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SNOHOMISH COUNTY HEARING EXAMINER

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BSRE POINT WELLS, LP,	)	
Appellant,	)	
		11-101457 LU/VAR
vs.	)	11-101461 SM
		11-101464 RC
SNOHOMISH COUNTY PLANNING	)	11-101008 LDA
		11-101007 SP
AND DEVELOPMENT SERVICES,	)	
Respondent.	)	

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VERBATIM REPORT OF RECORDED PROCEEDINGS

HEARING DAY 2

BEFORE HEARING EXAMINER PETER CAMP

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MAY 17, 2018



RECORDING TRANSCRIBED BY:  
 ELEANOR J. MITCHELL, RPR, CCR 3006



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EVERETT, WASHINGTON; MAY 17, 2018

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(Recording begins at 9:07 a.m.)

(Proceedings begin at 9:07 a.m.)

THE COURT: Good morning, everyone. Let's go back on the record. We'll continue with the Point Wells hearing.

First, cell phones: Let's either turn them off or set them to vibrate. I know the royal wedding is on Saturday, and you'll want to get the -- all the notifications, but let's not be interrupted by that. Okay? So let's set them to vibrate or off, please.

Okay. So, yesterday, we had the presentation by the applicant about the project with the basics, and now, it's PDS's turn to talk to us this morning about their review of the project. Mr. Otten? Or Mr. Countryman?

MR. OTTEN: Yes. Mr. Countryman will be presenting for the Planning and Development Services Department.

THE HEARING EXAMINER: Okay. And if I could have you raise your right hand, please.



1 (RYAN COUNTRYMAN sworn.)

2

3 THE HEARING EXAMINER: Thank you.

4 MR. COUNTRYMAN: Thank you. My name is  
5 Ryan Countryman. I'm a supervisor in Snohomish County  
6 Planning and Development Services. We refer to  
7 ourselves as PDS.

8 I've been involved in the review of Point  
9 Wells for a number of years now, here to -- this  
10 morning to kind of give an overview of PDS's  
11 recommendation of denial for substantial conflict with  
12 adopted plans, ordinances, regulations, or laws of the  
13 Point Wells project. This denial is based on Snohomish  
14 County Code 30.61.220. That's denial without an  
15 environmental impact statement.

16 That code provision includes the language  
17 "regarding substantial conflict with adopted plans,  
18 ordinances, regulations, and laws." And that same  
19 section also says that such a denial is in order to,  
20 quote, avoid incurring needless County and applicant  
21 expense.

22 Those are both provisions in Snohomish County  
23 Code 30.61.220.

24 This hearing for the Point Wells project is  
25 occurring now because, after more than seven years of



1 process, several revisions by the applicants, and three  
2 extensions, the application before us still contains  
3 substantial conflicts with applicable requirements.  
4 Therefore, in order to avoid further needless County  
5 and applicant expense, Planning and Development  
6 Services makes the recommendation to the Hearing  
7 Examiner that the Examiner deny the project due to  
8 these substantial conflicts with code.

9 In yesterday's testimony, Mr. Huff described  
10 his understanding of substantial conflict as, quote,  
11 substantial means unresolvable. Snohomish County  
12 interprets substantial conflict differently.

13 Merriam-Webster defines substantial conflict  
14 as, quote, an important or material matter. For  
15 Planning and Development Services, this means the  
16 substantial conflict is an important or material issue  
17 of noncompliance with code or other requirements.

18 You will hear discussion of building heights  
19 as an issue of substantial conflict because building  
20 heights are an important or material part of the  
21 project proposal. I've got a -- a new figure that I'd  
22 like to introduce into the record that kind of  
23 illustrates this issue.

24 THE HEARING EXAMINER: D-3?

25 THE CLERK: [Unintelligible].



1 THE HEARING EXAMINER: This will be  
2 Exhibit D-3. And we'll continue -- unless there's an  
3 objection, we'll go ahead and deem things admitted.

4 MR. COUNTRYMAN: And so I'm going to  
5 switch on the screen from the site plan that was kind  
6 of illustrated in the applicant's architectural  
7 drawings to an adaption of the phasing plan that was  
8 received two days ago from the applicant. This is  
9 sheet -- a replacement to Sheet A056 of the  
10 architectural plans.

11 As modified here, what we have done is we've  
12 taken the proposed building heights for twenty of the  
13 buildings and shown the building heights at the  
14 location of the proposed buildings. The reason that  
15 these buildings were chosen is because they all exceed  
16 the base 90-foot height limit for urban center zoning.  
17 These heights are based on the architectural plans  
18 received on April 27th of 2018 and just placed over  
19 this phasing plan here.

20 Building heights, just a couple of issues with  
21 building heights, but this is a -- a matter of material  
22 importance to the project plan because, as you can see,  
23 twenty of the 46 total buildings exceed the base  
24 building height limit of 90 feet. And in order for  
25 the -- an app- -- the applicant to receive an approval



1 for a project with buildings of over 90 feet, the  
2 project must have access to high-capacity transit.  
3 That's a requirement in the Urban Center Code,  
4 Chapter 30.34A.

5           And the applicant proposes that this area  
6 here, in the railroad tracks -- a Sounder Transit  
7 platform. And in yesterday's testimony, the applicant  
8 also described the possibility of maybe having a water  
9 taxi to the Sounder station in Edmonds. What's  
10 important about this exhibit that was received two days  
11 ago is that the applicant has revised the proposal.  
12 The Sounder platform is now proposed to be part of  
13 Phase I, rather than part of Phase III or IV as  
14 previously described.

15           Kind of questionable what the purpose of a  
16 water taxi to the Sounder station in Edmonds would be  
17 if the Sounder station were added during Phase I, but  
18 any -- any buildings permitted at this location could  
19 only be permitted once there was a Sounder station.

20           In other words, the shorter buildings may be  
21 possible to construct prior to a Sounder station being  
22 in place, but for code compliance, buildings to -- over  
23 90 feet require access to high-capacity transit. So  
24 having a Sounder station at this location is likely the  
25 only way that there will ever be high-capacity transit



1 at this location.

2 So that's an example of what we mean by a  
3 substantial, material, or important aspect of the  
4 project because nearly half of the buildings,  
5 representing more than half of the total units, would  
6 be in those buildings greater than 90 feet, and the  
7 absence of documentation showing how a Sounder station  
8 would be constructed at this place is one example of a  
9 substantial conflict with Snohomish County code.

10 THE HEARING EXAMINER: Is it sufficient  
11 that they will build a Sound Tran- -- an ST platform or  
12 are you saying they need to have a -- an agreement with  
13 ST for service before when? Before project approval?  
14 Before building permit? Before when?

15 MR. COUNTRYMAN: We would be looking for  
16 an agreement from Sound Transit on the feasibility of a  
17 station at this location as a precondition for an  
18 approval. But more importantly, the -- the record  
19 shows that the applicant hasn't had much recent contact  
20 with Sound Transit.

21 We have recently heard from the Sound Transit  
22 North Corridor Project Manager Kamuron Gurol that Sound  
23 Transit has not had recent contact with BSRE, and that  
24 obtaining the easement necessary from Burlington  
25 Northern, who owns the -- the tracks -- so obtaining



1 the easement from Burlington Northern Santa Fe Railroad  
2 would be extremely difficult as described by --

3 THE HEARING EXAMINER: Well, anything with  
4 BNSF is difficult.

5 MR. COUNTRYMAN: Right.

6 THE HEARING EXAMINER: Just -- we'll take  
7 official notice of that.

8 MR. COUNTRYMAN: Yeah.

9 THE HEARING EXAMINER: But -- and as -- my  
10 understanding is Sound Transit has an easement on BNSF  
11 for Sounder, which is operated by BNSF.

12 MR. COUNTRYMAN: Correct. Yeah. So Sound  
13 Transit has an easement to operate through the Point  
14 Wells site, but based on the legal precedence that will  
15 be testified to by others in greater detail, that --  
16 the mere fact that the Sounder commuter rail passes  
17 through the site does not provide adequate access to  
18 high-capacity transit. There needs to be some kind of  
19 station at the site or in the immediate vicinity.

20 MR. OTTEN: And Mr. Examiner, if you  
21 will -- Matt Otten, for the record -- we --  
22 Mr. Countryman and Mr. Killingstad will provide an --  
23 additional testimony on this issue to clarify.

24 MR. COUNTRYMAN: Yeah. So while we're  
25 talking about what the County means by substantial



1 conflict with code, sometimes it helps to also  
2 illustrate with a counterexample to make the point of  
3 what is or is not a substantial conflict.

4           The -- for instance, the landscaping plans,  
5 after three revisions, still do not comply fully with  
6 the landscaping requirements of Chapter 30.25 of  
7 Snohomish County Code, but landscaping details are not  
8 an essential or important part of the project. And for  
9 that reason, during this hearing, we're not going to be  
10 presenting the landscaping as an issue of substantial  
11 conflict with county code.

12           In yesterday's testimony, Mr. Huff described  
13 his belief that the applicant has made substantial  
14 progress -- that's -- and, therefore, should receive an  
15 extension. Substantial progress, whatever that means,  
16 is not grounds for an extension. The Hearing Examiner  
17 can only remand the project if, through this hearing  
18 process, the examiner has reasonable doubt as to each  
19 of the issues of substantial conflict that PDS has  
20 identified.

21           The rationale under Snohomish County  
22 Code 30.61.220 was to avoid needless County and  
23 applicant expense. And for us, that means work that  
24 will resolve minor issues, such as details on the  
25 landscaping plans, but not the substantial conflicts



1 that would preclude an approval.

2 THE HEARING EXAMINER: So can -- can I go  
3 back for just a second? This is something which I want  
4 to flag for counsel to think about.

5 It -- as I was thinking about this overnight,  
6 I was think that there -- of course, the applicant  
7 wants me to grant an extension. PDS is saying deny it  
8 because of substantial conflict.

9 And I thought, Well, is there a third legal  
10 option? I don't know where the evidence will take me  
11 yet. But which to say, No, I'm not going to say  
12 there's substantial conflict, so I'm not going to deny  
13 it. But neither am I going to grant an extension. And  
14 I'm not sure that helps anybody or anything, but that,  
15 I think, is a permissible legal decision if that's  
16 where the evidence takes me.

17 I -- kind of what I just heard you say is no,  
18 that you're -- your position is that it -- this is a --  
19 a toggle. It's either unless I find a reasonable  
20 doubt -- and you don't have to answer this. I just  
21 want to flag this for counsel, and I'm sure you'll want  
22 to think about it and respond later.

23 But unless I find there's reasonable doubt,  
24 then I have to give them the extension. And I'm -- I'm  
25 not sure that's the case. I don't know yet. But I



1 just throw that out there.

2 MR. COUNTRYMAN: As we'll be --

3 THE HEARING EXAMINER: [Unintelligible]

4 MR. COUNTRYMAN: -- talking through this  
5 morning and then also in the detailed testimony to come  
6 on Monday and Tuesday, Planning and Development  
7 Services will describe five areas of substantial  
8 conflict with applicable codes and regulations, and  
9 we'll des- -- we'll include in our testimony  
10 descriptions of why the project does not comply with  
11 the applicable regulations.

12 And for -- the example I've already given is  
13 the absence of a Sounder station or agreement with  
14 Sound Transit to operate that Sounder station that  
15 would be necessary in order to build buildings over  
16 90 feet. That's an area that I'll be talking about in  
17 more detail in my testimony on Monday.

18 It's important to note that each area of  
19 substantial conflict represents one or more conflicts  
20 with individual requirements. Those individual  
21 conflicts are detailed in an issues matrix that was  
22 attached to Planning and Development Services'  
23 prehearing brief -- the issues matrix is the document  
24 with the kind of blue and green headers that looks like  
25 this -- and that the five areas of conflict is real- --



1 the way we're using that is really a way to organize  
2 the substantial conflicts which, at this point, include  
3 11 individual requirements that have not been met.

4 Under building heights, the lack of Sounder  
5 station and building setbacks are two distinct  
6 conflicts that I'll be talking about, as will David  
7 Killingstad, during our testimony on Monday and  
8 Tuesday.

9 The prehearing brief from the applicant  
10 describes the applicant expenses to date. Yet, these  
11 expenditures only occurred because the plans did not  
12 comply with code and were not reviewed for internal  
13 consistency. The applicant chose to produce products  
14 such as the August 26, 2015, second access report  
15 that's Exhibit C-21, and this report produced by the  
16 applicant argued that the project did not need to  
17 comply with county code regarding the requirements to  
18 have two accesses to the site. Plans have been revised  
19 to show two accesses to the site, but these past  
20 applicant expenses are not an issue for the hearing  
21 examiner decision today.

22 Denial of the project at this stage subject to  
23 Snohomish County Code 30.61.220 is, in part, to save  
24 the applicant from nich- -- needless future expenses  
25 because the project proposed by the applicant cannot



1 receive approval as currently designed. The applicant  
2 has attempted to shape code to match the project, not  
3 to revise the project to match code requirements, and  
4 these attempts to shape code to match the project are  
5 shown in many of the project exhibits that are part of  
6 the record.

7           At this point, there would be no point in  
8 proceeding with further environmental review under  
9 Chapter 30.61 of Snohomish County Code if substantial  
10 conflicts with adopted codes and regulations remain.  
11 Ongoing review to correct minor issues that do not  
12 address the substantial conflict would result in  
13 additional needless costs to the applicant and to  
14 Snohomish County, and that would be contrary to  
15 SCC 30.61.220. [Unintelligible] --

16           THE HEARING EXAMINER: So -- so in other  
17 words, are you saying that you -- you've basically lost  
18 patience with them? That they've had three shots at  
19 it, and they don't appear to be willing to match the  
20 project, as you say, to the code, and, therefore,  
21 there's no point in continuing? Is that -- do I have  
22 that right?

23           MR. COUNTRYMAN: Well, I wouldn't kind of  
24 attribute the thought process to the applicant, but  
25 we've had seven ye- -- more than seven years, three



1 extensions, and still receiving -- even in the last  
2 week -- documents from the applicant suggesting that  
3 the plans can be revised at a lat- -- later date to  
4 comply with code requirements after the project has  
5 received its entitlement, but that gets the process  
6 backwards. The project cannot receive an entitlement  
7 until it complies or substantially complies with county  
8 code.

9           So for the purpose of this hearing,  
10 substantial conflict means that other topics of  
11 concern, which there are many that remain, are moot for  
12 the hearing. It may be possible to correct the smaller  
13 issues, but the project still cannot be approved as  
14 proposed, even considering the recent revisions by the  
15 applicant, including revisions received two days ago.

16           I'm going to talk about some of the project  
17 timeline and milestones. The -- the purpose here is to  
18 provide context and illustrate reasons why the project  
19 has arrived at this hearing, and the hearing is, again,  
20 based on a denial of the project to avoid needless  
21 further expense under SCC 30.61.220.

22           The original project applications were  
23 received in early 2011. Litigation stayed the review  
24 for approximately 18 months before that litigation was  
25 resolved. Shortly thereafter, Snohomish County



1 provided the applicant with a review completion letter  
2 on April 12th of 2013. That's Exhibit K-4.

3           This review completion letter identified a  
4 number of areas of conflict with county code and  
5 gave -- provided the applicant one year to respond with  
6 revised plans. Then, on February 2nd of 2014,  
7 Snohomish County issued a threshold determination of  
8 significance for the project. Under the State  
9 Environmental Policy Act, that threshold determination,  
10 which is Exhibit E-1, is a statement that the project  
11 is one that would require an environmental impact  
12 statement.

13           A couple months later, on March 21st of 2014,  
14 Snohomish County received the first extension request  
15 from the applicant. That's Exhibit G-1. This  
16 extension request was saying, Hey, we need more time to  
17 respond to the review completion letter from a -- the  
18 prior -- a year earlier, and that was that review  
19 completion letter from April 12th of 2013.

20           Another year goes by, and then, on April 15th  
21 of 2015, a second extension request is received. This  
22 extension request from the applicant said -- that's  
23 Exhibit G-2, the second extension request said that it  
24 was assumed, by the time the extension would be up,  
25 that all final action on the project could be complete;



1 "all final action" including revis- -- revisions to the  
2 plans in response to the April 12, 2013, review  
3 completion letter that was provided to the applicant  
4 two years earlier.

5           Then, on July 29th of 2015, Planning and  
6 Development Services requested clarification of the  
7 plans with respect to the number of units. This is  
8 Exhibit K-10. This letter to the applicant said that  
9 some issues, such as confirmation of number of units in  
10 each building, must be clarified before the draft  
11 environmental impact statement is issued.

12           The challenge here was that the plans received  
13 from the applicant in 2011 -- more than four years  
14 earlier -- clearly did not depict the number of units  
15 stated by the applicant and which were being studied in  
16 the environmental impact statement. The plans were  
17 drafted in such a way as it was impossible to precisely  
18 determine how many units were shown, but based on our  
19 own estimate, it looked to be about 2,750 units where  
20 the applicant was stating that they had, at that point,  
21 3,081 units on their plans.

22           So we asked for clarifi- --

23                           THE HEARING EXAMINER: And how does -- how  
24 that -- how does that affect scoping of the EIS other  
25 than traffic?



1 MR. COUNTRYMAN: Well, it also affects  
2 other aspects such as parking. The EIS had a chapter  
3 for fiscal impacts that would be affected by the number  
4 of units because a lot of the fiscal impacts looked at  
5 like, for instance, retail sales to the neighboring  
6 community, so the population of the project would be an  
7 important variable in that. So this -- this wo- -- was  
8 one that did affect other aspects of the project and  
9 including portions of the environmental impact  
10 statement.

11 Then, on December 9th of 2015, the applicant  
12 responded to our request for clarification on the  
13 number of units. Their response is Exhibit G-4. And  
14 this response letter said that clarification would  
15 require, quote, the completion of significant  
16 additional design work, and the letter continued to  
17 argue that such design work exceeded code requirements.

18 It's impossible for Snohomish County code to  
19 de- -- or Snohomish County staff, rather, to determine  
20 whether a project complies with code unless we know how  
21 many units are being proposed. Part of that that we'll  
22 be talking about as a remaining significant issue of  
23 concern is relating to parking. While the plans do  
24 currently appear to accurately account for their floor  
25 plan and number of units, parking is still an issue.



1           But at that point in time, it was clear that  
2 the parking plans were missing close to 900 parking  
3 stalls. Shortly after receiving that response letter,  
4 we gave more detail to the applicant on that. And  
5 without knowing how many units were there, we couldn't  
6 tell if the project complied with parking. And given  
7 the scale of the project and the -- the significant  
8 discrepancies in the number of units and parking  
9 stalls, proceeding with an environmental impact  
10 statement -- we had advised the applicant that  
11 proceeding at that point, based on those plans received  
12 more than four years earlier, would probably require a  
13 supplemental draft environmental impact statement to  
14 remedy the corrections because the cor- -- changes to  
15 the plans would require significant changes to the  
16 project layout.

17           So during 2016, there was more back-and-forth  
18 regarding design issues with the applicant. On  
19 March 30th of 2016, Snohomish County received a third  
20 extension request. That's Exhibit G-5 from the  
21 applicant. And this extent- -- extension request,  
22 again, said that that would be for the remainder of the  
23 review process, and that extension request was granted,  
24 extending the project to June 30th of 2018. June 30th  
25 is still the official project expiration date, and



1 that's an important date for the subject of this  
2 hearing.

3           Throughout 2016, Planning and Development  
4 Services provided supplemental review to the applicant  
5 team because we believed that they were working on  
6 revisions to the plans and needed some help. But then,  
7 still not receiving revised plans in response to the  
8 2013 review completion letter, Planning and Development  
9 Services put work on the draft environmental impact  
10 statement on hold.

11           The letter confirming, or stating, that we  
12 were putting the work on hold was transmitted on  
13 November 15th of 2016. That's Exhibit K-18. The  
14 letter putting the draft environmental impact statement  
15 on hold requested re- -- a revised submittal from the  
16 applicant by May 15th of 2017 in order to complete  
17 environmental review by June 30th of 2018. The letter  
18 also stated that no further extensions ab- -- would be  
19 granted absent, quote, extraordinary circumstances.

20           Then, on April 17th of 2017, the applicant did  
21 provided a second submittal. There was quite a few  
22 documents associated with that, but the site plan is  
23 Exhibit B-1. The second submittal finally did include  
24 a second access road and made some other adjustments to  
25 the site plan.



1           Then, on October 6th of 2017, County staff  
2 provide the applicant a review completion letter based  
3 on the second submittal. That sec- -- that review  
4 completion letter for the second is Exhibit K-31.

5           In Exhibit K-31, Table 2 on page 13 summarizes  
6 that, of the 42 issues raised by the project planner in  
7 the 2013 review completion letter -- 42 issues -- the  
8 applicant, in their revisions, had only adequately  
9 addressed one of the 42 issues raised by the planner  
10 four years earlier. Half of the issues raised in the  
11 2013 review completion letter were not even responded  
12 to in the April 17, 2017, second submittal.

13           Also, on October 6th of 2017, Snohomish County  
14 Planning and Development Services transmitted a letter  
15 regarding timing to the applicant, establishing  
16 January 8th of 2018 as a deadline to submit any further  
17 revisions, the reason being that the County needed time  
18 to review those revisions prior to the June 30th of  
19 2018 expiration. This timeline letter is Exhibit K-32  
20 in the record.

21           So, on January 12th of 2018, Planning and  
22 Development Services received a fourth extension  
23 request from the applicant. That's Exhibit G-8. This  
24 fourth extension request was denied by the director of  
25 Planning and Development Services. Extensions are a



1 discretionary decision made by the director.

2           Following that, on April 17th of 2018, exactly  
3 one year after the County received the second  
4 submittal, Planning and Development Services issued a  
5 staff recommendation. That's Exhibit N-1. The staff  
6 recommendation was a recommendation of denial for the  
7 project due to substantial conflicts with county code.

8           Ten days later, on April 27th, the applicant  
9 submitted a third set of plans and reports; this was  
10 their third submittal. The site plan for that third  
11 submittal is marked as Exhibit B-7.

12           So with this new information received by the  
13 applicant, on May 9th, County staff then provided a  
14 supplemental staff recommendation, Exhi- -- that's  
15 marked as Exhibit N-2. And this supplemental staff  
16 recommendation described five remaining topics of  
17 significant conflict with county code based on the  
18 April 27, 2018, third submittal from the applicant.

19           Then, on May 15th, two days ago, we received  
20 additional materials from the applicant responding to  
21 the supplemental recommendation. Staff will be  
22 addressing those additional materials in their  
23 comments. I'll talk about some of that today; I  
24 already have, including the new phasing plan that's up  
25 on the screen behind me. And then on Monday and



1 Tuesday, during staff testimony, we'll also be  
2 addressing in greater detail those new materials, which  
3 still don't adequately address the five topics of  
4 significant conflict with county code.

5           So I've been talking a lot about five areas of  
6 substantial conflict, and now I'm going to talk about  
7 what those are in more detail. Again, Exhibit N-2, the  
8 supplemental staff recommendation details those. And  
9 in order of how we're going to present those during our  
10 testimony, the five areas of substantial conflict  
11 relate to: One, building heights; two, parking; three,  
12 shoreline restoration; four, critical areas; and five,  
13 the second access road.

14           And while I'm talking about areas of  
15 substantial conflict with county code, I'm referring to  
16 Title 30 of Snohomish County Code; the engineering  
17 design and development standards adopted by public --  
18 Snohomish County Public Works; the International  
19 Building Code; and Snohomish County Shoreline Master  
20 Program. But I'm going to call them substantial  
21 conflicts with code, "code" being shorthand for those  
22 and other applicable regulations.

23           With respect to building heights, we've  
24 identified this area of substantial conflict as, quote,  
25 failure to provide appropriate setbacks for tall



1 buildings from lower-density zones and failure to  
2 document evidence for high-capacity transit for  
3 building heights over 90 feet. Those are topics that  
4 David Killingstad, our principal planner in Planning  
5 and Development Services and I will be detailing in our  
6 testimony on Monday and Tuesday.

7           The second area of substantial conflict  
8 relates to parking. And we have described this as --  
9 in our supplemental staff recommendation as, quote,  
10 failure to provide adequate parking. And again,  
11 Mr. Killingstad and I will be detailing those issues in  
12 our testimony on Monday and Tuesday.

13           The third area of substantial conflict with  
14 code is described as, quote, failure to address  
15 shoreline management regulations. And during testimony  
16 on Monday and Tuesday, Randy Middaugh, who's the  
17 principal planner in Planning and Development Services,  
18 will be describing those issues and how the applicant  
19 has failed to address the shoreline management program  
20 regulations.

21           The fourth area of substantial conflict with  
22 Snohomish County Code relates to what are called  
23 critical areas. Critical areas are def- -- are  
24 distreet[phonetic] -- discrete categories of things  
25 from state law that in- -- relate to geologic hazards



1 and wetlands, fish, and wildlife habitat conservation  
2 areas. So that second one is one category of critical  
3 areas, so wetlands and fish and wildlife habitat  
4 conservation areas are one type of critical area.

5 We have identified this issue as, quote,  
6 failure to comply with code provisions relating --  
7 regarding critical areas, including geologically  
8 hazardous areas and fish and wildlife and habitat  
9 conservation areas. And during further testimony,  
10 you'll be hearing from the County's chief engineering  
11 officer, Randy Sleight, with respect to the  
12 geologically hazardous areas, and then Mr. Middaugh  
13 will be talking about the wetlands, fish, and wildlife  
14 conservation areas.

15 The fifth and final area of substantial  
16 conflict with code relates to the second access road.  
17 And during his testimony, our chief engineering  
18 officer, Randy Sleight, again, will be describing in  
19 detail what we meant by, quote, failure to document the  
20 feasibility and code compliance of the second access  
21 road.

22 So things that we're not bring- -- talking  
23 about during this hearing: The April 17, 2018, staff  
24 recommendation actually included eight areas of  
25 substantial conflict. Three of those are being dropped



1 by the County for the purpose of that hearing. The  
2 reason that they were removed is that they're not  
3 issues of substantial conflict. That does not mean  
4 that the project can or does comply with code, merely  
5 that the issues are not moving forward under the  
6 substantial-conflict standard.

7           The first one of those areas that were dropped  
8 in the s- -- between the original staff recommendation  
9 and the supplemental staff recommendation relates to  
10 the traffic report and assumptions. We had described  
11 this as, quote, failure to provide adequate -- or  
12 acceptable, rather, traffic report and assumptions.  
13 The review team, there's not been any really new  
14 information provided on this, but the review team, in  
15 looking at this, determined that that's really a -- a  
16 SEPA mitigation issue, not a code compliance issue.  
17 Therefore, it was not timely to be raising that at this  
18 hearing.

19           But, based on new information provided by the  
20 applicant on April 27th, or ten days after we issued  
21 the staff recommendation, we are removing issues of --  
22 of subs- -- two issues of substantial conflict from --  
23 because of that new information.

24           The first was the failure to satisfy access to  
25 public transportation and transit compatibility issue.



1 The new information received on April 27th renders this  
2 no longer a substantial conflict with county code.

3 The other one that was rendered no longer a  
4 substantial conflict with county code was the failure  
5 to furnish information on contamination necessary to  
6 determine the approvability of the drainage proposal  
7 and compliance with critical area regulations. So at  
8 issue here was that the earlier versions of the plans  
9 had proposed to infiltrate the surface water through  
10 the ground. County staff was concerned about the  
11 infiltration proposal because that would go through  
12 contaminated material. You cannot approve infiltration  
13 through contaminated soil.

14 However -- so the County had asked for  
15 information on contamination and clean-up plans, but  
16 then, in work by the applicant's consulting team, they  
17 determined that the water table in the area was too  
18 high to make infiltration feasible anyway. So the  
19 plans now would convey the water to on-site treatment  
20 and then discharge directly to Puget Sound. So the  
21 infiltration issue and concern about infiltrating  
22 through contaminated soils is no longer an issue of  
23 substantial conflict at this time.

24 And then on the topic of the second access  
25 road, the original staff recommendation had kind of had



1 two separate issues relating to the second access road,  
2 one of which has been re- -- resolved to the point  
3 where it's no longer a substantial conflict, and that  
4 was the failure to provide an adequate site plan, which  
5 is no longer an issue of substantial conflict, but  
6 compliance with geotechnical reports and geologic  
7 hazards remains as an issue of substantial conflict  
8 with county code with respect to the second access  
9 road.

10 So to kind of summarize, again, we had five  
11 areas of substantial conflict with code that remain,  
12 and the order of our testimony is going to address  
13 building heights, parking, shoreline restoration,  
14 critical areas, and the second access road. Any one of  
15 these issues of these five areas of substantial  
16 conflict would constitute an independent ground for  
17 denial of the project as a whole.

18 I'm going to talk a little bit about what we  
19 do for reviewing projects such as this. The main part  
20 of the application is what we call an urban center site  
21 plan. An urban center site plan is an approval for a  
22 specific development proposal. It's not an approval  
23 for a general scale of development that can be revised  
24 later. There is mechanisms to do small revisions but  
25 not on the scale proposed by the applicant. It's an



1 approval for a specific development proposal.

2 Plans and reports from the applicant must  
3 demonstrate the feasibility for approval of an urban  
4 center site plan. Many construction details are re- --  
5 resolved later, but the feasibility must include  
6 relevant details.

7 For instance, when you hear from our chief  
8 planning officer, Randy Sleight, he's going to be  
9 talking about a retaining wall and lack of information  
10 on drainage and tiebacks for a 60-foot retaining wall  
11 that would support the second access road. Those kind  
12 of details are part of demonstrating the feasibility of  
13 constructing the retaining wall and road in that  
14 location, and then immediately on the other side of the  
15 wall, there's the urban-plaza phase of the project.

16 The applicant has asserted the ability to  
17 revise the plans later to comply with the code. For  
18 instance, in the urban-center narrative provided by the  
19 applicant, the most recent -- or the recent version  
20 received was Exhibit A-32. The applicant's response to  
21 the October 6, 2017, review completion letter,  
22 Exhibit G-13, also makes several assertions that the  
23 plans can be revised after it's entitled.

24 You don't get entitled until your plans  
25 com- -- comply with code. And --



1 THE HEARING EXAMINER: And entitlement  
2 means approval of the site plan?

3 MR. COUNTRYMAN: I'm using --

4 THE HEARING EXAMINER: [Unintelligible] --

5 MR. COUNTRYMAN: -- the word the --  
6 "entitlement" is the -- the word that the applicant  
7 chose to use, but that's the way I'm taking it is:  
8 Make changes -- they can make changes after an  
9 approval.

10 THE HEARING EXAMINER: Okay.

11 MR. COUNTRYMAN: Also, the same ability to  
12 revise plans later was asserted in the supplement to  
13 the urban center application that was recently  
14 received, and that's marked Ex- -- as Exhibit A-35.

15 So let's -- let's talk about that a little bit  
16 using building heights as an example again of  
17 substantial conflict. In yesterday's testimony  
18 regarding building heights, we heard from Mr. Huff that  
19 the project could be revised to include all buildings  
20 as being no taller than 90 feet. Also, in yesterday's  
21 testimony, Mr. Seng suggested that the -- that the  
22 applicant could revise phasing, thereby constructing  
23 the short buildings -- "short" being the ones less than  
24 90 feet -- before a Sounder station were provided, and  
25 only then construct the taller buildings that exceeded



1 90 feet.

2           So how- -- you know, however, neither of these  
3 hypothetical situations is what the applicant has  
4 submitted to Planning and Development Services. PDS's  
5 task is to review the application before it, not  
6 hypothetical designs that are not in the application  
7 materials.

8           And so just to talk for a second about the  
9 idea of building the shorter buildings first, I'm going  
10 to -- oh, I lost my exhibit.

11           THE HEARING EXAMINER: That's about the  
12 wild -- that's a wildlife -- example of the wildlife on  
13 the --

14           MR. COUNTRYMAN: Thank you.

15           THE HEARING EXAMINER: -- on the project  
16 site.

17           MR. COUNTRYMAN: Yeah. No, that's -- how  
18 do I get back to it?

19           MALE VOICE: [Unintelligible].

20           MR. COUNTRYMAN: Yeah. The timing's  
21 perfect that way, isn't it? All right. So with  
22 respect to the idea that it might be possible to build  
23 the buildings that are less than 90 feet -- refer to  
24 the site plan here -- Phase I has six shorter  
25 buildings. All the buildings for Phase I sit at -- on



1 top of a very large parking garage.

2 Phase II, again, this would include five  
3 buildings on top of a large parking garage, only two of  
4 which would -- could be constructed.

5 Phase III's -- what used to be phases III and  
6 IV has 11 of their 27 buildings exceeding 90 feet, and  
7 I suppose the applicant could provide a phasing plan  
8 that showed these taller buildings not being  
9 constructed, but, I mean, it's just not realistic to  
10 think that you would construct these huge parking  
11 garages and then not build the buildings on top while  
12 you're waiting for a Sounder station.

13 And again, more importantly, Planning and  
14 Development Services' task is to review the plans and  
15 application material before it, not to review  
16 hypothetical scenarios suggested at the last minute.

17 So to kind of conclude here, revisions would  
18 require other changes, further review, and later  
19 approvals. However, the five areas of conflict mean  
20 that the project is simply not viable. After seven  
21 years, three extensions, the applicant has not  
22 demonstrated the feasibility and code compliance of  
23 this proposal. Thank you.

24 MS. KISIELIUS: [Unintelligible].

25 THE HEARING EXAMIENR: [Unintelligible].



1 MS. KISIELIUS: [Unintelligible].

2 THE CLERK: [Unintelligible] sure your  
3 microphone's on [unintelligible]?

4 MS. KISIELIUS: Now it is.

5 Laura Kisielius from the prosecutor's office.  
6 Just wanted to quickly address your question,  
7 Mr. Examiner, regarding whether you have a third option  
8 in this case.

9 The County did address this in its prehearing  
10 brief to a certain extent. But the County has thought  
11 about this issue, and I think it might be helpful if  
12 you think about your decision-making process in two  
13 phases. And the first phase is that you're here to  
14 address the request raised by PDS to deny the project  
15 without proceeding with an EIS.

16 You have two options, which you -- which you  
17 actually mentioned yesterday. You can either deny the  
18 project, or you can find reasonable doubt as to the  
19 issues of substantial conflict raised by PDS and then  
20 remand the application to PDS. However, as -- as you  
21 surmise, that remand would, for the most part, be  
22 meaningless given the fact that the permit is set to  
23 expire on June 30th.

24 So that's where you get into the second phase  
25 of -- of your decision-making, and that is whether you



1 consider that a fourth extension would be warranted,  
2 and that would be based on -- on your discretion. If  
3 you determine that a fourth extension is not warranted,  
4 then, practically speaking, the remand would go back to  
5 PDS, but realistically, the application would expire by  
6 its own terms on -- on June 30th.

7 But, obviously, then, if you do determine that  
8 a fourth extension is warranted, it would be remanded  
9 back to PDS with a certain extension amount of time,  
10 again, that you would determine at your discretion.

11 THE HEARING EXAMINER: And my discretion  
12 to decide whether an extension is warranted, what's my  
13 yardstick? Other than of flipping a coin? Or --

14 MS. KISIELIUS: Ar- --

15 THE HEARING EXAMINER: -- pulling out of  
16 thin air?

17 MS. KISIELIUS: Arbitrary and  
18 capriciousness, really.

19 THE HEARING EXAMINER: Thinking other than  
20 arbitrary and capricious, is [unintelligible]?

21 MS. KISIELIUS: Right. There -- the code  
22 is -- the code is pretty silent other than --

23 THE HEARING EXAMINER: Aught.

24 MS. KISIELIUS: -- the fact that -- right,  
25 that -- and we talked about this -- you talked about



1 this at length several months ago, that you do have  
2 discretion at this point because the application is  
3 within your jurisdiction to -- to grant an -- an  
4 extension of time.

5           However, the code is -- is silent as to  
6 criteria. So whatever -- because you would be subject  
7 to the arbitrary and capricious standard, whatever you  
8 determine in your discretion based on reasonable  
9 findings.

10           THE HEARING EXAMINER: Okay. Would  
11 that -- and I -- I don't know where I'm going with this  
12 yet, but it would be useful -- but you don't have to;  
13 it's optional -- if you want to suggest what you think  
14 the appropriate yardstick is, that would be awesome.  
15 And if you don't, that's -- it's your choice, in which  
16 case you're stuck with whatever I come up with,  
17 depending upon how I decide the case.

18           MS. KISIELIUS: Um-hmm. And would that be  
19 more useful if -- if that was addressed at the end of  
20 the --

21           THE HEARING EXAMINER: Yes.

22           MS. KISIELIUS: -- at the end of the  
23 hearing as --

24           THE HEARING EXAMINER: Yes.

25           MS. KISIELIUS: -- as --



1 THE HEARING EXAMINER: I -- I don't need  
2 it now because I had -- I haven't heard the evidence  
3 yet, really, and I don't know where I'm going yet.

4 MS. KISIELIUS: Right.

5 THE HEARING EXAMINER: I'm in sponge mode:  
6 I'm soaking up all the stuff.

7 But -- you know, and address it in an  
8 appropriate way. I'm not interested in making deputy  
9 prosecutors or associates work through the weekend on  
10 this. You know, an outline or even an oral statement  
11 would be useful towards the end of the hearing or at  
12 the end of the hearing. So that -- that would just be  
13 helpful.

14 Otherwise, you're -- you're subject to  
15 whatever I come up with that it's what I think is short  
16 of arbitrary and capricious, which may or may not be  
17 agreed with by folks across the plaza.

18 Okay. Thank you. Anything else?

19 MS. KISIELIUS: No. That's it.

20 THE HEARING EXAMINER: So the County is  
21 done with its kind of opening and its...

22 So I want to compliment both sides for being  
23 extremely efficient. We -- we -- you -- in the  
24 prehearing conference, you talked about having two or  
25 three hours and two or three hours, and y'all are done



1 much faster than that.

2           The public comment portion is scheduled for  
3 1:30 -- to start at 1:30. And I -- I want to be  
4 efficient and respectful of people's time. I'm okay  
5 with starting now, but we are going to take public  
6 comment this afternoon, because I -- I put myself in  
7 the shoes of the citizen, and if I were reading this  
8 and saying, Well, I don't have to show up until  
9 sometime between 1:30 and 7:00, then I'm not going to.  
10 So more people may show up this afternoon, and that's  
11 fine; I'll listen to them, of course. Unless there's  
12 an objection, I'll go ahead with -- we'll go ahead with  
13 public comment now, just so we can be efficient with  
14 your use of time.

15           I will also, because we're starting public  
16 comment, throw out -- and this is really more for my  
17 concern with PDS as a pro tip for future notices:  
18 Noticing public comment for a period of time from 1:30  
19 to 7:00, for example, suggests -- a reasonable  
20 interpretation by a resident would be that that's an  
21 open house and is not an efficient use of the  
22 applicant's time, your time, or my time for us to sit  
23 around and wait to see if anybody shows up.

24           I would much prefer, in the future, that we  
25 say we'll hear public comment at one -- starting at



1 1:30, and then I like to do evening public comments, so  
 2 that citizens who work, and can't take time off from  
 3 their work, can also appear and speak. And so I would  
 4 rather do something like, We'll take public comment at  
 5 1:30 and at 7:00, for example, or at 6:30 or something  
 6 like that, so that people know if they show up at a  
 7 different time, they may not be heard.

8           So I just -- for future, I'd really appreciate  
 9 it.

10           MS. KISIELIUS: Sure. And just -- just  
 11 so -- so we understand, so have a start -- two start  
 12 dates.

13           THE HEARING EXAMINER: Two start times.

14           MS. KISIELIUS: Two start times but not an  
 15 end --

16           THE HEARING EXAMINER: Correct.

17           MS. KISIELIUS: -- time --

18           THE HEARING EXAMINER: Right.

19           MS. KISIELIUS: -- and not a range of  
 20 time --

21           THE HEARING EXAMINER: Right. Because  
 22 otherwise, it --

23           MS. KISIELIUS: -- [unintelligible].

24           THE HEARING EXAMINER: Otherwise, if I  
 25 were a c- -- you know, interested party, interested



1 neighbor, wanted to comment, I could think, Oh, I can  
2 show up anytime, which ma- -- turns it into one of an  
3 open-house design review board kind of thing, which  
4 isn't what a quasi-judicial hearing is. It is --

5 I'll hear everybody who -- who wants to speak.  
6 That -- that's very -- that's one of the most important  
7 things I do is listen to the public on these things.  
8 But it's not going to be an open hou- -- I don't want  
9 it to turn into an open house where we're all sitting  
10 here twiddling our thumbs, drinking coffee, waiting to  
11 see if anybody shows up.

12 So just...

13 MR. OTTEN: Mr. Examiner, there is a --  
14 according to the notice, there is an open house today.  
15 But tomorrow, it looked like the notice was just a  
16 start time at 9:00 a.m.

17 THE HEARING EXAMINER: Okay.

18 MR. OTTEN: So that -- that was one of the  
19 issues I wanted -- we briefly discussed --

20 THE HEARING EXAMINER: So tomorrow,  
21 we'll --

22 MR. OTTEN: -- how to handle that.

23 THE HEARING EXAMINER: -- we'll -- we'll  
24 start at 9:00 a.m. tomorrow, if -- and -- because there  
25 may be people who are planning on showing up tomorrow



1 who aren't going to make it today. And so we  
2 definitely need to honor them and listen to them as  
3 well. So we'll see who's -- comes in tomorrow morning,  
4 and then, if we're done by noon, we're done by noon.  
5 If we're done by midnight, we're done by what --  
6 whatever it is.

7 But I appreciate that. Thank you. So that's  
8 what we'll do tomorrow.

9 MR. OTTEN: Okay.

10 THE HEARING EXAMINER: So why don't we do  
11 this? It's 10:00. Let's take a short break to refill  
12 our coffee mugs. And then we'll come back, and then  
13 we'll do public comment.

14 So I also have -- I'll -- I'll repeat my  
15 opening monologue from yesterday about public comments,  
16 and so -- just to remind you of all that. And I'll  
17 swear everybody in who wants to speak because it has to  
18 be done under oath.

19 And there's also a sign-up sheet over there on  
20 the podium. So during the break, if you haven't signed  
21 up, and you want to speak, go ahead and sign up.

22 'Cause we'll -- I'll start with what's on the sign-up  
23 sheet. I'll work through the order in the sign-up  
24 sheet, and then, when we finish with the sign-up sheet,  
25 then I'll -- it'll be open call to see who else is



1 here.

2           And -- but I will listen to everybody. There  
3 are over 400 comments so far in the record. I have  
4 read several hundred of them so far. My favorite so  
5 far is the -- are the press clippings from 1912.  
6 That's my favorite so far.

7           But -- so, anyway, let's take a 15-minute  
8 break. We'll come back at 10:15. Grab a cup of  
9 coffee, sign in if you haven't signed in and you want  
10 to speak, and we'll be in recess. Thank you.

11           (Recess taken at 10:01 a.m.; proceedings  
12 resumed at 10:22 a.m.)

13           THE HEARING EXAMINER: And did you grab  
14 the clipboard already?

15           [Unintelligible discussion.]

16           THE HEARING EXAMINER: Let's go back on  
17 the record.

18           THE CLERK: Okay.

19           THE HEARING EXAMINER: Okay. We'll go  
20 back on the record, folks.

21           So I don't -- this might be good news or bad  
22 news, depending on how you want to take this, but  
23 nobody signed up. So I guess we either have a bunch of  
24 shy residents or you want to remain anonymous or  
25 whatever.



1           But would anyone like to -- to give public  
2 comment at this point? If not, that's cool. But  
3 you're welcome to come forward and tell me what's on  
4 your mind. Going once? Going twice? Going three  
5 times? Okay.

6           So here's what we're going to do. I will  
7 recess the hearing until 1:30 because there may be  
8 people who are planning on showing up this afternoon to  
9 speak, and it's really important that I listen to them.

10           So we'll be in recess until 1:30. And then  
11 we'll see what happens this afternoon. Thank you.

12           (Recess taken at 10:22 a.m.; proceedings  
13 resumed at 1:35 p.m.)

14           THE HEARING EXAMINER: Good afternoon,  
15 everyone. Let's go back on the record. This is the  
16 open-record hearing on the Point Wells project. So  
17 where we are now is we're going to start the public  
18 comment portion of the open-record hearing.

19           So, first, let's start with some basics, which  
20 is cell phones: Let's turn them off or set them to  
21 vibrate, please. Otherwise, we'll be interrupted --  
22 we'll find out you're still crushing on Justin Bieber  
23 from your ringtones, and that will be extraordinarily  
24 embarrassing.

25           So for those of you who haven't heard this



1 speech, I'm going to make this little speech, but it's  
2 important for you to realize this is a quasi-judicial  
3 hearing, which means it's kind of like a courtroom  
4 proceeding.

5           So having said that, please act like it's a  
6 courtroom. So if you want to take a phone call, please  
7 go outside and do that. If you want to have a  
8 conversation with your neighbor, please go outside and  
9 do that. Please be respectful of the people who are  
10 speaking.

11           Now, I'm very proud of Snohomish County  
12 residents because we've dealt with some very  
13 contentious things over the years and done it with a  
14 very respectful way.

15           So this is not a pep rally. This is not a  
16 sporting event. No applause, no booing, no cheering;  
17 none of that, please. That's not what this is about.

18           It's not an election or a popularity contest.  
19 It doesn't matter how many people are for or against  
20 the project. That's utterly irrelevant. The issue  
21 is -- what I have to do decide whether -- just match up  
22 of facts with the law and make a decision.

23           So let me also remind you that it isn't my job  
24 to decide whether this is a good project or whether  
25 it's a worthwhile project or whether it's a bad



1 project. That isn't what I'm authorized to do. My job  
2 is to match up, again, the facts with the law and make  
3 a decision based on that and that alone.

4 So for public comment, just come on down here,  
5 and I'll read off names. I'll sw- -- I'm going to  
6 swear everybody in in a moment.

7 But speak from the stand there. I have a --  
8 we have a site map up there if you want to refer to  
9 that. That microphone is always on. Please make sure  
10 you speak directly into the microphone because you'll  
11 notice that, when I turn my head like this, you can't  
12 hear very well, so please speak directly into the  
13 microphone.

14 Please also -- this is a -- an audio recording  
15 only, so please identify yourself by name and your  
16 address and, if you have an affiliation, your  
17 affiliation, when the speak on the record. Otherwise,  
18 no one will know who it is, for the thousands of people  
19 who are to listen to this later. Okay?

20 So having said that, I'm going to call the  
21 people who have signed up to speak, and then, when I  
22 finish that list, then we'll take and we'll see who  
23 else wants to speak. And, of course, if people come in  
24 late, I'm more than happy to accommodate them and  
25 listen to them. This is very important that I hear



1 what the public has to say.

2           Also, don't worry about -- for those of you  
3 who are not in the planning profession or in the legal  
4 profession: You don't have to worry about the -- the  
5 jargon. Okay. My job is to map your concerns into law  
6 and planningspeak. Okay? That's part of my job. So  
7 don't -- just tell me what's on your mind and your  
8 concerns.

9           So having said that -- first off, everyone who  
10 thinks they're going to speak today, let's get sworn  
11 in.

12

13                           (WITNESSES sworn.)

14

15                           THE HEARING EXAMINER: Great. Thank you  
16 very much.

17                           Okay. So, Ms. Terry, Ms. Debbie Terry.

18                           Sir?

19                           MALE VOICE: [Unintelligible].

20                           THE HEARING EXAMINER: Oh, we're scheduled  
21 from 1:30 to 7:00 p.m. tonight. So how much time do  
22 you have to speak individually? Is that what you're  
23 asking? Or you're asking how long will we be?

24                           MALE VOICE: [Unintelligible].

25                           THE HEARING EXAMINER: I'm s- --



1 MALE VOICE: [Unintelligible].

2 THE HEARING EXAMINER: Good point. So --  
3 come on up, Ms. Terry. Go ahead.

4 So there are over 400 public comments. So  
5 far, I've read more than 200 of them, and I've got  
6 about 200 more to go. I will read them all before I'm  
7 done. And the new ones that come in, I will read those  
8 too. I will read every single one. Okay?

9 So more doesn't make it better. I'd ask that  
10 you be respectful of other people's time. But I will  
11 listen to you, so I'm not going to cut you off unless  
12 you're repeating yourself for the 15th time. Okay?  
13 Fair enough?

14 So I think we'll just play it as it goes.  
15 I'll be respectful of your time, you be respectful of  
16 my time, and we'll be good. Okay.

17 Ms. Terry.

18 MS. TERRY: Thank you. Thank you,  
19 Honorable Peter Camp, Hearing Examiner. I'm Debbie  
20 Terry, the city manager of the City of Shoreline.

21 The City of Shoreline has already provided an  
22 extensive comment letter, and this letter states that  
23 the City of Shoreline supports the Snohomish County's  
24 Planning and Development Services and Public Works  
25 Department's recommendation to deny the Point Wells



1 project applications pursuant to Snohomish County  
2 Code 30.61.220 in addition to sharing our concerns  
3 regarding traffic, and the inability of BSRE to meet  
4 concurrency.

5           Accordingly, the County, Shoreline, nor the  
6 public should incur the needless time and expense of  
7 proceeding with a SEPA process when the project simply  
8 cannot meet the mandatory Snohomish County Code  
9 requirements. BSRE has had over seven years to respond  
10 to the repeated requests from Snohomish County to  
11 provide the necessary information. Yet, BSRE still is  
12 unable to demonstrate that the vital components of its  
13 urban center proposal can actually be provided.

14           We have run into some of these same challenges  
15 with the traffic corridor study on Richmond Beach Road  
16 never being completed, even though the process started  
17 more than four years ago. More specifically, BSRE is  
18 not able to demonstrate that a required viable second  
19 access road to provide for safe, efficient circulation  
20 and access for vehicles to and from the Point Wells  
21 site can be provided; that high-capacity transit is  
22 available, which is necessary to support increased  
23 building heights; that neighboring lower-density land  
24 uses are protected with appropriate building-height  
25 setbacks; that the public interest in the Puget Sound



1 shoreline will be protected; that the function and  
2 values of critical areas will be maintained; and that  
3 adequate transportation and parking infrastructure will  
4 be provided so as to not have adverse effects and  
5 impacts on neighboring communities.

6           The Hearing Examiner will hear from the City's  
7 traffic engineer, planning director, and city attorney  
8 in more detail regarding the City's concerns with the  
9 status of the current applications and their inability  
10 to meet the Snohomish County codes, Shoreline's traffic  
11 level of service, and conflict with Shoreline's Point  
12 Wells subarea plan.

13           As the Hearing Examiner is aware, Shoreline  
14 borders the King/Snohomish County line and is  
15 immediately south of Point Wells with its northwest  
16 boundary abutting the area. This creates a situation  
17 where the only current point of vehicular access to the  
18 Point Wells site is via Shoreline and its  
19 transportation network. Access is solely from the  
20 south through Shoreline via Richmond Beach Drive, a  
21 two-lane street that dead-ends at Point Wells after  
22 passing through a single-family residential  
23 neighborhood.

24           Shoreline will be the primary receiver of not  
25 just impacts to its transportation network but also



1 impacts to both public and private services within  
2 Shoreline, given the geographical realities of the  
3 site. Thus, even though Shoreline is not the  
4 governmental entity ultimately responsible for the  
5 permitting of the redevelopment of Point Wells, it will  
6 be responsible for absorbing many of the impacts  
7 arising from any future development of the area.

8 Shoreline is concerned with BSRE's Point Wells  
9 expanded traffic impact analysis. Of particular note  
10 is the characterization of Shoreline's level-of-service  
11 standard as it relates to the traffic  
12 volume-to-capacity ratio.

13 Shoreline's volume-to-capacity ratio standard  
14 is 0.9, and only in just a very few isolated cases has  
15 Shoreline allowed a volume-to-capacity ratio of up to  
16 1.1. Table 29 of the expanded traffic impact analysis  
17 shows a volume-to-capacity ratio s- --- far exceeding  
18 Shoreline's level of service with ratios as high as  
19 1.44.

20 BSRE's statement that the Richmond Beach  
21 corridor study has not been fin- -- finalized is  
22 disingenuous. The corridor study, which commenced in  
23 2014, has not been completed because Shoreline reached  
24 an impasse with BSRE in determining an appropriate  
25 mitigation strategy to meet Shoreline's



1 level-of-service standard for the proposed number of  
2 average daily trips that the Point Wells project would  
3 add to Shoreline's street network.

4           The City of Shoreline respectfully requests  
5 that the hearing examiner accepts the Snohomish County  
6 staff's recommendation and deny the applications.

7 Thank you for your time.

8           THE HEARING EXAMINER: Ms. Terry.

9           Kendra Dedinsky?

10           MS. DEDINSKY: Good afternoon, I am City  
11 of Shoreline Traffic Engineer Kendra Dedinsky. So I'll  
12 expand a little bit on what Debbie was talking about  
13 specifically as it relates to transportation as that's  
14 my area of expertise, but I want to bring it back to  
15 the idea that we're here to talk about the -- the proof  
16 of feasibility of this project and the completeness of  
17 it.

18           And while the County has dropped the idea that  
19 we need to further evaluate or consider the traffic  
20 study, the City of Shoreline fully believes that that  
21 is a very critical element of this entire application,  
22 and it really does play into the feasibility of the  
23 project itself. The characterization made about the  
24 transportation corridor study that Debbie was speaking  
25 about before, I believe, was misrepresented in that the



1 City doesn't feel like we're anywhere near completion  
2 on that study and have reached somewhat of an impasse  
3 in determining how to move forward from here.

4           And so what you see in the transportation  
5 impact analysis is the explanation that, yes, our  
6 level-of-service standards are -- are -- are being  
7 exceeded by the project impacts, and yet, no attempt to  
8 mitigate those is -- is made in some cases. That's  
9 concerning.

10           And to me, as a transportation expert, that  
11 indicates a level of incompleteness. Typically, in a  
12 traffic study, you would see, you know, not only the  
13 trip generation and all of the distribution throughout  
14 the system, you would see the analysis that shows  
15 concurrency is being met or not and an attempt to  
16 mitigate any level of service failures.

17           And while they have shown some levels of  
18 mitigation on -- on certain aspects of the project,  
19 there are broad areas of it that are just left  
20 unmitigated and unaddressed within the traffic study.  
21 So that, to me, indicates a level of incompleteness.

22           In addition to that, we know that -- that we  
23 have -- we have squabbled about the trip generation  
24 methodology, which the County highlighted earlier in  
25 the opening statements. And the City, certainly, is on



1 the same page in that we feel that the trip generation  
2 has been very aggressive and, therefore, have left that  
3 subject to monitoring, certainly. But monitoring alone  
4 is not a mitigation strategy. It is simply a mechanism  
5 to s- -- ensure that what was anticipated is actually  
6 occurring. So it does not, in itself, mitigate the  
7 impacts of the project.

8 Part of that trip generation claim is also  
9 backed by the access-to-transit issue. And 15 percent  
10 is a very aggressive trip generation or transit capture  
11 rate for a project that claims as little as eight --  
12 eight shuttle trips a day, at the minimum. That would  
13 be highly unlikely to capture the -- the type of  
14 transit trips that -- that's claimed in the study.

15 Furthermore, I don't believe that due  
16 diligence has been done with actually vetting the  
17 transit or shuttle service. Only some kind of casual  
18 conversations have occurred with any of the transit  
19 asian[phonetic]- -- agencies. And beyond that,  
20 supplying a private shuttle, there hasn't been any  
21 attempt that we are aware of or that has been  
22 documented to connect those shuttle services to the  
23 actual transit networks, like the light rail station  
24 that was discussed earlier.

25 Shoreline has been working very hard with



1 Sound Transit over the last few years in ensuring that  
2 the station area design at 185th and I-5 for the new  
3 light rail line will meet the needs of buses moving  
4 forward. And in -- nowhere in that discussion have we  
5 talked about this kind of shuttle service. And, in  
6 fact, the site is quite constrained for the service  
7 that will be opening as the light rail begins.

8           So what I'm meaning to say there is that  
9 there's a lot of work to be done in order to ensure  
10 that the public transit connections can occur and  
11 aren't just simply promised without any back -- any --  
12 any data backing that.

13           In addition, it -- it -- in respect to the  
14 high-capacity transit claim, again, the due diligence  
15 with securing those connections to transit haven't been  
16 made or haven't been proven. Throwing out the idea of  
17 a water taxi, for example, without really having  
18 discussions with the City of Edmonds or the State  
19 doesn't show due diligence to me.

20           We have a lot of concerns, as -- as Debbie had  
21 noted, about just the ongoing cost to staff and to the  
22 impactis- -- impacted jurisdictions. As part of the  
23 TCS with the applicant, we invested a lot of time on  
24 the City's behalf as well, and as each of these  
25 iterations come through, our technical staff spends



1 quite a lot of time reviewing each of them as, again,  
2 the burden is primarily to the City of Shoreline for  
3 the transportation impacts.

4 And so with regard to that -- that ongoing  
5 cost to the City and this continuance of incomplete  
6 information with each submittal, the City of Shoreline  
7 strongly supports the -- the position of the County.  
8 Thank you.

9 THE HEARING EXAMINER: Thank you.

10 Ms. Markle? Ms. Rachel Markle.

11 MS. MARKLE: Good afternoon. I'm Rachel  
12 Markle, the planning and community development director  
13 for Shoreline, and I have participated in the detailed  
14 review of BSRE's current submittals and Snohomish  
15 County's review documents since 2011. That -- that's  
16 an indication of how long City of Shoreline staff have  
17 also been involved with reviewing everything that comes  
18 up to Snohomish County.

19 Snohomish County codes require a second access  
20 road. The proposed second access was previously cited  
21 in an August 2015 submittal entitled Draft Second  
22 Access Report. This report deemed all second access  
23 options, including the current proposal, as problematic  
24 and unwarranted. The twenty- -- the April 2018  
25 subsurface engineering report confirms that the



1 proposed sec- -- second access is still problematic.

2 The second access road requires the  
3 construction of a 60-foot retaining wall that cuts  
4 across a landslide hazard area, a classified wetland,  
5 and Chevron Creek.

6 The pros- -- proposed second access road  
7 cannot meet Snohomish County code for critical areas.  
8 The applicant's development is relying on deviations  
9 from critical area standards, which had -- have not yet  
10 been approved.

11 The Hart -- the 2018 Hart Crowser report only  
12 provides generalized descriptions of possible  
13 engineering solutions that could be used to mitigate  
14 predicted hazards related to constructing the second  
15 access road. The proposed secondary access will  
16 require acquiring multiple easements from adjacent  
17 private property owners that have not yet been  
18 negotiated. The proposed secondary access ode- -- road  
19 also requires coordination and permitting from the Town  
20 of Woodway, which I don't believe has been initiated.

21 The 2018 second access plan shows a grade of  
22 15 percent for the road. This is the maximum allowed  
23 by Snohomish County and not recommended for inclement  
24 weather. The ability to -- for a second access road to  
25 be constructed that meets Snohomish County codes is



1 crucial in determining the impacts of any future  
2 development of Point Wells.

3           If a second access road cannot be constructed  
4 that meets all Snohomish County codes, including  
5 critical area provisions, then the project is limited  
6 to a mix of uses and units that will not produce --  
7 produce an average daily trip count of more than 250  
8 trips. This equates, in my estimation, to a reduction  
9 in project scope by an estimated 80 percent.  
10 Therefore, it is not unreasonable to require  
11 preliminary engineering to verify that a second access  
12 represents a safe and feasible alternative prior to  
13 approving any deviations or permits that rely on second  
14 access.

15           BSRE has failed to demonstrate that  
16 high-capacity transit will be provided to support  
17 increased building heights over 90 feet. The developer  
18 states that Sound Transit expressed interest in the  
19 future Sounder stop at Point Wells. Sound Transit's  
20 funding plans, through 2034, do not include this stop.

21           BSRE also states that Sound Transit's is- --  
22 interest is contingent on development reaching a  
23 sufficient on-site density. Regardless, the  
24 high-capacity transit must be available before granting  
25 the additional height, not after.



1           The ultimate height of buildings at Point  
2 Wells is very important to the City of Shoreline. The  
3 city subarea plan for Point Wells includes information  
4 about building heights in relation to views from the  
5 historic Richmond Beach neighborhood. Also, the  
6 limitation on height may reduce other impacts relating  
7 to the current proposal's parking deficiencies and  
8 projected traffic volumes.

9           BSRE has failed to demonstrate compliance with  
10 Snohomish County critical area codes. Portions of the  
11 Point Wells project are within a landslide hazard area  
12 and buffer. Snohomish County Code does not allow  
13 development activity in landslide hazard areas or  
14 buffers unless a deviation has been granted.

15           Site-specific analysis and mitigation of  
16 impacts to Wetland A, Chevron Creek, and fish and  
17 wildlife habitat have not been adequately performed to  
18 comply with code. Instead, proposed restoration with  
19 the -- in the Shoreline area is suggested by the  
20 applicant to be equivalent and sufficient to meet all  
21 wetland and stream impacts.

22           In conclusion, the proposed development for  
23 Point Wells is contingent upon deviations that have not  
24 been granted, studies that have not yet been performed,  
25 and a height bonus based on an unconfirmed ability to



1 be served by Sound Transit. The applicant has failed  
2 to provide the information required to comply with the  
3 Snohomish County codes and, accordingly, the level of  
4 detail needed to prepare an environmental impact  
5 statement. Due to these failures, the urban center  
6 application and associated permits must be denied.

7 Thank you.

8 THE HEARING EXAMINER: Thank you.

9 Ms. Taylor?

10 MS. TAYLOR: Good afternoon, Mr. Hearing  
11 Examiner.

12 THE HEARING EXAMINER: Good afternoon.

13 MS. TAYLOR: My name's Julie Taylor. I'm  
14 the assistant city attorney for the City of Shoreline.  
15 And just kind of a partial wrap-up of what our staff --  
16 the city manager, city engineer, and the planning  
17 development manager -- has said is basically, as you  
18 can see, from our comments and the comments that have  
19 been provided so far, both public comment and the  
20 County's position, is BSRE's project is one of hope.

21 They hope that they can get a Sound Transit  
22 stop within their development, so they -- they can  
23 hi- -- have high-capacity transit. They hope that they  
24 can get a variety of variances from the development  
25 code regulations that will allow them to develop the



1 project that they want to develop. They hope that some  
2 of these studies that still haven't been done will also  
3 support the project of -- they want to build. And they  
4 hope that they can get deviations from engineering  
5 standards so they can build that project as well. But,  
6 after more than seven years, you should not give them  
7 more time to keep revising and modifying their project  
8 based on all these hopes that they hope to get.

9           At this point, as somebody mentioned to me  
10 earlier today, we feel that BSRE's just rearranging  
11 chairs on The Titanic. This project can't be done  
12 within the urban center's setting. And despite the  
13 delay for litigation that BSRE mentioned yesterday,  
14 they've known since at least April of 2014, when the  
15 Supreme Court ruled and supported the, that the project  
16 was vested, that they could go forth on development.

17           Now, that's been more than three -- that's  
18 been about three years now, and yet, they're still  
19 tweaking and adjusting even up to two days before this  
20 hearing, when they suddenly switched all the phasing  
21 around to bring the Sound Transit project, which Sound  
22 Transit does not have in their plans, in Phase I of  
23 their project, from Phase III, where it or- --  
24 originally was.

25           Our traffic engineer talked about the



1 importance of the transportation corridor study, which,  
2 for a project -- any project, needs to demonstrate  
3 adequate infrastructure to get to approve it, and  
4 transportation network is part of that infrastructure.

5           So without having that study complete and  
6 knowing the exact impacts to the infrastructure,  
7 they'll never be able to approve a project that they  
8 don't know that the infrastructure will be ad- --  
9 adequate to serve that project.

10           I won't address the second access road. I  
11 think you've heard a lot about that, but that's also  
12 key to the infrastructure to support the level of  
13 development that BSRE desires.

14           The Sound Transit station, or the  
15 high-capacity transit that they seek to have this --  
16 that basically this whole project surrounds around --  
17 being able to do this urban center development -- is  
18 that high-capacity transit. That is a key component of  
19 it.

20           But as you heard, there is nothing planned.  
21 Be it that -- while Sound Transit may have expressed an  
22 interest at one time in maybe have a stop there,  
23 there's nothing planned. There's nothing in their  
24 long-range implementation plans. There's nothing in  
25 their budget to have anything there any time in the



1 next 30 years.

2           And you also heard, too, and you, yourself, I  
3 believe, stated that dealing with the railroad is never  
4 an easy task. It's a complicated task, and this would  
5 involve not only getting permission from the railroad  
6 to be building infrastructure within their right of way  
7 but also having to get the permission to interfere more  
8 with the railroad's operations and having another stop  
9 and another time constraint on that line as a Sounder  
10 train would be stopping there. And none of those  
11 conversations have oc- -- occurred.

12           So then I'd also -- also like to point out  
13 that the code that you're here looking at today that's  
14 saying that the -- the County believes that going  
15 forward on any environmental review would basically be  
16 needless expense, and, as Mr. Count- -- Countryman  
17 mentioned this morning, for the County or the  
18 applicant, but I'd also like the Hearing Examiner to  
19 consider the public and the other entities that are  
20 looking that -- at that.

21           As Ms. -- Ms. Dedinsky said a few minutes ago,  
22 City staff has invested countless hours in reviewing  
23 these proposals -- not just the transportation  
24 department, but also the planning department -- looking  
25 at the proposals. Our office is -- has been involved



1 with it. We have outstanding litigation with the  
2 growth boards that's now in its 29th extension to try  
3 to reach some kind of mitigated settlement on that.  
4 So --

5           And the public, who also you'll be hearing  
6 from later, has spent their own money hiring experts  
7 and attorneys to try to protect their neighborhood  
8 concerns at the same time. So I would like you not  
9 just to think about County and applicant expenses in  
10 moving forward on this environmental review but also  
11 all the other parties that are impacted by that.

12           So, in closing, I'd just like to say that, as  
13 Mr. Countryman -- I liked his statement of earlier that  
14 what BSRE really wants to do is they want to modify  
15 Snohomish County code to fit their project. And I'm  
16 not saying that the pictures and the overfly that you  
17 had saw yesterday -- it's a beautiful project. But  
18 it's not the project for the Point Wells site.

19           So instead of creating a project that meets  
20 Snohomish County Code, they want to create a project  
21 that they like, but then they need deviations,  
22 variations, and modifications in order to do that.

23           So based on that, I don't think there is any  
24 doubt -- reasonable or otherwise -- that this project,  
25 this urban center development, being proposed in an



1 area that's no longer even classified for urban center  
2 development, will ever be able to satisfy the Snohomish  
3 County Code. Hope of BSRE that they can do that  
4 doesn't make for a substantially compliant project, and  
5 the City of Shoreline recommends you accept the  
6 planning commission's -- planning commission's,  
7 planning department's recommendation of denial. Thank  
8 you.

9 THE HEARING EXAMINER: Thank you.

10 Ms. King?

11 MS. KING: Thank you. I will try to be  
12 brief so I don't hit the same points.

13 THE HEARING EXAMINER: Could you please  
14 identify yourself.

15 MS. KING: I'm sorry. Margaret King, City  
16 Attorney, City of Shoreline.

17 THE HEARING EXAMINER: Thank you.

18 MS. KING: And I want to just sort of  
19 reiterate the -- the frustration and the amount of time  
20 and expense that has been extended by the City of  
21 Shoreline on this project and the continually shifting  
22 sands that we have to keep addressing.

23 I think that what is the -- is happening is  
24 smoke and mirrors. You start to evaluate a particular  
25 issue here, and they say we can handle it because we're



1 going to solve it by moving it over here.

2 But then when you see that they're moving it  
3 over here, you say, Well, that's not going to work  
4 because that's not going to happen until Phase II, and  
5 they're relying on it in -- for Phase I. And then it  
6 keeps shifting again and shifting again.

7 And, frankly, I don't see how you can even do  
8 a SEPA analysis when it con- -- shifts so continually.  
9 There is no way for us to have experts analyze  
10 something. As soon as they do, it shifts again. And  
11 that is why the County recommendation to say it's  
12 pretty clear that they're not going to be able the meet  
13 these standards should be done now and additional time  
14 not wasted.

15 A couple of other things I wanted to quickly  
16 point out on those shifting sands is the parking. The  
17 parking does not take into account the -- the hi- --  
18 high-capacity transit station. Yet, they rely on the  
19 high-capacity transit station to get the additional  
20 units and height.

21 But they don't show any parking for a  
22 high-capacity transit station. How can you have a  
23 high-capacity transit station with absolutely no  
24 parking? Nor did they calculate that into any of the  
25 traffic counts.



1           The police station and the fire stations  
2 located up against the critical area hill, which  
3 those -- those kind of stations are not allowed to be  
4 placed in a slide area. There's, oh -- just this  
5 morning, I heard three or four different things that I  
6 just was going, Wait a minute, that's -- that's  
7 completely different than what the last proposal was.

8           So after this much time, it's pretty clear  
9 that the reason things have to keep shifting is because  
10 that's the only way that they can try to meet the code.  
11 And they don't meet the code because you can't only  
12 meet it parsh- -- part of the time or, in the future,  
13 if you have multiple, multiple conditions that may or  
14 may not occur, that frankly are in the hands of third  
15 parties that aren't the County, aren't the City of  
16 Shoreline, and not BSRE.

17           Thank you.

18           THE HEARING EXAMINER: Thank you.

19           Dennis Casper. And then Mr. Lamebull is on  
20 deck.

21           MR. CASPER: Yes, good afternoon. My name  
22 is Dennis Casper; my real name is Average Joe. And I  
23 say that because I'm not an expert, and I'm just coming  
24 as a person who took time off and was very concerned  
25 about this particular project.



1 I live at 20235 Richmond Beach Drive, which is  
2 about 500 feet from the opening -- I mean, the entrance  
3 to the Point Wells property. And I have many concerns  
4 about this project. But in -- in the context of -- of  
5 the fact that we are three months or four months past  
6 the date that the City -- I mean, that -- that the  
7 County said that this project should be denied, I'd  
8 like to mention three basic points.

9 The first is: I'm concerned about the safety  
10 of the slope. I was reading Exhibit C-33, which is the  
11 Hart Crowser geotech report of just the other day,  
12 20 April 2018, and I'll just make four points there.

13 Page 19 recognizes that the landslides have  
14 occurred historically above the site and will continue.  
15 Page 20 references the 1997 Woodway slide just north of  
16 this site, which relocated several railcars into the  
17 sound. Page 23 proposes mitigation retaining walls to  
18 stabilize the slope, and the proposal is 60 feet tall.

19 The site map on Figure 3 shows the proposed  
20 secondary road that winds its way up the hill. And I  
21 don't -- after reading this proposal, I don't see in  
22 the proposal how this is going to be engineered.  
23 How -- how do we get from a base above 60 feet with  
24 a -- a Snohomish County requirement of not more than  
25 15 percent grade?



1           The date of the report is -- of this report  
2 that I referred to is 20 April of 2018, and that's less  
3 than a month ago. And we've had four years since the  
4 Oso slide, and we've had nine years since the applicant  
5 applied for this particular project. And we've had  
6 three and a half years of extensions that the County  
7 has offered to the applicant -- Snohomish County has.

8           And after -- after review of this, my  
9 conclusion was that either the -- the project -- or the  
10 road, the secondary road is not realistic, or the  
11 applicant just hasn't been as diligent as they could  
12 have been over three and a half years of extensions and  
13 nine years of -- of application time.

14           The second area that concerns me is the  
15 traffic. Obviously, all those almost-12,000 trips are  
16 going to go right past my house. So if the county code  
17 requires a second entrance to exit the property, I'm  
18 very concerned and very interested in that.

19           The -- I -- I didn't see anything in the -- in  
20 the submission from the applicant indicating that the  
21 applicant has actually nailed down the property that  
22 would be required to be purchased for the secondary  
23 road. And I -- I didn't see any indication of purchase  
24 and sale agreements or options to purchase that  
25 property that would be required.



1           Again, the applicant has had nine years to put  
2 this all together. And four years since the Oso slide  
3 and three and a half years of extensions, and I don't  
4 understand why we're here at this point arguing over  
5 whether or not we should have an extension. We have  
6 had plenty of time.

7           Lastly, I'm concerned about precedent and  
8 procedure. As I mentioned prior, I am about 500 feet  
9 from the entrance of Point Wells. I just built my  
10 house; I moved in about a year ago. And I remember,  
11 when I pulled the permits for my house, I was told  
12 unequivocally that, if I missed my deadlines, I would  
13 be required to start over again with a new application.

14           And the -- I keep repeating myself here, but  
15 the -- the Point Wells application has been -- was  
16 started nine years ago, and the extensions have started  
17 three and a half years ago. And I just feel like that  
18 we're -- that we're -- we might be setting a precedent  
19 here. I just think that everybody should be treated  
20 equal. And if I'm not allowed to have an extension --  
21 if I wasn't -- then why should we have so many  
22 extensions here. I think it's unfair and unequitable  
23 to allow repeated extensions after this point, and I  
24 feel like the County has bent over backwards  
25 representing us, giving repeated extensions and more



1 extensions than I think were even -- should have been  
2 necessary.

3           So I support both the denial of the project  
4 based upon the fact that I don't think that it's  
5 possible to produce a -- an applicable environmental  
6 impact statement. And I also support the County's  
7 position that the project should be denied because it's  
8 just taken too long.

9           So I respectfully urge you, Mr. Hearing  
10 Examiner, to deny the project because they've missed  
11 the dates and that it's not possible to do this project  
12 at that site. Thank you.

13           THE HEARING EXAMINER: Thank you.

14           Mr. Lamebull. And Mr. Mayer or Mayer is on  
15 deck.

16           MR. LAMEBULL: Thank you. My name is  
17 Zachery Lamebull, and I'm an ecologist for the Tulalip  
18 Tribes. These -- these comments are made in support of  
19 Snohomish County's recommendation of denial for  
20 extension of the BSRE Point Wells development project.  
21 The Tulalip Tribes have many issues with the  
22 development as stated in a comment later -- letter  
23 dated April 11, 2011, sent to Mar- -- Mr. Darrell  
24 Easton from Mr. Mason D. Morris, attorney for the  
25 Tulalip tribes.



1           Mr. Morris has stated in the comment letter  
2 that substantial information is still needed to  
3 determine tr- -- tribal treaty right protection.  
4 Mr. Morris has separated issues that are concerning to  
5 the Tulalip Tribes. They are: Archaeological/cultural  
6 resources, project effects on habitat and environment;  
7 critical area report and SEPA; tre- -- treaty fishing  
8 and shellfish gathering.

9           Today, I have not been made aware of any  
10 government-to-government consultation with the Tulalip  
11 tribes concerning cultural resources on the site. A  
12 culture res- -- resource study has been completed for  
13 the site. Cultural Resource Consultants Incorporated,  
14 who performed the study, did not state whether they  
15 consulted with the Tulalip tribes. Success of a  
16 cultural resource study depends on tribal consultation.  
17 Otherwise, such study would lack tribal input and  
18 relevance.

19           Once again, the site is known to have high  
20 cultural importance to the Tulalip people. There are  
21 still concerns with possible environmental effects as  
22 re- -- as a result of the project. Concerns stem from  
23 project uncertainty -- uncertainty so far.

24           Conceptual -- conceptual stream and pocket  
25 estuary is not typical of Puget Sound shoreline as



1 stated in the letter from Mr. Morris. The proposal of  
2 reduced intertidal -- intertidal sh- -- intertidal  
3 shading of eel grass beds may be under the proposed  
4 marina as well. The proposed marina and ferry service  
5 contributes to more boating congestion and can affect  
6 fish and tribal fishing in -- in area.

7           There is still uncertainty if [unintelligible]  
8 will be used in the marine [unintelligible]. The  
9 project is proposed to be done in phases, when there  
10 will still be legacy contaminations in the area with  
11 construction taking place.

12           There are human health and water quality  
13 concerns with close proximity of contamination. The  
14 entir- -- the entire project site and adjacent marine  
15 waters are within the usual and customaries of the  
16 Tulalip tribes, where they have been -- where they have  
17 fishing and [unintelligible] shellfishing rights.

18           Shoreline development that blocks access to  
19 fishing and shel- -- shellfishing areas will not be  
20 acceptable. Access must still be maintained even if  
21 areas are not suitable for the shellfish due to  
22 environmental or other physical conditions.

23           Over-water structures that interfere with  
24 fishing and tribal usual and accustom areas [sic] are  
25 not to be permitted. Governmental agencies may not



1 interfere with, nor grant permits to others which block  
2 access to treaty-reserved fishing grounds.

3 To conclude, there has been insufficient --  
4 insufficient time to review the latest materials  
5 submitted after deadlines and allow for proper public  
6 comment. Thank you.

7 THE HEARING EXAMINER: Thank you.

8 Mr. Mayer.

9 MR. MAYER: I'm George Mayer. I live  
10 in --

11 THE HEARING EXAMINER: I apologize.  
12 Mr. Mayer, I'm sorry --

13 MR. MAYER: -- Richmond Beach.

14 THE HEARING EXAMINER: I'm sorry I got  
15 your name wrong, Mr. Mayer. I've got it.

16 MR. MAYER: Yeah. Thank you.

17 And -- and by profession, I'm about to be  
18 retired as a professor, but I teach things like failure  
19 analysis and risk of engineering structures and so on.  
20 I'd like to start out, and I -- I want to avoid  
21 repeating what other speakers have talked about.

22 Back in 2011, BSRE presented its plan for the  
23 development of Point Wells to a public meeting. And  
24 looking at the maps, I asked the obvious question: Why  
25 can't they connect the project to Route 104? A simple,



1 direct access. And the answer was, Well, the -- the  
2 land is unstable. Okay.

3 So the focus of the things I just want to  
4 mention briefly is the point of land instability. And  
5 the construction of the wall on the secondary access  
6 road has been discussed in some detail. I want to  
7 refer to this landslide map of Snohomish County, which  
8 has probably been updated since about 2000-something,  
9 and it describes the risks of the different areas that  
10 extend from about Innis Arden in Shoreline up through  
11 Edmonds.

12 The statement by Hart Crowser, in their letter  
13 of April 24th, referring to Sections C-27 Landslide  
14 Area Deviation Geotechnical Support, discusses that the  
15 secondary access road can only be located in a  
16 landslide area. So we're talking about the risk of  
17 mitigation in that area.

18 And the question is: How much risk is the  
19 developer and Snohomish County willing to undertake in  
20 the face of the landslide risk?

21 Now, these things all have cascading effects  
22 on the attendant structures, the parking, the access,  
23 and so on. So the -- I have s- -- a letter that's in  
24 the record, and I'll stop my commentary here because  
25 much of what I wanted to say has been discussed by



1 other speakers.

2 Very concerned about the landslide  
3 susceptibility and the area surrounding Point Wells.

4 Thank you.

5 THE HEARING EXAMINER: Thank you,  
6 Mr. Mayer.

7 Who else would like to speak? Come on down,  
8 as they say. Or one of you. Pick one, and the other  
9 one be on deck.

10 You're next. Hi. Let me swear you in. At  
11 the -- This is all under oath.

12 MR. HAMMOND: Okay. Yes.

13

14 (PAUL HAMMOND sworn.)

15

16 THE HEARING EXAMINER: Name and address,  
17 please.

18 MR. HAMMOND: My name is Paul Hammond.  
19 I'm the caretaker at Rosary Heights, which was a  
20 convent in the Woodway area; I've been there for about  
21 six years. And I'm reading something on behalf of the  
22 family that owns the estate.

23 Our family has resided in the town of Woodway  
24 since 2013. We, like many others, purchased our home  
25 here because of the quiet woodland feel of a small town



1 and the pristine views of the Puget Sound.

2           There are many reasons why we oppose the Point  
3 Wells high-rise construction product. The sheer size  
4 of this development is completely disproportionate to  
5 the location. From Bellingham to Seattle, there is  
6 nothing of this size to blemish our shoreline. It  
7 would be an eyesore starkly contrasting everything  
8 around it. It would stand out, spoiling the enjoyment  
9 of our Puget Sound for everyone, residents and visitors  
10 alike. It would absolutely destroy the views for those  
11 in the neighborhood, forever diminishing the character  
12 and charm that brought these residents here.

13           This project would dwarf the very community it  
14 is proposed in. The impact on our infrastructure would  
15 be crushing. People who have lived here for years and  
16 made this area what it is would see their neighborhood  
17 swallowed up by an influx of new residents so great  
18 that they would overwhelm the systems and services  
19 available to those who already live here.

20           The enormous increase of traffic created by  
21 the occupants of roughly 3100 condo units would clog  
22 our two-lane roads. Even if the access road did not go  
23 through Woodway, residents of Port Wells [sic] would no  
24 doubt still travel through our town.

25           Woodway is one of the most beautiful, peaceful



1 areas to walk in the Seattle area. It was not designed  
2 to handle such a vast increase. Sidewalks are limited.  
3 There are no street lights, no bike lanes. The  
4 increased traffic would destroy the serenity enjoyed by  
5 homeowners and their families, significantly decreasing  
6 the market value.

7 It's not just our roads and sidewalks. This  
8 development would be so grossly disproportionate to  
9 this community, public and service -- public and  
10 private services alike would be severely compromised.

11 This is not the way towns and neighborhoods  
12 are meant to grow. They are allow- -- they should be  
13 allowed to grow naturally so the services and  
14 infrastructure can keep pace, rising to meet the new  
15 needs of the community bit by bit as it grows.  
16 Projects of this size do not belong in small towns and  
17 single-family communities like ours.

18 Lastly, the environmental impact would be  
19 huge. The town of Woodway is a safe haven for  
20 wildlife. On our property, we have nesting eagles,  
21 deer, coyotes, and countless -- countless other  
22 creatures that share habitat with us. The influence on  
23 our wetlands and marine life is a concern as well.

24 In conclusion, we believe this porblo- --  
25 proposal is misplaced and ill conceived. We side with



1 Snohomish County and the Sno-King coalition to reject  
2 the building application and motion to request that  
3 there be absolutely no more extensions granted in this  
4 matter.

5 THE HEARING EXAMINER: Thank you,  
6 Mr. Hammond.

7 MR. HAMMOND: Thank you.

8 THE HEARING EXAMINER: Sir, you are next.

9  
10 (KEN WORKMAN sworn.)

11  
12 THE HEARING EXAMINER: Thank you. Name  
13 and address, please.

14 MR. WORKMAN: My name is Ken Workman. I'm  
15 in our own native language -- I'm Duwamish tribe. Ken  
16 Workman of the Duwamish tribe, former resident of  
17 Richmond Beach, Shoreline area; currently a resident in  
18 North Bend. I'm retired, retired from the aerospace  
19 industry, retired from Duwamish tribal council, retired  
20 from president of our Duwamish tribal services, just  
21 retired.

22 And I would like -- first, thank you,  
23 Mr. Examiner, for allowing me to speak. And -- and  
24 thank everybody else for their -- their insight,  
25 their -- their address before you today. I would like



1 to offer a cultural perspective from Duwamish people.

2 Point Wells would be outside of our purview,  
3 but living in Shoreline, I have an affinity for that  
4 area, and I was asked to come and speak. So what I  
5 would like to do is simply say in my language (speaking  
6 Native American). This is my name. (Speaking Native  
7 American), so I am Workman of the Duwamish tribe  
8 (speaking Native American) and  
9 great-great-great-great-grandson of Chief Seattle.

10 And so, when I was thinking about this Point  
11 Wells project and the cultural relevance, I was also  
12 thinking that my grandfather said -- when I say  
13 "grandfather," I really mean Chief Seattle --  
14 great-great-great-great-great -- he made four salient  
15 points in 1854 when he was talking to Isaac Stevens  
16 before signing this Point Elliott Treaty.

17 And those points were this: Point No. 1, and  
18 I quote: We will ponder your proposition. But should  
19 we accept it, I here and now make this condition that  
20 we will not be denied the privilege, without  
21 molestation, of visiting at any time the tombs or our  
22 ancestors, our friends, and our children.

23 Point No. 2: The very dust upon which you now  
24 stand responds more lovingly to theirs than yours  
25 because it is rich with the blood of our ancestors.



1 Point No. 3: At night, when the streets of  
2 your cities and villages are silent, and you think them  
3 deserted, they will throng with the returning hosts.

4 Point No. 4: The dead are not entirely  
5 powerless.

6 And so I bring up those points for this  
7 reason, with regard to the Point Wells site: That for  
8 thousands and thousands and thousands of years --  
9 10,000, 12,000, 14,000 -- since the ice went away, the  
10 native people have been living here and dying here.  
11 And all of that DNA from our burial grounds has been  
12 going down into the ground, including, should you find  
13 it, the Point Wells site.

14 And so when my grandfather made these points,  
15 it was the dead aren't entirely powerless, that you  
16 will never be alone, that we'll always be here.

17 It's this: That all that material, all that  
18 DNA that's in the ground has been sucked up into these  
19 trees, into the plants, into all of the stuff that's  
20 around us. And so for us, as Duwamish people, our  
21 ancestors are literally in the trees. The timbers that  
22 are in the ancient -- the old, old buildings in Seattle  
23 are filled with the DNA of our ancestors.

24 And so at the Point Wells site, I would  
25 encourage you to examine that site carefully. And if



1 those people are in the ground, they're still there.  
2 And so we have great reverence for these large houses.  
3 And we say our houses have souls.

4 Well, of course, they do. It's in the very  
5 wood that we build our houses with. It's in the very  
6 wood that we build our canoes with, our paddles. It's  
7 in the very berries that we eat. And so we say  
8 (speaking Native American); it simply means, Thank you,  
9 Grandmother and Grandfather, for the work that you do.  
10 Because they're still here. They're in the trees.

11 So thank you.

12 THE HEARING EXAMINER: Thank you.

13 Would anyone else like to speak?

14 Sir, come on down.

15

16 (BILL KREPICK sworn.)

17

18 THE HEARING EXAMINER: Name and address,  
19 please.

20 MR. KREPICK: My name is Bill Krepick.

21 And I'm at 11402 239th Place Southwest in Woodway.

22 I've actually submitted a couple -- or myself and my  
23 wife have submitted a couple of emails to you --

24 THE HEARING EXAMINER: Um-hmm.

25 MR. KREPICK: -- regarding the subject.



1 THE HEARING EXAMINER: I've seen them so  
2 far. Yep.

3 MR. KREPICK: Okay. So I just wanted to  
4 add a couple of clarifying comments to those. First of  
5 all, I am a -- a five-year resident of Woodway. I'm  
6 not a long-term -- you know, a 30-year resident or  
7 anything like that. And we bought our house pr- --  
8 mostly because it was really nice environment to live  
9 in. We have a -- somewhat of a small view of the Sound  
10 and a small view of the Olympic Mountains.

11 And, certainly, that's one of the things that  
12 we would like to protect and keep. And when you talk  
13 about 180-foot buildings rising up, even though there  
14 may be some trees on the bluff, it's still hard for me  
15 to believe that you're not going to actually be  
16 disturbed by that, from our view.

17 I agree with other speakers who said that, you  
18 know, enough is enough. I mean, I think the BSRE has  
19 been given enough extensions over a five-, seven-year  
20 period of time, that's just hard to believe that they  
21 can't resolve the problems which are -- they're facing,  
22 and the problems that the County planners have brought  
23 up as being sort of un- -- unresolved issues right now  
24 and deficiencies.

25 And so I just want to talk about a couple of



1 those deficiencies. I'm not -- I am an engineer, but  
2 I'm not a civil engineer, so I can't speak with regard  
3 to the accuracy of the reports. But I can, I think,  
4 talk about the concerns that, as a citizen, we have for  
5 what's going to happen with this second access road.

6 As far as I know, the second access road has  
7 not been -- there's been really no discussion between  
8 the Town of Woodway -- Woodway owns the property  
9 through which this second access road will pass.

10 No discussion, no resolution. I think many  
11 people have made the point that, where this access road  
12 dumps into 116th Street, you know, it's a small -- it's  
13 smaller than an average street. It's one lane.  
14 There's no way to expand it.

15 There's a s- -- an immediate stop sign to the  
16 right, and there's other traffic that comes in. And it  
17 would be -- I mean, it's just impossible to -- to  
18 understand how the amount of traffic that would be  
19 dumped in there could be handled by the existing  
20 infrastructure.

21 And I think the same thing applies to  
22 Shoreline; I mean, Richmond Beach. I mean, the -- you  
23 know, the -- the entrance and exits are on small  
24 two-lane roads. I mean, I don't actually understand  
25 how this project ever even got to the point that it got



1 to because it seems to me it's just impossible to  
2 handle the kind of traffic with 3,000 units' residences  
3 that are going in and out, e- -- egressing and incoming  
4 in and out.

5 So one of my points is that I would appeal --  
6 and I'm not sure whether you're the person to appeal to  
7 or whether it's the s- the county council, but it seems  
8 to me that it's clear that there are these issues that  
9 have been -- have not been resolved for seven or eight  
10 years. They're not going to be resolved because nobody  
11 has any incentive to resolve them on the part of the --  
12 either of the communities. BSRE would like to resolve  
13 them, but the communities don't want to resolve them.

14 So ending this and terminating this project is  
15 the appropriate thing to do. And -- and then, the  
16 question is: What's the next step?

17 Well, if BSRE wants to, you know, put in a new  
18 application, then they ought to take all these things  
19 into consideration, and they ought to scale down their  
20 whole project. I mean, there are some issues here that  
21 I hadn't thought about with the tribal issues, things  
22 like that, which obviously I -- need to be resolved.  
23 But it seems to me, the next step in this process is  
24 that the -- the County -- and, again, I'm not sure  
25 whether that's the -- the council themselves, but



1 somebody needs to set some guidelines to say, you know,  
2 Here are some operating parameters. You can't have  
3 more than X-number of people on the site. You can't  
4 have more than X-number of buildings. You can't have  
5 buildings with a certain height, because if you keep  
6 talking about this, we'll keep talking about it for  
7 another ten years. It'll never get resolved.

8           So the only way to resolve it is for the  
9 County to actually set some guidelines and parameters  
10 and say, If you come back, you gotta come back within  
11 this: Within a certain number of building height  
12 limitations, within a certain number of residents.  
13 Because the infrastructure cannot handle a project of  
14 this scope and scale.

15           So I think that -- you know, again, I'm in  
16 support of what the County has done. I think they've  
17 been -- bent over backwards in terms of allowing  
18 extensions. And I think it's high time that we -- we  
19 get on with this.

20           I would offer three sort of concepts going  
21 forward in terms of how this project should be handled,  
22 if it's going to be handled at all. And those concepts  
23 are that they should -- we should talk about  
24 compatibility -- compatibility with the existing  
25 environment, compatibility with the infrastructures



1 that are there; we should talk about transparency; and  
2 we should talk about safety.

3 If everything is designed around those three  
4 parameters, then I think it would be clear what this  
5 project could accomplish and achieve and whether or not  
6 this project actually can meet these parameters.

7 And if you look at those three concepts, I  
8 think that they are all covered within the deficiencies  
9 that the County has already put forth. You can -- you  
10 can overlay these concepts on those deficiencies, and  
11 say, You know, the reason that they're deficient is  
12 because they haven't solved these problems. They  
13 haven't solved the problems with compatibility, safety,  
14 and transparency. And those are huge issues with  
15 regard to the size of the development.

16 You know, the traffic, I mean I -- you know,  
17 there's been a lot of statistics gathered on the  
18 traffic and everything like that. One point I would  
19 make on that is that, if there are any average daily  
20 traffic calculations, that they need to be based on  
21 reliable statistics and reliable estimates and  
22 assumptions.

23 And I -- I think you probably have seen Tom  
24 McCormick's very detailed testimony -- I mean, it's  
25 pages that talks about the fact that this project does



1 not even meet the standards of the 90-foot limitation  
2 on building heights because there is no mass transit  
3 that is actually available.

4           There's a lot of discussion about it. There's  
5 talk about ferries. There's talk about, you know,  
6 buses. There's talk about trains. But nothing has  
7 ever been resolved. Nothing has been put down on  
8 paper. There's no agreements.

9           And so if there aren't any agreements, how can  
10 you talk about having 90-foot buildings and 180-foot  
11 buildings and 3,000 units that are there. Because  
12 the -- you know, the assumption is -- I mean, you've  
13 got to make an assumption that there are a certain  
14 number of residents, there's a certain amount of  
15 traffic that can be handled by the infrastructure, and  
16 that case has not been made.

17           I talked about the second access road. I  
18 think that the sev- -- the gentleman before me talked  
19 about the landslide issue, the risk of the landslide.  
20 You know, the -- there -- I mean, there -- I live in  
21 that area. I walk in that area. I bike in that area.  
22 There are streams underground that just constantly --  
23 even in the middle of the summer, there are streams  
24 that flow down through there, underground, subterranean  
25 channels, and how you're going to ever get a -- a



1 second access road through that stuff that's safe  
2 and -- and it go- -- is not going to be at risk of  
3 landslides, I have no idea. And they don't either,  
4 because they haven't resolved it. They haven't solved  
5 the problem.

6 So I guess -- you know, I mean, I've made a  
7 couple of points. I think the -- the one thing that is  
8 very apparent to anybody who -- whether you're on a  
9 ferry out in the middle of the Sound or, you know,  
10 whether you drive from Seattle up this way, I mean this  
11 project is out of scale, out of scope.

12 There -- you know, there are no -- nothing  
13 that is over four or five stories. If you go from  
14 Se- -- you know, North Seattle, Queen Anne, all the up  
15 here to Everett and past, I mean, there's nothing  
16 that's on the waterfront that has any kind of view  
17 that's more than four or five stories tall. So --

18 And the reason is because they're built within  
19 infrastructure; they have to be accommodated by the  
20 infrastructure around them. And to me, that's what  
21 this project -- you know, is so totally out of scale  
22 that -- that you've got to back off and say, What can  
23 the infrastructure support? Not, How big can we make  
24 the project? And so I would just, again, go back to  
25 the -- the planners, and I think they've said it very



1 well. They've said there are all risks and deficiency.

2           So I -- just in conclusion, I, again, agree  
3 with the planners. I agree with the fact they've given  
4 extension after extension after extension. And I think  
5 that it's time to -- to terminate this project. And if  
6 they want to come back with a new application, then  
7 there ought to be constraints on that application put  
8 upfront so that -- you know, I mean there's been an  
9 incredible amount of money, time wasted on this project  
10 just circling and circling because it's a nonstarter to  
11 begin with.

12           And so if they want to keep the project going,  
13 then live within the guidelines of what gets reset in  
14 order to -- to make it a scale and scope that's  
15 actually -- you know, fits into the surroundings.

16           That's all I have to say. Thank you very much  
17 for having me.

18           THE HEARING EXAMINER: Thank you.

19           Who else would like to speak? Anybody else?  
20 Going once, going twice, going three times.

21           Okay. So we are done with open-comment for  
22 the moment. As I discussed earlier, the problem is the  
23 notice that was published says that the public comment  
24 will be accepted between 1:30 and 7:00 p.m., and it's  
25 only 2:30.



1           And if I were a member of the public reading  
2 that, I would think I could show up between now and  
3 7:00 to make a public comment. So it's my duty to hang  
4 around, although I'll be up in my office, until 7:00 to  
5 see if anybody else shows who wants to speak.

6           So I -- I -- you're welcome to. I'll expect  
7 staff to remain. Ms. Davis has bravely volunteered  
8 to -- to be here for much of this.

9           Yes, sir. Would you like to speak?

10           MR. PATTERSON: Sure.

11           THE HEARING EXAMINER: Well, come on down.

12           MR. PATTERSON: [Unintelligible] four  
13 hours [unintelligible].

14           THE HEARING EXAMINER: Yeah. Yeah, sure.  
15 But -- but I think you'll -- you'll run out of oxygen  
16 at some point if you want to spend four hours.

17           MR. PATTERSON: [Unintelligible].

18           THE HEARING EXAMINER: Well, in that case,  
19 I -- I won't notice.

20           Sir, come on -- come one -- come on down and  
21 let me --

22           MR. PATTERSON: I'm sworn in.

23           THE HEARING EXAMINER: You're sworn in?

24           MR. PATTERSON: Yes.

25           THE HEARING EXAMINER: Give us your name



1 and address.

2 MR. PATTERSON: I am Jerry Patterson,  
3 20420 Richmond Beach Drive in Shoreline.

4 THE HEARING EXAMINER: Um-hmm.

5 MR. PATTERSON: Neighbor of Dennis's,  
6 neighbor of George's, and sort of a neighbor of Bill's.

7 I can't officially speak for the public. I'm  
8 not authorized to speak. However, as past president of  
9 Richmond Beach Community Association, past president of  
10 Richmond Beach Advocates, past president and founding  
11 director of Shoreline Coalition for Open Government,  
12 and most recently president and founding director for  
13 Sno-King Environmental Co- -- Coalition.

14 So people, if I -- if you will, people such as  
15 Dennis and George and others ask me on a weekly basis  
16 why. And they're saying why another extension? And,  
17 Mr. Examiner, to build on something that you said  
18 earlier, the facts are weighed against the law, and  
19 you're going to make a determination.

20 The facts are fairly clear: I haven't heard  
21 very many facts in dispute. I've heard some promises  
22 that might be in dispute of whether they would become  
23 actuality.

24 The law is clear as well. And based on the  
25 facts that you have before you, and based on the law,



1 there are considerable discrepancies that have been  
2 pointed out numerous times.

3 And so it -- it appears to the general public  
4 that the facts are there, and the law is there, and so  
5 it's a matter of saying: Is the applicant deficient  
6 based on the criteria established? Not based on  
7 promises. Not based on as you -- someone said wishes  
8 and hopes.

9 If those facts and laws are clear, there's not  
10 too much we can add to that. The predicament is, as --  
11 as you posed earlier in the morning that maybe some of  
12 the individuals who weren't here is: What is the  
13 yardstick by which I measure an extension?

14 And I -- in trying to puzzle through that  
15 after you said it, I had this image. I thought we  
16 might be able to role play, but we probably can't do  
17 this in a quasi-judicial setting --

18 THE HEARING EXAMINER: Yeah, not a good  
19 idea.

20 MR. PATTERSON: -- but I'd kind of like  
21 Mr. Countryman to come up here and for you to come over  
22 here representing Planning and Development Services and  
23 imagining you, sir, hypothetically -- you're a seasoned  
24 litigator, you're a seasoned executive, and you know BS  
25 when you hear it.



1           That imagining you standing before  
2 Mr. Countryman -- would you like that? That would be  
3 kind of fun. Oh, come on. He's going to take a nap  
4 anyway he said.

5           THE HEARING EXAMINER: He'll plead the  
6 Fifth Amendment on that one. He's going to --

7           MR. PATTERSON: Oh --

8           THE HEARING EXAMINER: -- he's not going  
9 to incriminate himself.

10          MR. PATTERSON: Yeah. He's sworn in.

11           Imagining what you might say to Mr. Countryman  
12 as a reason to extend the time period. And for the  
13 life of me, I can't conceive of a reason to extend it  
14 short of, Let us try again for the seventh time over  
15 seven years and three extensions.

16           And when -- when the community members come up  
17 to me, as Dennis has recently, and as the neighbor  
18 walking his dog said, Jerry, were -- are you going to  
19 be there? And I said yes. And they said, See what you  
20 can learn about what in the world would be a reason for  
21 an extension except, 'Cause I want to.

22           So I ask you, Mr. Examiner, to please take  
23 into consideration that much of the community who  
24 communicates with me in the grocery store, walking the  
25 dog yesterday -- in fact, as one neighbor said



1 yesterday walking the dog as I was taking out the  
2 garbage, he said, Jerry, are you going tomorrow? And I  
3 said, yes. And he said, Please ask the examiner to do  
4 the right thing consistent with the law, and then I can  
5 live with -- he is saying, I can live with that.

6 Dennis said he's 500 feet from Point Wells.  
7 I'm about three geoducks in length from the county  
8 line, and the closest home -- my wife and I are the  
9 closet home in King County to Point Wells. When we  
10 bought the home in 2011, we knew about the development.  
11 And to put it bluntly, we entrusted the County to  
12 follow the laws. And whatever that is, we would live  
13 with it.

14 At our juncture of 205th Street and Richmond  
15 Beach Drive, the right of way is only 47 feet. The  
16 City is on record -- and they're here in case there's  
17 ever -- ever a dispute: The City's on record saying,  
18 We are not going to expand the right of way along  
19 Richmond Beach Drive beyond what it currently is.

20 So if -- if it is illegal to build 180-foot  
21 buildings, and they get built, that is forcing 15,000  
22 vehicle trips a day through 47 feet Of roadway. That  
23 will make me -- that will make me upset, because the  
24 law does not allow that if we're using the term  
25 regulations and laws and code correspondingly.



1           The law says there will be no more than one  
2 hun- -- 90-foot buildings. A rendering by the  
3 applicant recently, they depicted the view looking  
4 northwest -- it's in one of their exhibits -- and it's  
5 as if you're standing on my deck, and I can't even see  
6 the water. So the violation of the law is affecting  
7 property values forever.

8           So we're not happy about it. And you said  
9 that at the get-go yesterday, I believe, that this is  
10 not about what would make you happy. This is not about  
11 whether you would like the development or not. It's  
12 about: Is this development consistent with the  
13 regulations of Snohomish County?

14           The hundreds of thousands of dollars that the  
15 City has spent and the hundreds, if thousands, if not  
16 millions, of dollars that the County has spent already  
17 and it -- many people said bending over backwards,  
18 that's like: When is it enough?

19           Now you asked here what's on our mind. I'm  
20 telling you what's on our mind. I don't have notes.  
21 I'm not an expert. I have some expertise, and I have  
22 pretty good crap detectors. And I think you have in  
23 front of you what it takes to render a decision within  
24 the law. And, please, help -- I'd say save but that's  
25 probably the not-right term. Minimize the extra



1 hundreds of thousands of dollars that the County may  
2 have to spend and the City may have to spend when there  
3 is not a reason to.

4           So please take that under consideration,  
5 Mr. Examiner. Again, I'm not speaking officially for  
6 the community, but I have, given my experiences -- and  
7 that wasn't a brag sheet; that was a foundation to say,  
8 Folks track me down, stop me regularly because they  
9 know I've been intimately involved.

10           I'm working with Tom McCormick and Tom Mailhot  
11 on the committee. And you don't want to be singled  
12 out, I know, Mr. McCormick, and go, Oh, shucks.

13           But this fellow has donated probably a  
14 half-million dollars of billable hours for the  
15 community to help make sure we do the right thing. I  
16 entrust that you'll do the right thing as well. Thank  
17 you.

18           THE HEARING EXAMINER: Thank you.

19           Anyone else? I'll do it again: Going once,  
20 going twice, going three times.

21           So we'll be in recess, and we'll see if anyone  
22 else shows up, especially after working hours. People  
23 might want -- plan on coming by after work. And if --  
24 in any event, I'll come back on the record at 7:00 no  
25 matter what. Even if nobody shows up, I still want to



1 come back on the record at 7:00 to close the record for  
2 the day, and say we'll pick up tomorrow at 9:00.

3 And the game plan, as I understand it, is  
4 tomorrow as well, we'll have further public comment  
5 starting at 9:00. There may be people who plan to  
6 attend tomorrow who couldn't plan -- attend today.

7 But tomorrow, we didn't have a window. We  
8 just said starting at 9:00. So tomorrow, whoever's  
9 here at 9:00 or comes in while we have public comment,  
10 I'll hear all of them. But if we run out of people  
11 speaking tomorrow, then we'll close the open record for  
12 the weekend at that point and take a recess. Okay?  
13 Fair enough?

14 So we'll be in recess. Thank you. And  
15 Mr. Countryman can plead the Fifth Amendment.  
16 That's -- thank you. Oh, and I'll also --

17 (Recess taken at 2:46 p.m.; proceedings  
18 resumed at 3:33 p.m.)

19 MR. ASH: Oh, sorry.

20 (Unintelligible discussion.)

21 THE HEARING EXAMINER: [Unintelligible].

22 MR. ASH: I do.

23 THE HEARING EXAMINER: [Unintelligible].

24 MR. ASH: My name is Darrell Ash, A-s-h.  
25 D-a-r-r-e-l-l; 19712 20th Avenue Northwest, Shoreline.



1 That's about eight blocks east and about eight blocks  
2 south of the development -- proposed development. I've  
3 lived there 37, 38 years now.

4           When I arrived there, Standard Oil has a fully  
5 functional facility at Point Wells, and there were  
6 ships that would come in there. And 24 hours a day,  
7 seven days week, there were tanker trucks running up  
8 and down Richmond Beach Road, and I could lay in my bed  
9 and listen to them as long as I wanted to every night.

10           And then, things slowed down, and they  
11 eventually moved out and sold, and I was kind of happy  
12 about that. And then along comes the -- was it called  
13 BSR then? Yeah. R-E, yeah. And I saw it as positive  
14 because what was there was a contaminated site and a  
15 bunch of old tanks and an industrial facility that was  
16 not harmonious with the rest of the area.

17           And I think -- well, let me assure you that  
18 nimbyism is alive and well in Richmond Beach. And I've  
19 been a little bit surprised at the organized effort in  
20 opposition to this development. But that's fine.

21           And I think most of it probably has to do with  
22 the scale, the proposed scale of the development. To  
23 me, it's not a wise thing to build 30-story high-rise  
24 buildings right on the shore of Puget Sound on sand,  
25 but that's their business.



1           The biggest con -- the biggest problems with  
2 this development, of course, is access. We definitely  
3 need the second access. The access that's there now is  
4 substandard, not wide enough, has no pedestrian  
5 facilities, just barely adequate for the traffic it has  
6 now.

7           And I'm -- I'm looking at the proposed Sound  
8 Transit station there and wondering, Is that just for  
9 residents only? That really should be for everyone to  
10 use. And for everyone to use it, there should be  
11 parking, lots of parking. And it -- it doesn't appear  
12 that that's been taken into account.

13           Since I live close enough, I wouldn't mind  
14 riding the Sounder myself. But, you know, I'm about  
15 two-and-hundred-plus feet higher in elevation, and at  
16 70 years old, you -- you don't -- you don't feel like  
17 walking up -- back up the hill.

18           THE HEARING EXAMINER: [Unintelligible].

19           MR. ASH: So I -- I would -- I would use  
20 that station if I could drive there and park and not  
21 pay much for the parking, of course. But it doesn't  
22 appear as though it's set up for that. And...

23           So, anyway, those are my concerns: The scale  
24 of the development is too large. The access is -- the  
25 existing access is not adequate; there should be a



1 second access. The primary access, assuming it's the  
2 same as the existing one, should be better, wider,  
3 safer, and should have pedestrian and bicycle  
4 facilities. And the whole thing should be more open to  
5 the public. I mean, I -- I should be able to -- the  
6 whole neighborhood should be able to go down there and  
7 use the beach and the esplanade and shop. And it -- it  
8 looks to me like the parking for outsiders --  
9 "outsiders" being anyone that doesn't live there -- is  
10 totally inadequate.

11 So that's -- that's my comments.

12 THE HEARING EXAMINER: Thank you very  
13 much, Mr. Ash. Appreciate it.

14 MR. ASH: You're welcome.

15 THE HEARING EXAMINER: And there's no one  
16 else here, so we'll close the record again until  
17 someone else shows up.

18 MR. ASH: I -- I expected there'd be a  
19 crowd, yeah, all the way back there.

20 THE HEARING EXAMINER: There was at 1:30,  
21 although --

22 (Recess taken at 3:38; proceedings resumed at  
23 3:38 p.m.)

24 THE HEARING EXAMINER: He doesn't need to  
25 be on the record. So --



1 THE CLERK: Okay.

2 THE HEARING EXAMINER: He works for the  
3 County.

4 THE CLERK: I --

5 MR. ASH: I work for Snohomish County.

6 THE CLERK: Yeah, I know.

7 MR. ASH: That's --

8 (Recess taken at 3:38 p.m.; proceedings  
9 resumed at 3:49 p.m.)

10 MS. WURMBRAND: [Unintelligible] -- this  
11 is an on-the-record comment, correct?

12 THE HEARING EXAMINER: This is on the  
13 record.

14 MS. WURMBRAND: Very good. Thank you.

15 THE HEARING EXAMINER: [Unintelligible] --  
16 proceeding is true and correct?

17 MS. WURMBRAND: Yes, I solemnly swear.

18 THE HEARING EXAMINER: Okay. And we need  
19 your name and address and tell me what I should know.

20 MS. WURMBRAND: Okay. What was the last  
21 one? Name, address, and?

22 THE HEARING EXAMINER: Name and address.  
23 And then tell me what -- what you want me to know,

24 MS. WURMBRAND: Okay. So my name is Amely  
25 Wurmbbrand, and my address is 1574 Northwest 190th



1 Street in Shoreline, 98177.

2 And what I would like you to know is that I am  
3 a 20-plus year resident of the Richmond Beach community  
4 and that my subcommunity within Richmond Beach area,  
5 you know, Shoreline area is called Innis Arden.

6 And the primary route for the existing  
7 community, both the Richmond Beach community as well as  
8 the Innis Arden community -- the primary route to leave  
9 the community is through Richmond Beach Road, also  
10 known as North 185th Street. This is a really  
11 high-traffic road these days. We have the same family  
12 load that we've had, but more people living in each of  
13 the houses, a lot of kids move back from college,  
14 and -- you know, multifamily homes.

15 And most recently, the City of Shoreline chose  
16 to turn Richmond Beach Road into a  
17 one-lane-each-direction road. And I believe that that  
18 plan was executed with the intention of creating a  
19 safer environment for bicyclists because we've had some  
20 accidents, and I think even a mortality in Shoreline  
21 or -- or at least a very, very serious accident from  
22 bike -- bicyclists being hit by motorists.

23 So in order to try to encourage people to  
24 commute using their bike ins- -- and to be greener as  
25 opposed to driving, and also to protect the bikers on



1 this very busy road, they have turned Richmond Beach  
2 Road into one lane going each direction.

3 I think that this has been in the works for  
4 some time, but I believe that they finally got it up  
5 and running maybe only a week and a half ago. And the  
6 traffic, which was always kind of a lot getting out of  
7 Richmond Beach for such a bedroom community, has  
8 substantially increased. I mean, our commute times to  
9 get to Aurora/Highway 99, which becomes the first sort  
10 of juncture where you can spread out and go to the  
11 freeway or go up Aurora or down Aurora to leave the  
12 community to go to work, those -- those times have  
13 easily increased between five and seven minutes to get  
14 up there at peak times.

15 Similarly, coming back into the community, if  
16 you're coming back at 4:00 p.m., 5:00 p.m. you're now  
17 frequently waiting in a long, long line of cars to try  
18 to get between where it goes from two lanes up  
19 around -- I -- I'm not good with the numbers of the  
20 streets there because I have lived there for so long,  
21 but basically right before the QFC, as you pass the  
22 QF- -- you know, coming by the QFC, so right before the  
23 QFC, you end up in these huge backups. The -- and  
24 it's -- it's really created a traffic issue that we did  
25 not previously know. So the thought of adding not



1 3,000 more people -- 3,058. Not 3,058 more people, but  
2 3,058 more homes, which could be anywhere between one  
3 person to six -- five, six people, depending, is  
4 exponential for a community that has a one-lane road  
5 and has only one access road in and out.

6           And if there were an emergency of any kind,  
7 I -- I think you would have to have a helicopter at the  
8 ready to be able to get down that road in a reasonable  
9 amount of time to help if somebody was having an  
10 emergency down within this new development. And I  
11 would think that the County might have some liability  
12 in terms -- if this project were to be allowed, in  
13 terms of allowing this quantity of new homes, new  
14 development to happen in an area that has such limited  
15 automotive access for services. I just -- I can't  
16 imagine it. You -- the cars would have to be driving  
17 on the sidewalk, which isn't even possible. I mean,  
18 it's really -- it couldn't happen.

19           So, you know, I've been following the Point  
20 Wells discussion for several years here. I've not  
21 commented previously, but I do want to go on the record  
22 that, while I understand what would be attractive about  
23 having an additional tax basis of 3,058 homes for a  
24 county, that w- -- you can't add that kind of quantity  
25 of humans without proper access in and out of the site.



1 And, currently, with one road in place with two lanes,  
2 one in each direction, it's insufficient. It was  
3 insufficient with two lanes in each direction, and now  
4 that they've added the bike lane, it's like -- I can't  
5 even imagine it.

6 So I would really encourage the County to deny  
7 this permit based on lack of accessibility. There's  
8 probably some issues that are environmental regarding  
9 the environmental impact statement. Unfortunately, I'm  
10 not really well versed in this. I'd --

11 Actually, I won't speak to that, but I'll just  
12 speak to the nature of the community as it is, and the  
13 fact that it would be -- we would be very hard-pressed  
14 as a community to welcome in that quantity of people.

15 In addition to the lack of access down the  
16 roads, we have very limited services. It's possible  
17 that they would be proposing a mixed-use building and  
18 that they may provide such services -- restaurants, and  
19 grocery stores or whatever -- but that would really  
20 only add to the traffic issues.

21 The other thing that's worth considering as  
22 important to note is that, at this time, the city of  
23 Shoreline is not a massive employer of people who live  
24 in Shoreline. And so the vast majority of people who  
25 live in the Richmond Beach/Shoreline area do commute to



1 jobs that are outside of the city of Shoreline, which  
2 is one reason why there aren't a lot of bikers that,  
3 you know, are all over our roads because they  
4 frequently commute up to Everett, or down to south  
5 Seattle or even downtown Seattle or other parts of  
6 Seattle. But the city of Shoreline has -- was started  
7 as really a bedroom community for Seattle, and it's  
8 stayed like that for the most part, and there are not  
9 many large employers that I can think of outside of the  
10 City itself for people to find jobs in.

11 So, again, the people who would be buying  
12 units in these 3,058 homes would all be looking to --  
13 for jobs as well, and those jobs would, by and large,  
14 not be found in the city of Shoreline. And that would  
15 incur additional, you know, commuter needs.

16 So I -- while the land is there, and I'm sure  
17 it's very attractive to want to develop it, without  
18 significant additional road structure that could  
19 accommodate, I would think, a minimum of an additional  
20 two to three lanes in each direction, I don't think  
21 it's feasible that the community could handle anywhere  
22 near that kind of development.

23 I -- I don't even know if it could handle 500  
24 homes, but 3,058 is kind of a staggering idea. And I  
25 think that -- I think that you would have to be from a



1 different part of the world, a different city, a  
2 different state to even fathom that that was a  
3 possibility. I -- I don't think that a developer in  
4 the Seattle or Northwest region would have brought a  
5 proposal for that quantity of homes, given the current  
6 state in the traffic in the Seat- -- the Greater  
7 Seattle area, which has actually many people starting  
8 to leave the Greater Seattle area and look for other  
9 s- -- states to live in because it's -- it's so hard to  
10 get around. And this would just be creating a  
11 bottleneck.

12           So I would just urge the County to absolutely  
13 deny this, pending significant infrastructure for roads  
14 that would allow the people who were to buy into this  
15 development to actually live there safely and be able  
16 to integrate into their community in a way that is  
17 positive and doesn't just create headaches for- -- and  
18 traffic stress both for themselves and for the people  
19 who are already there. And that's -- it seems like  
20 that would be reasonable. It just -- I don't  
21 understand what it is about this proposal that makes  
22 sense other than the theory of the possible financial  
23 gain from selling the units.

24           But on a logistical view, on a logistical  
25 platform, I don't see how that's possible. And so I



1 would ask you to please consider that very, very  
2 strongly. Thanks.

3 THE HEARING EXAMINER: Cool. Thank you  
4 very much for coming.

5 THE CLERK: [Unintelligible].

6 (Recess taken.)

7 THE HEARING EXAMINER: -- swear you in.

8 MS. CHANG: How does that work?

9 THE HEARING EXAMINER: So raise your right  
10 hand, please.

11

12 (SUSAN CHANG sworn.).

13

14 THE HEARING EXAMINER: Super. Name and  
15 address, then tell me what you think I need to know.

16 MS. CHANG: Um-hmm. My name's Susan  
17 Chang, C-h-a-n-g, and I live at 20109 24th Avenue  
18 Northwest in Shoreline, and that's in Richmond Beach.

19 THE HEARING EXAMINER: So what -- what --  
20 what do I need to know?

21 MS. CHANG: Well, let me just first start  
22 off by saying that I'm a licensed civil engineer with  
23 expertise in geotechnical engineering. I --

24 THE HEARING EXAMINER: I read your -- I  
25 read your email.



1 MS. CHANG: Yes. And so I'm afraid I'm  
2 going to repeat it.

3 THE HEARING EXAMINER: That's all right.

4 MS. CHANG: I work -- I supervise a plan  
5 review group that looks at critical areas and  
6 geotechnical projects for a large municipality south of  
7 us. And I am a new Shoreline city council member, but  
8 I am here testifying as a private citizen, as a  
9 resident of Richmond Beach.

10 THE HEARING EXAMINER: Um-hmm.

11 MS. CHANG: Okay? So I wanted to address  
12 the -- the geologic hazards at the site, and my opinion  
13 that the materials that have been submitted thus far  
14 don't adequately address -- address those geologic --  
15 geologic hazards from the steep slope.

16 So the geologic reconnaissance, the subsurface  
17 explorations, the groundwater measurements, and the  
18 preliminary slope-stability analyses described in the  
19 subsurface conditions report by Hart -- Hart Crowser  
20 indicate that you have a marginally stable to unstable  
21 slope.

22 And given the significant height and the  
23 steepness of the slope, as well as the landslide  
24 history at the site and at nearby sites, it's apparent  
25 that stabilizing the slope is going to be necessary to



1 provide that second access road and also to allow any  
2 development on the upper bench. And the submitted  
3 information thus far fails to prove that either  
4 of i- -- either of those items can be done safely.

5           If you have sites with lesser landslide  
6 hazards, you can reasonably delay those more detailed  
7 subsurface explanations and design to later stages  
8 because we know, with engineering experience, that  
9 we're going to be able to design a cost-effective  
10 solution.

11           In the case of the Point Wells site, the  
12 magnitude of the work that's going to be needed to  
13 require -- to provide the required factors of safety  
14 for slope stability and support of the roadway will be  
15 immense. You're going to be looking at some very large  
16 walls. You're looking at potential deep foundation  
17 support of sections of the roadway, and this is really  
18 above and beyond the amount of work that you would  
19 normally do for a development.

20           In addition, issues such as easements for the  
21 road haven't been resolved. And so preliminary  
22 engineering of the second access road, including  
23 resolution of the easement and drainage issues, should  
24 have been completed to ensure that the second access  
25 road is feasible. And without it, the development



1 application should be denied.

2           The report also fails to provide enough  
3 information about potential landslide runout at the  
4 site. The nearby Woodway slide had a runout distance  
5 of almost 800 feet, and the Hart Crowser report says  
6 that additional evaluations would be needed during  
7 design to provide better assessment of the potential  
8 landslide runout.

9           So providing that estimate of runout,  
10 providing a detailed evaluation of static slope  
11 stability -- that means without an earthquake -- and a  
12 better estimate of slope displacement during seismic  
13 events are also necessary to determine whether you can  
14 have development safely done on the upper bench. And  
15 there's not enough information to reduce the  
16 prescriptive slope setbacks or to approve the landslide  
17 area deviation request.

18           Please reject the Point Wells urban center  
19 application. There are many issues where BSRE has not  
20 complied with Snohomish County Code beyond the  
21 geologic -- geologic hazard issues -- for example, the  
22 4,000 ADT limit on Richmond Beach Road -- and after  
23 five years of time to respond to corrections, there's  
24 no reason to believe that they're going to be  
25 responsive if they're provided with another extension.



1 THE HEARING EXAMINER: [Unintelligible].

2 MS. CHANG: Thank you.

3 THE HEARING EXAMINER: Thank you very  
4 much.

5 And who else? Anybody else?

6 Sir? And you saw how we do this so....

7

8 (MR. PETERSEN sworn.)

9

10 THE HEARING EXAMINER: Name and address,  
11 please, and tell me what I need to know.

12 MR. PETERSEN: Yeah. Tom Petersen,  
13 1719 Northwest 192nd Street in Shoreline, 98177.

14 That's in Richmond Beach where I have lived now for  
15 24 years.

16 I am active in the community. It began with  
17 being the city neighborhood liaison for traffic issues.  
18 And so that's been kind of a hobby, sidelight, armchair  
19 expertise for --

20 THE HEARING EXAMINER: Ev- -- everybody's  
21 got to have a hobby.

22 MR. PETERSEN: -- for 15 or many years.

23 The Point Wells site is probably lovely, once  
24 you get through the dozen yards or so of soil saturated  
25 with jet fuel and other petroleum products. People



1 would love to see something done there, but just  
2 because there's available property, just because it's a  
3 lovely place doesn't mean that every place can be  
4 developed sensibly.

5           For reasons you've read and heard from  
6 already, there are many ways that the site is just not  
7 suitable for a development of that magnitude. Starting  
8 with the traffic, the road infrastructure in the area  
9 on both sides of the county line is utterly inadequate  
10 to handle any more than a very small development. What  
11 you would have to put in would destroy entire  
12 communities and, even then, may not work.

13           The reports that we have so far and the  
14 studies that have been done so far show this to be  
15 true. BSRE has not done the necessary work to  
16 adequately explain where the traffic's going to go.  
17 Their plans do not include anywhere close to adequate  
18 parking.

19           I live very close to the Saltwater Park in  
20 Richmond Beach and know what it's like when we have a  
21 nice day. There, there is adequate parking, and we  
22 only get a couple of cars on my street, even during big  
23 events. What BSRE is proposing could nowhere near  
24 handle any kind of traffic for any beach, any retail,  
25 and not even the residents themselves.



1 Other issues include the, you know, long  
2 frustration with how long it has taken them to come up  
3 with plans and explanations and answers. And at some  
4 point, we have to agree with those who have said, and  
5 including Snohomish County, that they've had more than  
6 adequate time to explain themselves. They've been  
7 given extension after extension and come up with  
8 nothing, which strikes some of us as being almost  
9 contemptuous and taking advantage of the process.

10 They have their rights, certainly, but if  
11 limits have been reached, we would beseech you to not  
12 grant them any further extensions because they've  
13 demonstrated that it's pretty much purposeless.

14 And I think that's all I need to say.

15 THE HEARING EXAMINER: Okay.

16 MR. PETERSEN: You've -- you've heard from  
17 me and others have lots of information to go from. And  
18 [unintelligible] --

19 THE HEARING EXAMINER: Okay. I appreciate  
20 you coming. I appreciate both of you coming.

21 MR. PETERSEN: Heed the words of the  
22 experts.

23 THE HEARING EXAMINER: It's important --  
24 it's important to -- to hear from the public of what  
25 their concerns are, and -- and I'll map the things you



1 say into the planning and legal piece.

2 MR. PETERSON: Um-hmm.

3 THE HEARING EXAMINER: Thank you very  
4 much.

5 MR. PETERSEN: Thank you.

6 THE HEARING EXAMINER: So we'll wait  
7 another twenty minutes. Does somebody have something  
8 awesome they can bring up on their laptop or -- that'll  
9 just kind of pass the time?

10 (Recess taken at 6:43 p.m.; proceedings  
11 resumed at 6:45 p.m.)

12 (Recess taken.)

13 MR. PETERSEN: Tom Petersen from Richmond  
14 Beach.

15 THE HEARING EXAMINER: Um-hmm.

16 MR. PETERSEN: And we -- we were talking  
17 that there is something that's -- that's happening  
18 right now, and we're not sure if this is being captured  
19 in some of the notes.

20 Richmond Beach Road, the main arterial that  
21 leads down through Richmond Beach, and then connects  
22 with Richmond Beach Drive that goes out to Point Wells,  
23 15 years ago, when I started being the traffic liaison,  
24 we had public hearings in response to the  
25 neighborhood's concerns that Richmond Beach Road was an



1 unsafe road. It was --

2 THE HEARING EXAMINER: And it was four  
3 lanes back then, right?

4 MR. PETERSEN: It was four lanes back  
5 then. Okay.

6 THE HEARING EXAMINER: And in 2005, the  
7 City decided to drop it to basically one lane each  
8 direction with bike lanes and things like that.

9 MR. PETERSEN: That's right.

10 THE HEARING EXAMINER: Okay.

11 MR. PETERSEN: Yeah, so -- so all the way  
12 back then in -- in response to great public concerns  
13 about safety. The plans did not get carried out until  
14 last week.

15 THE HEARING EXAMINER: Yeah, I was going  
16 to say: Someone else testified that it was like a week  
17 or two ago that it was --

18 MR. PETERSEN: Yeah.

19 THE HEARING EXAMINER: It was...

20 MR. PETERSEN: Yeah. But the -- the plans  
21 were there and all intact going back at least to 2005  
22 when we had, you know, hearings and drawings and so on,  
23 and it was just a matter of what the City could afford  
24 and what the priorities were that the work didn't start  
25 taking place until now.



1           So it -- it needs to be on the record that  
2 that was long-planned and nothing that was done, quote,  
3 in response to Point Wells.

4           THE HEARING EXAMINER:   Um-hmm.

5           MR. PETERSEN:   That's -- that's what the  
6 community wanted, and that's what was planned.  And it  
7 just happens that it didn't get done until now.

8           If BSRE goes through with their plans, they  
9 say, Oh, well, you know, got a four-lane road there, so  
10 you'd be taking the now calm, safe road that flows  
11 nicely at the speed limit and going back to the  
12 freeway, as the neighbors used to call it, with, you  
13 know, harrowing lack of buffer between the pedestrians,  
14 nothing for bikes, and great big intersections that  
15 imperil anybody crossing the street because it's such a  
16 long run across.

17           THE HEARING EXAMINER:   Great.  Okay.  
18 Thank you.

19           MR. PETERSON:   All right.

20           (Proceedings recessed at 6:47 p.m., to be  
21 reconvened May 18, 2018, at 9:00 a.m.)

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TRANSCRIPTION CERTIFICATE

I, ELEANOR J. MITCHELL, the undersigned Certified Court Reporter in and for the State of Washington, do hereby certify:

That the foregoing transcript was transcribed under my direction; that the transcript is true and accurate to the best of my knowledge and ability to hear the audio; that I am not a relative or employee of any attorney or counsel employed by the parties hereto; nor am I financially interested in the event of the cause.

WITNESS MY HAND and DIGITAL SIGNATURE this 7th day of January, 2019.



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ELEANOR J. MITCHELL, RPR  
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