

**POINT WELLS
FREQUENTLY ASKED QUESTIONS
(Updated 6/10/2014)**

Below are questions and comments the City has received from the public regarding BSRE's proposed development at Point Wells along with the City's responses. As the process moves forward and new questions and concerns arise, we will add them to this list and provide responses.

LEGAL

1. Who makes the decisions concerning the project? What influence does Shoreline have?

Under the current development process, Snohomish County makes all decisions regarding the project size, scale, scope, and issues the permits for the project. Unfortunately, state law does not allow the City to veto the project actions by Snohomish County. Under existing Snohomish County rules, the City can raise concerns and make suggestions regarding the project at specific points in Snohomish County's review process for BSRE's development permit; however, the City has no jurisdiction or authority in decision making.

By attempting to negotiate a binding agreement with the developer Point Wells BSRE, LP (BSRE), we are seeking to restrict the total amount of traffic generated by the project. BSRE has already paid for the Transportation Corridor Study (TCS) and has agreed in principle to pay for traffic mitigation that comes out of the TCS. If BSRE is willing to bind itself to an identified and enforceable number of auto trips entering and leaving the Point Wells site on a daily basis through an agreement with Shoreline, and commits to annexing the site to Shoreline at some point in the future, those are good outcomes for the Shoreline community that would otherwise be unlikely through the Snohomish County permitting process alone.

2. What was the decision that the Washington State Supreme Court made regarding the Point Wells Development?

On April 10, 2014, in a 6-3 decision, the Washington State Supreme Court upheld the Court of Appeals' decision that BSRE's Point Wells project applications were vested under Snohomish County's "Urban Center" zoning designation. As a result, BSRE's permit applications for the Point Wells site will continue to be processed by Snohomish County. As noted in the opinion, the Supreme Court concluded that, "BSRE's development rights vested to the plans and regulations in place at the time it submitted its permit applications." This means that Snohomish County must continue to process BSRE's Point Wells permit application, which proposes to construct up to 3,100 multi-family housing units and with some retail space on the Point Wells site.

3. Now that the Washington State Supreme Court has made its decision, are there any other legal challenges available to the City regarding the project?

The City could continue to look for ways to fight BSRE's permits for development through the Courts; however, as demonstrated with the Supreme Court decision, leaving the decision to the courts provides no control or certainty over the outcome. Even if we were successful at achieving some legal success, the results would most likely be limited and would not come close to achieving what we can through a negotiated agreement.

4. Why didn't the City join in the lawsuit or file an amicus brief?

The City determined that its best opportunity for influencing the Point Wells development was through negotiation of a mitigation agreement with BSRE and therefore it did not join the appeal of the vested permits filed in superior court by Woodway and SRB. We saw no reason to change that course following the Court of Appeals ruling upholding the vested status of the permits under the Growth Management Act, including joining as an amicus. We were negotiating with BSRE on conducting the TCS, which had far more substantive public input and was more robust than what BSRE would have been required to do absent the agreement. Filing an amicus brief against BSRE would have terminated negotiations with BSRE. We still believe reaching a negotiated agreement with BSRE was and continues to be in the best long-term interest of the community.

5. Why doesn't the City just close or restrict access to Point Wells?

It is unlawful to close the road due to anticipated impacts. While it seems like an easy answer, in the court case [YARROW ETC. v. Town of Clyde Hill, 403 P. 2d 49 - Wash: Supreme Court, 2nd Dept. 1965](#), a case with similar facts to the Point Wells development, the Supreme Court found that Clyde Hill's vacation (closing) of a road due to anticipated traffic increases from a proposed development was unlawful.

Clyde Hill's City Council was concerned about increased traffic from an apartment complex in neighboring Houghton where the only access was through Clyde Hill. The Council vacated the road and the Supreme Court ruled the action to be unlawful. Below are excerpts from the decision:

In closing a public street, the "public use" that must be considered is broader and more inclusive than the mere use by abutting property owners. Streets are dedicated to the public use....This implies that streets must be maintained primarily as public ways....This refers not alone to adjacent property owners, nor to the inhabitants of a particular political subdivision, but to the whole people....Every citizen of the state has an equal right to use the streets.

Cities are vested only with such powers over the streets as are conferred upon them by the legislature....However, the power to regulate streets is not the power to prohibit their use by nonresidents....Similar consideration must be given to the power of a municipality to vacate a street.

...[T]he residents of a particular town possess no proprietary rights to the use of its streets, in priority to or exclusion of the general public. They may not use their power to the detriment of other citizens or municipalities of the state....The fact that a city may have the burden of constructing or maintaining its streets gives it no peculiar privileges insofar as the use of its streets is concerned.

Closing Richmond Beach Drive near the entrance of Point Wells would open the City up to legal challenges and its actions would most likely be found unlawful under the findings of Yarrow etc. v. Town of Clyde Hill.

Other traffic control devices, such as speed bumps and traffic circles, are available when required for safe use of the right-of-way by vehicles and pedestrians, and have been considered as options in the TCS if roadway safety is not resolved with other mitigation measures. While traffic calming measures like speed bumps and circles are typically used on local streets to manage such issues as speed and cut-through traffic, there is a practical limit if applied to a higher volume street. At some point, the increased time to move through a corridor with such improvements would likely frustrate existing residents along the corridor since it would most likely increase congestion rather than mitigate it. While

we do see the use of such devices along the side streets to manage the effects of a Point Wells project, we do not see these tools as being practical along the main corridor.

6. Can the City establish a Metropolitan Park District and turn Point Wells into a park?

While the City has the legal means to condemn the property for public use as a park, the City must compensate the private property owner (BSRE) at fair market value. In examining what it might cost taxpayers to purchase the property and establish a Metropolitan Park District, we used an estimated value of \$50 million repaid over 20 years. It would also require a public vote with at least 60% approval. If the District included all of Shoreline and the Town of Woodway, it would cost the average homeowner in Shoreline approximately \$189 and an average homeowner in Woodway \$550 annually. To put this in perspective, for the 2006 Shoreline Parks Bond, the average Shoreline homeowner is paying \$70 per year over a 15 year period. We believe this alternative would have many hurdles to overcome.

7. Why can't the City just maintain Richmond Beach Drive's "local street" classification with 4,000 average daily trips (ADT)?

The City's street classification does not provide any limitations for trips or the size of any development at Point Wells. The subarea plan for Point Wells sets a cap of 4,000 ADT, but this limit is to be revised once the TCS is completed and funding for the mitigation is committed. Since BSRE is willing to complete the TCS and provide funding for mitigation, the City cannot hold to the 4,000 ADT.

8. Will the City condemn any property to accommodate a redeveloped Richmond Beach Drive/Road corridor?

The Memorandum of Understanding (MOU) reached between the City and BSRE ensures the typical 60 foot right-of-way width on Richmond Beach Road and Drive will remain the maximum width allowed, except where the study concludes that isolated corners at intersections are necessary to accommodate such improvements as turn lanes, sidewalks or curbing.

It is important to remember that the physical location of the right-of-way (i.e. property lines) relative to the pavement is not easily identified. In many cases residents are probably using the public right-of-way for such uses as landscaping, retaining walls and parking. This is fairly common. These types of improvements may have to be relocated or eliminated in order to accommodate the mitigation within the existing right-of-way. This circumstance is more likely in the Richmond Beach Drive section.

AGREEMENTS WITH BSRE

9. What have the City and BSRE agreed to so far? Does the City continue to negotiate with BSRE? If so, what other agreement will there be and what is the timeline for reaching such agreement?

The City and BSRE executed the MOU to conduct the TCS. Since Snohomish County is legally required to process BSRE's permit application, the City was intent on reaching an agreement with BSRE to conduct a more thorough transportation study than what would be required in the permit process. Absent an agreement, input from the Shoreline community would have been extremely limited. The City wanted to provide Shoreline residents with a direct voice in identifying corridor improvements, including those improvements directly impacting individual properties.

Once the City Council has accepted the mitigation package, the city will begin negotiating a "development agreement" with BSRE. The City will work to negotiate the following items into the agreement with BSRE: 1) a funding mechanism to pay for the required mitigation package; 2) agreement on the ultimate cap on daily vehicle trips to and from Point Wells and how to enforce the cap; 3) agreement on the sequence of implementation of the mitigation projects; and 4) Point Wells annexation to the City of Shoreline.

10. What is the timeline for future negotiations?

Once the TCS process is finalized and submitted to Snohomish County, the City will move to negotiating a development agreement, likely by the end of 2014 or the 1st quarter of 2015.

11. What are BSRE's interests in negotiating with the City if the City has no decision-making power over the project or legal power to stop it? Are agreements with BSRE enforceable?

BSRE is likely interested in a municipal agreement because, if it were adopted, it would potentially save them the delay and uncertainty of having to fight repeated challenges made by the City during the Snohomish County permit hearing process before Snohomish County's hearing examiner and County Council. The project needs to have an Environmental Impact Statement, a major piece of which will be a lengthy and expensive transportation analysis, identifying impacts and mitigations. It is in BSRE's interest to only pay for this work once and to have the City feel confident about the accuracy and adequacy of the EIS. Therefore, by reaching an agreement with the City to address the same issues, BSRE will ask Snohomish County to adopt the joint City/BSRE TCS as a component of the EIS.

Once the parties have entered into an agreement, the conditions to the agreement are binding upon all parties to the agreement.

TRANSPORTATION CORRIDOR STUDY

12. Now that the TCS workshops are complete, what are the next steps? How will the TCS be used?

Using the community feedback, staff will develop preferred alternatives and then present a final recommendation to the City Council for traffic mitigation. If the City Council is supportive of an acceptable traffic analysis and mitigation package, then they will provide direction to the City Manager to submit the TCS outcomes and agreement to Snohomish County to be included as part of the transportation section of the County's Environmental Impact Statement (EIS). The City anticipates Snohomish County adopting the mitigation package and incorporating it into its permit review and analysis, and making it a condition to projects permits. If the City is not able to secure the requirement from the Snohomish County EIS process that the mitigation package will be constructed by BSRE to mitigate the project impacts, the MOU states that the City and BSRE will negotiate these mitigations as part of the development agreement.

13. What does "mitigation" mean?

Mitigation is the action taken to diminish negative impacts. BSRE's proposed Point Wells development will significantly impact traffic on the Richmond Beach Drive/Road corridor, and on side streets. To lessen those impacts and make them more manageable, BSRE will need to make improvements to the road network (adding lanes, traffic control devices, sidewalks, bicycle paths, traffic calming tools, etc.) to lessen those traffic impacts. BSRE will "mitigate" the impacts caused by increased traffic.

14. Why is the City helping BSRE with the traffic study?

If BSRE builds its proposed development at Point Wells, it will cause significant traffic impacts in Shoreline. If we are not prepared for those impacts, it will be Shoreline residents that will be most affected. Under Snohomish County's regulations, the Richmond Beach Drive/Road corridor could accommodate a development of the size proposed by BSRE with modest improvements. Residents and visitors to Point Wells will have relatively easy access since there are limited traffic control measures on the lower part of the corridor. The people impacted will be Shoreline residents as they try to get in and out of their driveways or access the corridor from side-streets, and as they try to walk or bike along the corridor.

By being part of the process, Shoreline residents can have a direct voice in identifying corridor improvements, including those improvements directly impacting individual properties. Any traffic mitigation measures to come out of the EIS process will have incorporated extensive amounts of input from Shoreline residents. If we chose not to participate in the TCS, input would come from Snohomish County staff and BSRE.

15. Where did the 11,857 average daily traffic cap come from?

BSRE's Urban Center Development Application included an average daily trip (ADT) cap of 11,587. What that means is that based on BSRE's proposed development, BSRE believes the maximum number of vehicles entering or exiting (a combined total) the development on an average day would not exceed 11,587. That number came from an analysis that the City undertook in 2009 in response to the Point Wells traffic analysis for the Supplemental Environmental Impact Statement. The City's analysis projected different peak hour volumes to test how they affected intersections within the Richmond Beach corridor. The City found that when peak hour traffic volumes reached 950, the intersection of Richmond Beach Road and 8th Ave NW exceeded the City's level of service policy (LOS F). It failed. The peak hour typically occurs in the morning or evening as residents go to and from work and is used to test the capacity (i.e. LOS – "level of service") of a street network. The developer's consultant then extrapolated the peak hour volume into a 24 hour total volume or ADT which equated to 11,587. The peak hour accounted for approximately 8% of the ADT.

After completion of the TCS, the City will be negotiating a developer agreement that will include a total traffic cap for the Point Wells project plus a way to measure and enforce this cap as each phase of the project is built and occupied. The final traffic cap in the developer agreement will not exceed the 11,587 ADT.

16. Will mitigation measures along Richmond Beach Drive require the use of the entire 60-foot right-of-way?

Using input received from residents participating in the TCS workshops, the City and BSRE representatives developed several design options that were presented at the third workshop for residents to review and provide comments. Design alternatives for Richmond Beach Drive NW included two or three travel lanes, sidewalks on one side of the street, bicycle facilities in the form of on-street bicycle lanes or a wide multi-use path (combined with the sidewalk) and landscaping adjacent to the roadway. One alternative included on-street parking. All The width of the improvements varied between 46 and 55 feet, less than the existing 60 foot right-of-way. Because the Richmond Beach Drive NW right-of-way is narrower on the very north end, roadway improvements will need to be sized to fit within it.

ANNEXATION

17. Why does the City want to annex Point Wells?

As the only way in and out of Point Wells is via Shoreline, future residents and businesses at Point Wells will use Shoreline facilities like roads and parks, and place unfunded demands on City services, from police to planning, regardless of whether or not they are annexed into the City.

Future residents of Point Wells will also frequent Shoreline businesses, attend Shoreline based churches and cultural programs, and participate in service clubs and sports teams. Due to their proximity, they will de facto become a part of our community and daily life. Since all City facilities and services are paid for by Shoreline taxpayers, it is only fair that future Point Wells residents share that tax obligation. Included in the development agreement negotiations will be annexation of Point Wells to Shoreline.

18. Even if the developer agrees to annex to Shoreline, can Snohomish County stop the annexation from happening?

Yes. That is why we continue to discuss annexation plans with Snohomish County and Woodway to help ensure their support.

Others have questioned whether Snohomish County would even agree to an annexation by Shoreline, assuming that Snohomish County would lose all revenue streams to Shoreline. That assumption is incorrect. Even if Shoreline were to annex Point Wells, Point Wells would remain in Snohomish County. Snohomish County would continue to collect general county property taxes from Point Wells' residents, along with collecting the county's portion of sales tax and other applicable taxes. Shoreline would collect the portion of taxes going to a city. For example, current Shoreline property owners pay 13% of their property taxes to the City of Shoreline, with the remaining 87% going to King County, the Shoreline School and Fire Districts, the State of Washington, and other special districts.

Annexing is the best way to guarantee future Point Wells residents pay their fair share of taxes to support the Shoreline city services and infrastructure they use.