⁹⁵ Testimony of Rand.

1 5. Habitat Management Plan

2 F.105 Habitat management plans may be required for development within the primary
3 association area of a critical species.⁹⁶ The plan should assess how the proposed
4 development will affect critical species and their habitat and how the development will
5 avoid, minimize, or mitigate those impacts. Absent an administrative rule for a listed
6 species, the plan should include an assessment of best available science applicable
7 to the species and demonstrate how the plan adequately protects them.

8 F.106 BSRE's habitat management plan is contained in its critical areas report.⁹⁷ Table 21
9 identifies critical species and cross references the species with other areas in the
10 report that purport to provide the required information.

11 F.107 Although the gray whale is identified as a critical species, the critical areas report is
12 bereft of the required information.

13 **II. DISCUSSION AND CONCLUSIONS OF LAW**

14 **A. EXTENSION OF EXPIRATION DEADLINE**

15 C.1 County code authorizes the Hearing Examiner to extend the expiration date for
16 applications. SCC 30.70.140(2)(b) (2017).

17 C.2 The expiration date may appropriately be extended if an applicant has been
18 reasonably diligent in prosecuting the application. The totality of circumstances should
19 be considered in determining whether an applicant has been reasonably diligent,
20 including, but not limited to, the size and complexity of the project and delays not
21 attributable to the applicant.⁹⁸

22 C.3 BSRE's diligence should not be evaluated from 2011, when it applied for the urban
23 center development. Litigation, including an injunction that prevented PDS from
24 processing the applications, consumed two years of everyone's attention and
25 resources.

26 C.4 Evaluation of BSRE's diligence should begin in 2013, with PDS' first review
27 completion letter on April 12, 2013, in which PDS identified 62 items that needed
28 additional information and attention.

⁹⁶ SCC 30.62A.460.

⁹⁷ Ex. C.30, §8.

⁹⁸ This is not an exhaustive list of all potential factors. Additional factors may be appropriate to deciding other cases.

- 1 C.5 For the next four years, 2013 to 2017, BSRE did not comprehensively address the
2 issues raised by PDS.
- 3 C.6 BSRE submitted three requests for extensions during those four years, all of which
4 PDS granted.
- 5 C.7 The last extension set a deadline of June 30, 2018, more than five years after PDS'
6 first completion review letter.
- 7 C.8 On April 17, 2017, BSRE responded comprehensively to PDS' 2013 review letter for
8 the first time.
- 9 C.9 PDS reviewed this additional information and sent BSRE a lengthy review completion
10 letter in October 2017. PDS asked for a substantive response by January 8, 2018 to
11 allow sufficient time for PDS review before the development applications expired on
12 June 30, 2018.
- 13 C.10 BSRE asked for additional time, but PDS denied the request in January 2018. From
14 PDS' perspective, the development application expiration date of June 30, 2018
15 remained in place.
- 16 C.11 An imminent deadline concentrates the mind wonderfully.⁹⁹ In 2018, BSRE put its
17 existing consultants to work and engaging new ones.¹⁰⁰ BSRE turned in a substantial
18 volume of new information and requests for deviations and variances in April and May,
19 2018.
- 20 C.12 The new materials resolved some, but not all, issues. This demonstrates BSRE could
21 have done this work and resolved these issues sooner.
- 22 C.13 A glaring example of BSRE's failure to prosecute its applications diligently is its failure
23 to ascertain the ordinary high water mark until late spring 2018.
- 24 C.14 The ordinary high water mark is critical because nothing can be built within 150 feet of
25 the mark. Locating the ordinary high water mark identifies the maximum footprint of
26 available space for buildings. The ordinary high water mark could even have been
27 located prior to filing the initial application for an urban center.
- 28 C.15 From 2011 to the present day, BSRE proposed an urban center with large buildings
29 within the buffer of the ordinary high water mark. At the least, those buildings must

⁹⁹ "Depend upon it, sir, when a man knows he is to be hanged in a fortnight, it concentrates his mind wonderfully." Samuel Johnson, 3 *The Life of Samuel Johnson LL.D.*, (Boswell, J., ed., 1791).

¹⁰⁰ Such as the coastal engineering firm.

1 either be removed or their footprints sliced off at the buffer. At the most, the locations
2 of many or all of the proposed buildings must be changed.

3 C.16 BSRE made no effort to ascertain the ordinary high water mark until March 2018.

4 C.17 Waiting seven years to determine the area in which one can lawfully build is a failure
5 of diligence at the least and dilatory at the most.

6 C.18 BSRE believed that traffic would be the largest hurdle it would have to overcome.
7 BSRE proposed a development that would generate over 12,000 average daily trips
8 from a site with only one road access: Richmond Beach Drive in the city of Shoreline
9 to the south. Richmond Beach Drive is a residential two lane road with no shoulders.
10 The water side guardrail sits just off the fog line of the southbound travel lane and
11 single family residences are on the east side of the northbound travel lane.

12 C.19 Starting in 2013, BSRE discussed traffic issues with Shoreline. It entered into a
13 memorandum of understanding regarding a public process and held seven public
14 meetings on segments A (Richmond Beach Drive) and B (Richmond Beach Road).
15 Although BSRE believed it had fundamentally resolved traffic issues, Shoreline
16 vehemently disagrees.¹⁰¹ The lack of the necessary, critical, complete traffic corridor
17 study is further evidence of a lack of reasonable diligence.

18 C.20 Other examples of a lack of reasonable diligence include a desultory approach to
19 obtaining Sounder service justifying a 90 foot height bonus and waiting until April 2018
20 to prepare and submit requests for deviations and a variance. In all of these instances,
21 BSRE knew or should have known they would be needed and could have prepared
22 and submitted them sooner. High capacity transit is critical to building height. All of
23 these are material to the design of the urban center and the number, size, and
24 location of buildings.

25 C.21 Weighing the evidence and the totality of circumstances, the Hearing Examiner
26 concludes that BSRE did not exercise reasonable diligence in the prosecution of its
27 applications. No evidence proved that BSRE was prevented from diligently pursuing
28 its applications from 2013 until now.

¹⁰¹ Shoreline vehemently testified during the public comment period of the open record hearing that it did not reach agreement with BSRE and asked that the project be denied due to unmitigated impacts on Shoreline. Except as it relates to the sequence and duration of BSRE's efforts, the traffic issues are not ripe for decision. PDS does not argue traffic as a basis for early termination of the environmental impact evaluation and BSRE does not ask for approval of the project. The Hearing Examiner agrees with Shoreline and BSRE that traffic is a major issue if, as, and when this project (or a similar one) reaches an open record hearing for approval. That time is not yet, however.

1 C.22 BSRE's request for another extension of its applications expiration date is therefore
2 denied.

3 **B. DENIAL FOR SUBSTANTIAL CONFLICT WITH COUNTY CODE**

4 C.23 The Hearing Examiner may deny BSRE's applications without completion of an
5 environmental impact statement if he has no reasonable doubt that the applications
6 substantially conflict with county code.

7 When denial of a non-county proposal can be based on grounds which are
8 ascertainable without preparation of an environmental impact statement, the
9 responsible official may . . . recommend denial thereof . . . without preparing an EIS in
10 order to avoid incurring needless county and applicant expense, subject to the
11 following:

12 (1) The proposal is one for which a DS has been issued or for which early
13 notice of the likelihood of a DS has been given;

14 (2) Any such denial or recommendation of denial shall be supported by
15 express written findings and conclusions of substantial conflict with
16 adopted plans, ordinances, regulations or laws; and

17 (3) When considering a recommendation of denial made pursuant to this
18 section, the decision-making body may take one of the following
19 actions:

20 (a) Deny the application; or

21 (b) Find that there is reasonable doubt that the recommended grounds
22 for denial are sufficient and remand the application to the
23 responsible official for compliance with the procedural
24 requirements of this chapter

25 SCC 30.61.220 (2003).

26 C.24 PDS asserts BSRE's proposals substantially conflict with adopted plans, ordinances,
27 regulations, or laws. BSRE contends there is reasonable doubt that its proposals
28 substantially conflict with county code and asks the Hearing Examiner to remand its
29 application to PDS.

30 C.25 The proposals must be remanded for further processing by PDS if the Hearing
31 Examiner reasonably doubts the proposals substantially conflict with county code

1 1. Setbacks and Variance

2 C.26 As presently conceived, the buildings of the Urban Plaza require a variance because
3 they are proposed to be located closer to the urban center's boundary with adjacent
4 residential zones than prescribed by county code.

5 C.27 BSRE's request for a variance for buildings in the Urban Plaza is not before the
6 Hearing Examiner for decision on the merits because it was filed too close to the open
7 record to be included in the public notice of the open record hearing.

8 C.28 Other projects have been presented at open record hearings that include a variance
9 request necessary to execute the proposed project. In those cases, PDS
10 recommended approval.

11 C.29 PDS' recommendation of approval is not a prerequisite for an open record hearing or
12 Hearing Examiner decision on a project that requires a variance to implement the
13 applicant's project. If an applicant insisted on proceeding to a hearing on its
14 application over PDS' objections, the Hearing Examiner could either (1) agree with the
15 applicant and grant the variance or (2) agree with PDS, deny the variance, and
16 remand the proposal for further processing.¹⁰²

17 C.30 A project's need for a variance to be approved as designed is not a basis for denial for
18 substantial conflict. Such a rule would allow PDS to usurp the authority of the Hearing
19 Examiner by refusing to recommend approval and refusing to advance a project to an
20 open record hearing. The need for a variance by itself is not sufficient grounds for
21 early denial of a project.

22 2. Access to High Capacity Transit

23 C.31 Generally, the maximum building height for the proposed Point Wells project is 90
24 feet.¹⁰³ Twenty-one of the proposed 46 buildings are taller than 90 feet.

25 C.32 BSRE contends that SCC 30.34A.040(1) allows it to build up to 180 feet because it is
26 near a high capacity transit route or station.

27 The maximum building height in the UC zone shall be 90 feet. A building
28 height increase up to an additional 90 feet may be approved under SCC
29 30.34A.180 when the additional height is documented to be necessary or
30 desirable when the project is located near a high capacity transit route or

¹⁰² The applicant could also submit an alternative design in the event the Hearing Examiner denied the variance. The Hearing Examiner notes that the evidence adduced at the open record hearing was insufficient to demonstrate that BSRE would be deprived of a substantial property right enjoyed by other property owners in the area if a variance is not granted. Preferred design is not a substantial property right. See testimony of Stinn.

¹⁰³ SCC 30.34A.040(1).

1 station and the applicant prepares an environmental impact statement
2 pursuant to chapter 30.61 SCC that includes an analysis of the
3 environmental impacts of the additional height

4 C.33 Sound Transit's commuter rail service travels BNSF's railroad tracks that bisect the
5 project. BSRE offers to build a platform for commuter rail service during phase 1.
6 BSRE therefore contends that the maximum building height should be 180 feet, not
7 90, and has designed the project accordingly.

8 C.34 BSRE's assumption is problematic for several reasons.

9 C.35 First, BSRE made no serious effort to realize commuter rail service. A tepid, non-
10 committal letter from a mid-level Sound Transit manager prior BSRE's application and
11 a single public comment on a draft Sound Transit environmental impact statement do
12 not qualify as substantial effort or progress. Based on the record, any claim that
13 Sound Transit will operate a commuter rail stop at Point Wells is speculative at best.

14 C.36 Second, BSRE contends that it need only be "near a high capacity transit route . . ."
15 The railroad tracks are not near the project; they bisect it. While BSRE is correct that a
16 high capacity transit route is near the project, proximity alone is not enough.

17 C.37 The height increase may only be approved when "the additional height is
18 **documented to be necessary or desirable.**" (Emphasis added.) BSRE's bare
19 proposal for buildings twice the permitted height does not demonstrate either
20 necessity or desirability which are necessary for approval of the height increase. If the
21 applicant's subjective need or desire for additional height were sufficient, there would
22 have been no need for approval or need to identify necessity or desirability as a
23 criteria for approval of increased height. Words of a law are not interpreted to be
24 superfluous or meaningless.¹⁰⁴ To give meaning to the words "approval" and
25 "necessary or desirable", it must mean necessity or desirability for some reason other
26 than the applicant's desire. The record lacks any evidence to support a finding or
27 conclusion that the additional height is necessary or desirable from a public, aesthetic,
28 planning, or transportation standpoint.

29 C.38 BSRE tentatively advanced the idea of a water taxi from Point Wells to the Edmonds
30 Sounder platform. This is problematic because a taxi from the existing pier appears to
31 be a commercial activity in the Conservancy Environment, which is prohibited by the

¹⁰⁴ Local ordinances are interpreted in the same manner as statutes. *Sleasman v. City of Lacey*, 159 Wn.2d 639, 643, 151 P.3d 990, 992 (2007). "Another well-settled principle of statutory construction is that 'each word of a statute is to be accorded meaning.' '[T]he drafters of legislation ... are presumed to have used no superfluous words and we must accord meaning, if possible, to every word in a statute.' '[W]e may not delete language from an unambiguous statute.' 'Statutes must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous.'" *State v. Roggenkamp*, 153 Wash. 2d 614, 624, 106 P.3d 196, 201 (2005) (citations omitted).

1 Shorelines Master Management Program in effect at the time. Even if a water taxi
2 from the existing pier is a high capacity transit station, it is not a permitted use of the
3 pier.

4 C.39 BSRE's proposes 21 buildings in excess of the height permitted in an urban center, a
5 substantial conflict with SCC 30.34A.040. The evidence does not create a reasonable
6 doubt that this conflict can be resolved.

7 3. Shoreline Management Regulations

8 a. Shoreline Stabilization

9 C.40 The Shoreline Management Master Plan¹⁰⁵ prohibits shoreline stabilization or flood
10 protection features.¹⁰⁶ PDS contends the esplanade and its edge beam are shoreline
11 stabilization or flood protection features.

12 C.41 Neither the esplanade nor its edge beam function as shoreline stabilization nor flood
13 protection features. The esplanade and subsurface edge wall do not protect
14 residential lots from flooding or wave action and do not stabilize the beach.

15 C.42 The esplanade and edge beam do not substantially conflict with county code.

16 b. Commercial Uses on Pier

17 C.43 The Shoreline Master Management Program prohibits commercial activity on
18 conservancy shorelines except for low intensity recreational developments which do
19 not substantially change the character of the Conservancy Environment.¹⁰⁷

20 C.44 PDS contends that the small water craft rental, fishing supplies, café, public art walk,
21 and access to a floating dock for non-motorized watercraft described in the project
22 narrative are commercial activities that at most are prohibited and at least must have
23 their need documented in the permit application.

24 C.45 The Hearing Examiner notes that the project narrative uses the conditional "could"
25 when giving these examples. Further, BSRE testified that it could remove any or all of
26 these items if they are prohibited.

¹⁰⁵ The applications are evaluated against the Shoreline Management Master Program as it existed in 2011 when BSRE filed completed development applications. The Shoreline Management Master Program and chapter 30.44 SCC were significantly revised the following year to comply with new Washington State Department of Ecology Guidelines by Amended Ordinance No. 12-025. The ordinance also adopted new substantive shoreline regulations in new chapter 30.67 SCC.

¹⁰⁶ Ex. P.12, p. F-60, SCC 30.62A.330(2)(a)(i).

¹⁰⁷ Ex. P.12, p. F-29, Commercial Development, Conservancy Regulation #1.

1 C.46 The Hearing Examiner lacks sufficient information at this stage to determine whether
2 these are prohibited commercial uses.

3 C.47 The Hearing Examiner reasonably doubts that this preliminary description of potential
4 water dependent uses substantially conflicts with county code at this time.

5 4. Parking

6 C.48 PDS argued that BSRE failed to provide adequate parking, creating a substantial
7 conflict justifying denial of the application. The parking issue originated in differences
8 between PDS and BSRE regarding the definition of Senior Housing. At the hearing,
9 BSRE agreed on the record that the "Senior Units" described in its application will
10 comply with Retirement Apartments¹⁰⁸ or Retirement Housing¹⁰⁹ and that BSRE will not
11 change the number of Senior Units in the future.

12 C.49 The parking issue is therefore moot.

13 5. Critical Areas

14 a. Landslide Hazard Area Deviation

15 C.50 The project site contains landslide hazard areas.¹¹⁰ Absent an approved deviation
16 request, development must be set back from landslide hazard areas and their buffers
17 by a distance half of the height of the slope.¹¹¹ BSRE proposes substantial, significant,
18 and material development in these prohibited areas.

19 C.51 Deviations from setback requirements are allowed only when an applicant: (1)
20 demonstrates there is no alternate location for the structure on the subject property;
21 and (2) provides a geotechnical report demonstrating the applicant's proposed
22 provides protection equal to that provided by the standard minimum setbacks.¹¹²

23 C.52 PDS advised BSRE in April 2013 that development activities were not allowed within a
24 landslide hazard area or its setback.¹¹³

¹⁰⁸ SCC 30.91R.180.

¹⁰⁹ SCC 30.91R.190.

¹¹⁰ BSRE's applications are evaluated by the critical areas regulations in effect when BSRE filed completed development applications in 2011. Regulations pertaining to geologic hazards and other critical areas were significantly revised in 2015, including setback requirements from landslide hazards and geotechnical report requirements. See Amended Ordinance No. 15-035.

¹¹¹ SCC 30.62B.340(2). Partially in response to the Oso landslide tragedy, the setback has since been increased to twice the height of the slope. Amended Ordinance No. 15-035.

¹¹² SCC 30.62B.340(2)(b).

¹¹³ Ex. K.4, p. 7.

1 C.53 BSRE waited five years before attempting to address this issue. BSRE submitted a
2 deviation request on April 27, 2018 and a revised deviation request on May 15, 2018,
3 the day before the open record hearing started.¹¹⁴

4 C.54 BSRE's deviation requests explained the lack of alternate location for the secondary
5 access road. The requests did not, however, address the lack of alternate location for
6 any other development, such as the Urban Plaza. BSRE's architect testified that
7 alternate locations were considered, but discarded.

8 C.55 BSRE adequately demonstrated the lack of an alternate location for the secondary
9 access road.

10 C.56 BSRE must provide a geotechnical report demonstrating its proposed alternative
11 setbacks provide protection equal to that provided by the standard minimum
12 setbacks.¹¹⁵ BSRE's geotechnical report did not adequately demonstrate that the
13 proposed alternative setback for the secondary road provided protection equal to that
14 of the prescribed setback.

15 C.57 PDS argues that BSRE's geotechnical report does not provide adequate supporting
16 information for the Chief Engineering Officer to confirm the calculations of safety
17 factors. Although this lack results in a conflict with county code, the failure to provide
18 the calculations is not substantial because it is more likely than not that such
19 information can be provided relatively easily.

20 C.58 Similarly, PDS expressed concern that lateral support for the retaining wall would not
21 be installed until phase 2, resulting in a conflict with county code. The conflict is not
22 substantial, however, because BSRE would not remove the soil providing lateral
23 support to the retaining wall until phase 2 when it would build the foundation of a
24 building that replaces the lateral support of the soil. Information about the construction
25 sequence likely resolves concerns regarding lateral support for the retaining wall.

26 C.59 The lack of information regarding the geotechnical report's failure to describe the
27 proposed method of drainage and the locations of existing and proposed drainage
28 facilities is critical. Insufficient evidence was adduced to allow the Hearing Examiner
29 reasonable doubt that the proposal substantially conflicted with county code.
30 Therefore, the lack of information regarding the method of drainage and locations of
31 drainage facilities is a substantial conflict with county code.

32 C.60 The lack of information regarding what surcharges were included in the safety factor
33 calculations results in a substantial conflict with county code. If all surcharges were

¹¹⁴ Ex. A.37.

¹¹⁵ SCC 30.62B.340(2)(b)(ii).

1 included and the problem only one of providing the information, the conflict with code
2 would likely not be substantial. Not all surcharges were included, however. For
3 example, no consideration was given in the calculations to the weight of vehicular
4 traffic. The Hearing Examiner cannot determine from the evidence the extent to which
5 redesign might be required to obtain the Chief Engineering Officer's approval of the
6 deviation. The Hearing Examiner therefore concludes that this is a substantial conflict
7 with county code.

8 C.61 To summarize, BSRE satisfied one of two criteria for a deviation from landslide hazard
9 area setbacks for the secondary access road—there is no alternate location. BSRE
10 has not demonstrated a likelihood of successfully satisfying the second criterion of
11 demonstrating equal or better protection. Therefore, substantial conflicts with county
12 code remain regarding the secondary access road.

13 C.62 BSRE did not demonstrate a likelihood of succeeding on both criteria for the buildings
14 and other facilities in the Upper Plaza. BSRE did not show the lack of an alternate
15 location. To the contrary, BSRE's architects considered alternate locations but
16 apparently decides to discard the alternates because, in part, of urban design
17 principles that were not explained.

18 C.63 The Hearing Examiner credits the testimony of the Chief Engineering Office that the
19 requested deviation is not approvable based on the information provided to date.

20 C.64 All development proposed in the landslide hazard area therefore substantially conflicts
21 with county code. Based on the evidence that alternate locations are possible for the
22 structures and the lack of adequate proof that the alternate design provides equal or
23 better protection, the deviation request does not resolve the substantial conflict.

24 C.65 The retaining wall was designed to protect structures and people located behind the
25 retaining wall and to stabilize the hillside for the purpose of locating a secondary
26 access road there. BSRE did not consider any features, facilities, or design to protect
27 pedestrians or vehicles in a smaller slide. As proposed, the design results in an
28 increased risk of death or injury.¹¹⁶ The Hearing Examiner concludes this is a
29 substantial conflict with county code.

30 **b. Geotechnical Report**

31 C.66 County code requires the geotechnical report to contain the "proposed method of
32 drainage and locations of all existing and proposed surface and subsurface drainage

¹¹⁶ SCC 30.62B.320(1)(b)(i).

1 facilities and patterns."¹¹⁷ Neither the subsurface conditions report¹¹⁸ nor the deviation
2 request¹¹⁹ describe the method drainage and locations of all existing and proposed
3 facilities and patterns. The report therefore conflicts with county code.¹²⁰ The Hearing
4 Examiner reasonably doubts the conflict is substantial because it can likely be
5 remedied without substantial effort.

6 C.67 The subsurface conditions report does not confirm the site is suitable for the proposed
7 development, though such confirmation is required by county code and the site is
8 subject to high liquefaction. The report deferred characterization until building permit
9 application. County code requires the confirmation to be part of the geotechnical
10 report, which is needed for urban center approval. BSRE therefore cannot arrogate to
11 itself the decision to defer confirmation of suitability of the site.

12 C.68 This failure is a substantial conflict with county code because virtually the entire site is
13 susceptible to high liquefaction, a major public safety issue in a seismic zone like
14 western Washington.

15 C.69 PDS met its burden of proving a substantial conflict with county code. BSRE did not
16 adduce sufficient evidence to give the Hearing Examiner reasonable doubts of how
17 substantial the conflict is.

18 C.70 Therefore, the failure of the geotechnical report to confirm the site's suitability for the
19 proposed development remains substantially in conflict with county code.

20 c. Buffer from Ordinary High Water Mark

21 C.71 Marine waters must be protected by a 150 foot buffer. SCC 30.62A.320 (Table 2a).
22 The buffer is measured from the Ordinary High Water Mark (OWHM) shoreward. *Id.* at
23 (1)(b).

24 C.72 BSRE's applications measure the buffer from the Mean Higher High Mark, rather than
25 the OWHM.

26 C.73 At least four residential buildings in the South Plaza are at least 150 feet from the
27 MHHM, but less than 150 feet from the OWHM.

28 C.74 Four residential buildings are a substantial element of the proposal. Correcting the
29 layout and footprint of the buildings requires a significant redesign of the proposal.

¹¹⁷ SCC 30.62B.140(2)(j).

¹¹⁸ Ex. C.33.

¹¹⁹ Ex. A.37.

¹²⁰ SCC 30.62B.140.

1 C.75 The residential buildings' intrusion on the marine buffer substantially conflicts with
2 county code. SCC 30.62A.310, .320.

3 d. Innovative Development Design

4 C.76 The project site contains streams and extensive category III wetlands. BSRE
5 proposes to mitigate impacts to critical areas by Innovative Development Design
6 (IDD). The critical areas report does not comply with county code's requirement to
7 demonstrate that the IDD will achieve protection equivalent to the treatment of the
8 functions and values of the critical area(s) which would be obtained by applying the
9 standard prescriptive measures contained in chapter 30.62A SCC. SCC
10 30.62A.350(1)(a).

11 C.77 The Hearing Examiner could not approve the use of IDD without the analysis required
12 by SCC 30.62A.350 Without approval of the use of IDD, the proposal does not provide
13 adequate protection for critical areas and buffers. SCC 30.62A.310 and SCC
14 30.62A.320.

15 C.78 The proposal therefore substantially conflicts with county code.

16 e. Habitat Management Plan

17 C.79 BSRE's habitat management plan must comply with SCC 30.62A.460.

18 C.80 BSRE's plan cross-references information in its critical areas report which, taken as a
19 whole, mostly provides the required information.

20 C.81 The habitat management plan appears to have overlooked adequate information for
21 the gray whale.

22 C.82 Although the lack of gray whale information conflicts with county code, the Hearing
23 Examiner reasonably doubts it is a substantial conflict because it is likely easily and
24 quickly remedied.

25 **III. DECISION**

- 26 1. Any finding of fact in this decision which should be deemed a conclusion of law is
27 hereby adopted as a conclusion of law.
- 28 2. Any conclusion of law in this decision which should be deemed a finding of fact is
29 hereby adopted as a finding of fact.
- 30 3. BSRE's request for an extension is denied.

1 4. PDS' request to deny project approval prior to completion of the environmental impact
2 statement is granted in part and denied in part. BSRE's development applications are
3 denied without prejudice pursuant to SCC 30.72.060(3) (2013).

4 DATED this 3rd day of August, 2018.

5 

6 _____
7 Peter B. Camp
Snohomish County Hearing Examiner

8 **IV. RECONSIDERATION AND APPEAL PROCEDURES**

9 The following paragraphs summarize the reconsideration and appeal processes. For more
10 information about reconsideration and appeal procedures, please see chapter 30.72 SCC,
11 the Hearing Examiner Rules of Procedure, and applicable state law and court rules.

12 **A. RECONSIDERATION**

13 Further motions for reconsideration will not be considered because county code allows only
14 one petition for reconsideration. SCC 30.72.065(5) (2013).

15 **B. APPEAL**

16 An appeal to the County Council may be filed by any aggrieved party of record **on or**
17 **before August 17, 2018**. Where the reconsideration process of SCC 30.72.065 has been
18 invoked, no appeal may be filed until the reconsideration petition has been decided by the
19 Hearing Examiner. An aggrieved party need not file a petition for reconsideration but may
20 file an appeal directly to the County Council. If a petition for reconsideration is filed, issues
21 subsequently raised by that party on appeal to the County Council shall be limited to those
22 issues raised in the petition for reconsideration.

23 Appeals shall be addressed to the Snohomish County Council but shall be filed in writing
24 with the Department of Planning and Development Services, 2nd Floor, County
25 Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing
26 address: M/S No. 604, 3000 Rockefeller Avenue, Everett, WA 98201), and shall be
27 accompanied by a filing fee in the amount of five hundred dollars (\$500.00) for each appeal
28 filed; PROVIDED, that the fee shall not be charged to a department of the County. The filing
29 fee shall be refunded in any case where an appeal is summarily dismissed in whole without
30 hearing under SCC 30.72.075.

31 An appeal must contain the following items in order to be complete: a detailed statement of
32 the grounds for appeal; a detailed statement of the facts upon which the appeal is based,
33 including citations to specific Hearing Examiner findings, conclusions, exhibits or oral
34 testimony; written arguments in support of the appeal; the name, mailing address and

1 daytime telephone number of each appellant, together with the signature of at least one of
2 the appellants or of the attorney for the appellant(s), if any; the name, mailing address,
3 daytime telephone number and signature of the appellant's agent or representative, if any;
4 and the required filing fee.

5 The grounds for filing an appeal shall be limited to the following:

6 (a) The decision exceeded the Hearing Examiner's jurisdiction;

7 (b) The Hearing Examiner failed to follow the applicable procedure in reaching his
8 decision;

9 (c) The Hearing Examiner committed an error of law; or

10 (d) The Hearing Examiner's findings, conclusions and/or conditions are not supported
11 by substantial evidence in the record. SCC 30.72.080

12 Appeals will be processed and considered by the County Council pursuant to the provisions
13 of chapter 30.72 SCC. Please include the County file number in any correspondence
14 regarding the case.

15 Staff Distribution:

16 Department of Planning and Development Services: Ryan Countryman

17 The following statement is provided pursuant to RCW 36.70B.130: "Affected property
18 owners may request a change in valuation for property tax purposes notwithstanding any
19 program of revaluation." A copy of this Decision is being provided to the Snohomish County
20 Assessor as required by RCW 36.70B.13

1 **APPENDIX A – EXHIBITS AND WITNESSES**

2 Before the
3 **HEARING EXAMINER**
4 Snohomish County, Washington

5 **LIST OF EXHIBITS & WITNESSES**

6 Applicant: **BSRE Point Wells, LP** Case No.: **11-101457-LU et al.**
7 **BSRE Point Wells**

8 **A. Application**

- 9 1. Master Permit Application for 11-101457 LU and 11-101461 SM received March 4, 2011
10 2. Master Permit Application for 11-101007 SP received February 14, 2011
11 3. Master Permit Application for 11-101008 LDA received February 14, 2011
12 4. Re-submittal Transmittal, April 17, 2017
13 5. Urban Center Project Narrative revised April 17, 2017
14 6. Short Plat Project Description Dated February 14, 2011 for 11-101007 SP
15 7. Second Access AKA Exhibit A of April 17, 2017 Resubmittal
16 8. Fire Truck Turning Movement Study AKA Exhibit B of April 17, 2017 Resubmittal
17 9. Record of Survey AFN 200205065001 for DNR Lease AKA Exhibit C of April 17, 2017 Resubmittal
18 10. Variance Request Regarding Parking April 17, 2017 (11-101457 VAR)
19 11. Traffic Presubmittal Conference Review Form (SCC 30.66B) Dated January 12, 2011
20 12. LEED Checklist Submitted March 4, 2011
21 13. Legal Description of Project Site Submitted March 4, 2011
22 14. Mitigation Offer to WSDOT Signed March 4, 2011
23 15. Officers Certificate Signed January 19, 2011
24 16. Olympic View Water & Sewer District Letter of Availability dated November 30, 2009
25 17. Parties with Legal Interest dated February 14, 2011
26 18. Partnership Certificate signed January 19, 2011
27 19. Point Wells Urban Center 30.34A.170(2) Certification dated March 3, 2011
28 20. Project Description and Tax Numbers received March 4, 2011
29 21. Memo on the subject Point Wells Redevelopment Road Standards dated March 4, 2011
30 22. Ronald Wastewater Certificate of Availability dated February 16, 2010
31 23. SEPA Checklist Dated February 2011
32 24. Point Well Narrative: Consistency with Shoreline Management Act Policies June 2010
33 25. Title Certificate dated February 4, 2011
34 26. Title Report Backup Documents dated June 1, 2010
35 27. Unified Control Assurance Document Dated March 3, 2011
36 28. Updated Master Permit Application and Checklist for 11-101008-LDA received April 27, 2018
37 29. Variance Requests Regarding Heights, April 27, 2018 (11-101457 001 00 VAR)
38 30. EDDS DEVIATION Request Regarding Private Roads received April 27, 2018
39 31. Updated Master Permit Application for 11-101547 and 11-101461 SM LU received April 27,
40 2018
41 32. Urban Center Project Narrative, received April 27, 2018
42 33. Point Wells Flood Hazard Permit Application received April 27, 2018
43 34. Updated Preliminary Short Subdivision Submittal Checklist received April 27, 2018
44 35. Supplement to Urban Center Application dated April 25, 2018 and received April 27, 2018

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- 1 36. Revised Shoreline Consistency Narrative
- 2 37. Landslide Area Deviation Request Clarification Letter 5.15.2018
- 3 38. Revised Supplement to UC Application
- 4 39. Revised Phasing Drawing
- 5 40. Revised Urban Center Development Plan Project Narrative

6 **B. Plans**

- 7 1. Architectural Plans April 17, 2017
- 8 2. SUPERSEDED Architectural Plans March 4, 2011
- 9 3. 2017-0417 Point Wells - Response to Snohomish County review comments
- 10 4. 20 TDM Plan, dated March 4, 2011
- 11 5. Preliminary Short Plat dated April 17, 2017 for 11-101007 SP
- 12 6. SUPERSEDED Preliminary Short Plat dated Feb 11 2011 for 11-101007 SP
- 13 7. Architectural Plans received April 27, 2018
- 14 8. Point Wells Secondary Access Road Exhibit received April 27, 2018
- 15 9. Preliminary Short Plat received April 18, 2018 for 11-101007 SP

16 **C. Reports**

- 17 1. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates Aug 2016
- 18 w/App. C
- 19 2. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016
- 20 Appendix A
- 21 3. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates Aug 2016
- 22 Appendix B
- 23 4. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates Aug 2016
- 24 App. B1
- 25 5. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016
- 26 Appendix D
- 27 6. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016
- 28 Appendix E
- 29 7. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016
- 30 Appendix F
- 31 8. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates Aug 2016
- 32 App. F1
- 33 9. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016
- 34 Appendix G
- 35 10. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016
- 36 Appendix I
- 37 11. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016
- 38 Appendix J
- 39 12. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates Aug 2016
- 40 App. J1
- 41 13. SUPERSEDED Point Wells Expanded Traffic Impact Analysis by David Evans and Associates March
- 42 2011
- 43 14. SUPERSEDED Point Wells Traffic Impact Analysis in Accordance with SCC 30.66B March 2011

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- 1 15. Critical Areas Report received April 17, 2017
- 2 16. Preliminary Geotechnical Engineering Study by HartCrowser dated November 16, 2010
- 3 17. Draft Final Point Wells Subsurface Conditions Report by HartCrowser dated August 4, 2016
- 4 18. Transit Compatibility Study dated March 1, 2011
- 5 19. Targeted Drainage Report by SvR Design revised for April 17, 2017 Resubmittal
- 6 20. Cultural Resources Technical Report revised July 23, 2015
- 7 21. DRAFT Secondary Access Report by DEA dated Aug 26, 2015
- 8 22. Stormwater Pollution Prevent Plan by SvR Design dated March 4, 2011
- 9 23. Fire turning Studies received April 27, 2018
- 10 24. Subsurface Conditions Report by HartCrowser received April 27, 2018
- 11 25. Costal Engineering Assessment received April 27, 2018
- 12 26. Hydrogeologic Report by HartCrowser received April 27, 2018
- 13 27. Landslide Area Deviation Geotechnical Support received April 27, 2018
- 14 28. Point Wells Expanded Traffic Impact Analysis by David Evans and Associates dated August 31,
- 15 2016
- 16 29. Point Wells Remediation Memo received April 27, 2018
- 17 30. Critical Ares Report prepared by David Evans and Associates, received April 27, 2018
- 18 31. Targeted Drainage Report by SvR Design revised for April 27, 2018 Short Plat Resubmittal
- 19 32. Targeted Drainage Report by SvR Design revised for April 27, 2018 Urban Center Resubmittal
- 20 33. Pt Wells Geotechnical Report prepared by HartCrowser dated April 20, 2018
- 21 34. SUPERSEDED 1st Point Wells Transportation Analysis Methods and Assumptions April 17, 2015
- 22 35. SUPERSEDED 2nd Point Wells Transportation Analysis Methods and Assumptions July 6, 2015
- 23 36. SUPERSEDED 3rd Point Wells Transportation Analysis Methods and Assumptions Mar 29, 2016
- 24 37. SUPERSEDED Critical Areas Report January 2011
- 25 38. SUPERSEDED Draft Subsurface Conditions Report by Hart Crowser June 11, 2015
- 26 39. Revised Critical Areas Report with Comments from EA and Grette Associates 6-15
- 27 40. Revised Critical Areas Report with comments 4-16

28 **D. Property**

- 29 1. Boundary Line Adjustment Auditor File Number 200405180215
- 30 2. Survey of Storm Drain and Utility Easement AFN 199911100667
- 31 3. Survey of Storm Drain and Utility Easement AFN 200405245217
- 32 4. Water Main Easement AFN 9206120018
- 33 5. Water Main Easement AFN 9603290025
- 34 6. Electrical Facilities Easement AFN 8503180060
- 35 7. Ingress Egress and Utility Easement AFN 200606271070
- 36 8. Survey of Railroad Easement AFN 200405245217
- 37 9. Critical Area Site Plan at Brightwater AFN 200607030209
- 38 10. Deed of Trust AFN 201309170649
- 39 11. DNR Aquatic Lands Lease

40 **E. Environmental**

- 41 1. Notice of Determination of Significance and Request for Comments on Scope of EIS February 2,
- 42 2014

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1 2. *2nd Notice of Determination of Significance and Request for Comments on Scope of EIS dated*
2 *March 12, 2014*

3 3. *PRELIMINARY DRAFT Point Wells Preliminary Draft EIS for Internal Review, July 29, 2016*

4 **F. Notice and Routing [List to be Appended with records from 2018]**

5 1. Notice and Routing Records 2011-2017 (not indexed, redundant attachments removed)

6 2. Notice and Routing Records 2018 (not indexed, redundant attachments removed)

7 **G. Other Submittal Items and Correspondence**

8 1. Extension Request from Gary Huff dated March 21, 2014

9 2. Extension Request from Gary Huff dated April 15, 2015

10 3. Email from Gary Huff dated December 7, 2015

11 4. Response to Request for Clarifications Dec 9, 2015

12 5. Extension Request from Gary Huff Dated March 30, 2016

13 6. BSRE Letter to PDS Director Mock December 29, 2017

14 7. Email from Douglas Luetjen dated May 11, 2017

15 8. BSRE Letter Regarding Deadline Extension January 12, 2018

16 9. BSRE Letter to Matt Otten January 19, 2018

17 10. BSRE Request for Reconsideration Feb 1, 2018

18 11. Point Wells Urban Center Application Response Timeline Gantt Chart from Perkins Will Dated
19 November 2, 2017

20 12. 2018-0427 Submittal Transmittal

21 13. Review Completion Letter Response received April 27, 2018, native Word Version

22 14. Review Completion Letter Response received April 27, 2018, scanned hard copy

23 15. Supplement to Urban Center Application received April 27, 2018

24 16. NCHRP Report 684, 2011

25 17. 2011 Shoreline TMP

26 18. Travel Model Validation Final dated September 24, 2010

27 19. SRL WDOE Remediation Approach Final dated April 14, 2016

28 20. Highway Capacity Manual 2000

29 21. Request for Interpretation of SCC 30.70.140 April 26, 2018

30 22. Letter to Matthew Otten dated February 15, 2018

31 23. Memo from Mark Davies re Response to Point Wells Urban Center Supplemental Staff
32 Recommendation

33 24. Memo from Bill Gerken re Response to Point Wells Urban Center Supplemental Staff
34 Recommendation

35 25. Memo from Kirk Harris to MacCready re Response to Point Wells Urban Center Supplemental
36 Staff Recommendation

37 **H. City / Agency Comments**

38 1. Tulalip Tribes by Mason Morisset April 11, 2011

39 2. City of Shoreline, Planning Director Joe Tovar – March 23, 2009

40 3. City of Shoreline, Planning Director Rachael Markle – February 28, 2014

41 4. City of Shoreline review comments on May 2016 Draft Expanded TIA from Kendra Dedinsky,
42 dated May 24, 2016

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- 1 5. Washington State Department of Archeology and Historic Preservation, Gretchen Kaehler --
- 2 March 15, 2018
- 3 6. Muckleshoot Indian Tribe, Team Leader Karen Walter – February 28, 2014
- 4 7. Olympic View Water and Sewer District, by Susan Boyd of Pace Engineers – March 2, 2014
- 5 8. Shoreline Fire Department, Chief Matt Cowen – May 19, 2014
- 6 9. Shoreline Fire Department comments, Fire Chief Matt Cowen dated September 24, 2015
- 7 10. Town of Woodway, Mayor Carla Nichols – March 3, 2014
- 8 11. Washington State Department of Archeology and Historic Preservation, Gretchen Kaehler,
- 9 March 3, 2014
- 10 12. Washington State Department of Ecology, David Pater – March 31, 2014
- 11 13. Snohomish County Urban Center Design Review Board, recommendation signed March 26, 2018
- 12 14. City of Shoreline, Kirk McKinley, Public Works dated May 5, 2015
- 13 15. Town of Woodway, Administrator Eric Faison – June 3, 2015
- 14 16. Sound Transit, Patrice Hardy - March 10, 2014
- 15 17. City of Shoreline, Planning Manager Paul Cohen, February 5, 2013
- 16 18. City of Shoreline, Kendra Dedinsky, September 18, 2015
- 17 19. City of Shoreline, Rachel Markle, October 2, 2015
- 18 20. City of Shoreline, Kendra Dedinsky, February 7, 2016
- 19 21. City of Shoreline, Rachael Markle, September 15, 2016
- 20 22. City of Shoreline, Rachel Markle, March 15, 2018
- 21 23. Washington State Archaeology & Historic Preservation, Gretchen Kaehler, March 15, 2018
- 22 24. Sound Transit Long Range Plan Update FSEIS November 2014 pages L-5.O-2 to L-5.O-11
- 23 25. Sound Transit Long Range Plan Adopted Dec 18 2014 2015123_LRPupdate
- 24 26. Sound Transit Long Range Plan FSEIS Appendix A Nov 2014
- 25 27. Sound Transit 3 The Regional Transit System Plan for Central Puget Sound June 2016
- 26 28. Sound Transit 3 Appendix A - Detailed Description of Facilities and Estimated Costs June 2016
- 27 29. Sound Transit System Expansion Implementation Plan December 2017
- 28 30. Sound Transit email May 8, 2018 in response to Snohomish County email April 30 2018

29 I. Public Comments

- 30 1. Abelson, Winfield – March 27, 2014
- 31 2. Adams-Lee, Kathryn – March 14, 2018
- 32 3. Aken, Jeff – March 3, 2014
- 33 4. Antonik, Linda – February 24, 2014
- 34 5. Ashelman, Sheri – March 1, 2014
- 35 6. Bajema, Larry – February 28, 2014
- 36 7. Bakken, Jan – March 2, 2014
- 37 8. Bakken, Ole – March 15, 2018
- 38 9. Bannister, Mary and David – April 10, 2011
- 39 10. Bannister, David – February 18, 2014
- 40 11. Bannister, Mary – February 19, 2014
- 41 12. Mary Lou Block (Block, Peter) – February 20, 2014
- 42 13. Boucher, John and Marilyn – April 11, 2011
- 43 14. Braun, Sharon Ann – April 2, 2014
- 44 15. Brumett, Robin – April 2, 2014

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- 1 16. Bucheit, Marcellus – March 3, 2014
- 2 17. Bundrant, Joe – August 15, 2017
- 3 18. Calandrillo, Steve – March 16, 2014
- 4 19. Casper, Denis – April 2, 2014
- 5 20. Catford, Julian – April 2, 2014
- 6 21. Catford, Teresa – April 2, 2014
- 7 22. Chang, Susan – February 18, 2014
- 8 23. Chapman, Maaren – February 15, 2014
- 9 24. Clements, Bill – February 26, 2014
- 10 25. Cohn, William – February 18, 2014
- 11 26. Corbett, Janice – March 3, 2014
- 12 27. Covarrubias, Janet – March 1, 2014
- 13 28. Crawford, John – February 22, 2014
- 14 29. Dabanian, Irene – April 1, 2014
- 15 30. Davis, Glenn – February 24, 2014
- 16 31. Davis, Jay – February 18, 2014
- 17 32. Davis, Martha – February 21, 2014
- 18 33. Dean, Karen – March 2, 2014
- 19 34. Delaney, Tom – January 4, 2014
- 20 35. Delaney, Tom – February 27, 2018
- 21 36. Dellino, Domenick – April 26, 2016
- 22 37. DeMarre, Harry – February 12, 2014
- 23 38. Ding, Donald – February 26, 2014
- 24 39. Eglick, Peter – March 3, 2014
- 25 40. Emmons, Charles – March 20, 2014
- 26 41. Ewing, Courtney – April 2, 2014
- 27 42. Ewing, Courtney – March 3, 2014
- 28 43. Feise, Greg – February 18, 2014
- 29 44. Fisher, Rick – February 4, 2014
- 30 45. Fleet, Jerry – March 3, 2014
- 31 46. Forsyth, Joan – April 2, 2011
- 32 47. Fraker, Richard – February 28, 2014
- 33 48. Franey, Ginger (Anie Franey) – April 2, 2014
- 34 49. Franey, Ginger (Anie Franey) – February 16, 2014
- 35 50. Frazier, Karen – March 2, 2014
- 36 51. French, Becki – February 26, 2014 a 06:36
- 37 52. French, Becki – February 26, 2014 b 06:37
- 38 53. Gammon, Richard – March 25, 2014
- 39 54. Garango, Johnny – February 24, 2014
- 40 55. Geary, Diane – March 3, 2014
- 41 56. Gilbert, Toni – March 15, 2018 (Duplicate of I-61)
- 42 57. Glascock, Jane – February 28, 2014
- 43 58. Goetz, Joni – July 19, 2011
- 44 59. Graham, Clayton – March 28, 2014
- 45 60. Graham, Clayton – April 1, 2014

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- 1 61. Graham, Clayton – March 15, 2018
- 2 62. Grieve, Gene – July 13, 2011
- 3 63. Grosshans, Annie & Flanigan, Robert – March 2, 2014
- 4 64. Grosshans, Annie & Flanigan, Robert – March 3, 2014
- 5 65. Hanson, Katherine – February 18, 2014
- 6 66. Harrison, Joan – March 3, 2014
- 7 67. Hayes, Peter – January 12, 2014
- 8 68. Heaton, Ric – March 24, 2014
- 9 69. Hiatt, Zachary – April 2, 2014
- 10 70. Hiatt, Zachary – April 28, 2014
- 11 71. Hill, Sherry and Jeffrey – April 2, 2014
- 12 72. Hodson, Judith and W. Alan – April 2, 2014
- 13 73. Hohbach, Starla – January 25, 2011
- 14 74. Hohbach, Starla – April 3, 2011
- 15 75. Holbrook, Colleen – February 10, 2014
- 16 76. Holbrook, Colleen – March 8, 2018
- 17 77. Holloway, Sue – February 18, 2014
- 18 78. Holt, Caycee – May 25, 2011
- 19 79. Holt, Caycee – July 29, 2011
- 20 80. Holt, Caycee – March 30, 2014
- 21 81. Holzmeyer, Gil – February 22, 2014
- 22 82. Jamieson, Tom – March 20, 2014
- 23 83. Jamieson, Tom – April 2, 2014
- 24 84. Jardine, Lynnea – March 3, 2014
- 25 85. Jensen, Delores – April 1, 2014
- 26 86. John, John T. – March 8, 2018
- 27 87. Johnson, Art – March 18, 2014
- 28 88. Joki, James – February 18, 2014a
- 29 89. Joki, James – February 18, 2014b
- 30 90. Jorgensen, Robert II – March 24, 2014
- 31 91. Kato, C – March 25, 2014
- 32 92. Kelton, Emily – March 2, 2014
- 33 93. Kink, Richard – March 3, 2014
- 34 94. Kink, Richard – April 2, 2014
- 35 95. Kinter, Pat – March 3, 2014
- 36 96. Kleyn, Frank and Jennifer – March 25, 2011
- 37 97. Kosten, Michael – March 3, 2014
- 38 98. Kulseth, Greg – March 17, 2014
- 39 99. Kulseth, Greg – February 27, 2018
- 40 100. Kunkel, Rick – March 2, 2014
- 41 101. Lamb, Kathleen – April 2, 2014
- 42 102. Lamb, Kathleen – February 28, 2018
- 43 103. Lambrecht, Tom – May 6, 2013
- 44 104. Lambrecht, Tom and Barb – March 26, 2014
- 45 105. Landau, Hank – February 20, 2014

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- 1 106. Landau, Hank – February 27, 2018
- 2 107. Leyde, Dan – March 25, 2014
- 3 108. Lilleness, Fran – February 18, 2014
- 4 109. Loge, Kenneth – January 15, 2014
- 5 110. Loyer-Nelson, Edie – February 18, 2014
- 6 111. Maas, Sue – March 3, 2014
- 7 112. Madayag, Kristina – February 26, 2014
- 8 113. Madden, Rod – February 19, 2014
- 9 114. Madden, Rod – April 2, 2014
- 10 115. Maguda, David – March 27, 2014
- 11 116. Mailhot, Tom – January 14, 2014
- 12 117. Mailhot, Tom – March 3, 2014
- 13 118. Mailhot, Tom – April 2, 2014
- 14 119. Mailhot, Tom – January 27, 2015
- 15 120. Mailhot, Tom – September 11, 2015
- 16 121. Manolopoulos, Lynn – June 28, 2011
- 17 122. Massoni, Andrea – April 1, 2014
- 18 123. Mauer, George – March 25, 2011
- 19 124. Mayer, George – April 9, 2011
- 20 125. Mayer, George – March 14, 2018
- 21 126. McClelland, Robin – August 19, 2011
- 22 127. McClelland, Robin – February 18, 2014a
- 23 128. McClelland, Robin – February 18, 2014b
- 24 129. McClelland, Robin – February 26, 2014
- 25 130. McClurg, Rick – April 2, 2014
- 26 131. McCormick, Tom – May 20, 2014
- 27 132. McCormick, Tom – July 25, 2014
- 28 133. McCormick, Tom – March 17, 2015
- 29 134. McCormick, Tom – March 18, 2015 15.41
- 30 135. McCormick, Tom – March 18, 2015 15.56
- 31 136. McCormick, Tom – March 31, 2015
- 32 137. McCormick, Tom – May 5, 2015
- 33 138. McCormick, Tom – May 12, 2015
- 34 139. McCormick, Tom – May 14, 2015
- 35 140. McCormick, Tom – May 20, 2015
- 36 141. McCormick, Tom – June 9, 2015
- 37 142. McCormick, Tom – June 10, 2015
- 38 143. McCormick, Tom – June 11, 2015
- 39 144. McCormick, Tom – June 14, 2015
- 40 145. McCormick, Tom – June 17, 2015
- 41 146. McCormick, Tom – June 24, 2015
- 42 147. McCormick, Tom – July 8, 2015
- 43 148. McCormick, Tom – July 24, 2015
- 44 149. McCormick, Tom – August 14, 2015
- 45 150. McCormick, Tom – August 19, 2015

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- 1 151. McCormick, Tom – August 21, 2015
- 2 152. McCormick, Tom – September 2, 2015
- 3 153. McCormick, Tom – October 12, 2015
- 4 154. McCormick, Tom – October 16, 2015
- 5 155. McCormick, Tom – October 21, 2015
- 6 156. McCormick, Tom – October 28, 2015
- 7 157. McCormick, Tom – October 30, 2015
- 8 158. McCormick, Tom – November 3, 2015
- 9 159. McCormick, Tom – November 4, 2015
- 10 160. McCormick, Tom – December 8, 2015
- 11 161. McCormick, Tom – January 6, 2016
- 12 162. McCormick, Tom – January 7, 2016
- 13 163. McCormick, Tom – January 11, 2018
- 14 164. McCormick, Tom – January 20, 2016
- 15 165. McCormick, Tom – February 24, 2016
- 16 166. McCormick, Tom – February 25, 2016
- 17 167. McCormick, Tom – February 26, 2016
- 18 168. McCormick, Tom – March 4, 2016
- 19 169. McCormick, Tom – March 9, 2016
- 20 170. McCormick, Tom – May 22, 2016
- 21 171. McCormick, Tom – June 8, 2016
- 22 172. McCormick, Tom – July 11, 2016
- 23 173. McCormick, Tom – July 18, 2016
- 24 174. McCormick, Tom – July 22, 2016
- 25 175. McCormick, Tom – August 12, 2016
- 26 176. McCormick, Tom - August 17, 2016 17.53
- 27 177. McCormick, Tom – August 18, 2016 15.00
- 28 178. McCormick, Tom – August 18, 2016 15.02
- 29 179. McCormick, Tom - August 19, 2016
- 30 180. McCormick, Tom – August 29, 2016
- 31 181. McCormick, Tom – December 29, 2016
- 32 182. McCormick, Tom – May 12, 2017
- 33 183. McCormick, Tom – June 3, 2017
- 34 184. McCormick, Tom – June 13, 2017
- 35 185. McCormick, Tom – June 15, 2017
- 36 186. McCormick, Tom – July 5, 2017
- 37 187. McCormick, Tom – July 18, 2017
- 38 188. McCormick, Tom – August 9, 2017
- 39 189. McCormick, Tom – August 11, 2017
- 40 190. McCormick, Tom – August 15, 2017
- 41 191. McCormick, Tom – August 16, 2017
- 42 192. McCormick, Tom – August 17, 2017 16.30
- 43 193. McCormick, Tom – August 17, 2017 16.24
- 44 194. McCormick, Tom – August 30, 2017
- 45 195. McCormick, Tom – September 22, 2017

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- 1 196. McCormick, Tom – September 28, 2017
- 2 197. McCormick, Tom – October 10, 2017
- 3 198. McCormick, Tom – October 23, 2017
- 4 199. McCormick, Tom – October 27, 2017
- 5 200. McCormick, Tom – November 16, 2017
- 6 201. McCormick, Tom – December 12, 2017
- 7 202. McCormick, Tom – December 15, 2017
- 8 203. McCormick, Tom – December 20, 2017
- 9 204. McCormick, Tom – January 5, 2018 11.47
- 10 205. McCormick, Tom – January 5, 2018 16.26
- 11 206. McCormick, Tom – January 6, 2018 18.00a
- 12 207. McCormick, Tom – January 6, 2018 18.00b
- 13 208. McCormick, Tom – January 8, 2017 17.31a
- 14 209. McCormick, Tom – January 8, 2017 17.31b
- 15 210. McCormick, Tom – January 8, 2017 17.32a
- 16 211. McCormick, Tom – January 8, 2017 17.32b
- 17 212. McCormick, Tom – January 8, 2017 17.33a
- 18 213. McCormick, Tom – January 8, 2017 17.33b
- 19 214. McCormick, Tom – January 8, 2017 17.33c
- 20 215. McCormick, Tom – January 8, 2018
- 21 216. McCormick, Tom – January 20, 2018
- 22 217. McCormick, Tom – February 6, 2018
- 23 218. McCormick, Tom – February 14, 2018
- 24 219. McCormick, Tom – February 27, 2018
- 25 220. McCormick, Tom - February 28, 2018
- 26 221. McCormick, Tom – March 7, 2018
- 27 222. McCormick, Tom – March 13, 2018
- 28 223. Mercker, Janis – February 19, 2014
- 29 224. Meyer, Chuck – March 3, 2014
- 30 225. Meyer, Karen – March 2, 2014
- 31 226. Minogue, B -- March 3, 2014
- 32 227. Morris, Nancy – April 2, 2014
- 33 228. Neimi, Jan – February 24, 2014
- 34 229. Nicholson, Eileen – February 28, 2014
- 35 230. No Name – March 1, 2014
- 36 231. Noreen, Ken and Pearl – April 7, 2011
- 37 232. Noreen, Ken and Pearl – March 3, 2014
- 38 233. Osaki, David – March 29, 2014
- 39 234. Parken, Jean – March 31, 2014
- 40 235. Passey, David – April 1, 2014
- 41 236. Patterson, Jerry and Janice – February 28, 2014
- 42 237. Patterson, Jerry – November 23, 2015
- 43 238. Patterson, Jerry – December 4, 2015
- 44 239. Patterson, Jerry – April 11, 2016
- 45 240. Patterson, Jerry – August 17, 2017

- 1 241. Patterson, Jerry – March 14, 2018
- 2 242. Paulson, Gini – April 24, 2015
- 3 243. Paulson, Gini – May 3, 2015
- 4 244. Peterson, Eric and Janet – February 20, 2014
- 5 245. Peterson, Matt – March 3, 2014
- 6 246. Petro, Ethan – April 1, 2014
- 7 247. Potter, Mary Lynn – April 2, 2014
- 8 248. Reed, Nancy & Bill – March 2, 2014
- 9 249. Reischling, Barry – February 4, 2014
- 10 250. Reischling, Barry – February 17, 2014
- 11 251. Rhodes, Blain – February 17, 2014 a 16:41
- 12 252. Rhodes, Blain – February 17, 2014 b 16:43
- 13 253. Rhodes, Blain – February 17, 2014 c 16:44
- 14 254. Rhodes, Blain – February 17, 2014 d 16:46
- 15 255. Richardson, Sheila – February 27, 2014
- 16 256. Robertson, Betty – February 27, 2014
- 17 257. Rojas, Carlotta – April 1, 2014
- 18 258. Scantlebury, Ginny – March 2, 2014
- 19 259. Scantlebury, Ginny – April 2, 2014
- 20 260. Scantlebury, Roy – March 2, 2014
- 21 261. Schalka, Julie – March 3, 2014
- 22 262. Schulz, Craig – February 16, 2014
- 23 263. Shaffer, Kathy – February 17, 2014
- 24 264. Shaffer, Kathy, Rhodes & Blaine – March 5, 2018
- 25 265. Shallbetter, Traci – February 3, 2014
- 26 266. Shallbetter, Traci – February 14, 2014
- 27 267. Shallbetter, Traci – March 3, 2014
- 28 268. Sherwood, John Jr. – April 11, 2011
- 29 269. Sill, Anina – March 3, 2014
- 30 270. Smith, Renee – March 3, 2014
- 31 271. Somers, Edward – February 19, 2014
- 32 272. Sova, Alex – April 10, 2011
- 33 273. Sova, Pavel – April 10, 2011
- 34 274. Sova, Pavel and Chase, Susannah – April 1, 2014
- 35 275. Stephens, Marianne – March 3, 2014
- 36 276. Sterling, Sharon – March 3, 2014
- 37 277. Stime, Randolph – April 1, 2014a
- 38 278. Stime, Randolph – April 1, 2014b
- 39 279. Stime, Randy – April 13, 2016
- 40 280. Stoel-Gammon, Carol – March 3, 2014
- 41 281. Sundquist, Doug – February 26, 2018
- 42 282. Surowiec, Lisa – April 2, 2014
- 43 283. Taibleson, Joyce – April 2, 2014
- 44 284. Tallman, Tracy – March 19, 2014
- 45 285. Tallman, Tracy – March 30, 2014

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- 1 286. Tallman, Tracy – April 4, 2014
- 2 287. Taylor, Allison – March 2, 2014
- 3 288. Thomason, Marian – March 20, 2014
- 4 289. Tietze, Erich and Shandra – March 3, 2014
- 5 290. Trompeter, Ronald – June 29, 2011
- 6 291. Trompeter, Ronald – March 2, 2014
- 7 292. Tucker, Janis – March 3, 2014
- 8 293. Ward, Betty – February 2, 2014
- 9 294. Watkins, David – Windermere – February 22, 2018
- 10 295. Webster, George – January 6, 2014
- 11 296. Whitson, Tom – April 6, 2011
- 12 297. Whitson, Tom and Joyce – March 29, 2014
- 13 298. Wickward, Nancy – February 18, 2014
- 14 299. Wilcox, Austen - December 22, 2016
- 15 300. Will, Susan – May 21, 2014
- 16 301. Willard, Bill – March 3, 2014
- 17 302. Wilson, Barbara – February 28, 2014
- 18 303. Wittenberger, Donald – March 3, 2014
- 19 304. Wolfe, John – February 3, 2014
- 20 305. Wolfe, John – March 1, 2014
- 21 306. Wolfe, John – March 14, 2018
- 22 307. Woodfield, Marion – February 27, 2014
- 23 308. Woodfield, Marion – March 21, 2014 11.21
- 24 309. Woodfield, Marion – March 21, 2014 11.22
- 25 310. Young, Jay – August 15, 2017
- 26 311. Zinter, Anita – August 2, 2011
- 27 312. Zinter, Anita – February 19, 2014
- 28 313. Zufall, Kathryn – February 6, 2014
- 29 314. Zufall, Kathryn – March 7, 2018
- 30 315. Zufall, Kathryn – March 20, 2011
- 31 316. Biesecker, Adrian -- May 8, 2018
- 32 317. Brown, Michael -- May 9, 2018
- 33 318. Craig, Dick -- May 4, 2018
- 34 319. Ding, Donald -- May 5, 2018
- 35 320. Dreessen, Kristi -- May 7, 2018
- 36 321. Earl-Hubbard, Michele -- May 8, 2018
- 37 322. Fattizzi, Randi -- May 9, 2018
- 38 323. Gibbs, Diana and Samuel -- May 8, 2018
- 39 324. H., Jeff -- May 4, 2018
- 40 325. Haensly, Thomas -- May 6, 2018
- 41 326. Hauck, Robert -- May 8, 2018
- 42 327. Haugen, Judy -- May 4, 2018
- 43 328. Herbord, Paul -- May 7, 2018
- 44 329. Hull, Tom -- May 4, 2018
- 45 330. Johnson, Art -- May 6, 2018

In Re Point Wells Urban Center

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- 1 331. Karis, Nancy -- May 6, 2018
- 2 332. Langdale, Michelle -- May 7, 2018
- 3 333. Madden, Rod -- May 6, 2018
- 4 334. McCallum, Ramun -- May 7, 2018
- 5 335. Ostrem, Renee -- May 4, 2018
- 6 336. Prewett, Don -- May 5, 2018
- 7 337. Tsoming, Susanne -- May 9, 2018
- 8 338. Twaddell, Barbara -- May 7, 2018
- 9 339. Winnick, Ken -- May 4, 2018
- 10 340. York-Erwin, Nancy -- May 7, 2018
- 11 341. Zinter, Anita -- May 7, 2018
- 12 342. Mayer, George -- May 6, 2018
- 13 343. Mercker, Janis -- May 9, 2018
- 14 344. Isabell, Pamela -- May 9, 2018
- 15 345. DeMeritt, Kathryn -- May 9, 2018
- 16 346. Pagan, Lisa -- May 10, 2018
- 17 347. McCormick GMHB-s 5172011 corrected FINAL decision
- 18 348. McCormick, Tom -- May 1, 2018
- 19 349. Blair, Moria -- May 10, 2018
- 20 350. Averill, Thomas -- May 11, 2018
- 21 351. Karr, Brad -- May 12, 2018
- 22 352. Goetz, Rick -- May 12, 2018
- 23 353. Laughlin, Karen -- May 12, 2018
- 24 354. Eckmann, Janice -- May 13, 2018
- 25 355. Higgins, Wendy -- May 13, 2018
- 26 356. Minogue, Barbara -- May 13, 2018
- 27 357. Weissman, Melissa -- May 13, 2018
- 28 358. McClurg, Rick -- May 13, 2018
- 29 359. Spencer, Chris -- May 13, 2018
- 30 360. Crawford, John -- May 13, 2018
- 31 361. Krepick, William -- May 13, 2018
- 32 362. Davis, Jeremy -- May 14, 2018
- 33 363. McCall, Gregory -- May 14, 2018
- 34 364. Bolton, Rhonda -- May 14, 2018
- 35 365. Landry, Elizabeth -- May 14, 2018
- 36 366. Grimley, Janet -- May 14, 2018
- 37 367. Holbrook, Colleen -- May 14, 2018
- 38 368. Parrish, Leslie -- May 14, 2018
- 39 369. Norden, Mai -- May 14, 2018
- 40 370. Haynes, Kevin -- May 14, 2018
- 41 371. Lin, Paul -- May 14, 2018
- 42 372. Grosshans, Annie -- May 14, 2018
- 43 373. Lewis, Paige -- May 14, 2018
- 44 374. Daily, Steve -- May 14, 2018
- 45 375. Nichols, Carla Town of Woodway -- May 14, 2018

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- 1 376. Johnson, Norman -- May 14, 2018
- 2 377. Peterson, Janet -- May 14, 2018
- 3 378. Burkhardt, Dennis -- May 18, 2018
- 4 379. Hutt, Kevin and Aileen -- May 14, 2018
- 5 380. Niemi, Linda -- May 14, 2018
- 6 381. Scharff, Bert -- May 14, 2018
- 7 382. Funderburg, Leslie -- May 15, 2018
- 8 383. Mohn, Larry and Carol -- May 12, 2018
- 9 384. Whelan, Juliana -- May 11, 2018
- 10 385. Krepick, Donna -- May 15, 2018
- 11 386. Brewe, Kenneth -- May 15, 2018
- 12 387. Schilling, Jackie -- May 15, 2018
- 13 388. Robertson, Doug and Jan -- May 15, 2018
- 14 389. McCormick, Tom Memo re PDS Staff Report for Proposed Ordinance
- 15 390. Losee, Max -- May 15, 2018
- 16 391. Walston, Linnea -- May 15, 2018
- 17 392. McCormick, Tom -- May 15, 2018
- 18 393. Loyer Nelson, Edith -- May 15, 2018
- 19 394. Hansen, Bryce -- May 15, 2018
- 20 395. Weber, Karen -- May 15, 2018
- 21 396. Tallman, Tracy -- May 15, 2018
- 22 397. Chang, Susan -- May 15, 2018
- 23 398. Scantelbury, Ginny -- May 15, 2018
- 24 399. Landau, Hank -- May 15, 2018
- 25 400. York-Erwin, Nancy -- May 15, 2018
- 26 401. Strand, Michael -- May 15, 2018
- 27 402. Findley, Carlton -- May 15, 2018
- 28 403. McCormick, Tom Res 377 City of Shoreline -- May 16, 2018
- 29 404. McCormick, Tom Email King Co Metro -- May 16, 2018
- 30 405. McCormick, Tom RB Road AWDT Traffic Counts -- May 16, 2018
- 31 406. Jorgensen, Robert -- May 13, 2018
- 32 407. Mailhot, Tom re Public Testimony -- May 16, 2018
- 33 408. McCormick, Tom -- May 16, 2018
- 34 409. York-Erwin, Ralph Steven -- May 16, 2018
- 35 410. Weber, Ralph and Bonnie -- May 13, 2018
- 36 411. Tarry, Debra City of Shoreline -- May 16, 2018
- 37 412. Morris, Nancy -- May 16, 2018
- 38 413. Boone, Amy -- May 16, 2018
- 39 414. Gillespie, Darren -- May 16, 2018
- 40 415. Holm, Ray -- May 16, 2018
- 41 416. Phelps, Elaine -- May 17, 2018
- 42 417. McCormick, Tom Countryman conf call notes -- May 17, 2018
- 43 418. McCormick, Tom Community Transit email 2009 -- May 17, 2018
- 44 419. McCormick, Tom Tom Perkins Will drawings 2011 -- May 17, 2018
- 45 420. Klingbeil, Karil -- May 17, 2018

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- 1 421. Mager, Ingrid -- May 17, 2018
- 2 422. Dellino, Domenick -- May 17, 2018
- 3 423. Schlenger, Julianne -- May 17, 2018
- 4 424. Erhardt, Fran -- May 17, 2018
- 5 425. McCormick, Tom BSRE Comments 2012 SEIS Addendum
- 6 426. McCormick, Tom BSRE 10-9-2012 Council letter
- 7 427. McCormick, Tom Draft Pt Wells Addm 4May2012
- 8 428. Krepick, William -- May 17, 2018
- 9 429. Malek, Jack -- May 17, 2018
- 10 430. Mager, Ingrid -- May 17, 2018
- 11 431. Sno-King Coalition Reqt POR -- May 17, 2018
- 12 432. Jensen, Delores -- May 18, 2018
- 13 433. Fryberg, Ray -- May 18, 2018
- 14 434. Holstad, Andrew -- May 18, 2018
- 15 435. Briggs, Karen -- May 18, 2018
- 16 436. Willard, Bill -- May 18, 2018
- 17 437. Tillman, Patricia -- May 19, 2018
- 18 438. Trompeter, Ronald -- May 20, 2018
- 19 439. McCormick, Tom -- May 21, 2018
- 20 440. McCormick, Tom - Alon Blue Square Israel 2010 Form 20-F
- 21 441. McCormick, Tom - Alon Blue Square Israel 2015 Form 20-F
- 22 442. McCormick, Tom - Alon USA 2016 Form 10-K
- 23 443. McCormick, Tom -- May 21, 2018
- 24 444. McCormick, Tom -- May 22, 2018
- 25 445. Casper, Denis -- May 23, 2018
- 26 446. McCormick, Tom - SSHI (Horton) v City of Olympia (WA Ct App 2013)
- 27 447. McCormick, Tom - Ecology from Mark Wells 2011 email string
- 28 448. McCormick, Tom - Ecology internal 2011 email re cleanup
- 29 449. McCormick, Tom -- May 23, 2018
- 30 450. McCormick, Tom -- May 24, 2018
- 31 451. McCormick, Tom FAR calculations 2018-05-24
- 32 452. Casper, Denis -- May 30, 2018

33 **J. [Not used]**

34 **K. Snohomish County Review**

- 35 1. Point Wells Traffic Pre-Submittal Review Form Dec 16, 2009
- 36 2. Urban Center Submittal Checklist Revised September 2010
- 37 3. Code Interpretation of 30.91F.455 Floor Area Ratio dated Oct 5 2010
- 38 4. Review Completion Letter dated April 12, 2013 (without attachments)
- 39 5. Point Wells Critical Areas Review Memo dated May 12, 2011
- 40 6. SnoCo Traffic Mitigation and Concurrency Review Comments dated June 7, 2011
- 41 7. Transit Compatibility Memo dated June 15, 2011
- 42 8. Transportation Demand Management Review Memo Dated September 6, 2011
- 43 9. Code Interpretation Files for 10-106077 30.91F.455 Archived March 20, 2014

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- 1 10. Point Wells Submittal Drawings Request for Clarifications dated July 29, 2015
- 2 11. Snohomish County Response dated Sept 17, 2015 to draft Secondary Access Report dated
- 3 August 26, 2015
- 4 12. PDS Response to July 6, 2015 Traffic Assumptions Memo 20151014
- 5 13. Point Wells Application Extension Letter 20160331
- 6 14. Point Wells SnoCo Questions on distributions in Draft ETIA May 5, 2016
- 7 15. Point Wells PDS Comments on May 2016 Draft of ETIA dated May 27, 2016
- 8 16. Email Sept 19 2016 Regarding Preliminary Draft EIS Landslide Hazard Comments
- 9 17. Preliminary Comments on EIS Landslide Hazards September 19, 2016
- 10 18. Point Wells DEIS and Revised Application Letter Nov 15, 2016
- 11 19. Point Wells Resubmittal DEIS and Expiration Notice Letter dated May 2, 2017
- 12 20. Point Wells April 2017 Resubmittal and Preliminary Review Comments May 10, 2017
- 13 21. Traffic Review Comments -EO portion- dated May 23 2017 for April 17, 2017 Submittal
- 14 22. Grading and Drainage Review Comments dated June 15 2017 for April 17, 2017 Submittal
- 15 23. Fire Review Comments dated June 15 2017 for April 17, 2017 Submittal
- 16 24. Critical Areas and Shoreline Review Comments dated June 21, 2017 for April 17, 2017 Submittal
- 17 25. Traffic Review Comments -MB portion- dated June 23, 2017 for April 17, 2017 Submittal
- 18 26. Building Review Comments dated June 27, 2017 for April 17, 2017 Submittal
- 19 27. Flood Hazard Review Comments dated June 27, 2017 for April 17, 2017 Submittal
- 20 28. Traffic Review Comments -MU portion- dated July 12, 2017 for April 17, 2017 Submittal
- 21 29. Point Wells Short Plat Plan Markups Dated September October 6, 2017
- 22 30. Point Wells 20170417 Resubmittal drawings with markups October 6, 2017
- 23 31. Point Wells Review Completion Letter for Second Submittal October 6, 2017
- 24 32. Point Wells Resubmittal Deadline Letter October 6, 2017
- 25 33. PDS Letter to BSRE from Paul MacCready dated January 9, 2018
- 26 34. PDS Email to BSRE Regarding Traffic Assumptions Follow Up, November 17, 2016
- 27 35. PDS Email to BSRE and Attachment Regarding Parking, February 5, 2016
- 28 36. PDS Letter to BSRE Granting Extension, dated April 21, 2015
- 29 37. 2018 04 26 SuppA-Zoning Code Variances Pt Wells Height
- 30 38. Point Wells DPW 3rd Review Memo 5-4-18
- 31 39. Point Wells LHA Deviation Memo 5-9-18
- 32 40. Letter from Director Mock to BSRE re Extension Request dated January 24, 2018

33 **L. Documents Cited in Project Review**

- 34 1. FEMA Flood Insurance Rate Map 53061C1292 E Dated Nov 8, 1999
- 35 2. FEMA Flood Insurance Rate Map 53061C1294 E Dated Nov 8, 1999
- 36 3. FHA Hydraulic Engineering Circular No 11 dated March 1989
- 37 4. Critical Area Site Plan at Brightwater AFN 200607030209
- 38 5. Email from Gary Huff to Peggy Sanders April 28, 2010
- 39 6. Snohomish County Department of Public Works Rule 4227
- 40 7. Notes from Conference Call on April 9, 2015 taken by Ryan Countryman
- 41 8. Notes from Conference Call on April 16, 2015 taken by Ryan Countryman
- 42 9. Notes from Conference Call on April 23, 2015 taken by Ryan Countryman
- 43 10. Notes from Conference Call on April 30, 2015 taken by Ryan Countryman
- 44 11. Notes from Conference Call on May 6, 2015 taken by Ryan Countryman

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- 1 12. Notes from Conference Call on May 28, 2015 taken by Ryan Countryman
- 2 13. Notes from Conference Call on June 11, 2015 taken by Ryan Countryman
- 3 14. Notes from Conference Call on June 18, 2015 taken by Ryan Countryman
- 4 15. Notes from Conference Call on June 25, 2015 taken by Ryan Countryman
- 5 16. Notes from Conference Call on July 2, 2015 taken by Ryan Countryman
- 6 17. Notes from Conference Call on July 10, 2015 taken by Ryan Countryman
- 7 18. Notes from Conference Call on July 23, 2015 taken by Ryan Countryman
- 8 19. Notes from Conference Call on July 30, 2015 taken by Ryan Countryman
- 9 20. Notes from Meeting on December 4, 2017 taken by Ryan Countryman
- 10 21. Notes from Meeting on September 20, 2016 taken by Ryan Countryman
- 11 22. Everett—Seattle Final Environmental Impact Statement Appendix A2: Site Station Screening,
- 12 dated December 1999 by Sound Transit and the U.S. Department of Transportation Federal
- 13 Transit Administration.

14 **M. Miscellaneous Correspondence**

- 15 1. Email from David Killingstad dated October 11, 2010
- 16 2. Email From David Killingstad dated February 13, 2015
- 17 3. 1-9-18 Letter From Snohomish County to BSRE
- 18 4. November 17 2016 PDS Email RE Traffic Assumptions Follow Up
- 19 5. Email exchange on October 6 2016 between Gary Huff and Ryan Countryman
- 20 6. Email from Darryl Eastin, August 12, 2011
- 21 7. Email chain from Darryl Eastin, ending July 29, 2014
- 22 8. PDS Early Notice to Applicant of Hearing, March 6, 2018
- 23 9. Resume Mike Swenson Seattle 12-14-17 - transpogroup
- 24 10. Resume John Bingham - HartCrowser
- 25 11. Resume Kevin Jeffers Resume – David Evans & Associates
- 26 12. Resume Peter Busby – Perkins Will
- 27 13. Resume Kay Kornovich – Perkins Will
- 28 14. Resume Dan Seng – Perkins Will
- 29 15. Resume Carsten Stinn – Perkins Will
- 30 16. Resume Mark Davies – SVR
- 31 17. Resume Kirk Harris – DEA
- 32 18. Resume Richard Pratt – DEA
- 33 19. Resume Victor Salemann – TSI
- 34 20. Resume Jack Molver – DEA
- 35 21. Resume Gray Rand – DEA
- 36 22. Resume Roy Jensen – Hart Crowser
- 37 23. Resume Julie Wukelic – Hart Crowser
- 38 24. Resume William Gerkin – Moffat & Nichol
- 39 25. Resume Rich Shipanski – EA Engineering
- 40 26. Resume Laurel Hunter – Peter Walker Partners
- 41 27. Resume Mark Dagele – Hart Crowser
- 42 28. Resume Brad Tong – Shiels Oletz Johnson
- 43 29. Snohomish County v Woodway Briefing

1 **N. Staff Recommendation – Department of Planning & Development Services**

- 2 1. Staff Recommendation dated April 17, 2018
3 2. Supplemental Staff Recommendation dated May 9, 2018

4 **O. Applicant (BSRE) / Respondent (PDS) Exhibit, Witness Lists & Briefs**

- 5 1. BSRE Point Wells, LP's Witness List, dated 4/30/18
6 1a. BSRE Point Wells, LP's Supplemental Witness List, dated 5/8/18
7 2. Snohomish County Department of Planning & Development Services and BSRE's Joint Exhibit
8 List, dated 5/4/18
9 2a. Snohomish County Department of Planning & Development Services Supplemental Witness List,
10 dated 5/4/18
11 3. BSRE Hearing Examiner Opening Brief
12 4. Snohomish County PreHearing Brief
13 4a. Appendix A-C

14 **P. SUBMITTED DURING THE OPEN RECORD HEARING**

- 15 1. Applicant presentation video May 16, 2018
16 2. 2018-0516 Point Wells Hearing presentation
17 3. Phasing Plan Sheet 1 A-056 – depicted from May 15, 2018 revision
18 4. Mailhot, Tom Written Testimony -- May 18, 2018
19 5. Point Wells Site History
20 6. April 16, 2018 Huff Letter to Otten
21 7. March 15, 2018 Otten email to Kris Davis
22 8. February 5, 2018 PDS Letter to Huff
23 9. January 22, 2018 Ohlenkamp email to PDS
24 10. January 19, 2018 PDS Letter to Huff
25 11. May 15, 2014 PDS Letter to Huff
26 12. Snohomish County Management Master Program
27 13. Notes from meeting on November 13, 2017 taken by Ryan Countryman
28 14. Amended Ordinance No. 09-079
29 15. Sheet C-203 from Ex B-7
30 16. Sheet A-051 from Ex B-7
31 17. Schematic – Stable Shoreline Expansion Concept
32 18. Timeline – DEA - Related Chronology of Development of ETIA Report
33 19. Point Wells Project Timeline

34 **Q. COUNSEL:**

35 Gary Huff, Dino Vasquez & Jacque St. Romain, Karr Tuttle Campbell
36 Matthew Otten & Laura Kisielius, Prosecutor's Office

37 **R. WITNESSES:**

38 Dan Seng & Carsten Stinn, Perkins Will
39 Ryan Countryman, David Killingstad, Randy Middaugh & Randy Sleight, PDS
40 John Bingham & Hart Crowser, Hart Crowser

- 1 Mark Davies, SVR
- 2 Gray Rand, Jack Molver & Kirk Harris, David Evans & Assoc.
- 3 William Gerkin, Moffat & Michol
- 4 Doug Luetjen, Karr Tuttle Campbell

5 **S. PUBLIC TESTIMONY:**

Debra Tarry (City of Shoreline)	Kendra Dedinsky(City of Shoreline)	Rachael Markle (City of Shoreline)
Julie Taylor (City of Shoreline)	Margaret King (City of Shoreline)	Dennis Casper
Zachery Lamebull	George Mayer	Paul Hammond
Ken Workman	Bill Krepick	Jerry Patterson
Amely Wurmbrand	Susan Chang	Tom Petersen
Robert Gregg	Tom Mailhot	Tom McCormick
Darrell Ash		

6 **T. RECORD LEFT OPEN FOR FINAL COMMENTS**

- 7 1. Sno Co PDS Proposed Findings Conclusions
- 8 2. Sno Co Post Hearing Brief
- 9 3. BSRE Proposed Findings Conclusions
- 10 4. BSRE Closing Brief
- 11 5. City of Shoreline Geotechnical Comments
- 12 6. City of Shoreline Traffic Comments
- 13 7. City of Shoreline Comments June 1, 2108
- 14 8. Mailhot, Tom Comments June 1, 2018
- 15 9. McCormick, Tom Comments June 1, 2018

PARTY OF RECORDS REGISTER
11-101457 LU et al. Point Wells
Hearing: May 16 2018 at 2:00 PM

BSRE, POINT WELLS, LP C/O KARR
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