Snohomish County
Departments of
Planning & Development Services
and Public Works

Staff Recommendation

Project Name:	**Point Wells Urban Center**
Date of Recommendation:	**April 17, 2018**
Applicant:	**BSRE Point Wells LP** c/o Karr Tuttle Campbell 701 Fifth Avenue, Suite 3300 Seattle WA 98104
File Numbers:	11-101457 LU (Land Use permit for site plan) 11-101461 SM (Shoreline Management permit) 11-101464 RC (Retaining Wall – Commercial) 11-101008 LDA (Land Disturbing Activity – grading) 11-101007 SP (Short Plat) 11-101457 VAR (Parking Variance)
Original Submittal Dates:	February 14, 2011 (LDA and SP) March 4, 2011 (LU, SM and RC) April 17, 2017 (VAR)
Date of Recent Submittals:	April 17, 2017 (LU, SP, VAR)
Hearing Date:	May 16, 2018
Type of Request:	Urban Center Site Plan and associated permits to develop in four phases a total of 3,080 residential units plus associated commercial uses and public amenities on 61 acres.

Recommendation: Denial for the following reasons:

- Failure to Document Feasibility and Code Compliance of Second Access Road;
- Failure to Provide Acceptable Traffic Report and Assumptions, Resulting in Noncompliance with Concurrency Requirements and Failure to Mitigate Traffic Impacts;
- Failure to Provide Appropriate Building Setbacks for Tall Buildings from Lower Density Zones and Failure to Document Evidence for Access to High Capacity Transit for Building Heights Over 90 Feet;
- Failure to Satisfy Access to Public Transportation and Transit Compatibility;
- Failure to Furnish Information on Contamination Necessary to Determine Approvability of Drainage Proposal and Compliance with Critical Areas Regulations;
- Failure to Provide Adequate Parking;
- Failure to Address Shoreline Management Regulations;
- Failure to Comply with Code Provisions Regarding Critical Areas, Including Geologically Hazardous Areas, Wetlands and Fish and Wildlife Habitat Conservation Areas, and Critical Aquifer Recharge Areas.

Summary

In February and March 2011, Blue Square Real Estate Point Wells Limited Partnership (BSRE or the "Applicant") submitted plans proposing over 3,081 units in high-rise towers along with commercial amenities and public uses on the shore of Puget Sound at the Point Wells site (Point Wells). Point Wells is located at the base of a 200-foot bluff and is currently the location of an asphalt refinery and oil depot. Currently, there is only one access road connecting the site to the south.

On April 12, 2013, Snohomish County Planning and Development Services (PDS) completed its first review of the proposal, informing the Applicant that its plans contained many conflicts with county code that would require revision. This review also shed light on numerous internal inconsistencies and identified several missing key pieces of information necessary to demonstrate the feasibility of the project.

On February 2, 2014, PDS issued a Determination of Significance and request for comments on the scope of an Environmental Impact Statement (EIS) for the Point Wells proposal. The EIS would study two primary action alternatives based on the Applicant's proposal. The first alternative, dubbed the "Urban Center" alternative would match the Applicant's proposal based on the permit applications submitted to PDS. The second alternative, called the "Urban Village," would use the same site plan but limit the tallest buildings to 90', lowering the number of units to 2,600. The "No Action" alternative under SEPA included two variants, one continuing present-day industrial operations and a second where industrial activity would increase.

Permit application extensions were granted at the Applicant's request on April 10, 2014, April 21, 2015, and March 31, 2016. The Applicant submitted revised plans on April 17, 2017.

In response to the April 17, 2017, resubmittal, PDS and Snohomish County Department of Public Works issued a review completion letter to the Applicant on October 6, 2017. While the plans submitted in 2017 contain some improvements over the 2011 plans, the 2017 plans retain major conflicts with county code, along with omissions of information and reports required for review. In addition, several key technical studies are still missing. Other studies that have gone through multiple revisions retain significant flaws. In a summary of the Applicant's response to the April 12, 2013, Review Completion Letter, PDS concluded that the Applicant had adequately responded to just one of 42 issues identified by the project planner in 2013 (Exhibit K.31, page 13). The Applicant had made no changes at all in response to 21, or half, of the issues raised in the April 12, 2013, Review Completion Letter. Additional concerns raised by technical reviewers remain unaddressed.

This Staff Recommendation to the Hearing Examiner represents the collective judgment of PDS and the Department of Public Works that the project applications substantially conflict with the Snohomish County Code and other applicable laws and regulations. PDS is transmitting the application to the Hearing Examiner under SCC 30.61.220, and recommending denial without completing the EIS in order to avoid incurring needless further county and applicant expense.

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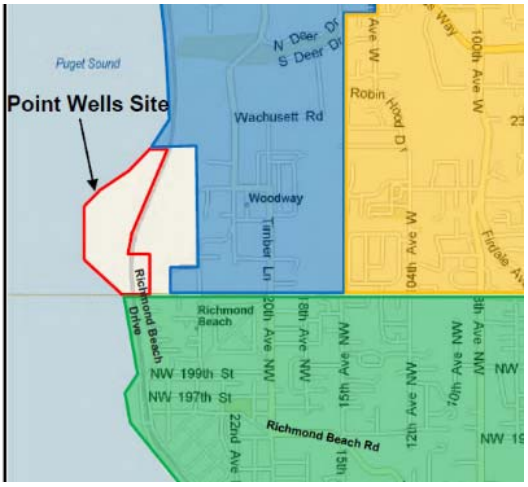
Project Description and Background

Property Information

Tax Parcel Numbers	
Location	A portion of Section 35, Township 27, Range 03 East, W.M. 
Acreage	Approximately 61 acres
Urban Growth Area	Southwest County UGA
Municipal UGA	Woodway MUGA
School District	Edmonds School District
Fire District	Fire District No. 1
Water & Sewer Service	Undetermined: Either Olympic View Water & Sewer or Ronald Water & Wastewater District
Current Zoning	PCB (Planned Community Business)
Zoning for Review	UC (Urban Center)
Current Comprehensive Plan Designation	UV (Urban Village)
Comprehensive Plan Designation for Review	UC (Urban Center)

Background Information

Site Description

The Point Wells site is located in the extreme southwestern corner of Snohomish County, north of the City of Shoreline, north and west of the Town of Woodway, and east of Puget Sound. Point Wells is in unincorporated Snohomish County. The site is approximately 61 acres in size, with approximately 16 acres of tideland and 45 acres of upland areas. About 56 acres of the site are located between the Puget Sound and the Burlington Northern Santa Fe (BNSF) railroad line that pass north/south through the site. The remaining approximately 5 acres are located on the east side of BNSF-owned right-of-way and tracks, about 50 feet higher. Some documents refer to these as the "Lower Bench" and the "Upper Bench," respectively. A forested 220-foot high bluff borders the site to the east. **Figure 1**, below, gives an aerial perspective of Point Wells and nearby surroundings.

Figure 1 – 2010 Aerial Photo (from Exhibit C.15, page 18)

The only present access to Point Wells is Richmond Beach Drive, which runs through a residential area in the City of Shoreline (see **Figure 2** to the right).

Starting as a shipyard, Point Wells has been in industrial use for over 100 years. During most of this time, activities involved petroleum-based industrial production. It has been a refinery, tank farm for petroleum-based products, and asphalt plant. Asphalt production continues to this day and operations include the marine fuel depot.

Due to its past uses, the site is contaminated. Prior studies indicate the presence of subsurface hydrocarbon contamination. Additionally, soil and groundwater contaminants are present. These constituents include petroleum hydrocarbons (gas, diesel,and oil) and benzene, toluene, ethylbenze and sylenes (BTEX), and are present at levels in soil and groundwater that exceed Model Toxics Control Act (MTCA) criteria for unrestricted land use (Exhibit C.15, pages 64-55).

Figure 2 – Overhead View of Site and Access (Google Maps)

A landslide hazard area extends from the forested bluff to the east onto portions of the site. Several streams and associated wetlands run down the bluff onto the site or onto adjacent areas where the protective buffers would extend on site. Most of the site is within shoreline jurisdiction under the Snohomish County Shoreline Management Program.

The Point Wells site is includes several overlapping and/or discontiguous tax parcels covering approximately 61 acres, including around 16 acres of submerged tidelands. To simplify this configuration, the Applicant is proposing short plat 11-101007 SP (Exhibit B.5) to create eight parcels and one tideland tract as illustrated in **Figure 3** below.

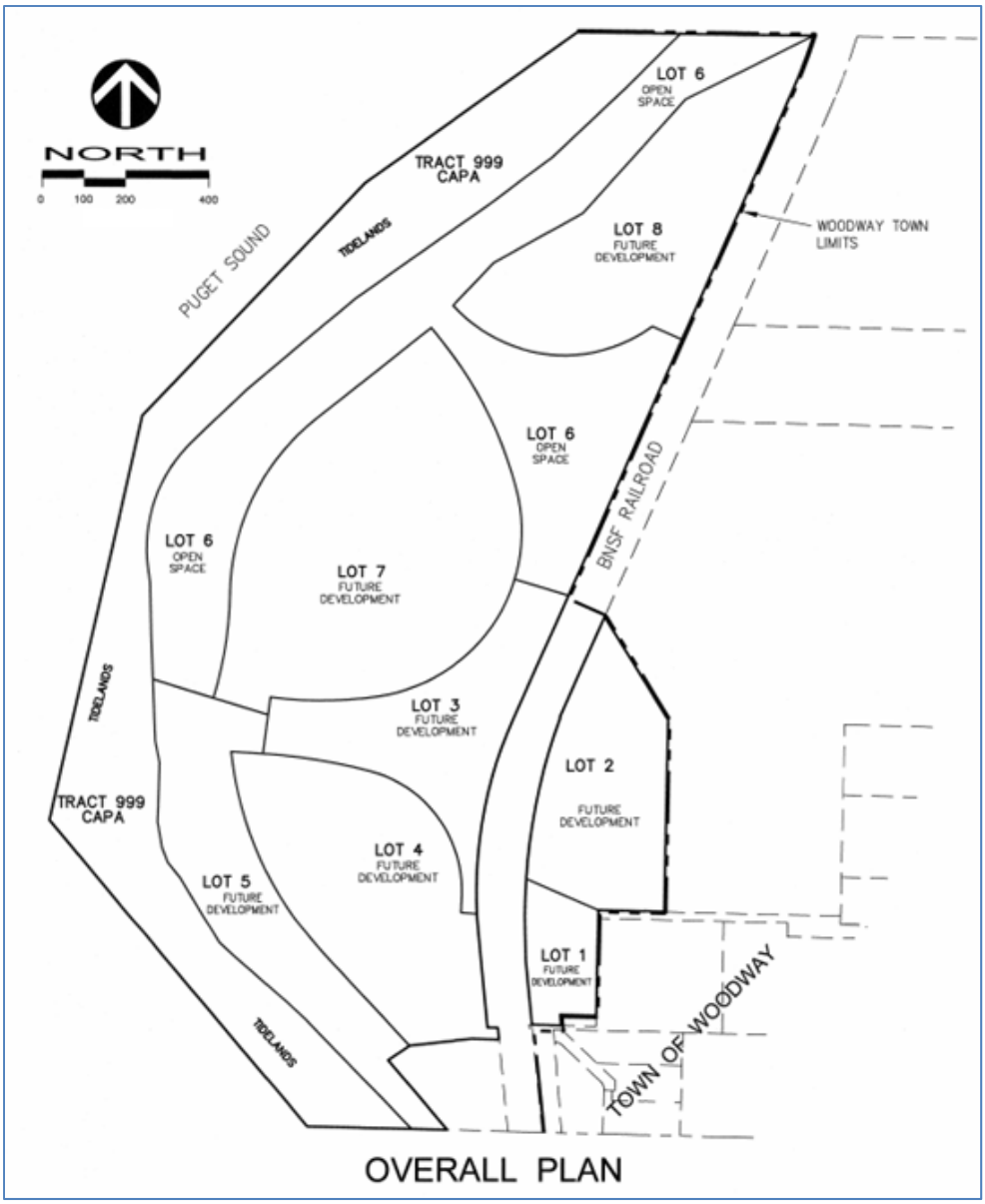


Figure 3 – Preliminary Short Plat (April 17, 2017)

Surrounding Uses and Zoning

The Point Wells applications vested the site to Urban Center zoning and to the land use designation also called Urban Center. The site currently is zoned Planned Community Business (or PCB) and is designated Urban Village under the County's Comprehensive Plan.

With one exception, the immediately adjacent land has single-family zoning. The exception is a parcel in unincorporated Snohomish County with Heavy Industrial zoning to the south of Point Wells that King County owns and operates as part of a water treatment outfall into Puget Sound. The densities allowed by the surrounding zoning as well as which jurisdiction is responsible for the zoning varies. **Figure 4** illustrates the nearby zoning and identifies which jurisdiction has zoning authority. This figure comes with three caveats:

(1) Except for the City of Shoreline, the dwelling unit/acre (du/ac) information provided is for comparison purposes and is not actually a part of the name of the zone;
(2) The respective jurisdictions are responsible for maintaining their own official zoning documents, this figure merely illustrates the surrounding zoning; and
(3) The land with Urban Restricted zoning immediately east of Point Wells is currently vacant; however, it is the location of a proposed subdivision and development agreement allowing a maximum of 36 homes (approximately 1 per gross acre) within the Town of Woodway.

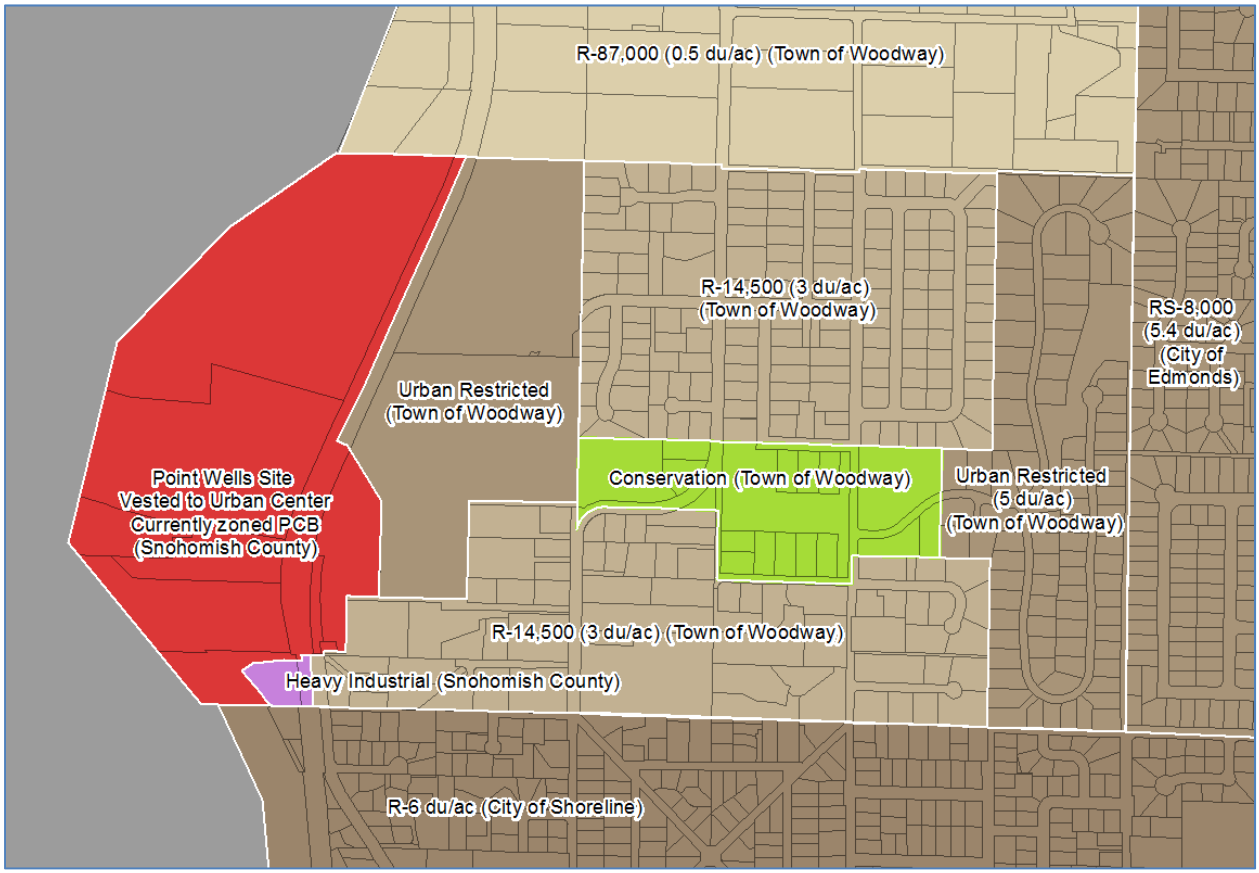


Figure 4 – Zoning at Point Wells and Vicinity

To the south of Point Wells (the area through which the primary access to Point Wells is proposed) there are five houses in the Town of Woodway with R-14,500 zoning (3 du/ac) and then most of the rest of the area is in the City of Shoreline and has R-6 du/ac zoning. In both jurisdictions, nearly all of the land with these zones has existing single-family uses; however, there are also public services located within these zones too, including the Woodway Town Hall (in R-14,500 zoning) and several small parks in Shoreline's R-6 zone. Beginning about 1000 feet east of the Point Wells site, the Town of Woodway maintains a conservation area.

Applicant's Proposal

The Applicant, Blue Square Real Estate Point Wells Limited Partnership (BSRE or the "Applicant"), proposes to redevelop the site to include 3,080 units in approximately 3 million square feet (sq ft) of new residential uses. In addition, there would be approximately 125,000 sq ft of commercial amenities including restaurants, shops, and office space plus on on-site police/fire station, open space and other amenities. This proposal would use the Urban Center land use designation and zoning classification of the site at the time of permit application submittal to Snohomish County in 2011.

The Applicant proposes to develop the property in four phases. Phase 1 consists of the South Village, Phase 2 consists of the Urban Plaza, Phase 3 consists of the Central Village, and Phase 4 consists of the North Village. Figure 5, below, illustrates the Urban Plaza on the upper bench and the North, Central, and South Villages on the lower bench.

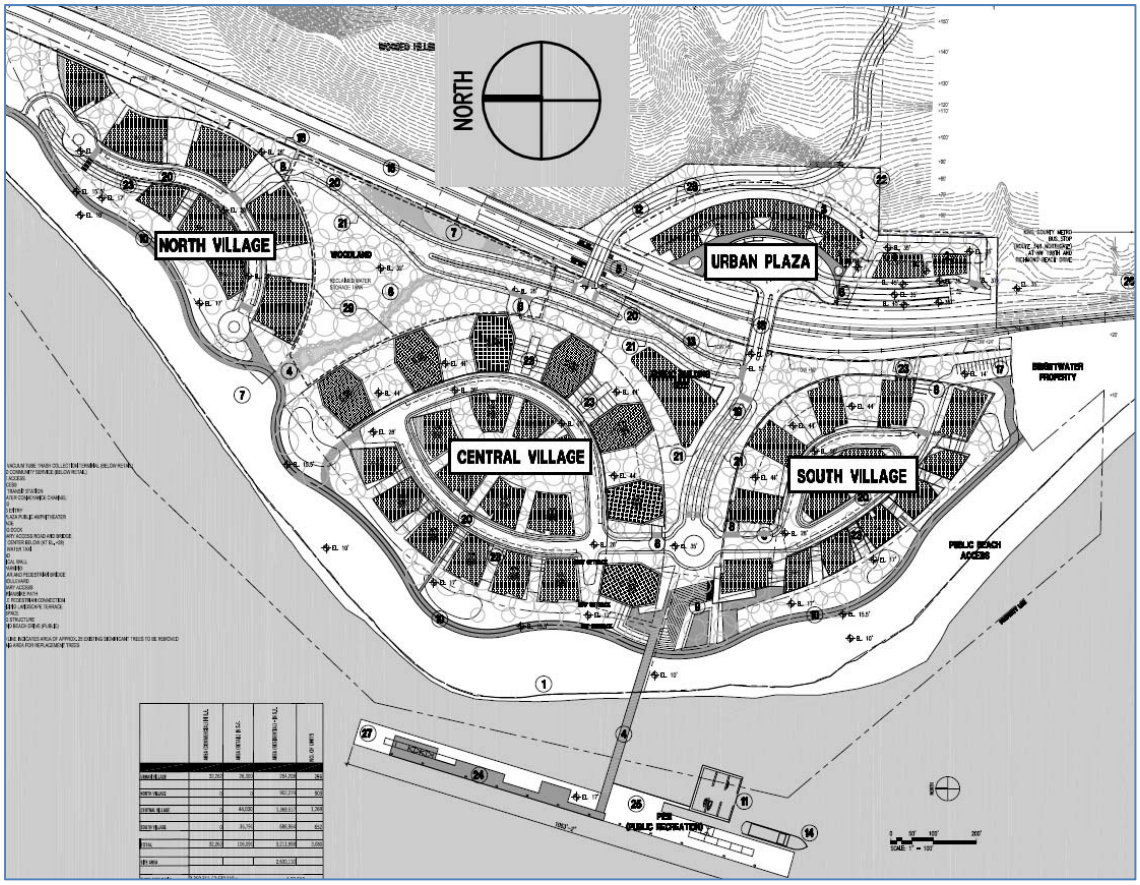


Figure 5 – Location of "Villages" at Point Wells (Adapted from Sheet A-050)

General descriptions of each phase have been provided by the Applicant. Construction is estimated to occur over a period of 20 years. Construction of some of the infrastructure must take place during the first phase; however, the Applicant has not described in detail what construction would take place in each phase. In many cases, the physical location of said infrastructure spans three of the four proposed villages (see Figure 6, next page).

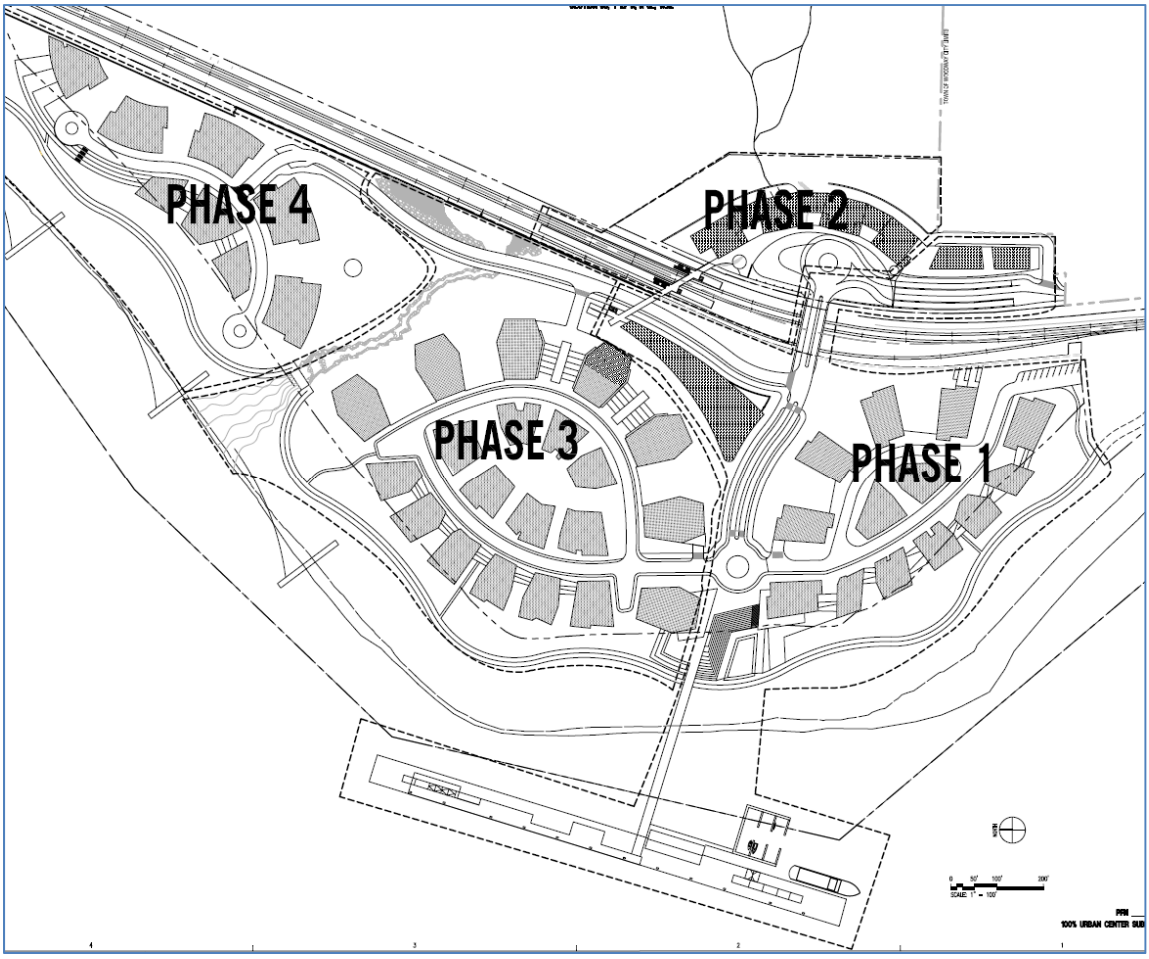


Figure 6 – Location of Phases at Point Wells (from Sheet A-056)

Additionally, it is unclear when or how remediation of the site will occur. According to the Applicant, remediation is being conducted by the site's responsible parties under the Department of Ecology's Voluntary Cleanup Program (Exhibit C.15, pages 64-65). Yet, the Applicant also says that, the "scheduled cleanup process breaks the site into cleanup areas that correspond to the proposed phasing boundaries. Decommissioning and cleanup of the site will be conducted for each phase during the design and permitting of the site improvements of that corresponding phase" (Exhibit A.5, page 5). The Applicant indicates the first phase of the project will include the initial portion of the environmental cleanup action plan. The Applicant has not provided any details regarding the cleanup action plan, when cleanup will occur, or whether any cleanup action plan is under review by Ecology (Exhibit C.15, page 8).

At the completion of the four phases, there would be 48 buildings in total (see Table 1 on page 29). Twenty-four buildings would be towers over 90-feet in height, the tallest of which would approach 180-feet as illustrated in Figure 7, next page.

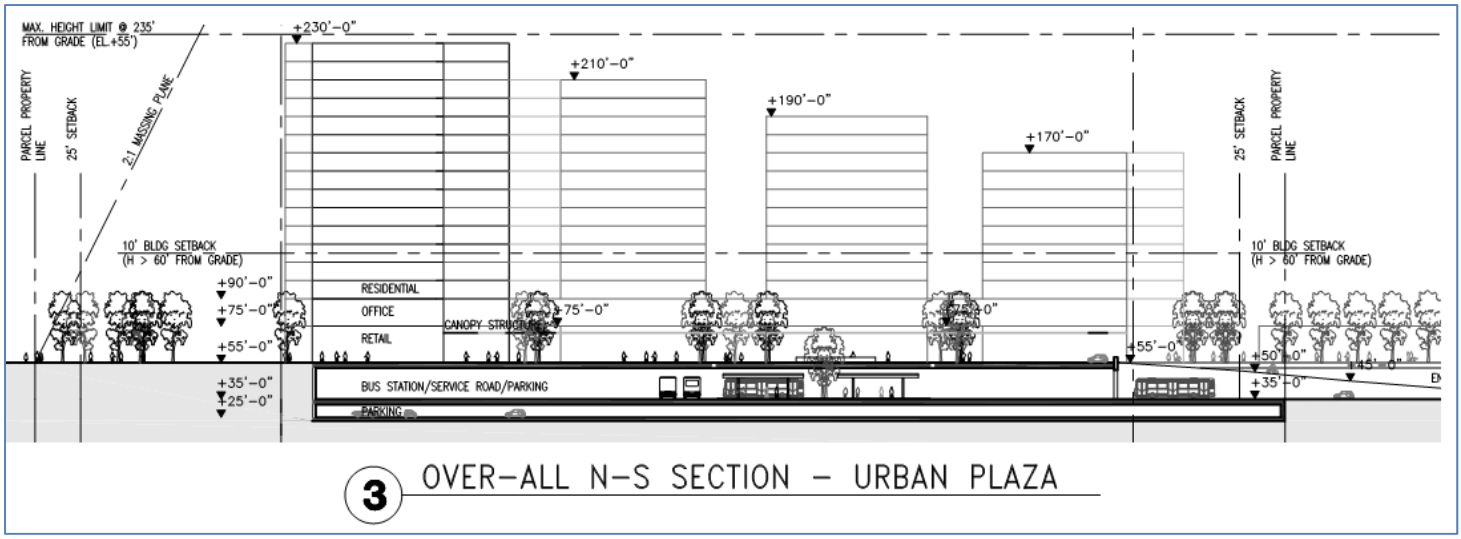


Figure 7 – Cross Section of Urban Plaza (Phase 2) (Adapted from Sheet A-310)

Each village would include a single large underground parking garage with multiple buildings on top. In total, there would be more than 1,000,000 square feet of below surface parking, although the plans do not adequately depict the parking so the total amount is uncertain (in part, because only the first floor of each garage is depicted), see **Figure 8**, below for an example.

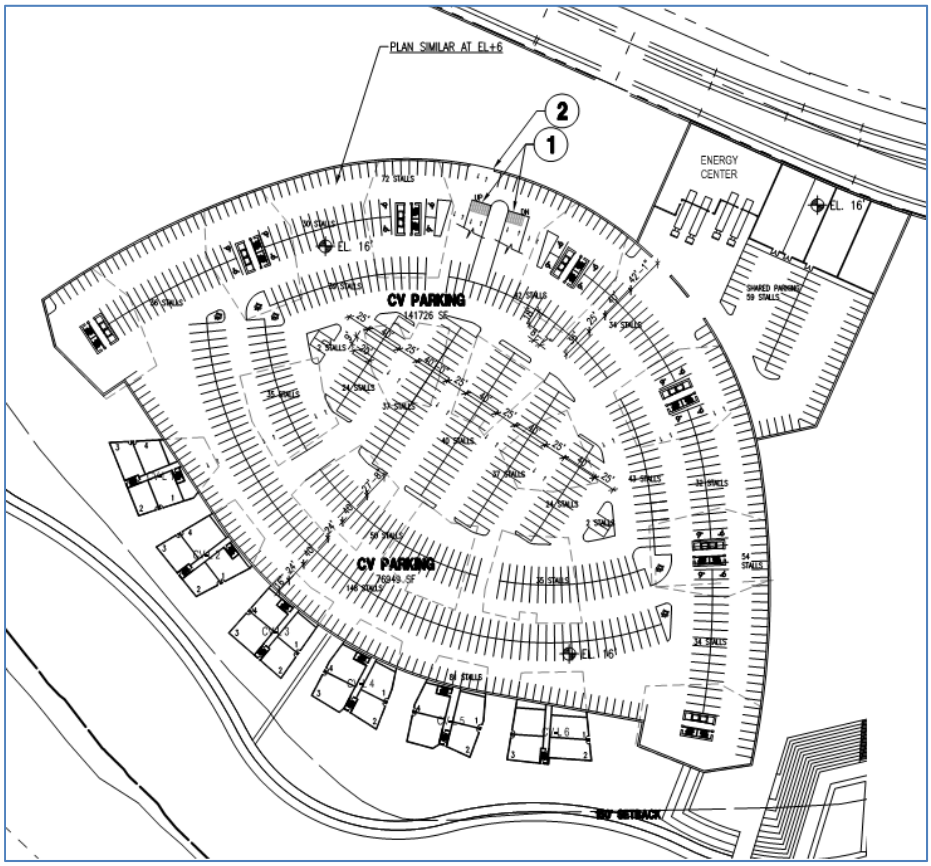


Figure 8 – Central Village Parking Level 1 (Adapted from Sheet A-054)

The site is bisected by a railroad right-of-way owned by Burlington Northern Santa Fe (BNSF) as shown on **Figure 9** below. The project would include two new crossings over this right-of-way that would replace two existing crossings. Beneath the new northern crossing and within the rail right-of-way, the Applicant is proposing to construct a new transit station for the Sounder commuter rail service operated by Sound Transit. However, Sound Transit has not endorsed or committed to any type of station at this location. In fact, as shown on Exhibit L.22, Sound Transit considered and ruled out a station at this location in 1999 when considering the present-day service that passes through Point Wells but does not stop there.

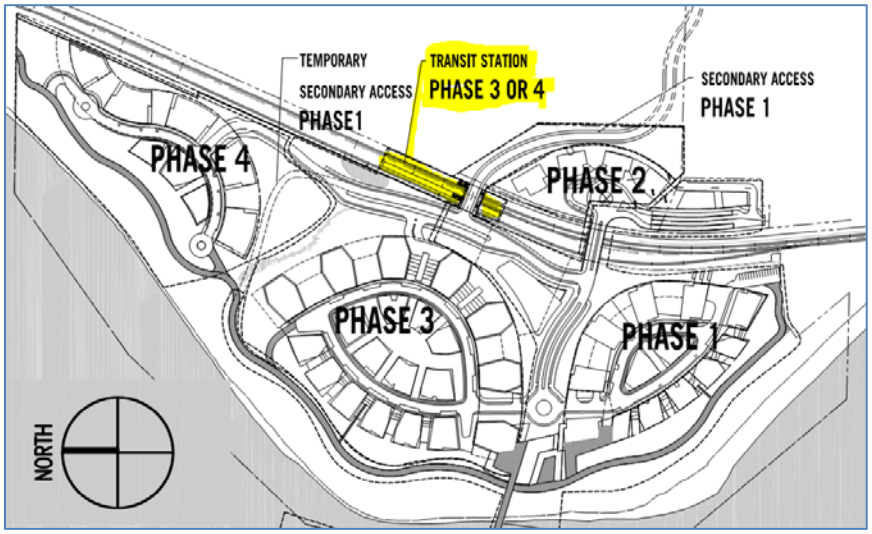


Figure 9 – Proposed Transit Station in BNSF Right-of-Way (Adapted from Sheet A-052)

The project also includes a deep-water dock that currently serves as a marine fuel depot. At present, there are three piers connecting to this dock, although the proposed action would replace all three with a new centrally located pier. The project would repurpose the dock for recreational uses and the new pier would provide public access (see Figure 10 below). The dock is outside the property boundary of the 61-acres owned by the Applicant and on submerged land leased from the Washington State Department of Natural Resources (see Exhibit A.9).

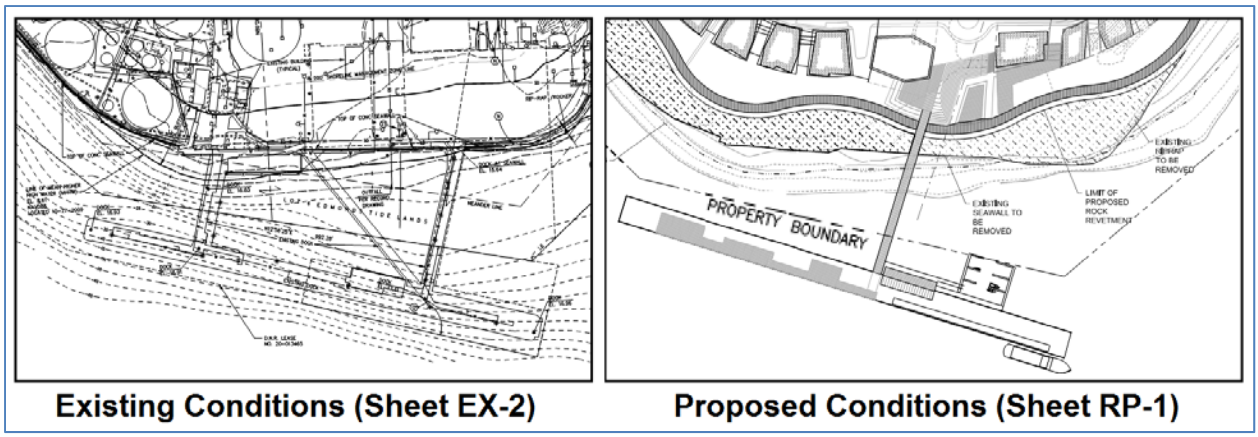


Figure 10 – Existing and Proposed Dock Access

To allow beach restoration, the proposal includes removing an existing seawall and associated riprap. Replacing these would be a new rock revetment behind which would be an esplanade that would also double as an emergency vehicle access. This work would occur in the Snohomish County Shoreline Management Program (SC SMP) jurisdiction. Work and mitigation related to the seawall replacement and beach restoration – as well as demolition of the existing piers, construction of a new pier, and dock refurbishment – would occur both in the SC SMP jurisdiction and on property owned by the Washington State Department of Natural Resources (DNR) outside the property boundary of the other project parcels (**Figure 11**, below).

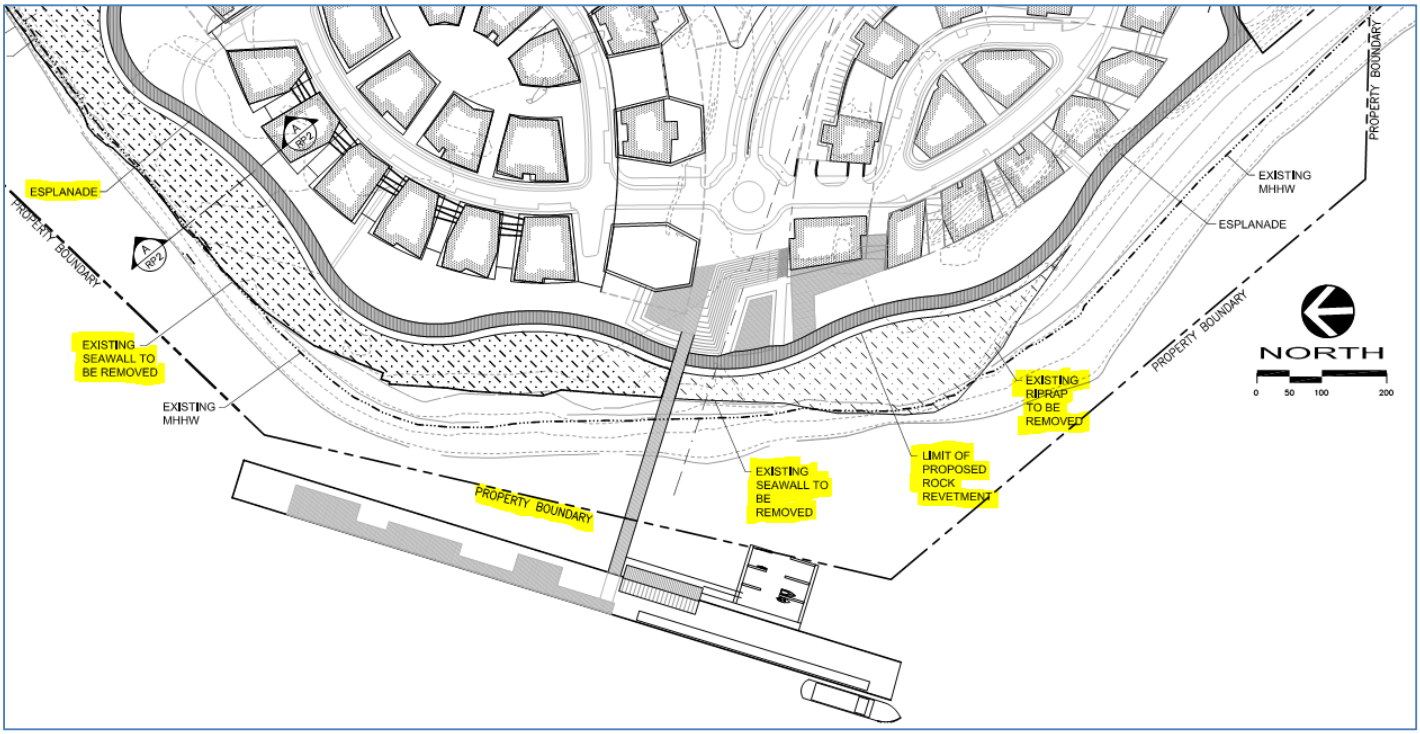


Figure 11 – Seawall, Pier, and Dock (Adapted from Sheet RP-1)

Vesting

A complete Short Plat application (11-101007 SP) and a Land Disturbing Activity Permit application (11-101008 LDA) were submitted on February 14, 2011, meaning that those applications are reviewed under the regulations in effect on the date of application. A complete Urban Center Site Plan (11-101457 LU), Shoreline Management Permit (11-101461) and Retaining Wall Permit Application (11-101464 RC) were submitted on March 4, 2011, and are reviewed under the regulations in effect on the date of application. A Parking Variance Application was submitted on April 17, 2017, but is not considered under the regulations in effect on the date of submittal because it is not a type of application that vests under state law or County Code.

Under Washington State's Vested Rights Doctrine, certain development applications are reviewed under the land use control ordinances in effect on the date of submittal of a complete application. However,

not all regulations relating to land use are land use control regulations. Washington Courts have ruled that vesting regulations and application expiration periods are not land use control ordinances, and therefore, not subject to vesting. Graham Neighborhood Ass'n v. F.G. Associates, 162 Wn. App. 98 (2011).

The application of the Vested Rights Doctrine to this project is complicated by a recent Washington State Supreme Court decision, Snohomish County v. Pollution Control Hearings Board, 187 Wn.2d 346 (2017). In that case, the Court held that applicants do not vest to drainage regulations adopted in compliance with an NPDES permit issued under the federal Clean Water Act. The County's most recent drainage regulations were adopted on January 11, 2016, in compliance with its Phase I Municipal Stormwater Permit. Pursuant to the Phase I Permit, the County is required to apply those new drainage regulations to all projects that have not "started construction" by June 30, 2020. "Started construction" means, at a minimum, the site work associated with and directly related to the approved project, such as "grading the project site to final grade or utility installation." (Phase I Permit, Special Condition S5.C.5.a.iii). Further, Ecology has opined that for phased projects, each phase will have its own "started construction" date, and any phase for which construction starts after June 30, 2020, must comply with new drainage regulations. This means that this project must start construction June 30, 2020, or the County will be required to reassess the project under its 2016 drainage regulations. Under Ecology's interpretation of the Phase I Permit, the County's 2016 drainage regulations apply to each project phase that has not started construction by June 30, 2020.

Nomenclature

Related to vesting, this Staff Report refers to applicable versions of code in the following manner: SCC 30.62A.150 [2007]. The [2007] signifies that the version of this code section that the project has vesting to was adopted in 2007. If the text was SCC 30.61.220 without a year in brackets, it would be a reference to present-day code, i.e. the version of this section adopted in 2003 and which is still in effect.

Since individual sections of chapters are updated on an irregular basis, a reference to Chapter 30.62A SCC implies a reference to the effective sections of the chapter at the time of project application in 2011.

Expiration

Snohomish County adopted new application expiration regulations, which became effective on February 19, 2017. Amended Ordinance No. 16-073. The applicability section provides that the regulations shall apply to "existing applications set forth in SCC Table 30.70.140(1) that were deemed complete but that were not approved or denied prior to April 1, 2016, provided that the department shall provide notice to the applicant one year prior to the expiration date of the application. By letter dated, May 2, 2017, PDS notified the Applicant of the new expiration regulations that apply to this project and provided notice to the Applicant one year prior to the expiration date as required by SCC 30.70.140(1)(b).

Milestones

Below are listed several key dates relevant to the review of the proposed project. A detailed chronology of the project's history is contained in Appendix A of this staff recommendation.

February 14, 2011	Application submittal for LDA and SP by Applicant
March 4, 2011	Application submittal for LU, SM, and RC by Applicant
April 12, 2013	Review Completion Letter sent to the Applicant requesting additional information required by County Code by April 12, 2014
February 2, 2014	SEPA Determination of Significance & Request for Comments Published
March 12, 2014	2nd *Notice of Determination of Significance and Request for Comments on Scope of EIS* Published to correct a posting defect in the original notice
May 15, 2014	First application extension granted by PDS at request of Applicant
April 21, 2015	Second application extension granted by PDS at request of Applicant
March 31, 2016	Third application extension granted by PDS at request of Applicant. June 30, 2018, application expiration date established
April 17, 2017	Applicant submits Application Resubmittal to PDS
October 6, 2017	Review Completion Letter sent to the Applicant identifying information required by County Code that Applicant still failed to provide to PDS

Third Party Comments & Issues

Many members of the public and several agencies have commented and raised issues concerning the project. The most frequently raised issue concerns traffic impacts. Some commenters have expressed support for cleaning up the contamination at the site and for providing new public access to Puget Sound. Generally, when PDS forwards a recommendation of approval, PDS identifies measures that could be taken to mitigate issues of concern. However, mitigation is not provided in this case as PDS is making a recommendation of denial to the Hearing Examiner under SCC 30.61.220.

A summary of third party comments & concerns follows:

Town of Woodway

- Inability to maintain adopted traffic level-of-service standards
- Road safety and maintenance
- Landslide hazards
- Visual Impacts
- Taxes receipts and expenses depending on hypothetical annexation scenarios
- Desire to coordinate drainage system maintenance and upgrades with changes at Point Wells

City of Shoreline

- Inability to maintain adopted traffic level-of-service standards
- Road safety and maintenance
- Public process with BSRE for Transportation Corridor Study has stalled
- Landslide hazards
- Visual Impacts
- Taxes receipts and expenses depending on hypothetical annexation scenarios

Shoreline Fire Department

- Disagreement with proposed fire station design and location

Tulalip Tribes

- Possible disturbance of cultural artifacts
- Impacts to salmon and wildlife

Washington State Department of Archeology and Historic Preservation (DAHP)

- Project will require and an archeological survey
- May require DAHP permits under RCW 27.53

Washington State Department of Transportation

- Internal capture rate in traffic study is unrealistic[1]

[1] This comment was on a 2011 version of the traffic study that put the internal capture rate at 38%. WSDOT has not commented on the most recent version of the study from 2016, Exhibit C.1, which puts the figure at 23%.

Members of the Public

- Traffic, road safety and noise
- Visual impacts
- Neighborhood compatibility
- Landslides
- Effect on schools and libraries

Eight Major Areas of Conflict with Snohomish County Code

The initial applications for this project proposal were submitted in 2011. PDS issued its first comprehensive review letter in 2013. That letter identified numerous areas of conflict between the project proposal and applicable codes, and identified numerous required reports and documents that were missing. Despite attempts to obtain this critical information over the years, to date there remain large information gaps and significant conflicts between the project as proposed and applicable code that lead PDS to conclude the project cannot comply with applicable codes and regulations. For that reason, PDS is recommending the project be denied without the completion of an Environmental Impact Statement (EIS).

This staff report first describes the most significant information gaps and areas of conflict between the proposed project and the Snohomish County Code and related requirements. These issues may or may not be insurmountable. However, because the Applicant has not provided information to resolve them, PDS must conclude code requirements cannot be met. Following the discussion of these major issues, the report proceeds to identify other, less severe, conflicts with applicable regulations based on the incomplete information about the project on file. The eight major areas of information gaps and conflict between the proposal and applicable requirements are:

1. **Failure to Document Feasibility and Code Compliance of Second Access Road** (SCC 13.05.020, SCC 30.24.060 [2009], SCC 30.24.080 [2009], SCC 30.53A.512, SCC 30.62A.140 [2007], SCC 30.62A.150 [2007], SCC 30.62B.140(1)(a) & (1)(b) [2007], SCC 30.62B.320 [2007], SCC 30.62B.340 [2007], EDDS 3-01 (B)(5) [2010], EDDS Table 3-1 [2010], and EDDS Standard Drawing 3-050 [2010]);
2. **Failure to Provide Acceptable Traffic Report and Assumptions Resulting in Noncompliance with Concurrency Requirements and Failure to Mitigate Traffic Impacts** (Title 13 SCC, Chapter 30.66B SCC, SCC 30.34A.080 [2010], SCC 30.66B.050(2))
3. **Failure to Provide Appropriate Building Setbacks for Tall Buildings from Lower Density Zones and Failure to Document Evidence for Access to High Capacity Transit for Building Heights Over 90 Feet** (SCC 30.34A.040(1) & (2) [2010])
4. **Failure to Satisfy Access to Public Transportation and Transit Compatibility (**SCC 30.34A.085 [2010] and DPW Rule 4227)
5. **Failure to Furnish Information on Contamination Necessary to Determine Approvability of Drainage Proposal and Compliance with Critical Areas Regulations** (Chapter 30.62A SCC, Chapter 30.62C SCC, Chapter 30.63A SCC, SCC 30.62C.140 [2007], and SCC 30.63A.110 [2010], and the Snohomish County Drainage Manual, Vol. III, section 3.3.7 [2010])
6. **Failure to Provide Adequate Parking** (Chapter 30.26 SCC, SCC 30.26.020 [2007], SCC 30.26.065, SCC 30.34A.050 [2010] (recodified in SCC 30.26.032), SCC 30.26.085, IBC 1101.2, IBC 1104.1, IBC 1106.5, ICC A1171 Section 502.8)
7. **Failure to Address Shoreline Management Regulations** (Chapter 30.44 SCC, Chapter 30.62A SCC, Chapter 30.62B SCC, Former SCC 30.44.410, SCC 30.62A.150 [2007], SCC 30.62A.460 [2007], SCC 30.62B.140 [2007])
8. **Failure to Comply with Code Provisions Regarding Critical Areas, Including Geologically Hazardous Areas, Wetlands and Fish & Wildlife Habitat Conservation Areas, and Critical Aquifer Recharge Areas** (Chapter 30.62A SCC, Chapter 30.62B SCC, Chapter 30.62C SCC, specifically including SCC

30.62A.150 [2007], SCC 30.62A.160 [2010], SCC 30.62A.310 [2010], SCC 30.62A.320 [2010], SCC 30.62A.330 [2010], SCC 30.62A.340 [2010], SCC 30.62A.460 [2007], SCC 30.62B.130 [2007], SCC 30.62B.140 [2007], SCC 30.62B.320 [2007], SCC 30.62B.340 [2007], SCC 30.62B.350, and SCC 30.62C.140 [2007])

The Applicant has not provided several required technical reports or other information that are part of the requirements for demonstrating consistency with code, making it impossible to conclude the project meets code. Additionally, without this required information, Snohomish County cannot adequately identify probable significant adverse impacts from the project or measures that could mitigate those impacts. For some issues, such as impacts to wetlands, compliance with code requirements represent adequate mitigation, unless the SEPA process uncovers additional information requiring special mitigation measures.

To comply with the SEPA Determination of Significance, the Applicant and Snohomish County began to prepare a Draft EIS. However, work on the Draft EIS could not proceed due either to information gaps or clear conflicts with regulatory requirements. In other words, it was impractical to continue environmental review of a project proposal that significantly conflicted with code requirements and lacked adequate information to evaluate impacts. . Snohomish County staff and the Applicant's team meet on September 20, 2016, to discuss the status of the Draft EIS. On November 15, 2016, Snohomish County followed up with a letter to the Applicant (Exhibit K.18) saying:

> As discussed at [the September 20, 2016 meeting], PDS staff have previously identified what they believe are numerous internal inconsistencies and conflicts with County Code requirements as it relates to the current permit applications which are more fully set forth in our original Review Completion letter dated April 12, 2013. While there have been subsequent communications between PDS and the applicant regarding these issues, there have been no resubmittals by the applicant to revise the project to address compliance with the code provisions cited (most notably compliance with the County's critical areas regulations).
>
> As further discussed, compliance with applicable County Code provisions is integrally related to environmental review of the project under SEPA. Specifically, SCC 30.61.122 recognizes that compliance with various County environmental development regulations such as protection of wetlands and fish & wildlife habitat (Ch. 30.62A SCC), and geologically hazardous areas (Ch. 30.62B SCC), constitute adequate analysis and mitigation of the specific significant probable adverse environmental impacts of the development activity with regard to such impacts for purposes of SEPA (as allowed under RCW 43.21C.240). Accordingly, it was generally recognized at our meeting on September 20, 2016, that a revised application is needed addressing the foregoing issues before the County can proceed with preparation of the Draft Environmental Impact Statement in this matter.

On April 17, 2017, the Applicant responded with revisions to its application and some supporting reports. However, as the October 6, 2017, Review Completion Letter (Exhibit K.31) describes in detail and summarizes on page 13, the revisions from the Applicant only fully responded to one of the issues in the April 12, 2013, Review Completion Letter (Exhibit K.4), and did not respond at all to half of the issues

identified by PDS. There remain several missing reports and significant conflicts between the revised project and applicable code requirements.

Since the Applicant has not adequately responded to Snohomish County's review comments, the County cannot proceed with preparation of a Draft EIS. Until the Applicant can demonstrate the proposed project complies with code, a Draft EIS cannot adequately identify probably significant adverse impacts from the project or measures that could mitigate those impacts.

1. Failure to Document Feasibility and Code Compliance of Second Access Road

The Applicant failed to provide application materials for a second access road to the development site that comply with the Snohomish County Code and other applicable regulations. Originally, the Applicant denied the need for a second access road. However, on April 17, 2017, the Applicant submitted a revised site plan proposing a second access road. The Applicant has not provided required reports and information to demonstrate the proposed second access road meets applicable County Code requirements.

A second access road is required for any major redevelopment at Point Wells to comply with the Fire Code (SCC 30.53A.512 - *Fire Apparatus Access Roads*). Additionally, a second access road is required by the Engineering Design and Development Standards (EDDS) requirement that roads serving more than 250 average daily trips shall be connected in at least two locations with another road or roads (EDDS 3-01(B)(5)) [2010]; SCC 13.05.020).

In the 2011 version of the application, the Applicant included only one access to the site via Richmond Beach Drive. At that time, and continuing to today, the Fire Code and EDDS require a second access road to the Point Wells project (SCC 30.53A.512; SCC 13.05.020; EDDS 3-01(B)(5)) [2010]). These requirements were documented in the April 12, 2013, Review Completion Letter (Exhibit K.4). Two years later, on August 27, 2015, the Applicant transmitted a draft of a *Secondary Access Report dated August 26, 2015* (Exhibit C.21) to PDS that examined several possible routes for a second access road and the Applicant concluded on page 7 that:

> Based on a review of the site conditions and constraints mentioned above (and that none of the secondary access options are deemed to be viable), it appears that the provision of a secondary access to the site to provide for public safety and welfare, whether for public vehicular access or restricted to emergency and possibly pedestrian use, is not warranted. The project design includes appropriate measures to allow for the safe, efficient circulation of and access for vehicles, including emergency vehicles, within, to and from the development.[2]

[2] Snohomish County and the Applicant had regular communication regarding the requirement for a second access to the site, including an email from Darryl Eastin, Principal Planner, to Gary Huff, BSRE, on May 13, 2014, that said "EDDS 3-01(5) would apply to the Point Wells project […] two road access point are required to the Point Wells project." (The May 12, 2014 email is part of Exhibit M.7). The conclusion put forth by the Applicant in the

On September 17, 2015, PDS responded that it did not agree with the Applicant's conclusion that a second access was not warranted. PDS also provided comments on the August 26, 2015, Draft Secondary Access Report (Exhibit K.11)[3]. In the letter dated September 17, 2015, PDS provided that "BSRE will need to demonstrate that the proposed project adequately provides for both general vehicular access and emergency vehicle access" and emphasized that a second access route was included in the scoping for the Point Wells EIS.

On April 17, 2017, the Applicant submitted a revised site plan (Exhibit B.1) that included a second access road. However, the Applicant did not submit the required supporting documentation to demonstrate the second access road is feasible or complies with County Code. That required documentation includes:

- A site plan that depicts the entirety of the proposed second access road from the project site to its connection with 116th Avenue West, including existing contours, finished grade, and property interests that will need to be acquired;
- Supporting documentation to show the feasibility of constructing the road as proposed, which includes a geotechnical analysis (SCC 30.62B.140(1)(b) [2007]);
- A drainage report showing how surface water would be conveyed from the roadway and landslide hazard areas, including any surface water conveyed within existing drainage easements that would be impacted by road construction and location (SCC 30.62B.320(1)(a)(iii) [2007]);
- Documentation supporting a deviation from the prohibition on development activities in a landslide hazard area (SCC 30.62B.340 [2007]);
- Analysis of the impact of the second access road on Chevron Creek and the wetland identified as Wetland A in the April 17, 2017, Critical Areas Report (SCC 30.62A.140);
- A mitigation plan for impacts to Chevron Creek and Wetland A (SCC 30.62A.150 [2007]); and
- Documentation of a road design that could be converted to a public road (SCC 30.24.060 [2009]) which means complying with EDDS or requesting and receiving a deviation from EDDS, and where the applicable EDDS requirements (unless a deviation is requested and granted) call for a standard 50-foot right-of-way (EDDS Table 3-1 [2010], with a 24-foot pavement width plus planter strip (5-feet) and sidewalk (5-feet) on each side of the road (EDDS Standard Drawing 3-050 [2010]) which create the pedestrian facilities required by SCC 30.24.080 [2009].

Of particular concern is the ability of the Applicant to comply with critical areas regulations in constructing and maintaining the proposed second access road. The Applicant's April 17, 2017, site plan (Exhibit B.1) depicts a second access road that, as proposed, would traverse a landslide hazard area, cross Chevron Creek, and impact a wetland before connecting to 116th Avenue West in the Town of

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Secondary Access Report was a position that Snohomish County never supported because it was in direct conflict with EDDS 3-01(B)(5) [2010] and SCC 30.53A.512.

[3] Exhibit K.11 is available at https://snohomishcountywa.gov/DocumentCenter/View/50253

Woodway. This route requires a geotechnical report addressing landslide hazards per SCC 30.62B.140(1)(b) [2007].

The geotechnical reports provided by the Applicant (Exhibits C.16 and C.17) do not specifically address the proposed second access route. There is general discussion of several route options in the *Draft Final Subsurface Conditions Report* submitted by the Applicant dated August 4, 2016 (Exhibit C.17). However, that report does not demonstrate how the route proposed in 2017 satisfies the mandatory criteria for design of work proposed in landslide hazard areas as required in SCC 30.62B.320(1)(a) [2007] or the mandatory risk avoidance criteria in SCC 30.62B.320(1)(b) [2007].

The most recent Critical Areas Report provided by the Applicant on April 17, 2017 (Exhibit C.15) does not contemplate the second access road crossing Chevron Creek or sloping wetland. Nor has the Applicant provided any kind of mitigation plan for the impacts to Chevron Creek and the wetland as required by SCC 30.62A.150 [2007].

With respect to where the secondary access road would cross the railroad, the Snohomish County Chief Engineering Officer in Exhibit K.22 at page 5 stated that placement of the road "must be evaluated to assess foundation support and stability of the overpass structure over the railroad tracks and within cut and fill slopes heading up the slope to the east to tie into the Woodway roadway system." That evaluation has not been provided by the Applicant.

In sum, the Applicant has failed to demonstrate that it can comply with the code provisions and rules:

1. SCC 13.05.020,
2. SCC 30.24.060 [2009],
3. SCC 30.24.080 [2009],
4. SCC 30.53A.512,
5. SCC 30.62A.140 [2007],
6. SCC 30.62A.150 [2007],
7. SCC 30.62B.140(1)(a) & (1)(b) [2007],
8. SCC 30.62B.320 [2007],
9. SCC 30.62B.340 [2007],
10. EDDS 3-01 (B)(5) [2010],
11. EDDS Table 3-1 [2010], and
12. EDDS Standard Drawing 3-050 [2010]).

2. Failure to Provide Acceptable Traffic Report and Assumptions, Resulting in Noncompliance with Concurrency Requirements and Failure to Mitigate Traffic Impacts

The County Engineer can only recommend approval of a development if they determine that the development is concurrent under Chapter 30.66B SCC and that adequate provisions for access and mitigation of the development's transportation impacts on the road system are made under Title 13 SCC. In approving or permitting a development, the Hearing Examiner must consider the County Engineer's recommendations and act consistent with Chapter 30.66B SCC. The County Engineer's recommendation will be based on a traffic study. Traffic studies are reviewed by the Director of Public Works or their designee; traffic studies are reviewed for accuracy and proper methodology (SCC 30.66B.045).

The Public Works Director's designee reviewed the most recent traffic study submitted by the Applicant, a report prepared by David Evans and Associates dated August 2016 and titled *Point Wells Expanded Traffic Impact Analysis* (Exhibit C.1).[4] This report along with its appendices (Exhibits C.2 to C.12) are collectively the 2016 ETIA. Public Works concluded the methodology utilized by the Applicant in the 2016 ETIA "is not well justified nor would [the traffic report and assumptions proposed by the Applicant] be a fair representation of the development" (Exhibit K.28, page 2). Without a traffic report that utilizes realistic assumptions to identify potential impacts from the project, Snohomish County cannot identify the magnitude of impacts that might result from the project or possible mitigation measures to alleviate those impacts. Thus, the County Engineer cannot conclude concurrency requirements are met, cannot conclude adequate provisions for access and mitigation of impacts have been made, and cannot recommend approval to the Hearing Examiner under SCC 30.66B.050(2).

The 2016 ETIA is a draft report; a final report was never submitted to PDS. The bulleted list below identifies the most recent relevant versions of applicable appendices to the 2016 ETIA (including exhibit numbers and includes hyperlinks to them).

- (Exhibit C.2) DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016 Appendix A
- (Exhibit C.3) DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates Aug 2016 Appendix B
- (Exhibit C.4) DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates Aug 2016 App. B1
- (Exhibit C.5) DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016 Appendix D
- (Exhibit C.7) DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016 Appendix F
- (Exhibit C.8) DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates Aug 2016 App. F1

[4] The 2016 ETIA, including Appendix C, is available at https://snohomishcountywa.gov/DocumentCenter/View/45396.

- (Exhibit C.9) DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016 Appendix G
- (Exhibit C.10) DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016 Appendix I
- (Exhibit C.11) DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016 Appendix J
- (Exhibit C.12) DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates Aug 2016 App. J1

The following discussion analyzes the three primary traffic assumptions that are not supported by documentation provided by the Applicant.

Issue 1: Internal Capture Rate Assumption.

The "internal capture rate" is an assumption for how many trips will stay within the site and not impact surrounding roads, for example residents of Point Wells going to dinner at the onsite restaurants rather than somewhere in the surrounding neighborhoods. This rate is important because internally captured trips do not affect the surrounding road network and do not require impact mitigation. If an internal capture rate is overstated, then the number of trips leaving and returning to the project will be underestimated, and potential impacts from those uncaptured trips will not be mitigated. Additionally, it will not be possible to determine whether the concurrency requirements of Chapter 30.66B are met.

The issue of establishing a realistic internal capture issue was first raised by PDS in the June 7, 2011, Transportation Impact Mitigation and Concurrency Review memo from PDS Traffic Engineer (Exhibit K.6). At the time, the Applicant predicted the internal capture rate for the project to be 38%. The PDS Traffic Engineer memo (p. 1) asked for "documentation that justifies the percentages used for cross-over [calculations]."

The internal capture rate was revised, and the 2016 ETIA assumes that after the project is fully built, the evening peak hour internal capture rate will be 21% of total trips during the PM peak (see Exhibit C.3 at page 86).[5] However, this assumption still is not supported by documentation. Indeed, the uses modeled in the 2016 ETIA do not even match the uses described on the site plan dated April 17, 2017.[6] As documented in the Review Completion Letter dated October 6, 2017 (see pages 15-18), the site plan does not show as much commercial space (or as many residential units) as was modeled in the 2016 ETIA. Having the site plan match the ratio of commercial to residential uses in the traffic model is important because this affects the internal capture rate. If there is less commercial space relative to residential space, then the internal capture rate will be lower and traffic impacts higher. In other words, a traffic model based on the site plan dated April 17, 2017, would have a greater traffic impact than is

[5] Exhibit C.3 is available at https://snohomishcountywa.gov/DocumentCenter/View/45389.

[6] This statement is with respect to the site and building plans shown on Sheets A-040 to A-103 and A-300 to A-311. The data tables on Sheets A-200 to A-201 contain figures close to what is in the 2016 ETIA, however, the data tables do not accurately reflect the more specific information shown on the site and building plans.

disclosed in the 2016 ETIA because the internal capture assumption is too high, in part because there is less commercial space relative to residential space on the plans than was used in the model.

Further, the methodology used in the 2016 ETIA relies on a model called the NCHRP 684 report and procedure. PDS noted in Exhibit K.28 that the Point Wells project proposed 96% residential uses and 4% commercial or retail uses. However, the NCHRP 684 report relies on six large mixed-use developments in other parts of the country that were (a) more centrally located than Point Wells and (b) had a much higher ratio of employment uses relative to residential uses. Thus, the NCHRP 684 report and its procedure for estimating internal capture rates will underestimate the traffic impacts of this project. In its memo, Public Works stated the "new numbers [e.g. 21% PM Peak Hour internal capture] are not an appropriate estimation for the Point Wells development." (Exhibit K.29, p. 1). Public Works further found "the actual internal capture rate of the Point Wells development would be significantly different (likely lower value) than the forecasted data [provided by the Applicant]." (Exhibit K.29, p.2)

Issue 2: Transit Ridership Assumption.

The 2016 ETIA confuses and conflates the Transportation Demand Management requirements in SCC 30.34A.080 [2010] with the Access to Transit requirements in SCC 30.34A.085 [2010]. This results in an overestimate of likely transit ridership and thereby means the 2016 ETIA cannot reliably demonstrate concurrency or determine the significance of traffic impacts that the project will cause.

SCC 30.34A.085 [2010] provides that business or residential buildings with an urban center must be (1) constructed within one-half mile of existing or planned stops or stations for high capacity transit routes; (2) provide for new stops or stations for such high capacity transit routes; or (3) provide a mechanism such as van pools to transport people on a regular schedule in high occupancy vehicles to operational stops or stations for high occupancy transit. The Applicant proposed to comply with this requirement by providing van pools or private bus service from the site to a planned light rail station in the City of Shoreline. Separately, SCC 30.34A.080(9) [2010] provides: "Applicants must provide transportation demand management measures for developments pursuant to Chapter 30.66B SCC with the potential for removing a minimum of 15 percent of the development's peak hour trips from the road system."

The Applicant confuses these two provisions in the 2016 ETIA. The 2016 ETIA assumes that 15% of all trips will utilize transit (see Attachment B to the 2016 ETIA [Exhibit C.3] Table 3, page 12). To justify the 15% share, the 2016 ETIA asserts:

> The level of transit use assumed […] correlates to the level of transit amenities and operations that the Project owner is committed to providing to the Project **in accordance with SCC 30.34A.080** [2010] Circulation and Access, and more specifically Subsection 9 which states: *Applicants must provide transportation demand management measures for developments pursuant to chapter 30.66B SCC with the potential for removing a minimum of 15% of the development's peak hour trips from the road system*. It is expected that as the Project develops and is completed that the the Project owner will coordinate with public transit agencies to have permanent solution through an interlocal agreement. (Italics original, bolding added)

The 2016 ETIA misreads and misapplies SCC 30.34A.080(9) [2010] by attempting to explain how it meets that section with other requirements in SCC 30.34A.085 [2010]. However, the Transportation Demand Management (TDM) requirement in SCC 30.34A.080(9) [2010] is part of concurrency mitigation under Chapter 30.66B SCC and is distinct from the Access to Public Transportation requirements in SCC 30.34A.085 [2010]. Snohomish County has explained this distinction to the Applicant on numerous occasions. See exhibits K.4, K.6, K.7, and K.8.

Apart from incorrectly tying the 15% transit assumption to SCC 30.34A.080(9) [2010], the Applicant does not provide adequate documentation to explain why the 2016 ETIA assumes 15% of the development's peak hour trips will use transit. Without this documentation, the assumption cannot be relied on to yield an accurate estimation of traffic impacts generated by the project.

Transportation Demand Management (SCC 30.34A.080(9) [2010]). This section requires that, "Applicants must provide transportation demand management measures for developments pursuant to Chapter 30.66B SCC with the potential for removing a minimum of 15 percent of the development's peak hour trips from the road system." As part of meeting concurrency requirements, applicants must provide an integrated pedestrian walkway system to satisfy 5 of the 15% trip removal via TDM measures (SCC 30.24.080 [2009]). The sidewalk system is a separate issue from the owner's commitment to transit quoted above that the 2016 ETIA cites as justification for reducing 15% of the trips via transit.

Returning to the actual requirements of SCC 30.34A.080(9) [2010], the June 23, 2017 Transportation Impact Mitigation and Currency Review memo (Exhibit K.25) observes that the "submitted TDM plan does not match the most recent site plan" which is a reference to the incomplete sidewalk system shown on the April 17, 2017 version of the plans. See also review of SCC 30.24.080 [2009] in Exhibit K.31 on pages 39-47. The application does not meet the requirement in this section to provide Transportation Demand Management.

Issue 3: Assumption Regarding Timing of Phased Development

To identify and mitigate impacts, the Applicant must provide analysis that combines traffic from Point Wells with anticipated background growth in the area. The 2016 ETIA limits background growth to 0.25% per year, a figure that is only realistic for the residential area immediately adjacent to Point Wells and where there is little opportunity for infill development. However, background growth will include major redevelopment near two light rail stations (expected to open in 2023) and continuing redevelopment along the SR-99 corridor in the City of Shoreline. This development will affect many of the same intersections and road segments that the 2016 ETIA shows as being impacted by Point Wells. However, the 2016 ETIA does not account for this background growth. Failure to account for this background growth is due, in part, to an unrealistic timetable for construction at Point Wells. The assumption regarding the timing of phased development utilized in the 2016 ETIA is not consistent with other documentation submitted by the Applicant.

The 2016 ETIA assumes completion of the project in four phases. It combines modeled impacts from the project with an assumption for increased background traffic to arrive at an estimate for impacts to the surrounding area. The 2016 ETIA then develops mitigation proposals from these projected impacts. The 2016 ETIA assumes that Phase 1 will be completed and occupied in 2020, Phase 2 in 2025, Phase 3 in 2030, and Phase 4 in 2035.

It is not realistic to assume construction of Phase 1 will be completed by 2020. The April 17, 2017, Critical Areas Report supplied by the Applicant (Exhibit C.15) includes a brief overview of contamination at the site. In this Critical Areas Report, it is "assumed that a final remediation plan will be implemented before BSRE finalizes the Point Wells development plan" (page 64). Ostensibly, if remediation compliant with Model Toxic Control Act Cleanup Regulations is pursued, the Applicant will be required to submit a remediation plan to the Washington State Department of Ecology. In turn, Ecology will have to conduct its own environmental review of the proposed remediation plan. However, the Applicant has not provided the County any evidence that it has submitted a Remedial Investigation and Feasibility Study to Ecology or that the Applicant has commenced any voluntary cleanup process with Ecology. Additionally, the Applicant's Critical Areas Report says that "unrestricted land use cleanup criteria for groundwater will likely not be met for the site as a whole for 10 to 15 years after cleanup begins" (page 66). This is due to the length of time it would take to remove, cleanup, and monitor the site before construction may begin. Adding the timetable estimated in the 2017 Critical Areas Report to the present-day (2018), construction at the site will not begin until 2028-2033. Hence, the 2017 Critical Areas Report supplied by the Applicant refutes the timing of traffic assumptions in the 2016 ETIA, which assumes occupancy of Phase 1 in 2020. The assumptions regarding the timing of phased development are simply infeasible. Therefore, the 2016 ETIA underestimates the traffic impacts of the project combined with background growth in the area.

Summary of Concerns relating to the 2016 ETIA and assumptions

The proposed development cannot be approved unless a concurrency determination is made under Chapter 30.66B SCC and until adequate provisions for access and mitigation of the development's transportation impacts on the road system are made as provided under Titles 13 and 30 SCC. The Department of Public Works has determined under SCC 30.66B.045 that the 2016 ETIA is not accurate and does not employ proper methodology. The County Engineer, therefore, cannot conclude under SCC 30.66B.050 that the project will meet concurrency requirements or mitigation traffic impacts.

3. Failure to Provide Appropriate Building Setbacks for Tall Buildings from Lower Density Zones and Failure to Document Evidence for Access to High Capacity Transit for Building Heights Over 90 Feet

The Point Wells proposal is not consistent with the building height and setback requirements of subsections (1) and (2) of SCC 30.34A.040 [2010] *Building Height and Setbacks*. The magnitude of these inconsistencies has significant impacts on the Point Wells proposal, as the height of as many as 24 of the 48 proposed buildings is in direct conflict with the county code (see **Table 1** below).[7] The Applicant has not provided information establishing code compliance or redesigned the proposal to resolve these code conflicts. As a result, denial of the proposal is warranted.

Table 1 – Number of Buildings in Conflict with Provisions in SCC 30.34A.040 [2010]

Area	Number of Buildings	Number of Buildings in Conflict with SCC 30.34A.040(1) [2010]	Number of Buildings in Conflict with SCC 30.34A.040(2) [2010]	Number of Buildings Compliant with both Subsections
South Village	13	6	0	7
Urban Plaza	6	4	6	0
Central Village[8]	21	7	0	14
North Village	8	5	0	3
Total Project	**48**	**22**	**6**	**24**

The first code compliance issue with building heights pertains to the buildings proposed by the Applicant adjacent to property zoned low-density. SCC 30.34A.040(2) [2010] limits building heights in urban centers located adjacent to lower-density zoning. All proposed buildings in the Urban Plaza phase east of the railroad tracks exceed the height allowed in SCC 30.34A.040(2) [2010]. This section stipulates that near low density zones, buildings "must be scaled down and limited in building height to a height that represents half the distance the building or that portion of a building is located from the adjacent" low density zone. PDS raised this concern in the April 12, 2013, Review Completion Letter (Exhibit K.4) under

[7] The April 17, 2017 version of the proposal includes many drafting errors, conflicts, and omissions that make it impossible for Snohomish County to determine the proposed heights of many buildings. It might be that only 22 of the 48 buildings are in conflict; however, the applicant has not provided the required building elevations and the data table on Sheet A-202 conflicts with itself. Comparing Sheets A-103, A-202, and A-311, it is not clear if buildings SV-T5 and SV-T6 would be eight or nine stories tall. Based on Sheet A-311 would make them either 86' or 96' tall. SCC 30.34A.040(1) [2010] establishes a 90' base height limit.

[8] The site plan identifies a "Public Building Site" but not a public building specifically. For purposes of this table, this staff report counts this site as a building and assumes that the building will be less than 90' tall and therefore compliant with SCC 30.34A.040(1) [2010]. However, the application is incomplete with respect to the proposal at this location. For instance, the data table on Sheet A-201 does not list a public building for square footage calculations.

urban center comment "V" on page 4. On April 17, 2017, the Applicant submitted new plans (Exhibit B.1) that did not address this concern.[9] All proposed buildings east of the railroad tracks remain in conflict with SCC 30.34A.040(2) [2010]. **Table 2,** below gives an approximate of evaluation of this conflict based on the proposed building heights shown on Detail 3 of Sheet A-310 of the April 17, 2017 version of the plans.[10]

Table 2 – Approximate Evaluation of SCC 30.34A.040(2) [2010]

Building	Proposed Height	Approximate Distance to R-14,500	Approximate Distance to UR	Approximate Maximum Height Without Variance
UP-T1	175'	422'	112'	61' or as revised by critical area
UP-T2	155'	291'	80'	40' or as revised by critical area
UP-T3	135'	145'	82'	41' or as revised by critical area
UP-T4	125'	36'	129'	18'
Retail-1	20'	30'	194'	15'
Retail-2	20'	30'	233'	15'

The code conflict with SCC 30.34A.040(1) [2010] has an even a greater impact on the proposal. At least 20 and maybe all 22 proposed tower buildings[11] exceeding 90 feet in height conflict with SCC 30.34A.040(1) [2010], see **Figure 12**, next page. [12] SCC 30.34A.040(1) [2010] provides, in relevant part:

> (1) The maximum building height in the UC zone shall be 90 feet. A building height increase up to an additional 90 feet may be approved under SCC 30.34A.180 when the additional height is documented to be necessary or desirable **when the project is located near a high capacity transit route or station** and the applicant prepares an environmental impact statement […] (emphasis added)

[9] PDS's October 6, 2017, Review Completion Letter (Exhibit K.31) describes how the Applicant did not respond to the original comment on pages 81-83.

[10] This approach takes a conservative view of how tall the proposed buildings would be. Based on Sheet A-200, Tower 1 in the Urban Plaza might be 18 stories – 195' – because the table describes two podium floors (retail + office) and then L03-18 as residential. This conflicts with the depiction on Sheet A-310 of a 16-story building standing 175'. Per Sheet A-310, the retail podium would be 20' in height and the office floor as 15' tall. Each residential floor above would be 10'.

[11] As previously described, buildings SV-T5 and SV-T6 might only be 86' and therefore not in conflict with this section. However, the plans are not internally consistent and the proposed height could be 96'. This uncertainty is depicted in Figure 12, next page, which shows the acceptable building heights in green and heights over 90' in red.

[12] To "unlock" the additional 90 feet, an EIS is also required. An EIS was underway that would have included analysis relevant to the height issue in SCC 30.34A.040(1) [2010]. However, as described elsewhere in this recommendation, Snohomish County determined that completion of the EIS was not necessary to make a recommendation.

Under the county code, the maximum building height in the UC zone is 90 feet. An applicant may take advantage of an additional 90 feet, if and only if, the applicant (1) prepares an environmental impact statement and (2) the project is located near a high capacity transit route or station. To date, the Applicant has not provided sufficient information or evidence to satisfy the high capacity transit requirement.

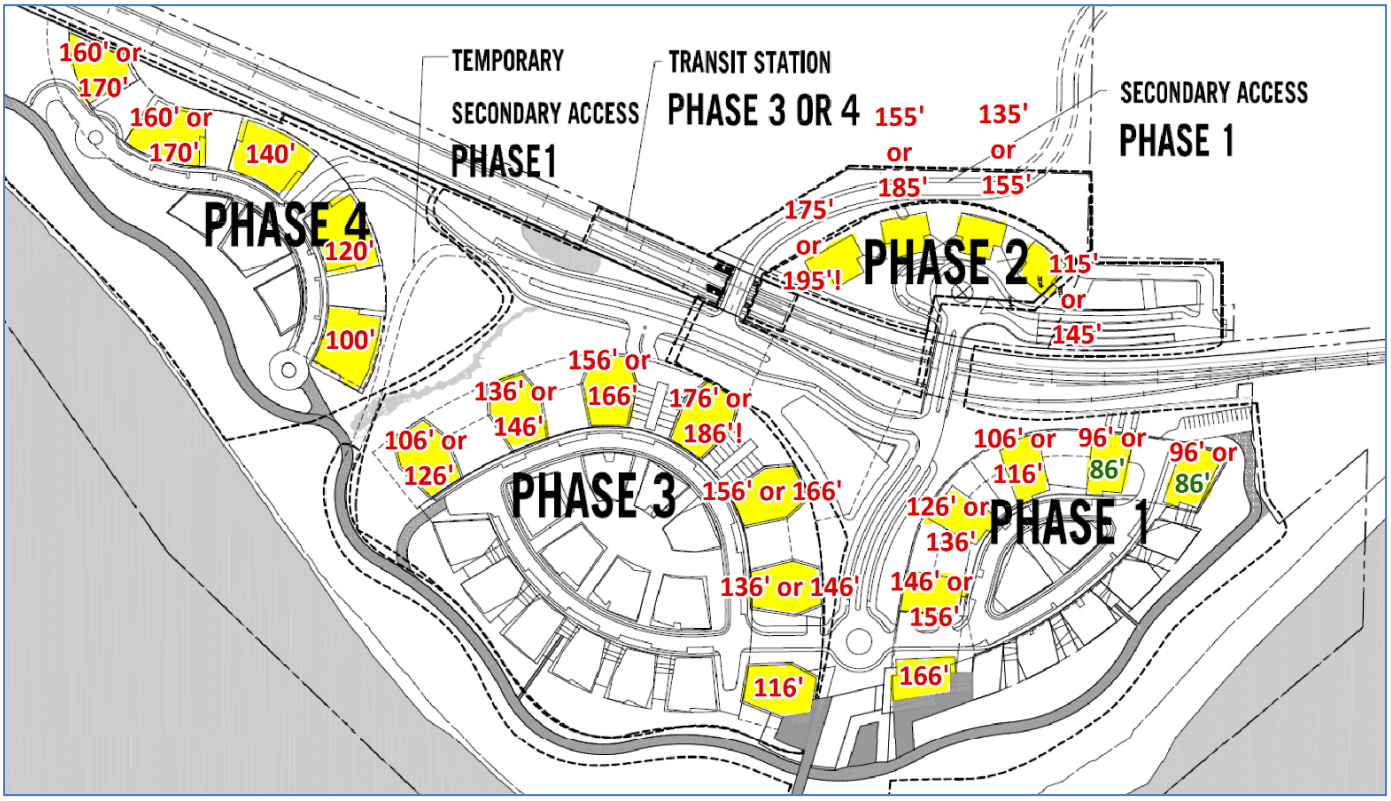

Figure 12 – Buildings over 90' tall or that may be over 90' tall (Adapted from Sheet A-056)

The Central Puget Sound Growth Management Hearing's Board interpreted language in the County's Comprehensive Plan Policies relating to urban centers, and specifically the Point Wells urban center, that is similar to SCC 30.34A.040(1) [2010]. The Board concluded that proximity to an inaccessible high capacity transit route is not sufficient to support an urban center, and specifically ruled that the requirement for "high capacity transit" is not satisfied by an urban center on a commuter rail line without a stop. *City of Shoreline, et al., v. Snohomish County*, CPSGMHB, Coordinated Case Nos. 09-3-0013c and 10-3-0011c, Corrected Final Decision and Order, p. 11). In absence of any other reasonable and contrary interpretation, SCC 30.34A.040(1) [2010] must be interpreted to require proximity, and the ability to access and use high capacity transit. The Applicant has not responded to requests to address this issue. (Exhibit K.31 pages 32-33)

The information provided by the Applicant is inadequate to satisfy the high capacity transit requirement of SCC 30.34A.040(1) [2010]. In the 2016 ETIA the Applicant provided, "It is expected that as the Project develops and is completed that the the Project owner will coordinate with public transit agencies to

have permanent solution through an interlocal agreement" (Exhibit C.3, page 12). In other application materials, the "permanent solution" proposed by the Applicant would be a transit station that would occur in either Phase 3 or 4 of the development (Exhibit B.1, Sheet A-056).

It is the Applicant's burden to show compliance with the high capacity transit requirements of SCC 30.34A.040(1) [2010]. Snohomish County notes here that any station at Point Wells would need to satisfy Sound Transit's requirements for siting such a station. The Applicant would need to furnish evidence from Sound Transit approving plans for the proposed station at Point Wells. While this would be Sound Transit's decision, Snohomish County notes here that the Applicant's site plan makes no provision for transit station parking. Moreover, Sound Transit has already studied the possibility of establishing a Sounder Station at Point Wells and ruled out that option in the *1999 Final Environmental Impact Statement (1999 FEIS) for the Everett—Seattle Station Site Screening* effort. On page 4, Appendix A2 of the 1999 FEIS (Exhibit L.22)[13] describes a hypothetical station at Point Wells called Alternative 4b which would have had 120 parking spaces dedicated to commuter use, whereas the proposal put forth by the Applicant has zero parking spaces dedicated to commuter use. The siting and design criteria identified by Sound Transit includes a requirement that "Potential sites must be […] able to accommodate the ultimate platform length (1,000 feet)" (Exhibit L.22, page 3). Snohomish County notes here that the platform length shown in the Applicant's April 17, 2017 plans is roughly 400 feet, but varies in location depending on which sheet in the plan set one looks at.

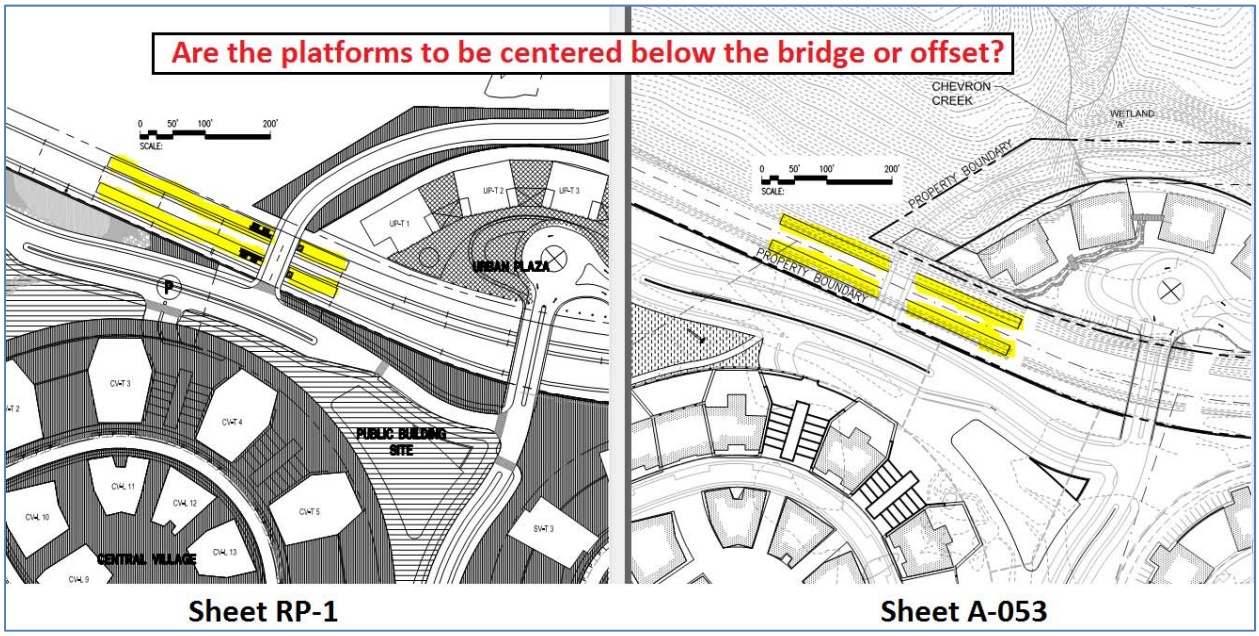

Figure 13 – Different Versions of 400-Foot Platforms in the April 17, 2017 Plans

[13] Exhibit L.22 is available at https://www.soundtransit.org/sites/default/files/documents/pdf/projects/sounder/programeis/appendices/a-2_station_site_screening.pdf

The Applicant has provided PDS no information or evidence that Sound Transit has planned for a transit stop at the project location. The Applicant has also provided PDS no information on whether BNSF would allow such a stop. Further, the Applicant has not justified why construction of a Sound Transit stop can occur in Phase 3 or 4 of the project, *after* buildings exceeding 90 feet in height are constructed and occupied. Finally, the Applicant does not appear to have considered Sound Transit's requirements for such a stop or to have made their own proposals internally consistent to help Snohomish County, BNSF, or Sound Transit evaluate the proposal.

Because SCC 30.34A.040(1) [2010] and (2) [2010] prohibit at least 22 and maybe 24 of the 48 buildings proposed by the Applicant, the proposal substantially conflicts with the county code and cannot be approved.

4. Failure to Satisfy Access to Public Transportation and Transit Compatibility

The Urban Centers Code requires buildings within an urban center to have access to public transportation as provided in SCC 30.34A.085 [2010] and Department of Public Works (DPW) Rule 4227 (Exhibit L.6)[14]. The Applicant has not provided evidence that the Point Wells proposal complies with the regulations requiring access to public transportation, and therefore the proposal substantially conflicts with SCC 30.34A.085 [2010] and DPW Rule 4227 (see exhibits K.7 and K.21).

SCC 30.34A.085 [2010] provides:

> Business or residential building within an urban center either:
>
> (1) Shall be constructed within one-half mile or existing or planned stops or stations for high capacity transit routes such as light rail or commuter rail lines or regional express bus routes or transit corridors that contain multiple bus routes;
>
> (2) Shall provide for new stops or stations for such high capacity transit routes or transit corridors within one-half mile of any business or residence and coordinate with transit providers to assure use of the new stops or stations; or
>
> (3) Shall provide a mechanism such as van pools or other similar means of transporting people on a regular schedule in high occupancy vehicles to operational stops or stations for high occupancy transit.

The DPW Rule 4227 is an administrative rule providing the transit compatibility criteria for determining the concurrence of land development with transportation improvements.

The Applicant has failed to provide information establishing compliance with the code requirement on access to public transportation and the DPW Rule on transit compatibility despite requests for such information.[15] The May 23, 2017, Transit Compatibility Review Memo from DPW (Exhibit K.21) states that "DPW will be unable to determine the development transit compatibility until you provide adequate information to determine if the development can comply with the transit compatibility requirements of DPW Administrative Rule 4227" and SCC 30.34A.085 [2010]. The same issues were raised by DPW in a June 15, 2011, memo regarding the 2011 ETIA (see Exhibit K.7). The 2017 DPW staff memo commented on the 2016 ETIA, "I did not see any information that addressed my 2011 comments." The application does not meet the requirement in this section to provide access to transit (see also Exhibit K.31 on pages 85-86).

The county code requires the Applicant to demonstrate compliance with SCC 30.34A.085 [2010] and DPW Rule 4227. In absence of such information, PDS must conclude the proposed project conflicts with SCC 30.34A.085 [2010] and DPW Rule 4227.

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[14] Exhibit L.6 is available at https://snohomishcountywa.gov/DocumentCenter/Home/View/9849.

[15] Snohomish County informed BSRE of this requirement in advance of BSRE's formal application for the project. See Email from David Killingstad dated October 11, 2010 (Exhibit M.1).

5. Failure to Furnish Information on Contamination Necessary to Determine Approvability of Drainage Proposal and Compliance with Critical Areas Regulations

The Applicant has provided little information regarding site contamination and remediation. Based on a Critical Areas Report dated April 2017 by David Evans and Associates, Inc., the County is aware the site contains light hydrocarbon or separate-phase hydrocarbon above the water table. Additionally, soil and groundwater contaminants are present in the form of petroleum hydrocarbons (gas, diesel, and oil) and benzene, toluene, ethylbenze and xyles (BTEX). These contaminants are present at levels in soil and groundwater that exceed Model Toxics Control Act (MTCA) criteria for unrestricted land use. (Critical Areas Report, p. 65). The Critical Areas Report briefly explains "the remediation approach" breaks the site down into the inland area and near shore area. The report is not definitive in how the inland area will be cleaned up, and suggests it can be accomplished in phases, although it does not explain how many phases that entails. The near shore area represents the areas of heaviest soil and groundwater contamination and requires "extensive excavation and recovery efforts." After treating or removing soil, natural attenuation will allow the groundwater to reach unrestricted land use cleanup criteria, but this process is anticipated to take 10 or more years to complete. Finally, the report concludes that "unrestricted land use cleanup criteria for groundwater will likely not be met for the site as a whole for 10 to 15 years after cleanup begins." (Critical Areas Report, p. 66).

The extent and location of contaminants on site, in addition to how the site is going to be remediated, is critical to determining code compliance. While the remediation plan is subject to Department of Ecology review and approval, remediation activities will require local land use permits from the County. Remediation activities must be coordinated with construction activities. The Applicant states remediation and construction activities both will be phased; however, the Applicant has not described how the phasing of remediation and construction will be timed to ensure feasibility of both activities. The Applicant also states the initial portion of the cleanup effort will be part of the first phase of the project, but the Applicant has not provided any documentation that a cleanup or remediation plan has been submitted to Ecology for review. (Critical Areas Report, p. 8). Further, the Applicant has not provided information sufficient to conclude the requirements of Chapter 30.63A SCC (drainage) or chapters 30.62A and 30.62C (critical areas – streams, wetlands, and critical aquifer recharge areas) can be met. The following required information has not been provided: (1) hydrogeologic report; (2) geotechnical report addressing shoreline stabilization; (3) an Ecology-approved remediation plan and civil plans showing the sequencing of cleanup; and (4) a phasing plan for project development (best shown in a series of sheets connected with the site plan); and (5) a mitigation plan for impacts to streams, wetlands, and critical aquifer recharge areas. Without this information, the County must conclude the project does not meet drainage regulations (Chapter 30.63A SCC and Drainage Manual) and critical areas regulations for streams, wetlands, and critical aquifer recharge areas (chapters 30.62A and 30.62C SCC).

1. Drainage Regulations

The Applicant must demonstrate compliance with the County's drainage regulations, chapter 30.63A SCC and the Snohomish County Drainage Manual. The Applicant proposes to infiltrate much of the surface water from the project into the ground to comply with minimum requirements of the Snohomish County Drainage Manual (SCC 30.63A.110 [2010]). The County can approve the Applicant's drainage plan only if the Applicant demonstrates infiltration is feasible. Infiltration is only feasible if the infiltration system does not pose a threat to safety, health, and the environment. (Drainage Manual, Vol. III, section 3.3.7 [2010]). To meet this standard, a geotechnical and hydrogeologic report must be prepared by a qualified engineer with geotechnical and hydrogeologic experience, or a licensed geologist hydrogeologist, or engineering geologist. (Drainage Manual, Vol. III, section 3.3.7 [2010]). These reports must address, at a minimum, the following site suitability criteria for infiltration systems:

- Setback requirements from critical area protection areas;
- On-site and off-site structural stability due to extended subgrade saturation and/or head loading of the permeable layer, including the potential impacts to downgradient properties, especially on hills with known side-hill seeps;
- Setback requirements or separation requirements related to Ecology or Washington State Department of Health standards (including those contained in an Ecology-approved remediation plan);
- How infiltration may affect shoreline erosion;
- An evaluation of whether the infiltration system will cause a violation of Washington State ground water quality standards, including an evaluation of the need for pollutant removal requirements upstream of the infiltration system. This evaluation necessarily will involve a discussion of how the timing of phased remediation will be coordinated with the timing of phased construction; and
- The requirements of SCC 30.62C.140 [2007], discussed below.

The County has not received any of this required information and must conclude that drainage requirements in Chapter 30.63A SCC and the Snohomish County Drainage Manual cannot be met. Additionally, the development must be conditioned on remediation of the site subject to Ecology's approval and issuance of a letter of "No Further Action." However, without an Ecology-approved remediation plan, it is not evident that remediation of the site is even feasible.

2. Critical Areas Regulations (Critical Aquifer Recharge Areas)

The project site is within a critical aquifer recharge area (CARA) with high groundwater sensitivity. The Applicant has not provided documentation necessary to determine whether the result of remediation activities required as a precursor to development and construction activities will result in compliance with the County's critical areas regulations, particularly Chapter 30.62C SCC.

The project site contains a CARA with high groundwater sensitivity. Pursuant to SCC 30.62C.140 [2007] the Applicant was required to submit a hydrogeologic report for development activities. The required contents of that report are set forth in SCC 30.62C.140(3)(a) [2007] and include, among other things:

- The surface location of all critical aquifer recharge areas located on site or immediately adjacent to the site;
- Groundwater depth, flow direction, and gradient;
- Historic water quality data for the area to be affected by the proposed activity or use compiled for at least the previous five-year period;
- Predictive evaluation of contaminant transport based on potential releases to groundwater;
- Provisions to monitory groundwater quality and quantity;
- A spill plan; and
- Recommendations for implementation and operation of activities, including size limitations, monitoring, reporting, and best management practices.

The Applicant did not submit a hydrogeologic report. Because the Applicant failed to meet this basic application submittal requirement, the County must conclude that the requirements of Chapter SCC 30.63C SCC cannot be met.

3. Phasing and Timing of Remediation and Construction Activities

Addressing the above concerns related to drainage and critical areas necessarily requires the Applicant provide accurate information regarding the phasing of both remediation and construction activities. The Critical Areas Report prepared by David Evans and Associates, Inc., in April 2017, states: "It is assumed that a final remediation plan will be implemented before BSRE finalizes the Point Wells development plan." (Critical Areas Report, p. 64). The report states the first phase of the project will include the initial portion of the "cleanup action plan." (Critical Areas Report, p. 8). The report also states that "past and continuing site remediation actions are being conducted under Ecology's Voluntary Cleanup Program." (Critical Areas Report, p. 65). However, the Applicant has not submitted either an Ecology-approved remediation plan and civil plans showing the sequencing of cleanup, or a sufficient phasing plan for project development (best shown in a series of sheets connected with the site plan). The Applicant has identified the basic components of four proposed phases of development, but not when those components will be constructed. The Applicant has not provided any information regarding the phasing or timing of remediation. The County cannot conclude drainage or critical areas regulations can be met when it does not know the basic sequencing of remediation and construction, or how those activities will be coordinated or impact each other.

Additionally, the County is concerned that if the Applicant does not yet have an Ecology-approved remediation plan, the County will be required to reassess the project under new drainage regulations if the Applicant has not started construction by June 30, 2020. This is due to a recent Washington State Supreme Court decision in which the Court ruled that applicants do not vest to drainage regulations adopted in compliance with an NPDES permit issued under the federal Clean Water Act. Snohomish

County v. Pollution Control Hearings Board, 187 Wn.2d 346 (2017). The County's most recent drainage regulations were adopted on January 11, 2016, in compliance with its Phase I Municipal Stormwater Permit. Pursuant to the Phase I Permit, the County is required to apply those new drainage regulations to all projects that have not "started construction" by June 30, 2020. "Started construction" means, at a minimum, the site work associated with and directly related to the approved project, such as "grading the project site to final grade or utility installation." (Phase I Permit, Special Condition S5.C.5.a.iii). Further, Ecology has opined that for phased projects, each phase will have its own "started construction" date, and any phase for which construction starts after June 30, 2020, must comply with new drainage regulations. Without information from the Applicant regarding an Ecology-approved remediation plan, the County cannot conclude it is feasible for the Applicant to start construction on the project prior to June 30, 2020.

6. Failure to Provide Adequate Parking

PDS cannot recommend approval of a development that fails to satisfy the development standards for parking (SCC 30.26.010(1) [2003]). The Point Wells proposal substantially conflicts with the development regulations for parking under Chapter 30.26 SCC and with the accessible parking requirements of the International Building Code Chapter 11 (IBC 11) which is a requirement for compliance with SCC 30.26.085.

Location and Amount of Parking

Snohomish County struggles to encapsulate the parking issues in single statement because the plans submitted on April 17, 2017 contain many drafting errors, internal conflicts, and omissions. It is not possible to determine with confidence what the Applicant proposes for uses or for the associated parking that would be required. To illustrate, the data table on Sheet A-200 says that the "Upper Plaza" (elsewhere called the "*Urban* Plaza") would have four buildings, labeled NV-T1 to NV-T4 (which conflicts with other sheets that label these buildings as UP-T1 to UP-T4). On the first and second floors of this area, Sheet A-200 describes 26,300 square feet of retail uses and 32,262 square feet of non-labeled commercial floor area that would presumably be office space. This total of 58,262 square feet of non-residential uses would require a minimum of 117 parking stalls to comply with SCC 30.34A.050 [2010] (recodified in SCC 30.26.032) which requires a minimum of 1 stall for every 500 square feet. Sheet A-200 says that 100 parking stalls are provided for commercial uses, but Sheet A-053 says that only the seven surface parking stalls on the plans are for commercial uses in this area (the rest are reserved for residential use only). In short, the plans do not adequately depict the parking areas and they do not provide adequate parking, but the plans are so incomplete that the shortfalls in parking cannot be reliably determined.

In addition to the proposal's conflicts with the general parking regulations, the Applicant cannot satisfy the variance criteria to support its plan to provide inadequate parking for phases I, II and IV of the development.

The October 6, 2017, Review Completion Letter (Exhibit K.31) details how the Applicant's April 17, 2017, site plan conflicts with many of the parking regulations in Chapter 30.26 SCC. The code compliance issues are summarized on pages 57-58 of the Review Completion Letter (Exhibit K.31) as follows:

> **Parking Summary:** The plans do not adequately depict parking areas. The site plan application must fully depict all parking areas, per the Urban Center submittal checklist. […]
>
> a. **Missing plans.** Parking plans are missing for three parking areas. The applicant must add new sheets or details depicting floors P2 for the South, Central, and North villages.
> b. **Accessible parking.** All buildings types are required to have access to accessible parking stalls. One in six accessible stalls must be for vans. The applicant must revise the parking plans to provide accessible parking. See comments on accessible parking in the June 27, 2017, review memo from Commercial Plans Examiner Vic McKinney [Exhibit K.26].
> c. **Commercial parking.** The plans do not show adequate parking for commercial uses. The applicant may address this in a parking study or they may revise the plans to propose the required parking for commercial uses.

d. **Garage Access.** As proposed, 23 buildings would lack accessible access to parking. The applicant must address this when revising the plans again. See discussion of accessibility issues on page 63 [of Exhibit K.31].
e. **Other garage considerations.** Construction plans for the garages will require areas set aside for non-parking uses including columns to support the buildings above and mechanical areas for the required ventilation. The site plan does not depict any such non-parking areas in the garages. The next revision to the site plan should include revisions to the parking plans to anticipate non-parking uses and areas; otherwise, the applicant risks approval for a site plan that cannot receive approval at the construction plan stage without requesting and receiving approval for modifications to the site plan.
(Bolding original, footnotes omitted)

Following the summary, the October 6, 2017, review letter details the proposal's multiple conflicts with the parking regulations on pages 57-76 of Exhibit K.31. The proposal is in substantial conflict with multiple sections of Chapter 30.26 SCC as detailed on page 54 of this Staff Recommendation. PDS cannot recommend, and the Hearing Examiner cannot approve, a project that does not comply with Chapter 30.26 SCC, general development standards for parking.

Request for Parking Variance

In addition to the parking issues identified above, the Applicant has requested approval of a variance to excuse parking deficits in phases I, II, and IV. On April 17, 2017, the Applicant requested a variance regarding parking (Exhibit A.10). In order to support the variance request, the Applicant asserts that a claimed surplus of parking in one phase of the project should be the basis for approving a site plan with a deficit of parking in the other phases. Regarding this variance request, the October 6, 2017, Review Completion Letter (Exhibit K.31) states:

> Snohomish County cannot support the requested variance (11-101457 VAR) to allow a surplus of parking in the Central Village (phase 3) to offset shortages in phases 1, 2, and 4. Using the applicants own buildout timeline of 5-years per phase, this means that the Urban Plaza and South Village (phases 1 and 2) would exist without adequate parking for 10 years and 5 years, respectively. If the applicant does not withdraw the variance request, Snohomish County will need to recommend to the Hearing Examiner that the Examiner deny the request.

The Applicant has not withdrawn the variance request or provided revised plans to address the parking deficit and code compliance issue.

The decision criteria for variances are in SCC 30.43B.100, which reads:

> The department[16] may approve or approve with conditions a variance request when the following criteria are met:

[16] Per SCC 30.43B.020, when a variance is submitted with another application requiring a predecision hearing by the Hearing Examiner, such as is the case here, that variance shall be processed before the Hearing Examiner. Hence, PDS is making its recommendation here to the Hearing Examiner rather than making a decision by the department.

(1) There are special circumstances applicable to the subject property or to the intended use, such as size, shape, topography, location or surroundings, that do not apply generally to other properties or classes of use in the same vicinity and zone;

(2) A variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other properties in the same vicinity and zone but which because of special circumstances is denied to the property in question;

(3) The granting of the variance will not be materially detrimental to the public welfare or injurious to the properties or improvements in the vicinity and zone in which the subject property is located; and

(4) The granting of the variance will not adversely affect the comprehensive plan.

The Applicant must satisfy all subsections of SCC 30.43B.100 in order for a variance request to receive approval. The Applicant's variance request (11-101457 VAR) conflicts with subsections (1), (2), and (3).

- Subsection 1. There are no special circumstances with the Point Wells site that generally do not apply to other properties in vicinity and no special circumstances to suggest that the Applicant could not design a project with adequate parking for each phase of the development.

- Subsection 2. The Applicant does not have a substantial property right at stake as the Applicant's ability to develop the property is not impacted. While no properties in the vicinity have the same zoning, all properties in the vicinity must meet applicable parking standards for their zone. A preference not to provide adequate parking for each phase does not qualify as a special circumstance that requires a variance to preserve a substantial property right.

- Subsection 3. Building a project with a substantial parking deficit during the first two phases would detrimentally affect neighboring property owners as overflow parking from Point Wells would intrude into the surrounding area. As described by the Applicant in the variance request, "the development plans to provide temporary surface parking within 300' of the buildings served. This temporary parking is on a separate lot and falls within the phase 3 boundary" (Exhibit A.10). PDS notes here that no such temporary parking appears on the site plan or the phasing plan. Even if it did, the only place to put it would be at the public building site. If placed here, the pedestrian distance to any of the buildings in Phases 1 or 2 would exceed 300'. The proposed finished grades would also prohibit connection to this area from the surrounding road network.

The Applicant has not established that granting the variance will not result in a material detriment to public welfare or injurious to properties in vicinity by allowing parking for phases I, II, and IV, to be located in phase III, which is located more than the 300-foot maximum from the buildings it is intended to serve, as provided by SCC 30.26.020(1) [2007].

PDS recommends that the Hearing Examiner deny the parking variance request (11-101457 VAR) because the Applicant has not satisfied the variance criteria in SCC 30.43B.100. In addition, the application and site plan substantially conflict with the parking regulations in Chapter 30.26 SCC.[17]

Accessible Parking

SCC 30.26.085 requires that an applicant be able to comply with the accessibility requirements of the International Building Code, Chapter 11 (IBC 11). As detailed in the October 6, 2017 Review Completion Letter (Exhibit K.31) on pages 63-65, the site plan does not show compliance with the accessible parking requirements. Buildings must be designed with the ability to be accessible (IBC 1101.2), there must be accessible routes of travel between buildings and accessible parking (IBC 1104.1), and parking must include barrier free and van accessible parking (IBC 1106.5). Further, garage design must show a minimum vertical clearance for accessibility (ICC A1171 Section 502.8). The April 17, 2017 version of the project include several buildings that would not meet accessibility requirements, not all buildings have accessible routes of travel, there is no barrier free or van parking shown, and the garage designs lack sufficient detail to determine the minimum vertical clearance.

In sum, the Applicant has failed to demonstrate that it can comply with the following code provisions and rules:

1. SCC 30.26.020 [2007]
2. SCC 30.34A.050 [2010] (recodified in SCC 30.26.032)
3. SCC 30.26.085
4. IBC 1101.2
5. IBC 1104.1
6. IBC 1106.5
7. ICC A1171 Section 502.8

In addition, the Applicant has not provided the following report and studies as required:

Shared Parking Study (pp. 57, October 6, 2017, PDS Review Letter)
Parking Demand Study (pp. 57, 71 October 6, 2017, PDS Review Letter)

[17] To the extent the Applicant could resolve the compliance issues on parking identified in the October 6, 2017, Review Completion Letter (Exhibit K.31), it may require a major redesign, which would likely then result in significant new information and possible need for supplemental EIS work to account for this new information.

7. Failure to Address Shoreline Management Regulations

The Applicant does not meet basic requirements for demonstrating the proposed project complies with the County's Shoreline Management Program (SMP).[18] The Applicant submitted an application for a shoreline substantial development permit in 2011 (11-101461 SM). To demonstrate compliance with the SMP, the Applicant is required to submit the following documents:

- Revisions to the shoreline substantial development permit application that reflect changes made to plans by the Applicant in 2017 (such as elimination of several proposed groins,[19] which in turn requires revisions to the proposed seawall location, proposed plantings in shoreline jurisdiction and changes to beach access and pier access);
- An analysis of how the proposed project complies with SMP criteria and shoreline regulations contained in Chapter 30.44 SCC (see Exhibit K.25);
- A mitigation plan meeting the requirements of SCC 30.62A.150 [2007];
- A habitat management plan (SCC 30.62A.460 [2007]);
- A geotechnical report addressing shoreline stabilization and flood protection measures (SCC 30.62B.140 [2007]); and
- Plans describing remediation of the site and timing of phased cleanup in relation to construction of shoreline development.

These documents have not been submitted to PDS. Without them, PDS must conclude the shoreline substantial development permit cannot be approved.

Additionally, it appears the Applicant must apply for a shoreline conditional use permit. Pursuant to *former* SCC 30.44.410 and the Shoreline Management Master Program Compatibility Matrix for 1974-2012, non-water related commercial uses within shoreline jurisdiction require a shoreline conditional use permit. Several current submittal documents, including the short plat project description (Exhibit A.6), discuss potential commercial uses on the dock.[20] These uses require submittal of a shoreline conditional use permit, which the Applicant has not done. Further, the site plan submitted by the Applicant in 2017 depicts the elimination of several proposed groins.[21] However, the groins were not

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[18] The Lower Bench of Point Wells is in Shoreline Management jurisdiction and is subject to the 2011 version of the Shoreline Management Program or SMP (the full title is the *Snohomish County's Shoreline Management Master Program*). Snohomish County uses this program to comply with Washington State's Shoreline Management Act (RCW 90.58). The 2011 SMP regulations were outside Title 30 of Snohomish County Code. A major update to the SMP took place in 2012 and many of its components moved to a new Chapter 30.67 SCC.

[19] Sheet E-050 of the April 17, 2017, plans still shows the proposed beach groins, but since the 2017 revisions included removal from all other sheets, Snohomish County is assuming that the Applicant's intent was to remove the groins from Sheet E-050, too.

[20] Such commercial uses also must be included in the traffic analysis and parking plans provided by the Applicant.

entirely eliminated from the 2011 shoreline substantial development permit application (they remain on Sheet E-050 of the April 17, 2017 version of the site plan.

Finally, because the Applicant's 2011 shoreline substantial development permit application is so incomplete, and because the uses proposed in the 2011 shoreline substantial development permit application conflict with other documents submitted by the Applicant (such as Exhibit A.6), it is possible the Applicant also will need to apply for a shoreline variance.

As it stands at the time of this staff report, the Point Wells shoreline substantial development permit application substantially conflicts with the applicable versions of the following chapters of County code and regulations:

- Chapter 30.44 SCC, *Shoreline Management*;
- Chapter 30.62A SCC, *Wetlands and Fish & Wildlife Habitat Conservation Areas*;
- Chapter 30.62B SCC, *Geologically Hazardous Areas*; and
- *Shoreline Management Program* [2011].

8. Failure to Comply with Code Provisions Regarding Critical Areas, Including Geologically Hazardous Areas, Wetlands and Fish & Wildlife Habitat Conservation Areas, and Critical Aquifer Recharge Areas

The proposed project does not comply with the County's critical areas regulations, including Geologically Hazardous Area regulations (Chapter 30.62B SCC), Wetlands and Fish & Wildlife Habitat Conservation Areas (Chapter 30.62A SCC), and Critical Aquifer Recharge Areas (Chapter 30.62C SCC). The Applicant's failure to comply with these regulations means the project conflicts with county code and cannot be approved.

GEOLOGICALLY HAZARDOUS AREAS

Geologically hazardous areas include both landslide hazards and seismic hazards, which are regulated under Chapter 30.62B SCC. The project site contains both types of geologic hazards. The Applicant has not demonstrated compliance with regulations governing either type of hazard.

Landslide Hazard Areas:

As an initial matter, an Applicant is required to designate critical areas, including landslide hazard areas, on the Urban Center Site plan (11-101457 LU) and the preliminary short plat (11-101007 SP) to show compliance with SCC 30.62B.130 [2007]. Depiction of landslide hazard areas on the April 17, 2017, urban center site plan and the preliminary short plat applications are both incorrect. Snohomish County had provided explicit direction on how to correct the depiction in the 2011 versions of the plans on September 19, 2016 (See exhibits K.16 and K.17), however, that direction was not followed and the urban center site plan and preliminary short plat applications fail to meet SCC 30.62B.130 [2007].

Development activities shall not be allowed in landslide hazard areas or their required setbacks (SCC 30.62B.340 [2007]). Additionally, SCC 30.62B.340(2) [2007] provides that structures must be set back from landslide hazard areas unless PDS approves a deviation request. A deviation request must demonstrate there is no alternate location for the structure on the property, and must include a geotechnical report demonstrating that "alternative setbacks provide protection which is equal to that provided by the standard minimum setbacks" and that the proposal meets the requirements of SCC 30.62B.320 [2007]. That geotechnical report must satisfy the criteria in SCC 30.62B.140 [2007]. The Applicant has proposed numerous project elements in the landslide hazard area, including critical infrastructure, which each require a separate deviation request and approval. Those project elements include:

1. The second access road (necessary in part for emergency fire access);
2. The proposed Sounder rail station;
3. Several buildings in the North Village phase; and
4. All of the buildings in the Urban Plaza phase.

The location of the proposed police/fire station in the Urban Plaza phase is of "particular concern [because] the siting of the emergency response unit/fire and police at the toe of a landslide hazard area [means that] this structure would be first to be hit if a slide were to occur" (Exhibit K.22, page 2).

The Applicant has not submitted a geotechnical report for the project satisfying the criteria in SCC 30.62B.140 [2007], and the application therefore substantially conflicts with the county code. Further, the Applicant has not submitted any deviation requests for the items above, and the application therefore substantially conflicts with SCC 30.62B.340 [2007].

Seismic Hazards: The first geotechnical engineering report submitted by the Applicant was the *Preliminary Geotechnical Engineering Study* by HartCrowser dated November 16 2010 (Exhibit C.16). Regarding seismic hazards and this report, the April 12, 2013, Review Completion Letter (Exhibit K.4) on page 7 requests revisions and additional information, and specifically provides "[u]nder SCC 30.62B.350, please have the geotechnical engineer confirm the site is suitable for the proposed development." Superseding Exhibit C.16 was the *Draft Final* Point Wells *Subsurface Conditions Report by HartCrowser* dated August 4, 2016 (Exhibit C.17). In its technical review of this report along with the April 17, 2017, resubmittal, PDS staff noted:

> Under SCC 30.62B.350, please have the geotechnical engineer confirm the site is suitable for the proposed development, including placement of the 4-18 story towers within an area of potential liquefaction with a site class of E during the maximum considered earthquake.

PDS staff requested additional information and clarification from the Applicant with regard to inconsistencies in the analysis for liquefaction, slope failure, and tsunami hazard (Exhibit K.22, pages 1-2). PDS also noted that "No additional information has been provided" in response to the 2013 request for revisions and more information on seismic hazards (Exhibit K.22, pages 1-2).

Without this information, the project substantially conflicts with the requirements of SCC 30.62B.350.

WETLANDS AND FISH & WILDLIFE CONSERVATION AREAS

The site contains streams and wetlands and their associated buffers and it is adjacent to marine shorelines. The Applicant's documents are inconsistent in describing the existence and location of those critical areas. For example, the Critical Areas Report prepared by David Evans and Associates, Inc., submitted in April 2017, discusses several streams and wetlands that are not depicted on the Applicant's site plans. In reviewing the April 17, 2017 version of the preliminary short plat, Snohomish County provided the Applicant with markups (Exhibit K.29) showing where on these plans (and on the urban center site plan) the missing streams and wetlands discussed in Critical Areas Report should be depicted. Snohomish County also provided the Applicant with information on an existing wetland that was missed in the Applicant's Critical Areas Report. Without properly identifying all critical areas on site plans, the Applicant cannot demonstrate that these features will be protected under the requirements of Chapter 30.63A SCC, including:

- Meeting the general standards and requirements of SCC 30.62A.310 [2010];
- Meeting the buffers and impervious surfaces requirements of SCC 30.62A.320 [2010];
- Meeting the standards and requirements for activities conducted within streams and marine waters under SCC 30.62A.330 [2010]; and
- Meeting the standards and requirements for activities conducted in wetlands under SCC 30.62A.340 [2010].

In addition, the Applicant has not submitted required documentation under Chapter 30.63A SCC. These documents include:

- A mitigation plan meeting the requirements of SCC 30.62A.150 [2007];
- A critical area site plan providing permanent identification, protection, and recording of critical areas under SCC 30.62A.160 [2010]; and
- A habitat management plan under SCC 30.62A.460 [2007].

Without properly identifying wetlands and streams in application materials and by the Applicant's failure to submit required documentation, it must be concluded that the project cannot comply with the provisions of Chapter 30.63A SCC.

CRITICAL AQUIFER RECHARGE AREAS

The project site is within a critical aquifer recharge area (CARA) with high groundwater sensitivity. As described in this report under Issue 5, pursuant to SCC 30.62C.140 [2007] the Applicant was required to submit a hydrogeologic report that met the criteria of SCC 30.62C.140 [2007]. The Applicant did not submit this report. Because the Applicant failed to meet this basic application submittal requirement, the County must conclude that the requirements of Chapter SCC 30.62C SCC cannot be met.

Inadequate Reports and Supporting Documents

This section summarizes PDS's concerns regarding several key reports and supporting documents. The Applicant has failed to provide certain reports and documents required for review of the project. Of the reports and documents that were provided by the Applicant, several contain major conflicts with certain regulations, or if not in conflict, fail to respond to all applicable regulations. The errors and omissions in the reports and information provided by the Applicant would preclude completion or adequate disclosure of environmnetal impacts in certain portions of a Draft EIS. The project cannot be approved without the Applicant adequately addressing the errors and omissions in the reports and documents. A Draft EIS based on the limited submittal documents provided by the Applicant to date would be incomplete. Therefore, if a Draft EIS were completed at this time with the limited reports and documents provided by the Applicant, adequate submission by the Applicant would result in need for a Supplemental Draft EIS.

Table 3, next page, gives details on findings of missing information that PDS finds would be required to complete impact identification and analysis of mitigation in a Draft EIS. The Applicant has not provided anything responsive to these required items. PDS finds these omissions to be so significant that impact identification and analysis of mitigation in a Draft EIS would in result in substantially flawed Draft EIS. Identifying and mitigation for these issues after publication of a Draft EIS would then require a Supplemental Draft EIS to properly disclose impacts and mitigation options and to allow adequate public comment.

Table 4, page 50, lists major findings of conflict between reports and documents submitted by the Applicant and listed requirements. PDS finds these conflicts to be significant in nature. Impact identification and analysis of mitigation in a Draft EIS based on current versions would in result in substantially flawed Draft EIS. Correcting for these issues after publication of a Draft EIS would require a Supplemental Draft EIS to properly disclose impacts and mitigation options and to allow adequate public comment.[22]

Both tables describe missing or flawed reports and documents along with the major issue(s) that each must respond to. The columns titled "*Unmet Requirements*" are the primary places where the absence or incomplete nature of the material from the Applicant does not comply with what would be required for an approval. The columns titled "*Relates to*" then describe what major SEPA or other requirement is missing. For instance, on Table 4, the *Critical Areas Report* dated April 17, 2017, lacks information on the impact of, and mitigation for, the secondary access road that is proposed to cross through Chevron Creek and Wetland A. Some kind of secondary access is required per SCC 30.53A.512 and EDDS 3-01 (B)(5) [2010]. Failure to disclose impacts to Chevron Creek and Wetland A and to identify mitigation for these impacts means that SEPA analysis per Chapter 30.61 SCC would be incomplete.

[22] The sole caveat to this is the parking plans. Revisions to meeting parking requirements likely would require supplemental environmental review, but Snohomish County cannot conclude this definitively unless and until the applicant provides a complete set of parking plans.

Table 3 – Required Information Not Provided, but Necessary for SEPA and Code Compliance

Report / Document	Major Issue(s)	Unmet Requirements	Relates to
Agreement with Sound Transit for Commuter Rail	Buildings over 90' require Access to Transit	SCC 30.34A.040(2) [2010] SCC 30.34A.085 [2010] DPW Rule 4227 Chapter 30.26 SCC	**Visual Impact Mitigation:** Chapter 30.61 SCC **Traffic Mitigation:** Chapter 30.61 SCC Chapter 30.66B SCC
Agreement with Burlington Northern for Commuter Rail	BNSF is the owner of the rail right-of-way	SCC 30.24.160 [2009] SCC 30.34A.050 [2010] SCC 30.66B.030	**Ability to approve buildings over 90'** SCC 30.34A.040(2) [2010] SCC 30.34A.085 [2010] DPW Rule 4227
Contamination Characterization Report	Drainage / infiltration cannot be approved without this. Would need to include basic outline of remediation steps	Chapter 30.63A SCC Chapter 30.63B SCC Chapter 30.63C SCC	**Drainage, Construction Mitigation:** Chapter 30.61 SCC
Construction and Access Easement Information	Proposed second access road would require construction and access easements	SCC 30.63B.130 [2010]	**Secondary Access:** SCC 30.53A.512 Chapter 30.61 SCC EDDS 3-01 (B)(5) [2010]
Habitat Management Plan	No plan provided to address long-term management of critical area habitat	SCC 30.62A.460 [2007]	**Shoreline Management:** Chapter 30.44 SCC Chapter 30.61 SCC Shoreline Management Program
Hydrogeologic Report	Drainage / infiltration cannot be approved without this	Chapter 30.62C SCC Chapter 30.63A SCC Chapter 30.63B SCC Chapter 30.63C SCC	**Drainage, Construction Mitigation:** Chapter 30.61 SCC SCC 30.62C.140 [2007]
Mitigation Plan #1	No mitigation plan provided to address stream and wetland impacts of second access road	SCC 30.62A.150 [2007]	**Secondary Access:** SCC 30.53A.512 Chapter 30.61 SCC EDDS 3-01 (B)(5) [2010]
Mitigation Plan #2	No mitigation plan provided to address impacts to fish and aquatic wildlife	SCC 30.62A.150 [2007]	**Shoreline Management:** Chapter 30.44 SCC Chapter 30.61 SCC Shoreline Management Program
Crossing Approvals from BNSF	Proposed bridges over BNSF right-of-way require approval from BNSF	SCC 30.24.050 [2009] SCC 30.41B.400 SCC 30.66B.030	**Preliminary Short Plat Access/Site Plan**
Agreement with King County Wastewater Treatment Division	King County owns a moveable easement to their Brightwater Outfall. Does King County agree with the proposed revisions to this easement?	SCC 30.66B.030	**Access and site plan**

Table 4 – Reports and Documents with Unmet Requirements and SEPA Conflicts

Report / Document	Latest Version	Major Issue(s)	Unmet Requirements	Relates to
Traffic Study (Exhibits C.1 to C.12 Issue 1)	August 2016	Does not meet Transportation Demand Management requirements	SCC 30.34A.080(9) [2010]	**Traffic Mitigation:** Chapter 30.61 SCC Chapter 30.66B SCC
Traffic Study (Exhibits C.1 to C.12 Issue 2)	August 2016	Timing of construction is unrealistic	WAC 197-11-080 WAC 197-11-100	**Traffic Mitigation:** Chapter 30.61 SCC Chapter 30.66B SCC
Critical Areas Report (Exhibit C.15)	April 17, 2017	Lacks analysis of impacts to Chevron Creek and Wetland A	SCC 30.62A.150 [2007]	**Secondary Access:** SCC 30.53A.512 Chapter 30.61 SCC EDDS 3-01 (B)(5) [2010]
Geotechnical Report (Exhibits C.16 and C.17 Issue 1)	June 11, 2015	Does not adequately address second access road	SCC 30.62B.140(1)(b) [2007] SCC 30.62B.320(1)(a) [2007] SCC 30.62B.320(1)(b) [2007]	**Secondary Access:** SCC 30.53A.512 Chapter 30.61 SCC EDDS 3-01 (B)(5) [2010]
Geotechnical Report (Exhibit C.16 and C.17 Issue 2)	June 11, 2015	Does not address shoreline stabilization or flood protection measures	SCC 30.62B.140 [2007]	**Shoreline Management:** Chapter 30.44 SCC Chapter 30.61 SCC Shoreline Management Program
Geotechnical Report (Exhibits C.16 and C.17 – Issue 3)	June 11, 2015	Does not address landslide hazard risks to the proposed Sounder Station	SCC 30.62B.340 [2007]	**Traffic Mitigation:** Chapter 30.61 SCC Chapter 30.66B SCC **Site Plan (heights):** SCC 30.34A.040 [2010] DPW Rule 4227
Geotechnical Report (Exhibit C.16 and C.17 – Issue 4)	June 11, 2015	Does not address landslide hazard risks the proposed Police/Fire Station	SCC 30.62B.340 [2007]	**SEPA Mitigation:** Chapter 30.61 Chapter 30.53A
Geotechnical Report (Exhibit C.16 and C.17 – Issue 5)	June 11, 2015	Does not address seismic hazards	SCC 30.62B.350	**SEPA Mitigation:** Chapter 30.51A Chapter 30.61
Targeted Drainage Report (Exhibit C.19)	April 17, 2017	Does not address second access road	SCC 30.62B.320(1)(a)(iii) [2007]	**Secondary Access:** SCC 30.53A.512 Chapter 30.61 SCC EDDS 3-01 (B)(5) [2010]
Parking Plans	April 17, 2017	Parking plans do not meet basic requirements. The variance request does not met criteria for approval	Chapter 30.26 SCC SCC 30.43B.100	**Redesign May Require Supplemental EIS**: Chapter 30.61 SCC

Additional Code Compliance Issues with General Zoning Standards

Under SCC 30.61.220, Snohomish County is recommending denial of the proposal based on the substantial conflicts the proposal has with regard to adopted plans, ordinances, regulations, and laws. Given that the staff recommendation is for denial of the proposal, this section summarizes the how the applications fail to meet the applicable decision criteria. SCC 30.72.040(1). The code compliance issues addressed below, are in addition to the eight major areas of code conflict addressed earlier in this staff recommendation.

The October 6, 2017, Review Completion Letter (Exhibit K.31) and related technical review memoranda (Exhibits K.20 to K.30) describe many of the code compliance issues in greater detail than provided in this staff recommendation. The remaining chapter-by-chapter analysis highlights the major code compliance issues that Exhibits K.20 to K.31 detail. This staff recommendation adopts and incorporates those exhibits by reference.

Access and Road Network (Chapter 30.24 SCC)

PDS's October 6, 2017, Review Completion Letter provides details on a number of conflicts and omissions with respect to requirements in Chapter 30.24 SCC (Exhibit K.31, pages 37-49). Specific conflicts and omissions affect the following sections:

- SCC 30.24.030 [2009] Establishing Vehicular Ingress and Egress (ibid, page 37)
- SCC 30.24.050 [2009] Access Across Railroad Right-of-Way or County-Owned Trail (page 37)
- SCC 30.24.060 [2009] Public and Private Roads (page 38)
- SCC 30.24.080 [2009] Pedestrian Facilities (page 39)
- SCC 30.24.100 [2009] Fire Lanes (page 48 [see also fire review memo dated June 15, 2017, Exhibit K.23])
- SCC 30.24.160 [2009] Transit Facilities (page 48)
- SCC 30.24.170 [2009] Utilities (page 48)

Revisions to address several of the above concerns would not likely generate direct additional SEPA impacts or need for supplemental environmental review. However, the delay necessary for the Applicant to make such revisions may adversely affect issue of timelines under the heading ***Issue 3 Assumptions Regarding Timing of Phased Development*** on page 27 of this Staff Recommendation. In particular, delays in obtaining railroad crossing permits from BNSF (SCC 30.24.050 (2009)) or design approvals from Sound Transit (SCC 30.24.160 (2009)) could mean that the traffic study provided is out-of-date and in need of revision.

Snohomish County therefore finds that the project does not comply with Chapter 30.24 SCC.

Landscaping (Chapter 30.25 SCC)

The landscaping plans provide a generous amount of landscaping, but not sufficient detail to meet Chapter 30.25 SCC requirements. There are also some minor conflicts between the landscaping plan and site plans, such as proposing trees where the restaurant at the base of Building CV-T1 would be. Perhaps the greatest issue of concern is that some of the landscaping areas double as drainage and infiltration facilities, yet the proposed designs would not be adequate as planting areas. Revisions to ensure plant survival may then mean that the drainage system would need revision.

PDS's October 6, 2017, Review Completion Letter provides details on a number of conflicts and omissions with respect to requirements in Chapter 30.25 SCC (Exhibit K.31, pages 50-56). General comments on page 50-51 include the following:

> A number of the proposed plant materials indicated on the landscape plan are not appropriate and the landscape plans will require revision to show other plant materials due to proposed locations. Examples include large tree species in small-enclosed planters, large tree species next to fire lanes, and plant species that do not comply with shoreline environment and critical area plant material requirements. […] some proposed plant materials create conflicts with other non-landscaping code requirements. […] Snohomish County will need to re-review the landscaping plans when the applicant revises the project for other reasons and resubmits the new plans with updated landscaping design.

Conflicts and omissions affect the following sections:

- SCC 30.25.015 [2009] General Landscaping Requirements (ibid, pages 51-54)
- SCC 30.25.016 [2009] General Tree Retention and Replacement Requirements (page 54)
- SCC 30.25.017 Type A and Type B Landscaping (page 54)
- SCC 30.25.020 [2010] Permiter Landscaping (page 55)
- SCC 30.25.022 Parking Lot Landscaping (page 55)
- SCC 30.25.023 [2010] Stormwater Flow Control or Treatment Facility Landscaping (page 55)
- SCC 30.25.024 Outside Storage and Waste Areas (page 56)

Response to concerns about SCC 30.25.023 [2010] *Stormwater Flow Control or Treatment Facility Landscaping* may require revisions to the drainage plans for the project. Secondary effects on the drainage plans could require supplemental environmental analysis if a Draft EIS based on the April 17, 2017 version of the plans were to be completed.

Snohomish County therefore finds that the project does not comply with Chapter 30.25 SCC. Revisions to correct for these issues may require supplemental environmental review if a Draft EIS based on the April 17, 2017 version of the plans and on the timelines in the August 2016 Expanded Traffic Impact Analysis (Exhibits C.1 to C.12) were to be completed.

Parking (Chapter 30.26 SCC)

Snohomish County's October 6, 2017, Review Completion Letter provides details on a number of conflicts and omissions with respect to requirements in Chapter 30.26 SCC (Exhibit K.31, especially pages 31-32 and 57-76). As general comment on page 57, Exhibit K.31 states that the "plans do not adequately depict parking areas." Sheets for several parking garage floors are absent in the April 17, 2017 plans and what plans are available do not show adequate parking for the proposed uses.

Major parking concerns have already been identified in this Staff Recommendation on page 39 under the heading ***6. Failure to Provide Adequate Parking***.

Other parking concerns relate to conflicts and omissions in the following sections:

- SCC 30.26.020 [2007] Location of Parking Spaces (Exhibit K.31, pages 65-68)
- SCC 30.26.032 Additional Parking Requirements for the UC Zone / SCC 30.34A.050 [2010] Parking ratios, parking locations and parking lot and structure design (ibid, pages 69-71)
- SCC 30.26.035 [2003] Parking for Specific and Unlisted Uses (page 72)
- SCC 30.26.060 [2003] Loading Space (pages 73-74)
- SCC 30.26.065 Parking Lot Development Standards (page 74-75)
- SCC 30.26.080 Landscaping Requirement for Regulated Parking Areas / SCC 30.25.022 Parking Lot Landscaping (page 76)

Snohomish County therefore finds that the project does not comply with the sections of Chapter 30.26 SCC cited above. Revisions to correct for these issues may require supplemental environmental review if a Draft EIS based on the April 17, 2017 version of the plans and on the timelines in the August 2016 Expanded Traffic Impact Analysis (Exhibits C.1 to C.12) were to be completed.

Historic and Archeological Resources (Chapter 30.32D SCC)

There are no known historic structures at Point Wells, so only the Archeological Resources portion of Chapter 30.32D SCC applies. Snohomish County's October 6, 2017, Review Completion Letter includes a brief discussion of this chapter (Exhibit K.31, page 78).

On April 11, 2011, Snohomish County received comments on behalf of the Tulalip Tribes attesting to prior use of the Point Wells site (Exhibit H.1). These comments were later shared with a consultant responsible for drafting a chapter on Cultural Resources that would have been in the Draft EIS had it been completed. The preliminary draft of the Cultural Resources chapter had discussed prior use of the site by a band of the Duwamish people who now have recognition as part of the Muckleshoot Tribe. Thus, based on input from the Tulalip Tribes, if it were to be completed, the draft chapter would have needed to recognize use of the site by multiple peoples.

More recently, on March 15, 2018, Gretchen Kaehler, Washington State Department of Archaeology & Historic Preservation (DAHP) sent a request to Snohomish County asking for "archeological oversight in the form of professional archaeological monitoring and survey" (Exhibit H.2). DAHP is asking for coordination with interested tribes to "develop the plan for archeological oversight and investigation [to determine] when DAHP permits may be required under RCW 27.53." Based on information available to Snohomish County, such interested tribes would include at least both the Muckleshoot Tribe and the Tulalip Tribes.

Revisions to address the above concerns would not likely generate site plan changes that have direct additional SEPA impacts or need for supplemental environmental review. However, the indirect delay necessary for the Applicant to coordinate with DAHP and at least two tribal governments may adversely affect the issue of timelines under the heading ***Issue 3 Assumptions Regarding Timing of Phased Development*** on page 27 of this Staff Recommendation.

Snohomish County does not find a direct conflict with Chapter 30.32D SCC. However, compliance with procedural requirements of this chapter and Chapter 27.53 RCW may require supplemental environmental review if a Draft EIS based on the timelines in the August 2016 Expanded Traffic Impact Analysis (Exhibits C.1 to C.12) were to be completed.

Urban Center Development (Chapter 30.34A SCC)

The Urban Center Site Plan application (11-101457 LU) does not meet the requirements of Chapter 30.34A SCC. Details on issues with the design appear in the following places:

- April 12, 2013, Review Completion Letter (Exhibit K.4) regarding the 2011 version of the application (see especially pages 1-5);
- October 6, 2017, Review Completion Letter (Exhibit K.31) regarding the 2017 version of the application (pages 12-35, 79-98, and 176-181); and
- October 6, 2017 markups (Exhibit K.30) by Snohomish County on the April 17, 2017 version of the plans for 11-101457 LU.[23]

The April 12, 2013, Review Completion Letter identified 32 issues relating to urban centers in the 2011 version of the plans that required response by the Applicant. The Applicant made revisions and submitted new plans on April 17, 2017.

In the October 6, 2017, Review Completion Letter Snohomish County summarizes the Applicant's response to the original list of 32 urban center issues on page 13 of the review letter. Of the 32 issues, the Applicant provided an adequate response to 0 (zero) of the issues raised in the 2013 review letter. The 2017 resubmittal included partial, i.e. inadequate, responses to 10 issues and did not respond at all to 19 issues.

The October 6, 2017 markups by Snohomish County on the Applicant's April 17, 2017 version of the plans primarily identify internal conflicts between the plan sheets, proposed design flaws that would require rework by the architect, and identify examples of where the proposal fails to provide information required to demonstrate compliance with Snohomish County Code.

Conflicts and omissions affect the following sections:

- SCC 30.34A.030 [2010] Floor Area Ratio (Exhibit K.31, pages 79-80)[24]
- SCC 30.34A.040 [2010] Building Height and Setbacks (pages 81-
- SCC 30.34A.070 [2010] Open Space (page 83)
- SCC 30.34A.080 [2010] Circulation and Access (pages 84-85)
- SCC 30.34A.085 [2010] Access to Public Transportation (pages 85-86)
- SCC 30.34A.090 [2010] Signs (page 86)

[23] The October 6, 2017 markups to the April 17, 2017 plans are available at https://snohomishcountywa.gov/DocumentCenter/View/46926.

[24] Exhibit K.31 contains a typo on page 79 where it refers to SCC 30.34A.**020** *Permitted Uses* as Section 30.34A.**030**. It then correctly proceeds to identify Section 30.34A.030 [2010] as *Floor Area Ratio*.

- SCC 30.34A.100 Design Standard – Screening Trash/Service Areas and Rooftop Mechanical Equipment[25] (pages 86-87)
- SCC 30.34A.110 Design Standard – Lighting (page 87)[26]
- SCC 30.34A.120 Design Standard – Step Back and Roof Edge (pages 87-90)
- SCC 30.34A.130 Design Standard – Massing and Articulation (pages 90-93)
- SCC 30.34A.140 [2010] Design Standard – Ground Level Detail and Transparency (page 94)
- SCC 30.34A.150 [2010] Design Standard – Weather Protection (page 94)
- SCC 30.34A.160 Design Standard – Blank Walls (page 94)
- SCC 30.34A.190 Public Spaces and Amenities (page 98)

While revisions to address several of the above concerns would not likely generate direct additional SEPA impacts or need for supplemental environmental review, the delay necessary for the Applicant to make such revisions may adversely affect timelines issue under the heading **Issue 3: Assumption Regarding Timing of Phased Development** on page 27 of this Staff Recommendation. If the Draft EIS were to proceed, revisions in response to building height issues may also require additional work on the visual impact assessment chapter for which the SEPA consultants have prepared a preliminary draft using the 2011 plans.

Snohomish County therefore finds that the project does not comply with Chapter 30.34A SCC. Revisions to correct for these issues may require supplemental environmental review if a Draft EIS based on the April 17, 2017 version of the plans were to be completed. Snohomish County further finds that the project may require supplemental environmental review if a Draft EIS based on the timelines in the August 2016 Expanded Traffic Impact Analysis (Exhibits C.1 to C.12) were to be completed.

[25] The October 6, 2017, Review Completion Letter identifies the applicable requirement in SCC 30.34A.100 as a *former* code section (pages 86, 96, and 239). This is in error as the code section has been in effect since May 12, 2010 and is unchanged.

[26] See also recommendation from the Snohomish County Design Review Board relating to lighting in Exhibit H.13.

Short Subdivisions (Chapter 30.41B SCC)

The short plat application (11-101007 SP) would revise the existing parcel lines to create new parcels for phasing of the development of the urban center site plan (11-101457 LU) and a tract for the beach area.

The April 12, 2013, Review Completion Letter identified seven discrete issues with the 2011 version of short plat application (pages 5-6). The Applicant revised the short plat application and resubmitted it on April 17, 2017 (Exhibit B.5).

The October 6, 2017, Review Completion Letter (Exhibit K.31) details Snohomish County's review of the 2017 version of the short plat plans (pages 99-110). Accompanying this review was a set of marked up plans dated October 6, 2017 (Exhibit K.29) that identify specific corrections necessary on the drawings.[27]

As described in the October 6, 2017, Review Completion Letter, only one of the seven short plat issues previously identified regarding the 2011 version of the plans was adequately addressed by the 2017 revisions. The Applicant provided materials partial responding to three issues, and two issues were not addressed at all. One remaining issue would have been addressed in the Draft EIS had an EIS been completed.

Remaining major code compliance issues as detailed in the October 6, 2017, Review Completion Letter (Exhibit K.31) and marked up plans from the same date (Exhibit K.29) include:

1. Conflicts between the short plat application (11-101007 SP) and the urban center site plan (11-101457 LU);
2. Problems with existing and proposed easements (SCC 30.41B.630(3));
3. Failure to properly depict critical areas on the preliminary short plat map (SCC 30.62A.130 and SCC 30.62B.130)
4. A large number of drafting errors and conflicts with code, which would require additional revisions and review before PDS could recommend approval (see marked up drawings, Exhibit K.29).

Conflicts and omissions affect the following sections:

- SCC 30.41B.100 Decision Criteria (see marked up plans dated October 6, 2017 (Exhibit K.29) and discussion in the October 6, 2017 Review Completion Letter (Exhibit K.31, at page 106)
- SCC 30.41B.200 Design Standards (Exhibit K.31, pages 107-108)
- SCC 30.41B.400 Installation of Improvements (Exhibit K.31, pages 108-109)
- SCC 30.41B.630 Dedications (Exhibit K.31, pages 109-110)
- SCC 30.41B.650 Homeowners Association (Exhibit K.31, page 110)

[27] The October 6, 2017, short plat markups are available at https://snohomishcountywa.gov/DocumentCenter/View/46927.

As described on pages 108-109 of the October 6, 2017, Review Completion Letter, adequate response to SCC 30.41B.400 requires coordination with two outside parties. The Applicant must obtain approval from Burlington Northern Santa Fe for the proposed crossings over the railroad. In addition, the Applicant must obtain agreement from King County on revisions to the Brightwater access.

Snohomish County therefore finds that the project does not comply with the sections of Chapter 30.41B SCC cited above. Revisions to correct for these issues may require supplemental environmental review if a Draft EIS based on the April 17, 2017 version of the plans and on the timelines in the August 2016 Expanded Traffic Impact Analysis (Exhibits C.1 to C.12) were to be completed.

Flood Hazards (Chapter 30.43C and 30.65 SCC)

Snohomish County has provided flood hazard comments to the Applicant on at least three occasions.

1. The April 12, 2013, Review Completion Letter (Exhibit K.4, page 5) states that a "Snohomish County Flood Hazard Permit will be required for the proposal pursuant to SCC 30.65.220(5)."
2. The Flood Hazard Review Memo from Rebecca Samy, Certified Floodplain Manager, dated June 27, 2017 (Exhibit K.27) reiterates on page 2 that a flood hazard permit will be required.
3. The October 6, 2017, Review Completion Letter (Exhibit K.31) further discusses Chapter 30.43C SCC Flood Hazard Permits on page 111 and Chapter 30.65 SCC Special Flood Hazard Areas on pages 155-161.

The project does not require flood hazard permits until proposing construction work for portions of the project located in the special flood hazard area, such as replacing the existing seawall. However, general flood hazard review is part of the review of the project applications received to date. On page 28 of the October 6, 2017, Review Completion Letter, Snohomish County identified flood hazards as "**an important SEPA-level concern"** (bolding original). The explanation that follows this statement reads:

> The lower floors of the three parking garages on the lower bench would all be at 6' elevation, which is below the base flood elevation for the property. Any approval for garages at this level would be conditional on meeting floodproofing standards. While hypothetically approvable, such garages may prove cost prohibitive to build. Revising the site plan to bring the garages entirely above the base flood elevation at the construction drawing stage would likely result in other changes – such as to drainage, visual impacts, and the amount of fill material to be moved to and from the site – that may require supplemental environmental review and approval before construction could proceed.

Likewise, the Flood Hazard Review Memo dated June 27, 2017 asks the Applicant to "Demonstrate how the energy center will comply with SCC 30.65.110(3)(a & b) as it appears to be located within the special flood hazard area" (page 3).

Assuming correction of minor drafting errors and omissions, Snohomish County finds the project may be able to comply with procedural requirements of chapters 30.34C and 30.65 SCC. It is therefore possible for the application to proceed without applying for flood hazard permits at this time. However, Snohomish County has informed the Applicant that ignoring the effects of meeting flood hazard requirements on future construction plans may have impacts on the review of the application. If the costs associated with floodproofing of the energy center and parking garages prove prohibitive, then to avoid such costs, the Applicant may then be compelled to make changes to the April 17, 2017, site plan that have a high probability of requiring supplemental environmental review.

If the Applicant were to continue to defer application for flood hazard permits and making potential revisions to the site plan, such actions would cause delay to the overall construction schedule. Snohomish County therefore finds that the project may require supplemental environmental review if a Draft EIS based on the timelines in the August 2016 Expanded Traffic Impact Analysis (Exhibits C.1 to C.12) were to be completed.

Fire Code (Chapter 30.53A SCC)

The project does not meet Chapter 30.53A SCC requirements. Snohomish County finds that the application cannot meet fire access requirements because the Applicant does not have necessary easements or rights-of-way to establish secondary points of access as described on page 21 under the heading ***1. Failure to* Document Feasibility and Code Compliance of Second Access Road**. Other conflicts with Chapter 30.53A SCC exist and are discussed below.

The April 17, 2017, Urban Center Site Plan (11-101457 LU) and Short Plat Application (11-101007 SP) do not meet fire code requirements. Details on these conflicts are provided in the following places:

- April 12, 2013, Review Completion Letter regarding the 2011 version of the application (see Fire Marshal review comments from Senior Fire Inspector Ron Tangen on pages 10-11),
- June 15, 2017, Fire Review Memo from Senior Fire Inspector Lori Burke,[28] and
- October 6, 2017, Review Completion Letter[29] (see especially pages 21-22 and 124-141).

Principal deficiencies identified in the April 12, 2013, Review Completion Letter include non-complicance with SCC 30.53A.512 Fire Apparatus Access roads. While the 2017 version of the plans address some of the original concerns, such as correction for some, but not all, of the turning radii that were too tight for fire trucks, many concerns regarding fire access remain. A major improvement in the 2017 plans was the addition of a second access road to comply with certain requirements in SCC 30.53A.512, but the design of this second road would need redesign to comply with SCC 30.53A.512 and other requirements. The review comments are detailed in the June 15, 2017, and October 6, 2017, documents.

Remaining major issues of concern, all of which related to SCC 30.53A.512 compliance, include:

1. The site plan does not provide sufficient fire lane access to all buildings.
2. The second access road does not meet fire access requirements (and the application lacks the necessary supporting geotechnical engineering reports, drainage plans, and easements necessary from affected third party property owners).
3. Some of the proposed fire lanes next to high-rise buildings are too narrow for trucks to set up aerial apparatus to fight fires.
4. Several transitions in road grade are too abrupt for ladder trucks to travel across without "bottoming out" on the road surface.
5. The underpass at the bridge to the pier does not have enough clearance for fire trucks; therefore, the esplanade cannot be counted as a fire lane.
6. The proposed fire station in the garage below the Urban Plaza phase does not allow for fire trucks to access said station because the road to it lacks sufficient turning radius.

[28] The June 15, 2017, Fire Review Memo is available at https://snohomishcountywa.gov/DocumentCenter/View/44891.

[29] The October 6, 2017, Review Completion Letter is available at https://snohomishcountywa.gov/DocumentCenter/Home/View/46925.

Impact Fees (Chapters 30.66A, 30.66B, 30.66C SCC)

Under SEPA, impact fees are major part of mitigating for the impacts of a project. In a typical staff recommendation, this section would address the impact fees due for Park and Recreation Facilities (Chapter 30.66A SCC), Traffic Mitigation (Chapter 30.66B SCC) and School Impact Mitiation (Chapter 30.66C SCC). However, it is not possible to determine what fees might be due for the April 17, 2017 version of the Point Wells project.

In its October 6, 2017, Review Completion Letter (Exhibit K.31), Snohomish County wrote that the "amount of various uses prposed on the site is the most imporant variable. Our review of the data tables on Sheets A-200 to A-202 shows that the tables do not accurately reflect the number of floors in each building" or total amounts and types of uses proposed (page 31). This was written with respect to *Traffic Assumptions*, but also applies to park and school impact fees. Since the plans do not add up, Snohomish County is unable to determine appropriate impact fees.

Park and Recreation Facility Impact Fees (Chapter 30.66A SCC): Point Wells is in the Nakeeta Beach Park Service Area and is subject to Chapter 30.66A SCC, which requires payment of $1,050.49 per each new multi-family residential unit, to be paid prior to building permit issuance for each unit. However, since the site plan does not match the stated number of units, Snohomish County cannot determine the park impact fee for many of the buildings.

Traffic Mitigation Fees (Chapter 30.66B SCC): Traffic Mitigation Fee rates were previously determined to be $230 per Average Daily Trip (ADT) from residential uses and $196/ADT for commercial uses (Exhibit K.31, page 165) but the Applicant did not provide was not enough information provide enough information on Transportation Demand Management (see TDM discussion above on page 27 of this Staff Recommendation) or on the number and types of uses that would generate traffic in the first place (Exhibit K.31, page 31).

School Impact Fees (Chapter 30.66C SCC): The Snohomish County Council amended Chapter 30.66C SCC by Amended Ordinance 97-095, adopted November 17, 1997, which became effective January 1, 1999, in accordance with Amended Ordinance 98-126, to provide for collection of school impact mitigation fees at the time of building permit issuance based upon certified amounts in effect at that time. The subject application was determined to be complete after the effective date of amended Chapter 30.66C SCC. Pursuant to Chapter 30.66C SCC, school impact mitigation fees will be determined according to the Base Fee Schedule in effect for the Edmonds School District No. 15, at the time of building permit submittal and collected at the time of building permit issuance for the proposed units. However, fees cannot be determined because it is not clear how many units are in each building.

SEPA (Chapter 30.61 SCC)

Snohomish County made a threshold Determination of Significance and published a *Notice of Determination of Significance and Request for Comments on Scope of EIS* (Exhibit **Error! Reference source not found.**) on February 2, 2014. However, the due to lack of posting of the original notice to the site, Snohomish County published a 2nd *Notice of Determination of Significance and Request for Comments on Scope of EIS* (Exhibit E.2) on March 12, 2014. Proper posting of the second notice to the site took place.

SCC 30.61.057 Completeness Determination

The applications submitted by the Applicant were determined to be complete for the purpose of review at the time of submittal. Submittal dates were:

- February 14, 2011 (11-101008 LDA, Land Disturbing Activity – grading)
- February 14, 2011 (11-101007 SP, Short Plat)
- March 4, 2011 (11-101457 LU, Land Use permit for site plan)
- March 4, 2011 (11-101461 SM, Shoreline Management permit)
- March 4, 2011 (11-101464 RC, Retaining Wall – Commercial)
- April 17, 2017 (11-101457 VAR, Parking Variance)

SCC 30.61.060 Time Limits

Project review was stayed pursuant to a court ordered injunction issued by the King County Superior Court on November 23, 2011. The threshold determination was issued March 2, 2014, after the injunction had been lifted by the Court of Appeals.

SCC 30.61.060(3) EIS Preparation provides that

> The time period necessary for EIS preparation will vary on a case-by-case basis and is dependent upon the nature of the proposed action, and the number and complexity of the environmental elements to be included in the document. The time period for preparing an EIS shall be consistent with the time period specified by the department pursuant to SCC 30.70.110, or consistent with time periods mutually agreed to by the lead department and project applicant.

Pursuant to SCC 30.70.110, the April 12, 2013, Review Completion Letter (Exhibit K.4) gave the Applicant one year to respond to the information requested. The requested information included revisions to the site plan, corrections on technical reports, and submittal of missing reports. This response would become the action alternative for study in the EIS, replacing the 2011 application. On March 21, 2014, the Applicant responded (Exhibit G.1) by requesting more time to respond to PDS's comments regarding the initial application (i.e. to respond to Exhibit K.4). Snohomish County agreed to this request and

granted an extension on May 15, 2014. As described under the Heading Appendix A: Chronology on page A-1, PDS granted three separate extensions requested by the Applicant, ultimately resulting in a June 30, 2018, project application expiration date.

In the April 12, 2013, Review Completion Letter, PDS requested that the Applicant respond with the required information within one year. The Applicant did not respond to this review until April 17, 2017. As documented in the October 6, 2017, Review Completion Letter (Exhibit K.31) and above in this Staff Recommendation, the Applicant has not adequately responded to the April 12, 2013, Review Completion Letter.

SCC 30.61.070 Expiration of all Applications Subject to SEPA

This section provides the following:

> If the responsible official determines that the information initially supplied is not reasonably sufficient to evaluate the environmental impacts of the proposal […], further information may be required of the applicant in conformance with WAC 197-11-100 and WAC 197-11-335. The requirement of SCC 30.70.140 shall also apply.

The information initially supplied by the Applicant was not reasonably sufficient to evaluate the environmental impacts of the proposal. As a result Snohomish County requested required additional information from the Applicant as identified in the April 12, 2013, and October 6, 2017, Review Completion Letters. The Applicant has not provided adequate application information in response to these requests. On March 31, 2016, the Applicant's third request for an extension was granted and established an application expiration date of June 30, 2018.

SCC 30.61.130 EIS Preparation

SCC 30.61.130(1) provides, in part, that preparation of an EIS must "be done in a timely and economical manner". Work on an EIS for Point Wells began by consultants in 2014, but the consultants cannot complete the EIS work because the Applicant has not provided an action alternative that conforms to the applicable regulations (WAC 197-11-100; SCC 30.61.130(3)(e)[30]). Additionally, the technical reports furnished by the Applicant do not address all the issues identified by Snohomish County as required to be included in a Draft EIS to identify probable significant adverse impacts of the project and possible mitigation measures. Therefore, if work on the Draft EIS were to proceed based on information provided

[30] SCC 30.61.130(3)(e) provides in relevant part, "If the applicant fails or refuses or refuses to provide adequate information or data required for preparation of the document, including adequate response to comments on a draft EIS, the responsible official may refuse to further process or consider the application until such information or data is provided, or until the application has expired pursuant to the county code provisions for underling project permit application, whichever is first …"

by the Applicant to date, then a Supplemental Draft EIS would be necessary to remedy its shortcomings. PDS does not find this to be a timely or economic manner of EIS preparation.

Snohomish County made its Determination of Significance on February 2, 2014 (Exhibit E.1) with the expectation that the Applicant would submit revised plans by April 12, 2014. The April 12, 2014 date was established by Snohomish County in an April 12, 2013, Review Completion Letter (Exhibit K.4). On March 21, 2014**,** the Applicant requested an extension to April 1, 2015, to extend the "deadline by which the Applicant must respond to PDS's comments regarding the initial application" i.e. to give the Applicant time to respond to the April 12, 2013, Review Completion Letter.

Consultants were hired and work began on a preliminarly Draft EIS (Exhibit E.3). Meanwhile the Applicant made two more extension requests and both were granted. Preliminary drafts were reviewed by Snohomish County. Based on the information provided by the Applicant, Snohomish County required that the preliminary drafts disclose major conflicts with County Code. See, for instance, Snohomish County's September 19, 2016, comments on the beginning of what would have been a chapter on Geologic Hazards (Exhibit K.17). These comments would have included having the Draft EIS disclosing that the application does not properly depict landslide hazard areas (a problem that was improved on, but still not properly depicted on the April 17, 2017 revisions). With bolding original, Snohomish County's edits to this section would have concluded on page as follows:

> **Shortcomings in how the application handles the landslide hazard requirements of former SCC 30.62B.340** [2007] **are one of several reasons why the application cannot be approved until it is revised.** A revised application must properly depict the requirements of *former* SCC 30.62B.340 [2007]. Further, when revising the application, the Applicant must include a request to deviate from the setback requirements or provide a revised site plan that avoids landslide hazard setbacks.

Even with partial corrections made in the April 17, 2017 revisions, the above statement still stands.

All eight of the major areas of conflict with Snohomish County Code discussed in this Staff Recommendation would have needed to be identified in the Draft EIS as reasons why the project could not be approved.

On November 15, 2016, Snohomish County followed up with a letter to the Applicant (Exhibit K.18) informing the Applicant that work on the Draft EIS could no longer proceed until the Applicant submitted revised plans and reports responding to prior review comments. On April 17, 2017, the Applicant submitted revised plans and some reports, yet as Snohomish County's October 6, 2017, Review Completion Letter documents, these revisions are in substantial conflict with Snohomish County Code. An EIS based on the April 17, 2017 revisions, therefore, would need to show substantial conflict with Snohomish County Code. Compliance with code could have mitigated many of the impacts that an EIS hypothetically completed in such a manner would have disclosed. It would not be possible for Snohomish County to recommend approval of the April 17, 2017 plans.

SCC 30.61.200 Authority to Condition

SCC 30.61.200(1) allows the County to attach conditions of approval provided such conditions shall be "related to specific adverse environmental impacts clearly identified in an environmental document". However, as discussed in this Staff Recommendation, the Applicant has not provided sufficient information to identify all specific adverse environmental impacts or to finish preparing the environmental document – EIS – for the project. Therefore, Snohomish County finds that it cannot grant an approval, even with conditions.

SCC 30.61.220 Denial Without EIS

When denial of a non-county proposal can be based on grounds which are ascertainable without preparation of an EIS, the responsible official may recommend denial of a proposal in order to avoid incurring needless county and applicant expense. SCC 30.61.220. SCC 30.61.220 provides in full:

> When denial of a non-county proposal can be based on grounds which are ascertainable without preparation of an environmental impact statement, the responsible official may deny the application and/or recommend denial thereof by other departments or agencies with jurisdiction without preparing an EIS in order to avoid incurring needless county and applicant expense, subject to the following:
>
> (1) The proposal is one for which a DS has been issued or for which early notice of the likelihood of a DS has been given;
>
> (2) Any such denial or recommendation of denial shall be supported by express written findings and conclusions of substantial conflict with adopted plans, ordinances, regulations or laws; and
>
> (3) When considering a recommendation of denial made pursuant to this section, the decision-making body may take one of the following actions:
>
> (a) Deny the application; or
>
> (b) Find that there is reasonable doubt that the recommended grounds for denial are sufficient and remand the application to the responsible official for compliance with the procedural requirements of this chapter.

The SEPA responsible official is the Director of PDS and a DS has been issued for this proposal. As documented in this Staff Recommendation and other documents referenced herein, PDS and DPW find that the project proposal substantially conflicts with adopted plans, ordinances, regulations, and laws. The Director of PDS adopts the following findings and conclusions, as set forth below:

CONCLUSIONS

1. Failure to Document Feasibility and Approvability of Second Access Road

The proposal substantially conflicts with SCC 13.05.020, SCC 30.24.060 [2009], SCC 30.24.080 [2009], SCC 30.53A.512, SCC 30.62A.140 [2007], SCC 30.62A.150 [2007], SCC 30.62B.140(1)(a) & (1)(b) [2007], SCC 30.62B.320([2007], SCC 30.62B.340 [2007], EDDS 3-01 (B)(5) [2010], EDDS Table 3-1 [2010], and EDDS Standard Drawing 3-050 [2010].

2. Failure to Provide Acceptable Traffic Report and Assumptions, Resulting in Noncompliance with Concurrency Requirements and Failure to Mitigate Traffic Impacts

The proposal substantially conflicts with Title 13 SCC and Chapter 30.66B SCC, specifically including SCC 30.34A.080(9) [2010], and SCC 30.66B.050(2).

3. Failure to Provide Appropriate Building Setback for Tall Buildings from Lower Density Zones and Failure to Document Evidence for Access to High Capacity Transit for Building Heights over 90 Feet

The proposal substantially conflicts with SCC 30.34A.040(1) [2010] and SCC 30.34A.040(2) [2010].

4. Failure to Satisfy Access to Public Transportation and Transit Compatibility

The proposal substantially conflicts with SCC 30.34A.085 [2010] and DPW Rule 4227

5. Failure to Furnish Information on Contamination Necessary To Determine Approvability of Drainage Proposal and Compliance with Critical Areas Regulations

The proposal substantially conflicts with Chapter 30.62A, Chapter 30.62C, and Chapter 30.63A SCC, specifically including SCC 30.62C.140 [2007], SCC 30.63A.110 [2010], and the Snohomish County Drainage Manual, Vol. III, section 3.3.7 [2010].

6. Failure to Provide Adequate Parking

The proposal substantially conflicts with SCC 30.26.010(1) [2003], SCC 30.26.020 [2007], SCC 30.26.065, SCC 30.34A.050 [2010] (recodified in SCC 30.26.032), SCC 30.43B.100, and IBC 1101.2, IBC 1104.1, and IBC 1106.5, and ICC A1171 Section 502.8.

7. Failure to Address Shoreline Management Regulations

The proposal substantially conflicts with Chapter 30.44 SCC, Chapter 30.62A SCC, and Chapter 30.62B SCC, specifically including Former SCC 30.44.410, SCC 30.62A.150 [2007], SCC 30.62A.460 [2007], and SCC 30.62B.140 [2007].

8. Failure to Comply with Code Provisions Regarding Critical Areas, Including Geologically Hazardous Areas, Wetlands and Fish & Wildlife Habitat Conservation Areas, and Critical Aquifer Recharge Areas

The proposal substantially conflicts with Chapter 30.62A SCC, Chapter 30.62B SCC, Chapter 30.62C SCC, specifically including SCC 30.62A.150 [2007], SCC 30.62A.160 [2010], SCC 30.62A.310 [2010], SCC 30.62A.320 [2010], SCC 30.62A.330 [2010], SCC 30.62A.340 [2010], SCC 30.62A.460 [2007], SCC

30.62B.130 [2007], SCC 30.62B.140 [2007], SCC 30.62B.320 [2007], SCC 30.62B.340 [2007], SCC 30.62B.350, and SCC 30.62C.140 [2007].

STAFF RECOMMENDATION

On behalf of the Executive Branch, PDS and DPW recommend **DENIAL** of the Point Wells project applications under SCC 30.61.220 based on Conclusions 1 through 8 above.

Appendix A: Chronology

February 4, 2011	Applicant submitted to PDS a Short Plat application (File Number 11-101007 SP Exhibit A.6)[31] and a Land Disturbing Activity permit application (11-101008 LDA Exhibit A.3)
March 4, 2011	Applicant submitted to PDS a Land Use permit application for an urban center site plan (11-101457 LU Exhibit A.1)[32], Shoreline Management permit application (11-101461 SM Also Exhibit A.1), and Retaining Wall – Commercial permit application (11-101464 RC).
April 25, 2011	Growth Management Hearings Board's Final Decision and Order Invalidating the Comprehensive Plan ordinances concerning Snohomish County's urban centers and designation of Point Wells as an urban center.
November 23, 2011	King County Superior Court Order enjoining Snohomish County from processing the Applicant's Point Wells urban center application until Snohomish County has complied with SEPA.
December 20, 2012	Growth Management Hearings Board's Order finding Snohomish County in compliance
January 7, 2013	Court of Appeals decision invalidating the King County Superior Court injunction.
April 12, 2013	PDS sent a Review Completion Letter to the Applicant (Exhibit K.4).[33] In the letter, PDS identified information the Applicant needed to provide in order for PDS to further evaluate the proposal, which included no less than 62 discrete issues with the initial application. On page 1, this letter noted that the "application will expire one year after the date of this memorandum **(April 12, 2014)** if the applicant fails to provide All requested information per SCC 30.70.140(1) [2003]" (bolding original). Attached to the April 12, 2013, Review Letter were four technical review memos plus agency and public comments. The technical review memos identified additional issues beyond the 62 discrete issues referenced above. The requested information in these memos is included as part of the requested information to which the Applicant had one year to respond, per the April 12, 2013, Review Letter. The attached technical review memos are as follows:

[31] Exhibit A.6 is available at https://snohomishcountywa.gov/DocumentCenter/View/32676

[32] Exhibit A.1 is available at https://snohomishcountywa.gov/DocumentCenter/View/32477

[33] Exhibit K.4 is available at https://snohomishcountywa.gov/DocumentCenter/View/31057

1. Critical Areas Review Memo dated May 12, 2011 (Exhibit K.5);[34]
2. Traffic Mitigation and Concurrency Review Memo dated June 7, 2011 (Exhibit K.6);[35]
3. Transit Compatibility Memo dated June 13, 2011 (Exhibit K.7);[36] and
4. Transportation Demand Management Review Memo dated September 6, 2011 (Exhibit K.8).[37]

February 2, 2014	SEPA Determination of Significance and request for comments on scope of EIS published
March 12, 2014	2nd Notice of Determination of Significance and request for comments on scope of EIS published to correct a posting defect in the original notice
March 21, 2014	Applicant Letter to PDS Requesting 1st Extension of the Application (Exhibit G.1). This request was, in part, to extend the "deadline by which the applicant must respond to PDS's comments regarding the initial application" i.e. to give the Applicant time to respond to the April 12, 2013 Review Completion Letter.
April 10, 2014	Washington Supreme Court decision confirming Court of Appeal's ruling
May 15, 2014	PDS Letter to Applicant Granting 1st Extension of the Application.
April 15, 2015	Applicant Letter Requesting 2nd Extension of the Application Expiration Date to June 30, 2016. This letter requested extension of the deadline for the "pending Point Wells Urban Center and related applications" and suggested June 30, 2016 as "a date by which we [Applicant] assume that ***all final action*** on the application will have occurred" (emphasis added). "All final action" would have included a response by the Applicant to the April 12, 2013, Review Completion Letter, review by PDS of the response, conclusion of a Final Environmental Impact Statement (FEIS) and a decision by the Hearing Examiner.

[34] Exhibit K.5 is available at https://snohomishcountywa.gov/DocumentCenter/View/33702

[35] Exhibit K.6 is available at https://snohomishcountywa.gov/DocumentCenter/View/50073

[36] Exhibit K.7 is available at https://snohomishcountywa.gov/DocumentCenter/View/46572

[37] Exhibit K.8 is available at https://snohomishcountywa.gov/DocumentCenter/View/50074

April 21, 2015

PDS Letter to Applicant Granting 2nd Extension of the Application Expiration Date to June 30, 2016. This letter granted the extension. In its April 21, 2015, Extension Letter, PDS also stated that the "applicant has until June 30, 2016, to provide the additional information requested by PDS in the April 12, 2013 application review letter."

July 29, 2015

PDS made a 12-page request to the Applicant for clarifications to the 2011 submittal drawings (Exhibit K.10).[38] This request stated that

> Some issues, such as confirmation of the proposed number of units in each building, must be clarified before the Draft Environmental Impact Statement (DEIS) is issued.
> […]
> Many of the requests for modified/clarified drawings date back to the April 12, 2013, Review Completion Letter from Darryl Eastin that described information required to evaluate the Point Wells proposal further […] This letter concurs with the earlier requirement and makes a series of more-detailed requests for changes in the project submittal sheets by topic in roughly descending order of priority.

Until the Applicant provided Snohomish County with corrections to the project application, it would be impossible to know the number of units and amount of non-residential uses proposed. Absent this information, which had been requested on April 12, 2013, it would not be possible for the Draft EIS to describe the proposed action or possible mitigation with much certainty.

August 26, 2015

Applicant provided a Report with the subject line: *Secondary Access – Point Wells Urban Center Development* (Exhibit C.21). This report discusses Snohomish County requirements, including EDDS 3-01(B)(5) which requires two roads to serve Point Wells. It then recommends that a deviation from this standard would "allow for more cost effective solutions without affecting safety…" (page 4). It continues, also on page 4, saying that the "site development plan has the ability to accommodate alternative means of access for emergency responders such as by helicopter and boat" and asserts that the Shoreline Fire Department has not "required that a secondary vehicular access be provided."

PDS notes that neither the 2011 version of the site plan discussed in the August 26, 2016 Report, nor the subsequent revisions in 2017 make provisions for a helipad or for emergency boat access.

[38] Exhibit K.10 is available at https://snohomishcountywa.gov/DocumentCenter/View/31055

September 24, 2015	The Shoreline Fire Department sent Snohomish County a letter (Exhibit H.6) responding to several items of concern on the August 26, 2015, Secondary Access Report (Exhibit C.21). This letter also noted that the secondary access report came to the fire department from a third party who received it following a public records request. Of the items of concern, Shoreline Fire Department said that "The most significant of which is the assumption that the Department's lack of additional comments in the EIS process regarding emergency access is our acquiescence to a single access point for emergency vehicles. That is absolutely not true." (page 1)
December 9, 2015	Applicant response to July 29, 2015 Request for Clarifications (Exhibit G.4).[39] In this response, the Applicant argued that the clarifications "would require the completion of significant additional design work" and argued that such design work would exceed the requirements of the Urban Center Code SCC 30.34A. et. seq. It also asserted that the materials already submitted were "prepared in strict accordance with the code's requirements." PDS notes here that the design of the project was not in accordance with Snohomish County Code requirements as asserted by the Applicant. If it had met code, then the April 12, 2013, Review Completion Letter and the July 29, 2015, Request for Clarifications would not have been necessary. Moreover, the Applicant would not have needed to request the additional time that they did on March 21, 2015.
January 26 – August 18, 2016	Snohomish County sent the Applicant a series of draft supplemental review letters to provide the Applicant advance notice of code compliance issues with the application. Draft supplemental review letters were sent to the Applicant on January 26, 2016, February 24, 2016, June 9, 2016, July 8, 2016, and August 18, 2016.
February 5, 2016	Snohomish County provided the Applicant with an excerpt from Draft Supplemental Review Completion Letter Regarding Parking (Exhibit K.35). This 27-page review described major concerns with parking because: > The March 4, 2011, Urban Center Submittal does not provide adequate parking for the uses shown. It states that the "Actual Parking Provided" is

[39] Exhibit G.4 is available at https://snohomishcountywa.gov/DocumentCenter/View/50025

> 3,327 stalls for the project plus an additional 20 for the adjacent Brightwater facility […] Yet, Snohomish County estimates that the actual parking proposed is really just 2,423 stalls plus an additional 10 for Brightwater[.]

In bold, it also stated that "**Between the shortfalls in the number of parking stalls provided** [in this February 4, 2016 letter] **and the fact that the floor plans do not indicate 3,081 units** [as documented in the July 29, 2015 letter]**, the project must be modified for both internal consistency and for consistency with County Code**" (page 19).

March 30, 2016

Email from Gary Huff of BSRE to PDS Requesting 3rd Extension of the Applications for a "minimum of two years" to "complete the remainder of the review process" (Exhibit G.5)[40].

PDS notes here that the remaining review process had not changed and that it still included the "all final action" items identified in the Applicant's April 15, 2015 extension request, including, among other things, the Applicant's response to the April 12, 2013, Review Completion Letter. By this point, PDS has supplemented the April 12, 2013, Review Completion Letter with July 29, 2015 Request for Clarifications and the February 5, 2016 Draft Supplemental Review Completion Letter Regarding Parking. These latter two documents did not raise new issues beyond those in the April 12, 2013, Review Completion Letter; rather, they provided additional illustrations of concerns raised in 2013.

March 31, 2016

PDS Letter to the Applicant Granting Extension to June 30, 2018. In addition to granting the 3rd extension request, this letter stated the following:

> In our April 21, 2015, letter extending the project to June 30, 2016, we wrote that, "The applicant has until June 30, 2016, to provide the additional information requested by PDS in the April 12, 2013 application review letter." Strictly speaking, this extension to June 30, 2018, also applies to the timeframe for responding to the April 12, 2013 application review letter. Please be aware, however, that PDS is working on a supplemental review letter and that there may be reasons to provide additional information sooner. The supplemental review letter, when complete, will articulate those reasons. Finally, your March 30, 2016, letter closes with the statement that, "in making this request [for a project extension] we reserve the argument that BSRE's applications remain vested under those code provisions in effect upon the date of

[40] Exhibit G.5 is available at https://snohomishcountywa.gov/DocumentCenter/View/33581

> application and that the recently adopted changes do not apply." While PDS acknowledges your right to reserve the argument, please understand that PDS takes a different view on vesting. Amended Ordinance 16-004, which becomes effective tomorrow (April 1, 2016), applies to existing applications that were deemed complete but that were not approved or denied prior to April 1, 2016. In other words, it is our view that expiration timelines set forth in Amended Ordinance 16-004 are applicable to the Point Wells proposal because vesting applies only to land use control ordinances that exert a restricting or directing influence over land use. Amended Ordinance 16-004 is a procedural regulation concerning expiration of permit applications and approvals. Since Amended Ordinance 16-004 is not a land use control ordinance, it is our position that vesting does not apply in this context.

September 19, 2016 PDS Email to the Applicant including an attachment with preliminary comments regarding landslide hazards on a draft chapter for the EIS (Exhibits K.16 and K.17). Among other things, this email included an image depicting the landslide hazard areas from the 2011 version of the site plan, showing conflicts with code and identifying landslide hazard areas not shown at all on the 2011 version of the plans. After describing the EIS process in general, this email stated that the

> FEIS [Final Environmental Impact Statement] will form the basis of our recommendations to the Hearing Examiner who may then grant approval or deny the project. Approval is usually conditional on taking steps to mitigate impacts and on making minor corrections in construction drawings. Outright denial usually only happens in extreme cases where a project is clearly unachievable; more often, flawed projects are remanded for revision.
>
> Major revisions would require a Supplemental EIS (SEIS). This could be a supplemental draft (SDEIS) if revisions happen after a DEIS and before an FEIS. Under a remand, a revised project would require a supplemental final (SFEIS) that would form the basis of a new recommendation and a second hearing.
>
> **Our goals on Tuesday** [during the next conference call with the EIS consultants] **are (1) to find a way to avoid needing an SEIS for Point Wells and (2) to receive a commitment from BSRE to revise the application to comply with code.** The second goal is because number of major revisions to the project design and supporting materials are necessary before we can recommend approval. (Bolding original)

PDS notes here that the April 17, 2017 revisions to the plan still did not comply with the applicable code requirements.

September 20, 2016 Meeting between representatives of the Applicant and Snohomish County. In notes taken by Ryan Countryman, PDS, the Applicant acknowledged the design issues with the project and outlined a possible approach for delivering additional analysis before the publication of the Draft EIS (Exhibit L.21).

November 15, 2016 PDS Letter to the Applicant Requesting a Resubmittal to Address the Information Originally Requested in the April 12, 2013, Review Completion Letter (Exhibit K.18)[41]. In the letter, PDS requested a revised submittal from the Applicant by May 15, 2017, in order for PDS to complete environmental review and notified BSRE of the June 30, 2018, application expiration date and potential to forward the current application materials for hearing with a recommendation of denial pursuant to SCC 30.61.220 if the Applicant did not address the deficiencies in the application. PDS provided that no further extensions would be granted absent "extraordinary circumstances."

November 17, 2016 PDS Email to the Applicant and EIS Consultants Subject: Point Wells traffic assumptions follow up (Exhibit M.4).[42] Regarding the traffic assumptions proposed by the Applicant, Snohomish County stated

> While each individual assumption may be plausible, the compounding effect of possible but unprecedented assumptions results in an overall traffic study that represents a best-case scenario. In other words, substantial uncertainty exists concerning traffic assumptions and the likelihood that the project would not exceed the trip limit at buildout.
>
> Significant impacts beyond those studied in the DEIS would occur if actual traffic exceeds the trip limit. Because of this and the best-case assumptions used in the analysis, Snohomish County must make clear in its comments and in the DEIS itself that substantial uncertainty exists regarding the traffic assumptions (WAC 197-11- 080(2)). If work by Snohomish County proceeds on the DEIS without a revised application and new alternative, then we are required to indicated in the appropriate environmental documents, i.e. our comments on the preliminary DEIS, our worst case analysis and the likelihood of occurrence as well as discussion of the possible severity of adverse impacts not disclosed by the traffic study (WAC 197-11-080(3)(b)).
>
> When the project goes to hearing, it is the applicant's burden to prove that the EIS addresses the probable significant impacts of the project. If we are required to prepare an EIS that states that the impacts and

[41] Exhibit K.18 is available at https://snohomishcountywa.gov/DocumentCenter/View/38892

[42] Exhibit M.4 is available at https://snohomishcountywa.gov/DocumentCenter/View/49993

> mitigation therein represent a best-case scenario only, then the applicant will be assuming the risk of needing to defend that position at hearing.

Snohomish County advised the Applicant that it, not the County, would need to defend the assumptions proposed in the traffic study. Further, Snohomish County would take the position that Applicant's traffic analysis is a best-case scenario that with a strong possibility that the project would result in significant adverse and undisclosed traffic impacts.

April 17, 2017 — Applicant Submits an Application Resubmittal to PDS that updates the Urban Center Site Plan (11-101457 LU Exhibit B.1) and the Short Plat (11-101007 SP Exhibit B.5)[43]. It also includes a new variance request relating to parking (11-101457 VAR Exhibit A.10)[44].

May 2, 2017 — PDS Letter to the Applicant Re: Resubmittal, DEIS, Timing & Application Expiration Notice (Exhibit K.19)[45]. The letter confirms the application resubmittal submitted by the Applicant on April 17, 2017, and provides 1-year advance notice to the Applicant of the upcoming application expiration of June 30, 2018, pursuant to SCC 30.70.140.

May 10, 2017 — PDS Letter to the Applicant Subject: Point Wells April 2017 Resubmittal and Preliminary Review Comments (Exhibit K.20)[46]. This letter was, in part, to provide the Applicant "with advance notice of significant deficiencies with the site plan and other aspects of the project application that were discovered upon initial review" (page 2). Among such deficiencies were eight major site plan issues and restatement of ongoing concerns about assumptions in the traffic study provided by the Applicant's consultants. This letter closes on page 10 with the following:

> **Conclusion of Preliminary Review:** The revised application appears unable to satisfy certain County Code requirements and still contains many internal errors and omissions. Several of the supporting reports must be updated before the DEIS can adequately identify mitigation measures for the project. Adequate assessment of probable impacts and identification of mitigation measures cannot take place unless future resubmittal(s) by BSRE include far fewer internal inconsistencies. Such action is necessary

[43] Exhibit B.5 is available at https://snohomishcountywa.gov/DocumentCenter/View/43168
[44] Exhibit A.10 is available at https://snohomishcountywa.gov/DocumentCenter/View/4373
[45] Exhibit K.19 is available at https://snohomishcountywa.gov/DocumentCenter/View/43436
[46] Exhibit K.20 is available at https://snohomishcountywa.gov/DocumentCenter/View/43702

because correction of inconsistencies by BSRE may necessitate changes to the proposed development and site plan which have not been reviewed or evaluated, including whether the changes satisfy County Code requirements, whether there has been disclosure of probable environmental impacts, or identification of appropriate mitigations measures.

October 6, 2017 — PDS Review Completion Letter to the Applicant (Exhibit K.31)[47]. The letter was sent by PDS to the Applicant in response to the resubmittal submitted by the Applicant on April 17, 2017. PDS identified some issues that had been addressed by the Applicant, but provided detailed comments and concerns with the applications multiple internal inconsistencies and County Code non-compliance. The letter identified that for more than half of the issues noted in the April 12, 2013, review letter, the Applicant had still failed to provide the required information. PDS once again notified the Applicant of the June 30, 2018, application expiration date and potential to forward the current application materials for hearing with a recommendation of denial if the Applicant did not address the deficiencies in the application. PDS provided that no further extensions would be granted absent "extraordinary circumstances."

October 6, 2017 — PDS Application Resubmittal Deadline Letter (Exhibit K.32)[48]. In the letter, PDS set a January 8, 2018, date for resubmittal by the Applicant, and indicated it would conduct one final review of the application materials at that time in order to have adequate time to process and complete review by the June 30, 2018, application expiration date.

November 13, 2017 — At the request of the Applicant, a meeting was held between PDS staff and the Applicant's representatives to discuss a November 8, 2017, letter from the Applicant requesting clarification on issues raised in the October 6, 2017, review letter. At the meeting, the Applicant presented their plan for resubmittal and included a draft Gantt chart that identified **January 30, 2018**, as the date by which the Applicant would "submit final documents to County for review" (Exhibit G.11). The Applicant indicated that it would be requesting another extension of the application expiration date. PDS explained that the January 8, 2018, resubmittal date was established to allow PDS time to review the application resubmittal prior to expiration of the applications and explained the procedure for making an extension request. The Applicant did not make an

[47] Exhibit K.31 is available at https://snohomishcountywa.gov/DocumentCenter/View/46925

[48] Exhibit K.32 is available at https://snohomishcountywa.gov/DocumentCenter/View/46924

	extension request at the meeting and PDS clarified that any future extension request must be in writing.
December 29, 2017	Applicant Response Letter to PDS Re: Review Completion Letter (Exhibit G.6)[49]. In the letter, the Applicant informs PDS that their consultants are unable to provide the information in the detail required by January 8, 2018. The Applicant does not provide PDS a target date by which it will resubmit application materials.
January 9, 2018	PDS Letter to the Applicant (Exhibit K.33). In the letter, PDS informs the Applicant that having received no revised application materials by January 8, 2018, PDS will proceed with final review of materials submitted to date and forward a recommendation to the hearing examiner under SCC 30.61.220 for a public hearing on the applications as previously indicated in the November 15, 2016, and October 6, 2017, letters from PDS to the Applicant.
January 12, 2018	Applicant Letter to PDS Re: Application Resubmittal Process and Request for a 4th Extension of the Applications. (Exhibit G.8) In the letter, the Applicant identifies concerns with the application process and makes a request for a 4th extension of the application expiration period for a minimum of 18 months.
January 19, 2018	Applicant Letter to PDS stating that the Applicant will be providing materials to Snohomish County to respond to the October 6, 2017, Review Completion Letter by no later than April 30, 2018.(Exhibit G.9).[50]
January 19, 2018	PDS sent a letter to the Applicant summarizing the November 13, 2017, meeting and clarifying that PDS did not endorse or opine on the Applicant's proposed resubmittal timeline. The letter also included a chronology of the application history and outlined the process for a hearing before the examiner under SCC 30.61.220.
January 24, 2018	PDS sent a letter to the Applicant denying the Applicant's 4th extension request of the application expiration period.
February 1, 2018	The Applicant sent a letter to PDS requesting reconsideration of the extension denial and providing information to justify their 4th request for an extension of

[49] Exhibit G.6 is available at https://snohomishcountywa.gov/DocumentCenter/View/48662

[50] Exhibit G.9 is available at https://snohomishcountywa.gov/DocumentCenter/View/49049

	the application expiration deadline. In the letter, the Applicant also states that the environmental cleanup and remediation of the project site is the responsibility of a third-party, and that the Applicant has limited control over the timing or handling of the remediation process.
February 5, 2018	PDS sent a letter to the Applicant indicating that the reconsideration request was received and the application expiration date remains June 30, 2018.
February 16, 2018	The Applicant files an appeal of the PDS letter denying their request for a 4th extension of the permit application expiration date.
February 27, 2018	PDS files a motion for summary dismissal of the Applicant's appeal with the Hearing Examiner's Office.
March 6, 2018	PDS sent a letter to the Applicant informing the Applicant that PDS is unable to complete environmental review because of the Applicant has failed to provide the application information necessary to continue review. In the letter, PDS notifies the Applicant that PDS will be forwarding a Recommendation of Denial Without an EIS to the Hearing Examiner under SCC 30.61.220. PDS also provides notice of the likely hearing dates (May 16-30), given the June 30, 2018, application expiration date.
March 15, 2018	PDS contacted the Hearing Examiner, and cc'd the Applicant, requesting hearing dates starting May 16, 2018, for a Type II hearing for a Recommendation of Denial without an EIS under SCC 30.61.220 for the project.
March 15, 2018	Design Review Board meeting held in which the Applicant presented the project before the DRB members and members of the public. The DRB concluded the hearing by making several recommendations that are to be included in the PDS Staff Recommendation.
March 21, 2018	A Pre-Hearing Conference is held by Hearing Examiner on the project. The Applicant and PDS present oral argument on the summary dismissal motion, and the Hearing Examiner grants summary dismissal of the Applicant's appeal of the denial of their extension request based on lack of jurisdiction. The Hearing Examiner also establishes proposed dates for the type II hearing under SCC 30.61.220.

Appendix B: Design Review Board (DRB)

Under 30.34A.180 SCC, the Snohomish County Design Review Board (DRB) shall hold one open public meeting with urban center project applicants, county staff, neighbors to the project, members of the public, and any city or town whose municipal boundaries are within one mile of the proposed urban center development or whose urban growth area includes the subject site or whose public utilities or services would be used by the proposed urban center development to review and discuss proposed site plans and project design. Following the public meeting, the DRB shall provide written recommendations to PDS and the applicant on potential modifications regarding the project, such as: scale, density, design, building mass and proposed uses of the project. The recommendations shall become part of the project application and should synthesize community input on design concerns and provide early design guidance to the development team and community; and ensure fair and consistent application of urban center design standards and any neighborhood-specific design guidelines.

The DRB held a public meeting on March 15, 2018 to provide design guidance on the Point Wells development application. The Applicant presented its project to the DRB. After reviewing the Applicant's presentation and considering public input the DRB unanimously adopted the following recommendations in a letter dated March 26, 2018 (Exhibit H.13):

1. Recommend that a certified agreement between the Applicant and Sound Transit providing for a Sound Transit rail service to the site be in place prior to approval of project.
2. Recommend that public access and public space have to be usable to the public by including restrooms and adequate parking facilities for those spaces intended to be accessed by the public. These facilities should be readily visible and easily identifiable with way finding provided.
3. Recommend that nighttime lighting for the project should comply with Boundary Up-lighting Glare (BUG) standards.
4. Recommend that there is a visual and textural difference for crosswalks over vehicular roadways.
5. Recommend that the multi-height building concept be retained even if allowable building height changes from the current proposal.
6. Recommend the building and site design should closely approximate to the look and feel of the color palette and rendering shown in the Applicant's presentation.
7. Recommend that each phase of development construction being substantially complete prior to commencement of the next phase of development.

The DRB noted that they cannot comment on the physical appearance of buildings and vegetation design due to lack of submitted documentation.

There were significant aspects of the proposal that the DRB liked; Leadership in Energy and Environmental Design (LEED) certification, the garbage collection system, integration of the planting schedule, planning for bus terminal and turn around for public transit, and the provision for public spaces. The DRB also noted that the lack of surface parking is a positive part of the design.

Appendix C: Proposed Exhibit List as of April 16, 2018

From the Applicant (BSRE)

A. Application

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

B. Plans

1. Architectural Plans April 17, 2017
2. SUPERSEDED Architectural Plans March 4, 2011
3. 2017-0417 Point Wells - Response to Snohomish County review comments
4. TDM Plan, dated March 4, 2011
5. Preliminary Short Plat dated April 17, 2017 for 11-101007 SP
6. SUPERSEDED Preliminary Short Plat dated Feb 11 2011 for 11-101007 SP

C. Reports

1. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates Aug 2016 w/App. C
2. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016 Appendix A
3. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates Aug 2016 Appendix B
4. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates Aug 2016 App. B1
5. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016 Appendix D
6. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016 Appendix E
7. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016 Appendix F
8. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates Aug 2016 App. F1
9. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016 Appendix G
10. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016 Appendix I
11. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates May 2016 Appendix J
12. DRAFT Point Wells Expanded Traffic Impact Analysis by David Evans and Associates Aug 2016 App. J1
13. SUPERSEDED Point Wells Expanded Traffic Impact Analysis by David Evans and Associates March 2011
14. SUPERSEDED Point Wells Traffic Impact Analysis in Accordance with SCC 30.66B March 2011
15. Critical Areas Report received April 17, 2017
16. Preliminary Geotechnical Engineering Study by HartCrowser dated November 16 2010
17. Draft Final Point Wells Subsurface Conditions Report by HartCrowser dated August 4, 2016
18. Transit Compatibility Study dated March 1, 2011
19. Targeted Drainage Report by SvR Design revised for April 17 2017 Resubmittal
20. Cultural Resources Technical Report revised July 23 2015
21. DRAFT Secondary Access Report by DEA dated Aug 26 2015
22. Stormwater Pollution Prevent Plan by SvR Design dated March 4, 2011

D. *Property*

1. **Boundary Line Adjustment Auditor File Number 200405180215**
2. Survey of Storm Drain and Utility Easement AFN 199911100667
3. Survey of Storm Drain and Utility Easement AFN 200405245217
4. Water Main Easement AFN 9206120018
5. Water Main Easement AFN 9603290025
6. Electrical Facilities Easement AFN 8503180060
7. Ingress Egress and Utility Easement AFN 200606271070
8. Survey of Railroad Easement AFN 200405245217
9. Critical Area Site Plan at Brightwater AFN 200607030209
10. Deed of Trust AFN 201309170649

E. *Environmental*

1. Notice of Determination of Significance and Request for Comments on Scope of EIS February 2, 2014
2. *2nd Notice of Determination of Significance and Request for Comments on Scope of EIS dated March 12, 2014*
3. *PRELIMINARY DRAFT Point Wells Preliminary Draft EIS for Internal Review, July 29, 2016*

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

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

G. *Other Submittal Items and Correspondence*

1. Extension Request from Gary Huff dated March 21, 2014
2. Extension Request from Gary Huff dated April 15, 2015
3. Email from Gary Huff dated December 7, 2015
4. Response to Request for Clarifications Dec 9 2015
5. Extension Request from Gary Huff Dated March 30 2016
6. BSRE Letter to PDS Director Mock December 29 2017
7. Email from Douglas Luetjen dated May 11, 2017
8. BSRE Letter Regarding Deadline Extension January 12, 2018
9. BSRE Letter to Matt Otten January 19, 2018
10. BSRE Request for Reconsideration Feb 1 2018
11. Point Wells Urban Center Application Response Timeline Gantt Chart from Perkins Will Dated November 2, 2017

H. City / Agency Comments

1. Tulalip Tribes by Mason Morisset April 11, 2011
2. City of Shoreline, Planning Director Joe Tovar – March 23, 2009
3. City of Shoreline, Planning Director Rachael Markle – February 28, 2014
4. City of Shoreline review comments on May 2016 Draft Expanded TIA dated May 24 2016
5. Washington State Department of Archeology and Historic Preservation, Gretchen Kaehler -- March 15, 2018
6. Muckleshoot Indian Tribe, Team Leader Karen Walter – February 28, 2014
7. Olympic View Water and Sewer District, by Susan Boyd of Pace Engineers – March 2, 2014
8. Shoreline Fire Department, Chief Matt Cowen – May 19, 2014
9. Shoreline Fire Department comments dated September 24, 2015
10. Town of Woodway, Mayor Carla Nichols – March 3, 2014
11. Washington State Department of Archeology and Historic Preservation, Gretchen Kaehler – March 3, 2014
12. Washington State Department of Ecology, David Pater – March 31, 2014
13. Snohomish County Urban Center Design Review Board, recommendation signed March 26, 2018
14. City of Shoreline, May 5, 2015
15. Town of Woodway, Administrator Eric Faison – June 3, 2015
16. Sound Transit, March 10, 2014
17. City of Shoreline, Planning Manager Paul Cohen, February 5, 2013
18. City of Shoreline, September 18, 2015
19. City of Shoreline October 2, 2015
20. City of Shoreline, February 7, 2016
21. City of Shoreline, September 15, 2016
22. City of Shoreline, March 15, 2018

I. Public Comments

1. Abelson, Winfield – March 27, 2014
2. Aken, Jeff – March 3, 2014
3. Antonik, Linda – February 24, 2014
4. Ashelman, Sheri – March 1, 2014
5. Bajema, Larry – February 28, 2014
6. Bakken, Jan – March 2, 2014
7. Bakken, Ole – March 15, 2018
8. Bannister, Mary and David – April 10, 2011
9. Bannister, David – February 18, 2014
10. Bannister, Mary – February 19, 2014
11. Block, Peter – February 20, 2014
12. Boucher, John and Marilyn – April 11, 2011

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

56. Glascock, Jane – February 28, 2014
57. Goetz, Joni – July 19, 2011
58. Graham, Clayton – March 28, 2014
59. Graham, Clayton – April 1, 2014
60. Graham, Clayton – March 15, 2018
61. Grieve, Gene – July 13, 2011
62. Grosshans, Annie & Flanigan, Robert – March 2, 2014
63. Grosshans, Annie & Flanigan, Robert – March 3, 2014
64. Hanson, Katherine – February 18, 2014
65. Harrison, Joan – March 3, 2014
66. Hayes, Peter – January 12, 2014
67. Heaton, Ric – March 24, 2014
68. Hiatt, Zachary – April 2, 2014
69. Hiatt, Zachary – April 28, 2014
70. Hill, Sherry and Jeffrey – April 2, 2014
71. Hodson, Judith and W. Alan – April 2, 2014
72. Hohbach, Starla – January 25, 2011
73. Hohbach, Starla – April 3, 2011
74. Holbrook, Colleen – February 10, 2014
75. Holbrook, Colleen – March 8, 2018
76. Holloway, Sue – February 18, 2014
77. Holt, Caycee – May 25, 2011
78. Holt, Caycee – July 29, 2011
79. Holt, Caycee – March 30, 2014
80. Holzmeyer, Gil – February 22, 2014
81. Jamieson, Tom – March 20, 2014
82. Jamieson, Tom – April 2, 2014
83. Jardine, Lynnea – March 3, 2014
84. Jensen, Delores – April 1, 2014
85. John, John T. – March 8, 2018
86. Johnson, Art – March 18, 2014
87. Joki, James – February 18, 2014a
88. Joki, James – February 18, 2014b
89. Jorgensen, Robert II – March 24, 2014
90. Kato, C – March 25, 2014
91. Kelton, Emily – March 2, 2014
92. Kink, Richard – March 3, 2014
93. Kink, Richard – April 2, 2014
94. Kinter, Pat – March 3, 2014
95. Kleyn, Frank and Jennifer – March 25, 2011
96. Kosten, Michael – March 3, 2014
97. Kulseth, Greg – March 17, 2014
98. Kulseth, Greg – February 27, 2018

99. Kunkel, Rick – March 2, 2014
100. Lamb, Kathleen – April 2, 2014
101. Lamb, Kathleen – February 28, 2018
102. Lambrecht, Tom – May 6, 2013
103. Lambrecht, Tom and Barb – March 26, 2014
104. Landau, Hank – February 20, 2014
105. Landau, Hank – February 27, 2018
106. Leyde, Dan – March 25, 2014
107. Lilleness, Fran – February 18, 2014
108. Loge, Kenneth – January 15, 2014
109. Loyer-Nelson, Edie – February 18, 2014
110. Maas, Sue – March 3, 2014
111. Madayag, Kristina – February 26, 2014
112. Madden, Rod – February 18, 2014
113. Madden, Rod – April 2, 2014
114. Maguda, David – March 27, 2014
115. Mailhot, Tom – January 14, 2014
116. Mailhot, Tom – March 3, 2014
117. Mailhot, Tom – April 2, 2014
118. Mailhot, Tom – January 27, 2015
119. Mailhot, Tom – September 11, 2015
120. Manolopoulos, Lynn – June 28, 2011
121. Massoni, Andrea – April 1, 2014
122. Mauer, George – March 25, 2011
123. Mayer, George – April 9, 2011
124. Mayer, George – March 14, 2018
125. McClelland, Robin – August 19, 2011
126. McClelland, Robin – February 18, 2014a
127. McClelland, Robin – February 18, 2014b
128. McClelland, Robin – February 26, 2014
129. McClurg, Rick – April 2, 2014
130. McCormick, Tom – May 20, 2014
131. McCormick, Tom – July 25, 2014
132. McCormick, Tom – March 17, 2015
133. McCormick, Tom – March 18, 2015 15.41
134. McCormick, Tom – March 18, 2015 15.56
135. McCormick, Tom – March 31, 2015
136. McCormick, Tom – May 5, 2015
137. McCormick, Tom – May 12, 2015
138. McCormick, Tom – May 14, 2015
139. McCormick, Tom – May 20, 2015
140. McCormick, Tom – June 9, 2015
141. McCormick, Tom – June 10, 2015

142. McCormick, Tom – June 11, 2015
143. McCormick, Tom – June 14, 2015
144. McCormick, Tom – June 17, 2015
145. McCormick, Tom – June 24, 2015
146. McCormick, Tom – July 8, 2015
147. McCormick, Tom – July 24, 2015
148. McCormick, Tom – August 14, 2015
149. McCormick, Tom – August 19, 2015
150. McCormick, Tom – August 21, 2015
151. McCormick, Tom – September 2, 2015
152. McCormick, Tom – October 12, 2015
153. McCormick, Tom – October 16, 2015
154. McCormick, Tom – October 21, 2015
155. McCormick, Tom – October 28, 2015
156. McCormick, Tom – October 30, 2015
157. McCormick, Tom – November 3, 2015
158. McCormick, Tom – November 4, 2015
159. McCormick, Tom – December 8, 2015
160. McCormick, Tom – January 6, 2016
161. McCormick, Tom – January 7, 2016
162. McCormick, Tom – January 11, 2016
163. McCormick, Tom – January 20, 2016
164. McCormick, Tom – February 24, 2016
165. McCormick, Tom – February 25, 2016
166. McCormick, Tom – February 26, 2016
167. McCormick, Tom – February 27, 2016
168. McCormick, Tom – February 28, 2016
169. McCormick, Tom – March 4, 2016
170. McCormick, Tom – March 9, 2016
171. McCormick, Tom – May 22, 2016
172. McCormick, Tom – June 8, 2016
173. McCormick, Tom – July 11, 2016
174. McCormick, Tom – July 18, 2016
175. McCormick, Tom – July 22, 2016
176. McCormick, Tom – August 12, 2016
177. McCormick, Tom – August 18, 2016 15.00
178. McCormick, Tom – August 18, 2016 15.02
179. McCormick, Tom – August 29, 2016
180. McCormick, Tom – December 29, 2016
181. McCormick, Tom – May 12, 2017
182. McCormick, Tom – June 3, 2017
183. McCormick, Tom – June 13, 2017
184. McCormick, Tom – June 15, 2017

185. McCormick, Tom – July 5, 2017
186. McCormick, Tom – August 9, 2017
187. McCormick, Tom – August 11, 2017
188. McCormick, Tom – August 15, 2017
189. McCormick, Tom – August 16, 2017
190. McCormick, Tom – August 17, 2017 15.00
191. McCormick, Tom – August 17, 2017 16.30
192. McCormick, Tom – August 17, 2017 17.53
193. McCormick, Tom – August 30, 2017
194. McCormick, Tom – September 22, 2017
195. McCormick, Tom – September 28, 2017
196. McCormick, Tom – October 10, 2017
197. McCormick, Tom – October 23, 2017
198. McCormick, Tom – October 27, 2017
199. McCormick, Tom – November 16, 2017
200. McCormick, Tom – December 12, 2017
201. McCormick, Tom – December 15, 2017
202. McCormick, Tom – December 20, 2017
203. McCormick, Tom – January 5, 2018 11.47
204. McCormick, Tom – January 5, 2018 16.26
205. McCormick, Tom – January 6, 2018 18.00a
206. McCormick, Tom – January 6, 2018 18.00b
207. McCormick, Tom – January 8, 2018 17.31a
208. McCormick, Tom – January 8, 2018 17.31b
209. McCormick, Tom – January 8, 2018 17.32a
210. McCormick, Tom – January 8, 2018 17.32b
211. McCormick, Tom – January 8, 2018 17.33a
212. McCormick, Tom – January 8, 2018 17.33b
213. McCormick, Tom – January 8, 2018 17.33c
214. McCormick, Tom – January 20, 2018
215. McCormick, Tom – February 6, 2018
216. McCormick, Tom – February 14, 2018
217. McCormick, Tom – March 7, 2018
218. McCormick, Tom – March 13, 2018
219. Mercker, Janis – February 19, 2014
220. Meyer, Chuck – March 3, 2014
221. Meyer, Karen – March 2, 2014
222. Minogue, B -- March 3, 2014
223. Morris, Nancy – April 3, 2014
224. Neimi, Jan – February 24, 2014
225. Nicholson, Eileen – February 28, 2014
226. No Name – March 1, 2014
227. Noreen, Ken and Pearl – April 7, 2011

228. Noreen, Ken and Pearl – March 3, 2014
229. Osaki, David – March 29, 2014
230. Parken, Jean – March 31, 2014
231. Passey, David – April 1, 2014
232. Patterson, Jerry and Janice – February 28, 2014
233. Patterson, Jerry – November 23, 2015
234. Patterson, Jerry – December 4, 2015
235. Patterson, Jerry – April 11, 2016
236. Patterson, Jerry – August 17, 2017
237. Patterson, Jerry – March 14, 2018
238. Paulson, Ginny – April 24, 2015
239. Paulson, Ginny – May 3, 2015
240. Peterson, Eric and Janet – February 20, 2014
241. Peterson, Matt – March 3, 2014
242. Petro, Ethan – April 1, 2014
243. Potter, Mary Lynn – April 2, 2014
244. Reed, Nancy & Bill – March 2, 2014
245. Reischling, Barry – February 4, 2014
246. Reischling, Barry – February 4, 2014
247. Rhodes, Blain – February 17, 2014 a 16:41
248. Rhodes, Blain – February 17, 2014 b 16:43
249. Rhodes, Blain – February 17, 2014 c 16:44
250. Rhodes, Blain – February 17, 2014 d 16:46
251. Richardson, Sheila – February 27, 2014
252. Robertson, Betty – February 27, 2014
253. Rojas, Carlotta – April 1, 2014
254. Scantlebury, Ginny – March 2, 2014
255. Scantlebury, Ginny – April 2, 2014
256. Scantlebury, Roy – March 2, 2014
257. Schalka, Julie – March 3, 2014
258. Schulz, Craig – February 16, 2014
259. Shaffer, Kathy – February 17, 2014
260. Shaffer, Kathy, Rhodes & Blaine – March 5, 2018
261. Shallbetter, Traci – February 3, 2014
262. Shallbetter, Traci – February 14, 2014
263. Shallbetter, Traci – March 3, 2014
264. Sherwood, John Jr. – April 11, 2011
265. Sill, Anina – March 3, 2014
266. Smith, Renee – March 3, 2014
267. Somers, Edward – February 19, 2014
268. Sova, Alex – April 10, 2011
269. Sova, Pavel – April 10, 2011
270. Sova, Pavel – April 1, 2014

271. Stephens, Marianne – March 3, 2014
272. Sterling, Sharon – March 3, 2014
273. Stime, Randolph – April 1, 2014a
274. Stime, Randolph – April 1, 2014b
275. Stime, Randolph – April 13, 2016
276. Stoel-Gammon, Carol – March 3, 2014
277. Sundquist, Doug – February 26, 2018
278. Surowiec, Lisa – April 2, 2014
279. Taibleson, Joyce – April 2, 2014
280. Tallman, Tracy – March 19, 2014
281. Tallman, Tracy – March 30, 2014
282. Tallman, Tracy – April 4, 2014
283. Taylor, Allison – March 2, 2014
284. Thomason, Marian – March 20, 2014
285. Tietze, Erich and Shandra – March 3, 2014
286. Trompeter, Ronald – June 29, 2011
287. Trompeter, Ronald – March 2, 2014
288. Tucker, Janis – March 3, 2014
289. Ward, Betty – February 2, 2014
290. Webster, George – January 6, 2014
291. Whitson, Tom – April 6, 2011
292. Whitson, Tom and Joyce – March 29, 2014
293. Wickland, Nancy – February 18, 2014
294. Will, Susan – May 21, 2014
295. Willard, Bill – March 3, 2014
296. Wilson, Barbara – February 28, 2014
297. Wittenberger, Donald – March 3, 2014
298. Wolfe, John – February 3, 2014
299. Wolfe, John – March 1, 2014
300. Wolfe, John – March 14, 2018
301. Woodfield, Marion – February 27, 2014
302. Woodfield, Marion – March 21, 2014 11.21
303. Woodfield, Marion – March 21, 2014 11.22
304. Young, Jay – August 15, 2017
305. Zinter, Anita – August 2, 2011
306. Zinter, Anita – February 19, 2014
307. Zufall, Kathryn – March 30, 2011
308. Zufall, Kathryn – February 6, 2014
309. Zufall, Kathryn – March 7, 2018

J. [Not used]

K. Snohomish County Review

1. Point Wells Traffic Pre-Submittal Review Form Dec 16 2009
2. Urban Center Submittal Checklist Revised September 2010
3. Code Interpretation of 30.91F.455 Floor Area Ratio dated Oct 5 2010
4. Review Completion Letter dated April 12, 2013 (without attachments)
5. Point Wells Critical Areas Review Memo dated May 12 2011
6. SnoCo Traffic Mitigation and Concurrency Review Comments dated June 7 2011
7. Transit Compatibility Memo dated June 15 2011
8. Transportation Demand Management Review Memo Dated September 6 2011
9. Code Interpretation Files for 10-106077 30.91F.455 Archived March 20 2014
10. Point Wells Submittal Drawings Request for Clarifications dated July 29 2015
11. Snohomish County Response dated Sept 17 2015 to draft Secondary Access Report dated Aug 26 2015
12. PDS Response to July 6 2015 Traffic Assumptions Memo 20151014
13. Point Wells Application Extension Letter 20160331
14. Point Wells SnoCo Questions on distributions in Draft ETIA May 5 2016
15. Point Wells PDS Comments on May 2016 Draft of ETIA dated May 27 2016
16. Email Sept 19 2016 Regarding Preliminary Draft EIS Landslide Hazard Comments
17. Preliminary Comments on EIS Landslide Hazards September 19 2016
18. Point Wells DEIS and Revised Application Letter Nov 15 2016
19. Point Wells Resubmittal DEIS and Expiration Notice Letter dated May 2 2017
20. Point Wells April 2017 Resubmittal and Preliminary Review Comments May 10 2017
21. Traffic Review Comments -EO portion- dated May 23 2017 for April 17 2017 Submittal
22. Grading and Drainage Review Comments dated June 15 2017 for April 17 2017 Submittal
23. Fire Review Comments dated June 15 2017 for April 17 2017 Submittal
24. Critical Areas and Shoreline Review Comments dated June 21 2017 for April 17 2017 Submittal
25. Traffic Review Comments -MB portion- dated June 23 2017 for April 17 2017 Submittal
26. Building Review Comments dated June 27 2017 for April 17 2017 Submittal
27. Flood Hazard Review Comments dated June 27 2017 for April 17 2017 Submittal
28. Traffic Review Comments -MU portion- dated July 12 2017 for April 17 2017 Submittal
29. Point Wells Short Plat Plan Markups Dated September October 6 2017
30. Point Wells 20170417 Resubmittal drawings with markups October 6 2017
31. Point Wells Review Completion Letter for Second Submittal October 6 2017
32. Point Wells Resubmittal Deadline Letter October 6 2017
33. PDS Letter to BSRE from Paul MacCready dated January 9, 2018
34. PDS Email to BSRE Regarding Traffic Assumptions Follow Up, November 17, 2016
35. PDS Email to BSRE and Attachment Regarding Parking, February 5, 2016
36. PDS Letter to BSRE Granting Extension, dated April 21, 2015
37. Snohomish County Staff Recommendation, dated April 17, 2018

L. *Documents Cited in Project Review*

1. FEMA Flood Insurance Rate Map 53061C1292 E Dated Nov 8 1999
2. FEMA Flood Insurance Rate Map 53061C1294 E Dated Nov 8 1999
3. FHA Hydraulic Engineering Circular No 11 dated March 1989
4. Critical Area Site Plan at Brightwater AFN 200607030209
5. Email from Gary Huff to Peggy Sanders April 28 2010
6. Snohomish County Department of Public Works Rule 4227
7. Notes from Conference Call on April 9, 2015 taken by Ryan Countryman
8. Notes from Conference Call on April 16, 2015 taken by Ryan Countryman
9. Notes from Conference Call on April 23, 2015 taken by Ryan Countryman
10. Notes from Conference Call on April 30, 2015 taken by Ryan Countryman
11. Notes from Conference Call on May 6, 2015 taken by Ryan Countryman
12. Notes from Conference Call on May 28, 2015 taken by Ryan Countryman
13. Notes from Conference Call on June 11, 2015 taken by Ryan Countryman
14. Notes from Conference Call on June 18, 2015 taken by Ryan Countryman
15. Notes from Conference Call on June 25, 2015 taken by Ryan Countryman
16. Notes from Conference Call on July 2, 2015 taken by Ryan Countryman
17. Notes from Conference Call on July 10, 2015 taken by Ryan Countryman
18. Notes from Conference Call on July 23, 2015 taken by Ryan Countryman
19. Notes from Conference Call on July 30, 2015 taken by Ryan Countryman
20. Notes from Meeting on December 4, 2017 taken by Ryan Countryman
21. Notes from Meeting on September 20, 2017 taken by Ryan Countryman
22. Everett—Seattle Final Environmental Impact Statement Appendix A2: Site Station Screening, dated December 1999 by Sound Transit and the U.S. Department of Transportation Federal Transit Administration.

M. *Miscellaneous Correspondence*

1. Email from David Killingstad dated October 11, 2010
2. Email From David Killingstad dated February 13, 2015
3. 1-9-18 Letter From Snohomish County to BSRE
4. November 17 2016 PDS Email RE Traffic Assumptions Follow Up
5. Email exchange on October 6 2016 between Gary Huff and Ryan Countryman
6. Email from Darryl Eastin, August 12, 2011
7. Email chain from Darryl Eastin, ending July 29, 2014
8. PDS Early Notice to Applicant of Hearing, March 6, 2018