

## Countryman, Ryan

---

**From:** Ronald Trompeter <rjtrompeter@comcast.net>  
**Sent:** Tuesday, February 11, 2020 5:47 PM  
**To:** MacCready, Paul  
**Subject:** Opposition to Point Wells Variance  
**Attachments:** 2020 02 11 ltr to macready.pdf

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.

Mr. MacCready

Please see attached letter submitted in opposition to BSRE's variance request (height bonus)

Ronald J. Trompeter  
24120 116th Avenue West  
Woodway, WA 98020

206.948.9582 (mobile)

Ronald J. Trompeter  
24120 116th Avenue West  
Woodway, WA 98020

February 11, 2020

**By email to [Paul.Maccready@co.snohomish.wa.us](mailto:Paul.Maccready@co.snohomish.wa.us)**

Paul MacCready, Project Manager  
Snohomish County PDS  
3000 Rockefeller  
Admin Bldg East 2d Floor  
Everett, WA 98201

*Re: Point Wells Development  
Opposition to BSRE Variance Request*

Dear Mr. MacCready:

My wife and I reside at 24120 116th Avenue West, Woodway, Washington. Our property is directly east of the location where BSRE proposes to construct towers reaching a maximum height of 180 feet. Our driveway opens onto 116th Avenue West in Woodway, the narrow residential street onto which BSRE hopes to direct traffic by way of its proposed secondary access road. We adamantly oppose this development on the current scale and specifically oppose the proposed variances now being sought by BSRE. The application and the materials submitted contemporaneously with the application fail to meet the applicable criteria under the SCC 30.43B. This variance request should be denied.

**Point<sup>1</sup> 1.** From the date it filed its initial Master Permit Application in 2011, BSRE has been aware that in the Urban Center zone, the maximum height of buildings was 90 feet. Former SCC 30.34A.040(1) (2010). That section granted to the county the discretion to grant a height increase up to an additional 90 feet "when the additional height is documented to be necessary or desirable when the project is located near a high capacity transit route or station." Initially, BSRE may have believed that the existence of a railroad running through the property was sufficient to satisfy the requirements of that section, thereby opening the door to a height bonus, but that notion should have been dispelled by the order of the Washington State Growth Management Hearing Board in

---

<sup>1</sup> When "Point" is used below, it refers to the points listed in Document 18 of BSRE's submittal to the county, captioned "Supplement Page A --For Zoning Code Variance"

2011. In that decision, Growth Board addressed the issue of whether mere proximity of a rail line, with no assurance of service on that rail line, was sufficient to warrant a height bonus. The Growth Board said no:

BSRE also provides a letter from Sound Transit expressing "interest" in serving Point Wells if the developer funds construction of the commuter rail station. However, it is undisputed as of today, there is no regional transit solution in the plans of any of the transit agencies to serve an additional population at Point Wells.

The Board does not find BSRE's assurances persuasive. The Board agrees with petitioners that a "highly efficient transportation system linking major centers" is not satisfied by providing van pools to a Metro park and ride two and a half miles away. Nor is "high capacity transit" satisfied by an urban center on a commuter rail line without a stop. There is nothing efficient or multi-modal about an urban center designation that could result in an additional 12,860 car trips per day through a two-lane neighborhood street or that relies for high-capacity transit on an unusable commuter rail line and van pools.

BSRE has had nine years to address this issue, but has not done so.<sup>2</sup> Instead, it has persisted in a stubborn demand for approval of these towers in spite of the absence of usable mass transit. Now, in an apparent last-ditch attempt to effectively change the height restrictions on the property, BSRE requests that it be granted a variance allowing it to build towers to a height of 180 feet, effectively eliminating the mass transit requirement altogether.

Variances are intended to allow the PDS or Hearing Examiner to adjust zoning on a particular parcel that for reasons not the result of actions by the developer cannot be developed in the same way and to the same extent as other properties in the same zone. Point 1 in the Supplement Page for Zoning Code Variance makes this clear: "Describe the special circumstances that apply to your property and/or your intended use (such as shape, topography location or surroundings) which generally do not apply to other properties or uses in the vicinity." Variances are not to be approved that would have the effect of granting a special privilege not shared by other properties in the same vicinity.<sup>3</sup>

In its response to Point 1, BSRE doesn't identify any special circumstances that apply to its property that generally do not apply to other properties in the vicinity. In fact, no such showing can be made. Point Wells is zoned Urban Center. There is no other parcel zoned Urban Center in the vicinity. No special circumstances exist that prevent BSRE from developing the property in accordance with the

---

<sup>2</sup> In an email to the undersigned on February 6, 2020, Kamuron Gurol, North Corridor Development Director for Sound Transit, confirmed that "Sound Transit does not have any plans to provide a Sounder station at Point Wells." Exhibit A.

<sup>3</sup> See second paragraph, Supplement A -- For Zoning Code Variance, e.g., Document 18

applicable zoning. What BSRE is seeking is a special privilege--a privilege to build structures up to double the height restriction with no showing that the requisite high-capacity transit would be available to moderate the traffic congestion that would result from the high-rise development of the property.

**Point 2.** Here, the applicant is asked to explain "Why is this variance necessary to preserve and/or enjoy a substantial property right that others in the vicinity have, but because of special circumstances is denied to your property?" BSRE's response is that "to satisfy the minimum FAR, the buildings must be constructed greater than 90 feet tall." This is plainly a result of BSRE's design, which simply assumed from the outset that it would be allowed to build towers 180 feet tall, double the normal height restriction. According to the testimony of Ryan Countryman before the Hearing Examiner in May, 2018, BSRE has ways it can meet the minimum FAR, including widening the proposed buildings, adding more buildings, increasing the height of proposed shorter buildings, or a combination of the three. Another remedy available to BSRE is to apply for a variance to use the current code's .5 minimum FAR. BSRE has not proposed any of these remedial steps. Instead, it persists in its demand that it be allowed to build the towers to the maximum 180 foot level without regard to the mass transit requirement. This ongoing demand is motivated solely by BSRE's goal of maximizing profits from the development; that is not a proper justification for a variance.

BSRE's claim that "if the County will not allow building heights over 90 feet, the County will have necessarily rendered the property undevelopable by designating it as an Urban Center under the zoning code and in the County comprehensive plan." This is simply false. The property can be developed under the Urban Center zoning as it existed in 2011, including a height restriction of 90 feet. BSRE needs to abandon the idea that it is entitled to a 90 foot height bonus due to the railroad's bisection of its property and develop a design that is consistent with the 2011 UC zoning.

**Point 3.** Here, the applicant is to explain how the variance will not be detrimental to the public welfare or injurious to the properties or improvements in the vicinity. Rather than answer the question by explaining how neighboring properties would not be negatively impacted by this project, BSRE engages in misdirection by claiming that the towers would preserve publicly accessible and contiguous open space on the property. While that is debatable, the answer is certainly not responsive to the question. To state the obvious: a grant of this variance, which would allow an additional height bonus of 90 feet, would be extremely detrimental to the owners of properties in Woodway and Shoreline due to increased traffic as well as the view obstruction, and the light and noise associated with the taller structures.

**Point 4.** Here, the applicant is asked "Why would variance approval not adversely affect the comprehensive plan?" BSRE claims that the denial of the variance would prevent development of the Point Wells site. This is also false.

All that is required is for BSRE to revise its plans to comply with the 90 foot height restriction.

Granting the requested variance would adversely affect the comprehensive plan because it would allow an isolated high-density development in a location where high-capacity transit is not available and the only access is a two-lane neighborhood street.

The Comprehensive Plan discusses the use of Centers as part of its future planning. Of particular interest is a paragraph that discusses transit:

The pedestrian and transit-oriented design of Centers helps reduce single-occupancy auto trips and promote physical activity, which can reduce obesity. Similar attention to the transit emphasis corridors that connect the Centers can further reduce such trips and the resulting greenhouse gas emissions--a main contributor to climate change. A reduction in vehicle miles traveled helps the county in meeting its goals for climate change as detailed in the Natural Environment chapter of this comprehensive plan.

The Comprehensive Plan contains explicit requirements with regard to transit:

3.A.3 Urban Centers shall be located adjacent to a principal arterial road, and meet one of the following additional locational criteria (measured along existing road rights-of-way):

- Be within 1/2 mile of an existing high capacity transit station;
- Be within 1/2 mile of an existing transit center; or
- Be within 1/4 mile of an existing bus stop on a major transportation corridor.

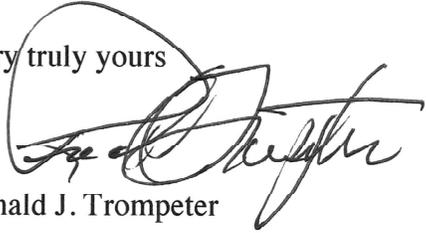
The Transportation Element of the comprehensive plan stresses the need to act proactively in the planning process to reduce the use of roads and encourage mass transit. Granting BSRE's requested variance would be fundamentally at odds with that goal because allowing the additional 90 feet of height would result in many additional residents living on a peninsula with no meaningful alternative to using cars to go to work, to access shopping or entertainment, or to visit family and friends.

As BSRE notes in its application, the argument that the proximity to a rail line meets the requirement of a nearby "high capacity transit route or station" is now pending before the Washington State Court of Appeals. This variance application is an attempt to get a "second bite at the apple."

In conclusion, BSRE has failed to demonstrate that special circumstances exist that warrant the grant of any variance on this property. The difficulties of which BSRE complains are primarily of its own making. Consequently, this request for

variance should be denied outright. If for some reason PDS concludes that a variance is warranted, we request that it be limited to the minimum height bonus that is required to address whatever issue PDS concludes warrants the grant of the variance.

Very truly yours

A handwritten signature in black ink, appearing to read "Ronald J. Trompeter", written in a cursive style. The signature is positioned to the right of the text "Very truly yours".

Ronald J. Trompeter