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Sno-King Environmental Protection Coalition

Point Wells Post-Hearing Update: Summary and Link to Detailed Reports

Below is a summary of the public testimony portion of the open hearing on the Point Wells development application that came to an end on May 24th after 4 days of testimony from experts called by both BSRE and the County. To access key documents produced for the hearing, please go to the following link on the Sno-King Coalition web page: <http://sno-kingcoalition.org/status.html>

What were the issues?

In a staff recommendation document dated April 17, 2018, the County identified 8 major areas where they claimed the application did not meet code requirements. Based on these conflicts and a June 30, 2018 application deadline, the County recommended denial of the application.

Since that date, BSRE has submitted numerous new plans and reports in an attempt to satisfy the County's concerns. After a time-limited quick review of most of the new plans and reports, the County released a supplemental recommendation on May 9th that said the County was no longer contesting 3 of the original 8 areas, but that the 5 remaining areas were still in substantial conflict with the code and that the County was still recommending denial of the application.

The hearing was to determine whether the application should be denied, or sent back to the County for continued work on the Draft Environmental Impact Statement.

What happened at the hearing?

The hearing began on May 16th with opening statements by BSRE and the County followed by an opportunity for public comment. Tom McCormick, Susan Chang, Jerry Patterson, Tom Petersen, Denis Casper, and Tom Mailhot were among the neighborhood residents who made the trip up to Everett to comment. The City of Shoreline also sent a large contingent to comment (and encourage the denial of the application), including City Manager Debbie Tarry and City Attorney Margaret King. The City offered a powerful case for denial and reflected many of the positions taken by our community members.

Starting on May 21st the hearing moved to the expert testimony phase with the County's experts explaining why the County believed the application was substantially in conflict with various portions of the County code, while BSRE's experts argued that the application either already did or soon would comply with all County code provisions.

Each side specifically addressed each of the 5 remaining areas. We'll go through the 5 areas and summarize each side's main arguments.

1. Second Access Road

BSRE's latest design for the second road shows the road exiting the east side of the Point Wells property and proceeding up the hillside to Woodway along a narrow easement owned by BSRE. The County's supplemental recommendation letter said the latest design requires BSRE to purchase property along the route because the design is wider than the narrow easement and that the route requires grading on some of the neighboring parcels not owned by BSRE. BSRE has not submitted any documentation showing they have rights to purchase or grade any of the affected property; the County requires that documentation before they can consider the road to be feasible, and without a feasible second road the application is in substantial conflict with County code.

BSRE argued that the County's demands for further documentation were overly broad since most of the road travelled over property located in Woodway, so Woodway, not the County, would be the permitting agency for the road.

2. Building height

The County found 2 issues with building heights in the proposed project. First the buildings in the Upper Village (the area east of the train tracks) must be limited in height because they are adjacent to areas that Woodway has zoned for single family residences, and second the project includes more than 20 buildings over 90 feet in height but the project lacks access to high capacity transit which is required to build higher than 90 feet.

BSRE argued that the Upper Village was at the bottom of a 220 foot bluff so the towers would not be visible to anyone. (Note: the bluff at that point is about 50 feet high before it flattens out and in fact the proposed second road runs over the upper portion of the “bluff”).

On the question of buildings over 90 feet in height, BSRE argued that the project plans include a train station and that they have a letter from Sound Transit saying that ST is willing to allow a commuter rail station at Point Wells if BSRE finances the station, and this commitment should be sufficient to meet the requirement of access to transit to allow buildings over 90 feet. (Note: BSRE would actually need permission from Burlington Northern (not Sound Transit to build and operate a station at Point Wells.

3. Parking

The County’s supplemental recommendation letter cited a parking shortage of 546 spaces as the substantial conflict in this area. In testimony at the hearing, it became clear the discrepancy was because BSRE had labeled the units as “Senior Housing” while what they really meant was “Retirement Housing”. The difference is that “Senior Housing requires a minimum of 1 parking stall per unit while “Retirement Housing” requires a minimum of .5 parking stalls per unit. The County agreed that if the units were regarded as “Retirement Housing” then the parking shortage no longer existed.

There was no discussion about whether building over 1,000 retirement units with only 500 parking spaces really made any sense or how that might impact our neighborhood when overflow parking occurs on our streets.

4. Shoreline regulations

The County had several complaints about development along the shoreline:

- BSRE's plans show commercial use of the pier, but the pier is located in a Conservancy Environment which does not allow commercial uses.
- The County believed the pedestrian promenade shown on the plan would also act as a flood control measure, which is not allowed without the approval of a code variance.
- No development is allowed within 200 feet of the Ordinary High Water Mark, but some buildings in the plans are within this zone.
- The County claimed the application did not sufficiently address Shoreline Master Plan Regulations, especially regarding the proposed reconstruction of the pier.

BSRE claimed that the colored illustrations used in some of the presentations that show commercial uses on the pier should not be treated as actual plans to have commercial uses on the pier. BSRE also claimed that their recent submittals resolved all the other shoreline issues, and if they didn't, BSRE was committed to providing any information that was determined to be missing.

5. Critical areas

BSRE's design shows the lower portion of the second access road and most of the buildings in the Upper Village (the area east of the tracks) are located in a landslide hazard area. This is not allowed without the grant of a variance. BSRE submitted a variance three weeks before the hearing date, but the County's experts testified that the variance application did not meet the requirements for granting a variance, specifically, that the variance application must show there is no other place on the property where the road or buildings could be located.

On further questioning, the County's expert admitted a variance would probably be granted for the second access road since the route shown on the plan is probably the only realistic option, but he stated again that BSRE had not proven the buildings shown in the landslide hazard area could not be placed somewhere else on the property.

BSRE's experts argued that they didn't like any of the other plans they considered for placing the building in other areas of the property, so they had to go in the landslide area. (Note: their argument wasn't that the buildings couldn't be located elsewhere, just that BSRE preferred them to be in the landslide area.)

In expert testimony the County tried to establish that the material in the Habitat Management Plan concerning potential impacts to specific marine mammals was missing while BSRE replied by pointing to some sections containing general impacts to all marine mammals.

Summary

In summary, the County's argument was that the application as it stands today is either incomplete, inconsistent, or just in conflict with County code provisions and it cannot be fixed by the June 30, 2018 deadline, so it should be denied; BSRE's argument was that the application as it stands today is not perfect, but it is so much better than it was a year ago and if they are just given a little more time they promise to fix all the remaining problems at some future point.

The Hearing Examiner estimated it might take until mid to late June before his decision was ready.

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Sno-King Environmental Protection Coalition is asking for your financial help as we prepare for the inevitable court cases that will follow the Hearing Examiner's decision. Continuing our fight through the court system takes time and money. We can contribute the time but we need your help contributing the money.

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