

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

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| AGENDA TITLE: | Point Wells Update |
| DEPARTMENT: | CMO / Planning and Community Development / Public Works/City Attorney |
| PRESENTED BY: | Rachael Markel, Planning & Community Development Director Mark Relph, Public Works Director Ian Sievers, City Attorney Scott MacColl, Intergovernmental Relations Manager |
| ACTION: | <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing |

PROBLEM/ISSUE STATEMENT:

Even though the City of Shoreline, the Town of Woodway, and the citizens group Save Richmond Beach (SRB) have taken different legal actions aimed at stopping or reducing the scale of the proposed development at Point Wells, the development is poised to move forward. On January 7, 2013, the Washington State Court of Appeals ruled against Woodway and SRB, resulting in the developer, BSRE Point Wells LP (BSRE), having a vested permit application under the original Snohomish County Urban Center designation. This clears the way for BSRE to work with Snohomish County to process their permit, allowing BSRE to move forward with their project. BSRE is actively pursuing the processing of their permit with Snohomish County and Snohomish County is required to process the permit.

While the case may still be appealed at the State Supreme Court level, the City continues to believe the challenge to vesting will not be successful even if accepted for review by the Supreme Court. The City has a responsibility to take actions that mitigate the anticipated impacts caused by the development and to protect the long-term interests of the Shoreline community. Therefore, the City is continuing to negotiate an agreement with BSRE and Snohomish County.

The City has been concerned about the impacts of the proposed development at Point Wells since the development was announced in 2007. Since 2007 the City has been actively involved in voicing concerns and taking legal steps to advocate for changes to the proposed development to Snohomish County, the Growth Management Hearings Board, the Legislature, and BSRE, (See Attachment A – Synopsis of City Actions 2007 to Present).

The City's primary responsibility is to ensure protection from the project's impacts on Shoreline's quality of life, including the City's road network, pedestrian and bicyclist safety, parks, and impacts to police and fire services. This includes not only determining the appropriate mitigation to off-set the project's anticipated impacts, but

also ensuring that the long-term impacts on Shoreline roads and City services are not borne by current Shoreline taxpayers. Due to the project having only one road in and out of the project through Shoreline, virtually all the impacts of a very large development in Snohomish County at Point Wells will be borne by the Shoreline community.

As Point Wells is in Snohomish County, the decisions regarding BSRE's project permit applications, including size, scale, scope, impacts, and mitigation, are made by Snohomish County. Unfortunately, state law does not allow the City to veto the project actions by Snohomish County. Under existing Snohomish County rules, the City can raise concerns and make suggestions regarding the project at specific points in Snohomish County's review process for BSRE's development permit; however, the City has no jurisdiction or authority in decision making. Under Snohomish County's code, BSRE is required to complete a transportation study to anticipate impacts of the development and to identify mitigation to address those impacts through the State Environmental Policy Act (SEPA) process. This is the default course of action that would prevail in the absence of an agreement with BSRE.

Following this process, BSRE would not be required to include extensive public participation opportunities as part of the transportation study. Furthermore, BSRE would not be obligated to negotiate directly with the City of Shoreline for any mitigation. Although the City would have an opportunity to comment on the impacts and provide input on what should be considered for mitigation, Snohomish County ultimately would make the final decision on what conditions may or may not apply to the permit. Staff is, and continues to be concerned that limiting the City's future actions to Snohomish County's SEPA and permit review process will prove inadequate.

Tonight staff will provide an update to the City Council on the recent legal decisions and actions regarding the Point Wells development, along with the status of the negotiated agreement between the City and BSRE and additional information regarding the Traffic Corridor Study.

RESOURCE/FINANCIAL IMPACT

Since September 2011 the City has invested \$37,000 on special counsel regarding Point Wells' options. The City is committed to a fair and open process during the Traffic Corridor Study and therefore will be paying for a neutral third-party facilitator. Staff anticipates that this service may cost approximately \$30,000. Although these costs are substantial, the real cost will be in the capital projects required to provide a safe transportation system for vehicles, bicyclists, and pedestrians once the Point Wells development is constructed and the costs of long-term service impacts from the residents at Point Wells. In order to provide funding for these anticipated financial impacts the City is negotiating an agreement with BSRE to include their commitment to finance their share of improvements and their support of City annexation of the Point Wells area within the City's potential annexation area.

RECOMMENDATION

No action is required. This is an opportunity for Council to review the options for managing this development and staff's recommendation for a negotiated agreement.

Approved By: City Manager **JU** City Attorney **IS**

INTRODUCTION

Staff has identified three main avenues to pursue to protect the City's interests:

- Option 1 – Utilize the legal system to challenge specific actions taken by Snohomish County to permit the proposed project with the goal of changing the scope of what is allowed to be constructed at Point Wells to better align with Shoreline's adopted Point Wells Subarea Plan and levels of service;
- Option 2 – Work through the project review process within Snohomish County and hope that the City's interests are adequately addressed; or
- Option 3 – Negotiate an agreement with BSRE that ensures that the City's levels of service for roads, sidewalks, police, fire and parks are adhered to; obligates BSRE to fund agreed upon mitigation and establishes that both the City and BSRE intend for the Point Wells development to later be annexed into the City of Shoreline to provide ongoing financial support necessary to provide these services to future Point Wells residents.

These options were last discussed at a study session with the City Council on September 6, 2011. The staff report can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/Council/Staffreports/2011/Staffreport090611-7a.pdf>.

BACKGROUND

Since 2007 the City has utilized Option 1 above – together with Woodway and Save Richmond Beach, the City appealed the Urban Center designation. The City had success with the Growth Management Hearings Board (GMHB) appeal and in 2012 Snohomish County addressed the deficiencies and created an Urban Village designation. The GMHB issued an order December 20, 2012 approving Snohomish County's changes which removed internal inconsistency within their Comprehensive Plan and resulted in the required consistency with Shoreline's Capital Facilities Plans including requiring an agreement with BSRE to fund necessary mitigation and limit the intensity of development to match approved service levels.

It should be pointed out that even though Snohomish County revised their Comprehensive Plan and the Point Wells site falls under the Urban Village designation, it does not apply to the current BSRE permit. On January 7, 2013, the Washington State Court of Appeals ruled against Woodway and Save Richmond Beach (SRB), resulting in vesting the BSRE application under the original Snohomish County Urban Center designation. This clears the way for BSRE to work with Snohomish County to process their permit, allowing BSRE to move forward with their project and requiring that Snohomish County process the permit.

In order for the site to be permitted as an Urban Village, BSRE would have to voluntarily reapply to Snohomish County under the Urban Village designation or SRB's appeal to the State Supreme Court would need to be successful. The Urban Village designation may largely have the same parameters as the original Urban Center, but does provide the City with some improved protections. The Urban Village regulations require that the developer successfully negotiate a binding agreement with the City or any entity other

than the County providing services, utilities or infrastructure to support development at Point Wells prior to the County approving a development permit that necessitates said services, utilities or infrastructure. Also, the regulations now state that the intensity of development shall be consistent with the level of service standards adopted by the entity identified as providing the public service, utility or infrastructure.

It is worth noting that the City of Shoreline, SRB and the Town of Woodway also proposed amendments to limit the maximum density for an Urban Village at Point Wells to 22 dwelling units per acre (this equates to approximately 1,400 total units). The County Council **did not** approve this amendment. The maximum density adopted was 44 dwelling units per acre (for a total of approximately 2,640 units and a maximum of 12 stories) which is less than allowable as an Urban Center, but more than what is contemplated in the City's Point Wells Subarea Plan. In comparison, the Urban Center zoning allows for up to 3,500 units and 18 stories (BSRE has a permit for 3,100 units).

Based upon the recent actions of Snohomish County and the Court of Appeals, City staff still believe that negotiation (Option 3) is an approach with greater certainty in protecting the Shoreline community including roads, public safety, parks and other services from project impacts. After discussions with the City Council these past several months reviewing additional legal options, the Council directed staff to continue to explore the possibility of an agreement with the developer. On August 24, 2011 the City Manager released Letter of Intent (LOI) stating the City's intent to negotiate an agreement to protect the City from project impacts (See Attachment B – City of Shoreline Letter of Intent to BSRE).

At Council's direction City staff held a Point Wells Community Meeting on August 31, 2011 to update the public on the process, explain the choices moving forward, and explain the principles embodied in the LOI. The meeting was intended to begin a public process aimed at hearing directly from the community about these alternate paths and the principles in the LOI.

Since the August 2011 public meeting, negotiations with the developer were largely set aside as issues were pursued with the GMHB, Snohomish County and the Court of Appeals. The outcome of these recent actions has now further defined the City's options, with a negotiated agreement still being the preferred alternative to protect the City's long-term interests.

Links to significant legal documents discussed above are listed below:

Details of the Previous Legal Discussion

In mid-2007, the owner of the property announced an intention to redevelop the site. The proposal required a change to the Snohomish County Comprehensive Plan Designation for the 61 acres from Urban Industrial to "Urban Center" and a zoning change from Heavy Industrial to Planned Community Business and then to "Point Wells Urban Center." The Snohomish County Council approved the requested changes to its Comprehensive Plan and Zoning to accommodate BSRE's development aspirations. These actions resulted in appeals to the State Growth Management Hearings Board (GMHB) by the City of Shoreline, the Town of Woodway, and the citizens group "Save Richmond Beach" (SRB). A hearing before the GMHB was held on March 2, 2011.

On March 4, 2011, BSRE submitted a project application to Snohomish County for a mixed-use community in accordance with the Snohomish County Urban Center Development Code. The application was accepted by Snohomish County planning officials as being a "complete" application. It is expected that an Environmental Impact Statement (EIS) will be required and further analysis completed in order to define the impacts and mitigation requirements.

On April 25, 2011, the GMHB issued a Final Decision Order stating Snohomish County failed to comply with the goals of the Growth Management Act (GMA) when adopting the Urban Center comprehensive plan designation and zoning for the Point Wells site and agreed that the State Environmental Policy Act (SEPA) documents were inadequate. The Board ordered the County to amend its Plan to bring it into compliance and to do additional SEPA analysis to describe additional alternatives and likely impacts. A copy of the decision may be found at:

- [Growth Management Hearings Board Final Decision and Order](#)

On August 27, 2012 in response to the GMHB's Final Decision, Snohomish County issued an Addendum to the Final Supplemental EIS (FSEIS) that provides additional information on the anticipated environmental impacts from a proposed third non-project land use alternative. On September 19, 2012, Snohomish County held a public hearing to receive comment on two ordinances that would amend its Comprehensive Plan and development regulations related to Point Wells.

On October 17, 2012, Snohomish County amended the "Urban Center" future land use map designation to "Urban Village" and zoning from "Urban Center" to "Planned Community Business" to comply with the GMHB's Decision Order. On December 20, 2012 the GMHB issued an Order Finding Compliance and Rescinding Invalidity declaring that Snohomish County with adoption of Ordinances 12-068 and 12-069 and the associated SEPA Addendum is again in compliance with the GMA and SEPA.

In response to the GMHB compliance order, Save Richmond Beach petitioned the GMHB on January 7, 2013 to review the newly enacted ordinances regarding Urban Village for compliance with GMA..Links for the related documents may be found at:

- [Snohomish County Ord. 12-068 and 12-069: Amendments to Future Land Use Map and Zoning designation for Point Wells](#)
- [Growth Management Hearings Board Order Finding Compliance](#)
- [Save Richmond Beach Petition for Review](#)

In September of 2011, SRB and the City of Woodway sued Snohomish County for declaration and judgment that the BSRE Permit Application not be vested to the land use designation and zoning found to be in violation of SEPA and GMA. The suit asked for an injunction restraining the County from processing the permit application until it complied with the GMHB's Decision Order. On November 23, 2011 King County Superior Court Judge Dean Lum granted the request for summary judgment and the injunction. Links for the related documents may be found at:

- [Save Richmond Beach and the City of Woodway v. Snohomish County and BSRE Point Wells, LP](#)
- [King County Superior Court Judge Dean Lum Ruling](#)

On November 7, 2012, the Washington State Court of Appeals heard the appeal of the King County Superior Court ruling. On January 7, 2013 the Court of Appeals reversed the Superior court's summary judgment. With the Court of Appeals decision, [BSRE's applications](#) for the Point Wells site are vested and can be processed under the Snohomish County Urban Center zoning. A link to the Court of Appeals decision may found at:

- [State of Washington Court of Appeals Decision, January 7, 2013](#)

With the GMHB and the Court of Appeals reaching recent decisions, BSRE is now pursuing the processing of permit applications with Snohomish County. On January 31, 2013 Save Richmond Beach appealed to the Washington State Supreme Court. Staff estimates that it will take the Supreme Court three to six months (May-July) to decide whether or not to take the case.

ALTERNATIVES

Alternatives to an agreement:

Continue to seek legal challenges

While some may believe a legal challenge provides the best mechanism for opposing the development, leaving that decision to the courts provides no control or certainty over the outcome, as demonstrated with the recent Court of Appeals decision in favor of BSRE. After issuing the LOI, the City responded to the community's urging to delay negotiating an agreement by consulting with the Foster Pepper law firm, a state leader in representing municipalities on environmental and land use law. Foster Pepper's advice to pursue negotiations as outlined in the LOI rather than pursuing litigation was confirmed in the recent Court of appeals decision in favor of BSRE. The City continues to believe that certainty and control of a negotiated agreement directly with BSRE provides the most effective way to protect the community's long-term interests.

Eliminate road access to Point Wells

A suggestion the City still hears from residents is to close or block access to Point Wells. Such a strategy was pursued within the State of Washington and it was ruled unlawful.

Establish a Metropolitan Park District and purchase Point Wells for a park

Another alternative the City reviewed was the concept of establishing a Metropolitan Park District. While the City has the legal means to condemn the property for public use a park, the City must compensate the private property owner at fair market value. In examining what this might cost taxpayers, the City used an estimated value of \$50 million repaid over 20 years. If the District included all of Shoreline and the Town of Woodway, it would cost the average homeowner in Shoreline approximately \$189 and for an average homeowner in Woodway \$550 annually. To put this in perspective, for the 2006 Parks Bond, the average Shoreline homeowner is paying \$70 per year over a 15 year period. The City believes this alternative would have many hurdles to overcome.

Mitigation determined by Snohomish County

Under Snohomish County's code, BSRE is required to complete a transportation study to anticipate impacts of the development and to identify mitigation to address those impacts through the SEPA process. This is the default course of action that would prevail in the absence of an agreement with BSRE. Following this process, BSRE would not be required to include public participation opportunities as part of the study. Furthermore, BSRE would not be obligated to negotiate directly with the City of Shoreline for any mitigation. Although the City would have an opportunity to comment on the impacts and provide input on what should be considered for mitigation, Snohomish County ultimately would make the final decision on what conditions may or may not apply to the permit.

DISCUSSION

With the decision from the Court of Appeals, BSRE may now pursue permitting for their development as part of the original vesting of Urban Center. Staff discussions with Snohomish County indicate they are prepared to process the permit. Since BSRE is confirmed to be vested under Urban Center zoning, the Snohomish County Urban Village designation coming out of the GMHB action is not applicable.

SRB has appealed the Court of Appeals decision to the State Supreme Court. If the Supreme Court hears the case, then BSRE may proceed with a permit application but at their own risk. If the Supreme Court declines to hear the case, then the Court of Appeals decision is final and BSRE remains vested as under Urban Center. It is City staff's understanding that BSRE intends to proceed with the permit application even with the appeal to the State Supreme Court.

As noted above, while the City has been successful in appealing to the court system it has not led to success in halting the project. This is even more apparent with the recent Court of Appeals decision. It is staff's opinion that an appeal to the State Supreme Court by Woodway or SRB is unlikely to succeed based on the legislative history of the GMA provision recognizing vested permits before a regulation is invalidated by a Board decision.. For the City to delay action until a Supreme Court decision would likely eliminate the opportunity to negotiate with BSRE; in essence, the City would have to rely upon the Snohomish County SEPA process to protect the City's interests. Through this approach the City would lose the ability to negotiate for:

- A specific level of mitigation improvements with direct involvement by Shoreline residents in influencing the level of improvements, parcel by parcel.
- A maximum traffic volume, or "cap" for the development, and the ability to assure the traffic projections for each phase of development are accurate over time.
- Developer funding for the specific mitigation within a specific timeframe to ensure mitigation is in place prior to the impacts occurring.
- Annexation as a tool to insure the development pays their share of long-term maintenance costs.

The City will be very involved in working through the project review process regardless of the other choices. However, if this were the only path chosen, the City would be relying on Snohomish County to decide on what mitigation is necessary, the timing of

installation and funding for mitigation, how many trips are appropriate on our roads, and what other services are impacted. Given the City's earlier appeals of Snohomish County actions regarding Point Wells staff are concerned that the Snohomish County project review process will not adequately address the impacts to the City's satisfaction.

Staff continues to work with BSRE to reach agreement to limit project traffic impacts and the long-term financial burden for additional maintenance costs on City taxpayers. An agreement has the highest probability of successfully addressing the issues the City and Shoreline residents care most about – quality of life, traffic impacts, pedestrian and cyclist safety, impacts to other city services such as parks, police, fire service, and funding the costs of on-going maintenance and operations of those services. One of the key components of the agreement is the Transportation Corridor Study.

What is the Transportation Corridor Study and why now?

The proposed development will take an estimated 20 to 25 years to reach full build out. However, the permit process is the time period during which impacts and mitigations must be identified.

The proposed transportation corridor study has been designed to provide public participation opportunities to identify problems, propose alternative solutions and ultimately make a recommendation on a preferred alternative. This study with the public participation element is not required as part of the Snohomish County process. However, this process is intended to replace the Snohomish County SEPA process for traffic impacts. It is staff's recommendation to proceed with the traffic corridor study this spring, otherwise the City may lose the opportunity as BSRE proceeds in the coming weeks with a Snohomish County permit application.

The intent of the corridor study is to determine the impacts of the proposed development, including the maximum number of vehicles exiting and entering the development, the level of improvements or mitigation required to accommodate the impacts while staying within the City's established standards (e.g. level of service D) and establishing a traffic "cap" (e.g. Average Daily Traffic – ADT, or peak hour volume) for the project, with each phase of the project evaluated and required to remain within the "cap.."

A negotiated traffic cap is critical because staff's preliminary review of the corridor would indicate that from 16,000 to perhaps over 18,000 cars per day (ADT) are within the capacity of a 60 foot right-of-way with modest improvements at the intersections. There are several examples throughout the City and surrounding region to support such a conclusion. However, it is for this very reason staff recommends a transportation corridor study with direct public participation to help establish a cap, as opposed to relying upon the Snohomish County SEPA process to limit traffic volumes to something less than the maximum potential for the right-of-way.

Another advantage of this transportation corridor study is to achieve consensus with BSRE at the beginning of the process on the assumptions to be used in the study, including such issues as which streets and intersections to evaluate, background or existing traffic data, and the distribution of traffic as it moves through the corridor. It is very typical for local governments to set technical standards on how a developer would

approach a study and to complete the work at their cost. However, it has been staff's experience that different interpretations have to be settled at the end of a more standard process before consensus is ever achieved. This can prove to be frustrating to the developer, the City and to the public. This proposed transportation corridor study is designed to achieve this consensus at the beginning of the process and thereby build more accuracy and credibility.

Transportation Corridor Study Workshops

The process for the corridor study is anticipated to include a combination of workshops and open houses totaling six (6) meetings and lasting approximately two months. The workshops are intended to be focused on the lower section of Richmond Beach Drive where individual property owners will be encouraged to participate in a process of deciding the level of improvements necessary along the right-of-way. Some examples would include whether or not to include on-street parking, bike lanes, sidewalks or pathways and on which side of the street these facilities should be located, and transit access. Other issues to assess include the ease of left turning movements in relation to the traffic projections, driveway access and minimizing cut through traffic in the surrounding neighborhoods.

The open houses are intended to provide more general information and participation for the much larger area anticipated to be impacted from the development. This includes an area from Point Wells, up Richmond Beach Drive all the way through Aurora Avenue and on to Interstate 5 at 175th Street. More site specific improvements are anticipated to be required as the traffic impact is disbursed through the roadway network and could include such examples as widened, signalized intersection improvements along Richmond Beach Road at 20th, 15th, 8th and 3rd. Attachment C is a map of the anticipated study area.

Below are the workshops that are tentatively scheduled:

Segment A & B Overview

Tuesday, February 26, 6:30-9:00 pm, City Hall

Purpose: Overall introduction on process; overview of data on the corridor – accidents, volumes, Level of Service (LOS), etc.; small group facilitated breakouts to identify corridor issues, challenges, opportunities, neighborhood concerns, and criteria for evaluating concepts.

Segment A Workshops

Thursday, February 28, 6:30-9:00 pm, City Hall

Purpose: Overall introduction; overview of data, maps with ROW, small group facilitated breakouts to identify specific issues including driveways, access, parking, landscaping, noise, etc. Many of the comments will be site specific and concerns will be prioritized.

Thursday, March 14, 6:30-9:00 pm, City Hall

Purpose: Consultant will provide potential improvements addressing findings from Feb 28 workshop; small groups discuss potential solutions considering priorities identified from last meeting; each group will develop improvement plan and report out; full group will choose preferred concept(s) for further development.

Thursday, March 28, 6:30-9:00 pm, City Hall

Purpose: Consultant will present a conceptual drawing(s) of preferred plan developed in March 14 meeting; small groups will evaluate and comment, and identify suggestions to improve; large group recommends preferred concept.

Segment B Workshops

Tuesday, March 19, 6:30-9:00 pm, City Hall

Purpose: Consultant will present proposed concepts for improvements; small groups will review and comment, identify suggestions for improvements, and select preferred concept and report back; large group recommends preferred concept.

Segment A and B Final Meeting

Thursday, April 4, 6:30-9:00 pm, City Hall

Purpose: Spokespersons from A and B will present their recommendations and preferred concept to the full group; full group will discuss, comment, suggest any modifications, and select.

Interim agreement

Due to the added time and resources involved in conducting a thorough public participation process for the transportation corridor study, BSRE asked for assurances that the study could be used for the Snohomish County project EIS and that we would not oppose any traffic related elements of the Snohomish County SEPA process. An interim agreement would provide that assurance on the condition that the results of the study are adopted and incorporated by Snohomish County into any conditions to its permits. When this agreement is finalized, staff will make it available to the public through the City's website.

2013 Comprehensive Plan amendments

In anticipation of the City reaching an agreement with BSRE on conducting the Transportation Corridor Study, City staff have submitted draft amendments to the Point Wells Subarea Plan and the Capital Facilities and Transportation Elements of the City's Comprehensive Plan for consideration in 2013. Potential amendments include increasing the total vehicle trips per day allowed on NW Richmond Beach Drive in conjunction with mitigation projects and funding needed to maintain adopted levels of service for this road, and reclassification of NW Richmond Beach Drive from a local street to a collector arterial. **Council will not consider adoption of these amendments until the Transportation Corridor Study is completed.**

On February 7, the Planning Commission will review the 2013 Docket of proposed Comprehensive Plan amendments and will make a recommendation to the City Council on moving the docket forward for public consideration at meetings to be held by the Planning Commission and City Council. City Council is scheduled to finalize the Docket on February 25th. **The sole purpose of the Docket is to specify which of the proposed amendments City staff should add to the work plan for further study and analysis in 2013.**

Next Steps/Timeline

Below is a tentative timeline for the negotiations, transportation corridor study process, and adoption of Comp Plan amendments.

| Timing (tentative) | Activity | | | | |
|---|---|-------------------------------------|------------------------------------|---|---|
| February - June | Negotiate Agreements | | | | |
| February - May | Negotiate agreement with BSRE | | | | |
| February - June | Negotiate Interlocal Agreement with Snohomish County regarding annexation & permitting | | | | |
| February-March | Transportation Corridor Study Public Process | | | | |
| February (week of Feb 11) | Newsletter distributed to residents summarizing the current status of the Pt. Wells development | | | | |
| February 11 | City Council Meeting – Pt Wells Update | | | | |
| February 12 | RBCA Community Meeting --City invited to discuss Pt. Wells development and answer questions regarding the proposed project | | | | |
| February (week of 25 th thru April 5 th - six week process) | City and BSRE hosts a general transportation corridor study open house – provides information about the corridor project, current performance and gather input on concerns | | | | |
| | <table border="1"> <tr> <td>A. Richmond Beach Drive (Segment A)</td> <td>B. Richmond Beach Road (Segment B)</td> </tr> <tr> <td>A 1. Workshop to identify and prioritize concerns A 2. Workshop to review potential solutions and develop improvement plan A 3. Final workshop to present and discuss improvement concept (preferred alternative)</td> <td>B 1. Open House to identify and prioritize concerns B 2. Open House to present and discuss improvement concept (preferred alternative)</td> </tr> </table> | A. Richmond Beach Drive (Segment A) | B. Richmond Beach Road (Segment B) | A 1. Workshop to identify and prioritize concerns A 2. Workshop to review potential solutions and develop improvement plan A 3. Final workshop to present and discuss improvement concept (preferred alternative) | B 1. Open House to identify and prioritize concerns B 2. Open House to present and discuss improvement concept (preferred alternative) |
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| February 25 | City Council Meeting – Adoption of the 2013 Docket for Comp Plan Amendments | | | | |
| April – May | Transportation Study Corridor Report / Mitigation Plan & Comp Plan SEPA Process | | | | |
| April 22 | City Council Meeting – To present summary of workshop process, recap of workshops and open houses, and conceptual drawing of the proposed final corridor plan | | | | |
| May 2 | Planning Commission Study of 2013 Comp Plan Amendments | | | | |
| June - July | Mitigation Plan, Development/Annexation Agreement, Snohomish County ILA and Comp Plan Approval Process | | | | |
| June 6 | Planning Commission to hold public hearing on Comp Plan amendments (Pt. Wells Subarea Plan, Transportation Master Plan, and Capital Facilities Element) | | | | |
| June 20 | Planning Commission Recommendations on 2013 Comp Plan Amendments | | | | |
| July 1 | Council Study Session to review adoption of Comp Plan amendments, Transportation Corridor Study Mitigation Plan, Snohomish County Interlocal Agreement, and BSRE Agreement | | | | |
| July 15 | City Council adoption of Comp Plan amendments, mitigation, Snohomish County ILA, and agreement with BSRE | | | | |

*City held two meetings with RBCA Executive Board and SRB in late 2012 to review current status and discuss public process for the transportation corridor study. As a result, the City pushed out the start of the transportation corridor study public process and developed a specific Point Wells newsletter for residents.

STAKEHOLDER OUTREACH

The City held a special public meeting in August 2011 following the issuance of the Letter of Intent to BSRE. Staff has also attended several Richmond Beach Community Association (RBCA) meetings to present information and respond to questions about the Point Wells development and the City's strategy. Likewise, staff has made an effort to meet with board members of the Richmond Beach Community Association (RBCA) and SRB to consult on process and information needs. Following this update, staff will be attending the February 12 RBCA meeting. Several articles regarding the Point Wells development have been in the City's *Currents* newsletter. Most recently, staff has produced a Point Wells newsletter that is targeted for delivery to homes the week of February 11, and it will be sent to the following neighborhoods: RBCA, Innis Arden, Hillwood, Richmond Highlands, and some sections of Meridian and Echo Lake. Staff will continue to provide outreach to the community on this issue.

SUMMARY

Staff believes that negotiation is the approach that will provide the City the most protection from the project impacts and will have the most certainty. Since BSRE is intending to continue permitting the development under the vesting of Urban Center in the coming weeks, it is staff's opinion that it would be irresponsible for the City not to act and try to negotiate an agreement as soon as possible. If the City is unable to come to agreement with BSRE, the City is committed to participating in the Snohomish County process including the new EIS.

RECOMMENDATION

No action is required. This is an opportunity for Council to review the options for managing this development and staff's recommendation for a negotiated agreement.

ATTACHMENTS

Attachment A: Synopsis of City Actions from 2007 to Present
Attachment B: City of Shoreline Letter of Intent to BSRE
Attachment C: Map of Traffic Corridor Study Area

Pt. Wells Synopsis of Events from 2007-2013

Updated January 2013

| Date | Event | Action |
|------------------------|---|--|
| May 2007 | Snohomish Co. Docket of Pt Wells Comp Plan & Zoning Amendments | City sent letter expressing concerns to Snohomish County Council, sent 5/7/07 |
| April 2007 to May 2009 | Snohomish Co. Council hearings and meetings on Pt Wells Urban Center | City Staff met with County staff and elected officials three times during this period and sent five official letters expressing the City's concerns with the Urban Center Plan designation and zoning |
| April 2009 | City Council Meeting | Adoption of Resolution 285 concerning Point Wells opposing County designation of Pt Wells as an 'Urban Center', which declared the City's opposition to the Urban Center designation and intense development at Pt Wells. |
| November 2009 | City appeals Snohomish County designation of Point Wells as an Urban Center | The City of Shoreline filed a Petition for Review (PFR) with the Central Puget Sound Growth Management Hearings Board, the state agency in charge of hearing appeals alleging noncompliance with the Growth Management Act and the State Environmental Policy Act (SEPA) |
| April 2010 | City adopts Pt. Wells Subarea Plan | As a potential annexation area, the Council adopts the Pt. Wells Subarea Plan in order to define what the community would like to see developed |
| May 2010 | City appeals Snohomish County adoption of Urban Center Zoning for Pt Wells | The Snohomish County Council adopted Ordinances 09-079 and 09-080 which adopted permanent Urban Center zoning standards and rezoned the Point Wells property to Urban Center. This action was also appealed to the Growth Management Hearing Board. |
| January 2011 | Legislature | Rep. Kagi introduces HB 1265 to require that Snohomish County enter into an interlocal agreement with Shoreline prior to issuing permits for Pt Wells |
| February 14, 2011 | Council amends Subarea Plan | Council adopts amendment to reclassify Richmond Beach Drive from a 'collector arterial' to a 'neighborhood street' (reduced from 8,250 to 4,000 ADT) and requires a transportation corridor study and mitigation funding |
| March 2011 | BSRE files completed permit application | BSRE 'vests' to the zoning in place at the time of vesting (City objects, but County disagrees) |

| Date | Event | Action |
|--------------------|---|---|
| April 11, 2011 | BSRE appeals City's Pt Wells Subarea Plan Amendment | BSRE filed petition to the GMHB on April 11, 2011 (both parties continue to file extensions)* |
| March 2011 | Legislature | HB 1265 doesn't make it out of the Senate Committee; Legislators urged the City and County to reach agreement rather than have the legislature intervene |
| April 2011 | Final Decision from Growth Board on Appeals | Growth Board invalidated the Urban Center designation, but not the urban center zoning, ruling doesn't affect vested permits |
| April 2011 | BSRE begins Snohomish County permitting process | Clock begins on 45-day window for BSRE to negotiate a 'Municipal Agreement' with Shoreline and Woodway; Staff begin meeting with BSRE and Woodway |
| May 2011 | City and Snohomish County agreement | The City and Snohomish County sign letters regarding information sharing and communication for the project; the agreement specifies that the City will be consulted on the selection of the traffic consultant who will prepare the EIS |
| August 24, 2011 | City Letter of Intent | The City provides a Letter of Intent to BSRE outlining the City's expectations in an agreement; City issues press release |
| August 31, 2011 | Community Meeting | City hosted community meeting to hear from residents regarding Letter of Intent |
| September 6, 2011 | City Manager Email | City Manager sends email to all those who attended the Community Meeting |
| September 2011 | City Council Meeting | Staff presents Letter of Intent to Council |
| September 13, 2011 | RBCA Meeting | Mayor and City staff participate on panel at RBCA meeting |
| September 6, 2011 | City retains Foster Pepper | City Council retains Foster Pepper to seek a second legal opinion |
| November 2011 | Meetings with SRB and RBCA | Mayor and City staff meet with Executive Boards of RBCA and SRB to discuss status of negotiations and public process for transportation corridor study and get their feedback |
| November 2011 | Superior Court Ruling | Save Richmond Beach & Woodway sue Snohomish County to have the permit stayed; Ruling stays the permit and cedes a final ruling to the Court of Appeals, which means Snohomish County can't process the permit until the issue is resolved |
| March 2012 | RBCA Meeting | Staff attends RBCA meeting to discuss Metropolitan Park District proposal |

| Date | Event | Action |
|-------------------|---|---|
| May 2012 | Growth Hearings Board Extension | County requests an extension of compliance with the Board's order through Dec 2012; City, Woodway and SRB object to extension |
| September 2012 | Snohomish County Council Committee Hearing | Snohomish County has hearing on draft revisions to the Comprehensive Plan for 'Urban Centers' that are designed to comply with Board's order; City provides amendments to draft ordinance |
| October 17, 2012 | Snohomish County Council | Snohomish County Council decides on revisions to 'Urban Centers' to comply with Board's order and adopts 'Urban Village' code |
| November 7, 2012 | State Court of Appeals Hearing | Court of Appeals hears the appeal of the King County Superior Court ruling from November 2011 staying BSRE's permit (decision is expected February 2013) |
| November 13, 2012 | RBCA Meeting | Staff participates at RBCA meeting to brief neighborhood on recent Snohomish County Council decision and next steps |
| January 7, 2013 | Court of Appeals Decision | Court of Appeals overturns the Superior Court ruling, and determines that the permit is vested. SRB and/or Woodway have 30 days to decide to petition the State Supreme Court to appeal the Appeals Court ruling. |
| January 7, 2013 | SRB's Petition for Review to the Growth Management Hearings Board | SRB appeal to the Growth Board for the Urban Village designation for Pt Wells |

*BSRE appealed ordinance 596 which was published on February 17, 2011. The appeal also challenges the emergency clause in that ordinance. The GMHB approved a seventh extension this week reciting that the appeal is related to compliance in the earlier Shoreline appeal of Snohomish County ordinances regarding Point Wells. In its recent extension order, the Board scheduled a prehearing conference on February 4, 2013 and we must file our index of the record on this same day.



SHORELINE
CITY COUNCIL

Keith A. McGlashan
Mayor

Will Hall
Deputy Mayor

Chris Eggen

Doris McConnell

Christopher Roberts

Terry Scott

Shari Winstead

August 24, 2011

BSRE Point Wells, LP
c/o Gary Huff
1201 3rd Avenue, Suite 2900
Seattle, WA 98101

Re: Letter of Intent to Negotiate an Agreement with BSRE Pt. Wells, LP

Dear Mr. Huff:

The City of Shoreline (City) has an interest in reaching agreement regarding the Point Wells Urban Center permit(s) currently pending before Snohomish County. While the City is prepared to pursue litigation to protect the interests of Shoreline citizens and taxpayers, we believe that by negotiating a mutually satisfactory agreement(s), all parties can avoid the cost, uncertainty, and risk inherent in litigation.

This Letter of Intent (LOI) outlines the principles and interests that will guide the City's good faith negotiations with BSRE Point Wells, LP (BSRE) and others regarding development of the Point Wells Project.

1. The City proposes that the traffic model for completing the Richmond Beach Road corridor study by BSRE be agreed to by the parties with a detailed mitigation project list, funding responsibility, and schedule as determined by that study. The approach and studies performed to date by DEA (BSRE's Traffic Consultant) continue to make positive progress in ultimately reaching agreement with the future traffic analysis. We anticipate that these studies shall serve as the basis for the future agreement contemplated herein. We also anticipate that the final agreement and supporting studies will be submitted to Snohomish County to assist in the preparation of the project Environmental Impact Statement and the City would accept the adequacy of the EIS regarding project traffic impacts if the EIS substantially adopts this study.
2. In measuring impacts on affected City intersections and road segments, the City agrees to utilize a combination of level of service standards for City intersections and a fixed number of trips to be allowed on Richmond Beach Drive NW.

The City believes that the City's interests will best be served by a phased development where actual traffic counts associated with the Point Wells project are measured against a verifiable cap of trips for the project. This project trip cap would be mutually agreed upon by the City and BSRE. The City will negotiate a formula to allow future project building permit applications by BSRE based on the measurement of actual trips and peer-reviewed internal capture rates generated by prior occupancies and anticipated for future development phases.

Under this approach, a projection of actual traffic counts and updated analyses based on this formula would predict how traffic associated with each phase of development would measure against the project trip cap and level of service standard. The level of service (LOS) standard would be D (LOS D) for the average of each designated intersection and with the intent of no arterial through movement less than LOS E. The intersections affected by this standard shall be mutually agreed to by the City and BSRE. All segments between the designated intersections shall conform to mitigation recommended by the corridor study.

Using this approach, if the prediction of traffic is within the project trip cap and within the LOS standard, then future project building permit applications may be submitted for each analyzed phase of development.

In the event this approach predicts that such additional development either would exceed the project traffic cap or the LOS standard, then the application for permits shall not be submitted. BSRE may propose changes to the project and/or mutually acceptable additional mitigating measures (e.g., accommodating all modes of transportation) that 1) result in a predicted compliance with both measures; or 2) predict a shorter delay within the LOS standard for the designated intersections and include mitigation for road segments recommended in the initial or supplemental environmental review of the excess trips. The City will consider such changes only after soliciting and receiving public comment.

3. The City will participate in jointly designing and administering a public process to engage the affected community in helping identify and evaluate mitigation alternatives for Richmond Beach Drive NW, Richmond Beach Road, and N. 185th Street to Aurora Ave. N.
4. As stated in its comprehensive plan for over a decade, the City believes it is the most logical long term provider of municipal services to Point Wells, and that annexation to the City is the best way for BSRE to meet its financial obligation to fund ongoing operation and maintenance costs as direct impacts of the Point Wells development. In lieu of ongoing payments to address ongoing maintenance and operation costs of City infrastructure, including but not limited to, its road network and parks system, BSRE will

be expected to assign to the City an exclusive limited power of attorney, as owner. This limited power may used by the City to file an annexation notice of intent and petition at a future date to be negotiated (but in any event no sooner than the issuance by Snohomish County of certificates of occupancy for at least 1,000 units). The City anticipates that Snohomish County shall retain responsibility to process all permits and conduct all inspections for the project. The City proposes to enter into an interlocal agreement with Snohomish County to formalize the expectations for local government service delivery, annexation, and the county's continued role in processing, issuing, and inspecting and collecting fees for development permits for the project, notwithstanding any future annexation of the property into Shoreline.

The City intends to negotiate with BSRE a maintenance and operation payment agreement that would not be activated unless and until the City exercises its right to use the limited power of attorney and such annexation effort proves unsuccessful for any reason. The annexation power of attorney and maintenance and operation agreement under this paragraph would be recorded as a covenant running with the land and obligate future owners of BSRE's Point Wells property.

5. Upon the successful execution of a Municipal Agreement pursuant to SCC 30.34A.180, and/or an alternative form of Agreement with BSRE with covenants under paragraph 4 which satisfactorily addresses these City interests, the City will simultaneously stipulate to the validity of the current BSRE permit applications with Snohomish County, stipulate to dismissal of any pending litigation, and covenant not to pursue further litigation other than provisions that may be reserved to enforce to the terms of a Municipal or alternative Agreement. In addition, the City will use its best efforts to urge its public safety partners, Shoreline Fire Department and King County Sheriff, to provide immediate and ongoing services to Point Wells.

The City Council supports moving forward on this process and has directed City staff to commence a public process to inform the City's negotiations with BSRE. The City will negotiate in good faith with BSRE to reach mutually satisfactory agreement(s).

Sincerely,



Julie T. Underwood
City Manager

Point Wells

Snohomish County

Corridor Study Areas

- Segment A
- Segment B
- Additional study areas

