

# McCULLOUGH HILL LEARY, PS

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September 1, 2017

VIA EMAIL

Town of Woodway  
c/o Eric Faison, Town Administrator  
23920 113<sup>th</sup> Place West  
Woodway, WA 98020

Re: Upper Bluff 36 Lot Subdivision Application

Dear Mr. Faison:

Thank you for the opportunity to provide public comment in response to the August 2, 2017 date of notice of the application of BG Giddings Engineering, PLLC, for a subdivision of property known as the Upper Bluff ("Upper Bluff Property") in Woodway ("Application"). The Upper Bluff Property is owned by Point Wells, LLC ("Point Wells"). This letter is written on behalf of BSRE Point Wells, LP ("BSRE"), the owner of the real property ("BSRE Property"). The BSRE Property is immediately adjacent to the Upper Bluff Property.

The Application is deficient for two reasons, and accordingly it is premature and in violation of state and local law for the Town of Woodway ("Town") to process it. Because of that, the City's review of the Application should be placed on hold until such time as these deficiencies are corrected.

First, both the Town subdivision ordinance, WMC 13.12.020, and the Washington subdivision statute, RCW 58.17, require subdivision applications to be approved by all parties who have a real property interest in the land proposed for development. WMC 13.12.020 requires the applicant to provide a title report as a component of the subdivision application. The purpose of this requirement is to assure the Town that all parties with a real property interest in the property that may be affected by the proposal have consented to the processing of the subdivision. The title report provided to the Town in this case (assuming that the applicant complied with this clear application requirement) would clearly disclose that BSRE has a real property interest that will be affected by the proposal, pursuant to that Easement Agreement dated June 27, 2006 and recorded under Snohomish County recording number 200606271070 ("Easement Agreement"). A copy of the Easement Agreement is attached as Exhibit A.

In order to assure BSRE that any development on the Upper Bluff protects the BSRE Property, the Easement Agreement provides BSRE with a recorded property interest that runs with the land, that requires Point Wells to submit for prior approval any plans for development of the Upper Bluff Property. The real property interest that Point Wells has granted to BSRE is a

sufficient interest in land to make BSRE a necessary party to any subdivision application. Without BSRE's written consent, the Application is deficient.

For the same reason, the Application is deficient under RCW 58.17.165, which requires the applicant to provide a certificate stating that the subdivision has been made with the free consent and in accordance with the desires of the owners of the property. Here, BSRE, an owner of a real property interest in the Upper Bluff Property, has not consented to the Application. It is, accordingly, deficient and must be placed on hold until that deficiency is remedied.

The second reason that the Application is deficient is due to Point Wells' failure to comply with the express terms of the Easement Agreement.

Recital D of the Easement Agreement states that "the parties hereto desire to preserve and document their mutual intent to provide for the development of their respective properties, while accommodating the future development of [the terminal property]. . . ."

In Paragraph 1 of the Easement Agreement, BSRE's predecessor granted a perpetual nonexclusive easement for vehicular and pedestrian access over, across and upon the narrow strip of property which is depicted on Exhibit D of the Easement Agreement (the "Access Property"). This strip, which runs east to 116<sup>th</sup> Avenue, provides access to and from the Upper Bluff to the public road system. This easement is defined in the Easement Agreement as the "Pt. Wells Access Rights". The Pt. Wells Access Rights, along with the future development rights of the Point Wells property, were defined in the Easement Agreement as the "Pt. Wells Construction Rights."

In Paragraph 2 of the Easement Agreement, Paramount (BSRE's predecessor) "specifically reserves . . . a right over, across and upon the Access Property for any and all purposes" including the right to construct roadways for its use. BSRE's predecessor further reserved both "the right of ingress and egress from said property for any purposes" and "all rights with respect to its property. . . ."

Paragraph 4 of the Easement Agreement explicitly states:

*Prior to the exercise of the Pt. Wells Construction Rights or any other substantial activity by Pt. Wells on the Access Property, a notification and plans for such work shall be submitted in writing to [BSRE] by Pt. Wells and no such work by Pt. Wells shall be commenced without [BSRE's] prior written approval . . . . (Emphasis added.)*

Applicant Point Wells' subdivision application clearly qualifies both as an "exercise of the Pt. Wells Construction Rights" and as "any other substantial activity." However, no request for approval of such plans by BSRE has been made nor has BSRE's consent been provided. Until such time as Point Wells complies with its legal obligations as set forth in Paragraph 4 of the Easement Agreement, the Application must be put on hold. Indeed, the review and approval process may substantially alter many of the key elements of the Application. It is premature to review the Application until it is complete and has complied with BSRE's rights of review and approval.

Town of Woodway  
September 1, 2017  
Page 3 of 3

Unless and until such time as Pt. Wells shall have complied with the requirements of the Town's subdivision ordinance, the provisions of RCW 58.17, and the procedures set forth in the Easement Agreement, and unless and until the consent of BSRE shall have been first obtained as required by the Easement Agreement and by applicable law, then the Application is deficient and should be placed on hold.

BSRE appreciates your consideration of this comment, and trusts that the Town will halt further application processing until Point Wells has complied with the necessary preconditions to a valid subdivision application.

Sincerely,

G. Richard Hill

cc: BSRE Point Wells, LP

After recording, mail to:

Bullivant Houser Bailey PC  
Attn: Douglas A. Luetjen  
1601 Fifth Ave., Suite 2300  
Seattle, WA 98101-1618

CONFORMED COPY  
200606271070 11 PGS  
06/27/2006 3:22pm \$42.00  
SNOHOMISH COUNTY, WASHINGTON

## EXHIBIT A

**NO EXCISE TAX  
REQUIRED**

**JUN 27 2006**

BOB DANTINI, Snohomish County Treasurer

By BOB DANTINI

### EASEMENT AGREEMENT

Reference Numbers of Related Documents: N/A

Grantor: PARAMOUNT OF WASHINGTON, INC.

Grantee: POINT WELLS, LLC

Abbreviated legal description: Portion SW Qtr. 35-27-3 (Ex. C, p. 10 attached hereto)

Assessor's Property Tax Parcel Account Number(s): 27033500300900

ACCOMMODATION ONLY

CTI Billing No: 5930151 EASEMENT AGREEMENT

CHICAGO TITLE INSURANCE COMPANY HAS PLACED  
THIS DOCUMENT OF RECORD AS A CUSTOMER  
COURTESY AND ACCEPTS NO LIABILITY FOR THE  
ACCURACY OR VALIDITY OF THE DOCUMENT.

THIS AGREEMENT is effective as of June 27, 2006 and is by and between PARAMOUNT OF WASHINGTON, INC., a Washington corporation (referred to herein as the "Grantor") and POINT WELLS, LLC, a Washington limited liability company (referred to herein as "Pt. Wells").

A. WHEREAS, Grantor is the owner of real property located in Snohomish County, Washington, a portion of which is identified as Snohomish County Assessor's Tax Parcel No. 27033500303000, and is legally described as on Exhibit A attached hereto and incorporated by reference herein (the "Grantor's Adjoining Property");

B. WHEREAS, Pt. Wells is the owner of real property located in Snohomish County, Washington, a portion of which is identified as Snohomish County Assessor's Tax Parcel Nos. 27033500300800, 27033500302900, and 27033500303100, and is legally described as on Exhibit B attached hereto and incorporated by reference herein (the "Pt. Wells Adjoining Property");

C. WHEREAS, Grantor is also the owner of real property located in Snohomish County, Washington, identified as Snohomish County Assessor's Tax Parcel No. 27033500300900, and is legally described as on Exhibit C attached hereto and incorporated by reference herein (the "Access Property"), and such Access Property runs from 116<sup>th</sup> Ave W in Woodway, Washington westward, then abuts along the southern boundary of the Pt. Wells Adjoining Property, and then connects to the eastern edge of the Grantor's Adjoining Property, as shown on Exhibit D attached hereto and incorporated by reference herein;



D. WHEREAS, the parties hereto desire to preserve and document their mutual intent to provide for the development of their respective properties, while accommodating the future development of the Grantor's Adjoining Property and the Pt. Wells Adjoining Property (collectively, the "Adjoining Properties");

NOW, THEREFORE, for good and valuable consideration, including the covenants, terms and conditions hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Grant of Easement. Grantor hereby conveys and warrants to Pt. Wells a perpetual nonexclusive easement over, across and upon the Access Property for the purpose of vehicular and pedestrian access to the Pt. Wells Adjoining Property (the "Pt. Wells Access Rights") and the development of the Pt. Wells Adjoining Property, including the installation, construction, operation, maintenance, removal, and repair of a roadway and roadway improvements related to said purpose and any and all utilities associated therewith, together with the nonexclusive right of ingress to and egress from said property for the foregoing purposes (the "Pt. Wells Construction Rights"). The Pt. Wells Access Rights and the Pt. Wells Construction Rights are collectively referred to herein as the "Easement Rights."

2. Reservation of Grantor's Rights. In granting the Easement Rights hereunder, the Grantor specifically reserves for Grantor a right over, across and upon the Access Property for any and all purposes, including the installation, construction, operation, maintenance, removal, and repair of a roadway and roadway improvements and any and all utilities associated therewith, together with the right of ingress to and egress from said property for any purposes. Grantor further reserves all rights with respect to its property, including, without limitation, the right to grant easement licenses and permits to others subject to the rights granted in this Agreement.

3. Compliance With Laws and Regulations. The parties shall at all times exercise their rights herein in accordance with the requirements of any and all applicable statutes, orders, rules and regulations of any public authority having jurisdiction thereof.

4. Approval of Plans. Prior to the exercise of the Pt. Wells Construction Rights or any other substantial activity by Pt. Wells on the Access Property, a notification and plans for such work shall be submitted in writing to Grantor by Pt. Wells and no such work by Pt. Wells shall be commenced without Grantor's prior written approval of the plans therefor, which approval shall not be unreasonably conditioned, delayed or withheld; provided, however, that in the event of an emergency requiring immediate action by Pt. Wells for the protection of its facilities or other persons or property, Pt. Wells may take such action upon such notice to Grantor as is reasonable under the circumstances. The failure to either approve, condition or deny such plans within 30 days of delivery to the Grantor shall be deemed approval of such plans. Any material changes or revisions in the plans shall also be subject to Grantor's prior written or deemed approval as described above. Nothing in this Agreement shall be deemed to impose any duty or obligation on Grantor to determine the adequacy or sufficiency of Pt. Wells' plans and designs, or to ascertain whether Pt. Wells' construction is in conformance with the plans and specifications approved by Grantor.

5. Work Standards. All work to be performed by Pt. Wells on the Access Property shall be in accordance with the plans submitted to and approved by Grantor and shall be completed in a professional and workmanlike manner, free of claims or liens.

6. Access by Grantor During Construction. Pt. Wells shall make provisions satisfactory to Grantor for continued access by Grantor along, over and across the Access Property during periods in which Pt. Wells is conducting construction or other activities.

7. Termination for Breach. In the event Pt. Wells breaches or fails to perform or observe any of the terms and conditions herein, and fails to cure such breach or default within ninety (90) days of Grantor's giving Pt. Wells written notice thereof, or, if not reasonably capable of being cured within such ninety (90) days, within such other period of time as may be reasonable in the circumstances, Grantor may terminate Pt. Wells's rights under this Agreement in addition to and not in limitation of any other remedy of Grantor at law or in equity, and the failure of Grantor to exercise such right at any time shall not waive Grantor's right to terminate for any future breach or default.

8. Termination for Cessation of Use. In the event Pt. Wells ceases to use the Access Property for a period of twenty (20) successive years, this Agreement and all of Pt. Wells's rights hereunder shall terminate and revert to Grantor.

9. Release of Obligations on Termination. No termination of this Agreement shall release Pt. Wells from any liability or obligation with respect to any matter occurring prior to such termination.

10. Indemnity. The parties hereto do hereby agree to indemnify and promise to defend and save harmless the other party from and against any and all liability, loss, damage, expense, actions and claims, including costs and reasonable attorneys' fees incurred by such party in defense thereof, asserted or arising directly or indirectly on account of or out of acts or omissions of a party hereto or its servants, agents, employees and contractors in the exercise of the rights granted herein; provided, however, this provision does not purport to indemnify a party against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of such party or the party's agents or employees.

11. Title. The rights granted herein are subject to permits, leases, licenses and easements, if any, heretofore granted or claimed affecting the property subject to this Agreement. Grantor does not warrant title to its property and shall not be liable for defects thereto or failure thereof.

12. Notices. Notices required to be in writing under this Agreement shall be given as follows:

If to Grantor:

Paramount of Washington, Inc.  
Attn: President  
14700 Downey Ave.  
Paramount, CA 90723

If to Pt. Wells:

Point Wells, LLC  
Attn: General Manager  
1041 W. 18<sup>th</sup> St., Ste. A101  
Costa Mesa, CA 92627

Notices shall be deemed effective, if mailed, upon the second day following deposit thereof in the United States mails, postage prepaid, certified or registered mail, return receipt requested, or upon delivery thereof if otherwise given. Either party may change the address to which notices may be given by giving notice as above provided.

13. Assignment. Pt. Wells shall not assign the Pt. Wells Construction Rights hereunder without the prior written consent of Grantor, which consent shall not be unreasonably conditioned, delayed or withheld. Pt. Wells may assign the Pt. Wells Access Rights hereunder, in whole or in part, as part of the whole or partial transfer of the real property comprising the Pt. Wells Adjoining Property, after notice to Grantor.

14. Successors. The rights and obligations of the parties shall inure to the benefit of and be binding upon their respective successors, permitted assigns, lessees, mortgagees, or beneficiaries under a deed of trust. The easements and covenants contained herein shall run with the land as to the Pt. Wells Adjoining Property. In the event of any subdivision or partition of all or any portion of the Pt. Wells Adjoining Property, the Pt. Wells Access Rights granted herein shall be appurtenant to and run with each and every parcel thereof whether transferred or retained. The rights, covenants and obligations contained in this Agreement shall bind, burden and benefit each party's successors and assigns,

15. Attorneys Fees and Costs. If an action is commenced to enforce, rescind or interpret this Agreement or the obligations forming a part hereof, including any action or participation in or in connection with a case or proceeding under any chapter of the Bankruptcy Code, or any successor statute, the prevailing party shall be entitled to recover from the other party, and the other party agrees to pay to the prevailing party, in addition to costs and disbursements allowed by law, the prevailing party's reasonable attorney fees at trial or on appeal thereof or therefrom. Attorney fees shall include any attorney services rendered whether or not litigation is commenced and all services rendered prior to the institution of litigation and shall include all costs and expenses of litigation, including depositions, expert's fees and other normal and reasonable charges incurred by the prevailing party, including a reasonable sum for post-judgment collection.

16. Severability. The illegality, invalidity or unenforceability under law of any covenant, restriction or condition or any other provision of this Agreement shall not impair or affect in any manner the validity, enforceability or effect of the remaining provisions of this Agreement.

17. Applicable Law. This Agreement shall, in all respects, be governed, construed, applied and enforced in accordance with the laws of the State of Washington, including without limitation, matters affecting title to all real property described herein.

18. Amendments in Writing. The provisions of this Agreement may not be modified or amended, except pursuant to a written agreement in recordable form signed by all of the parties hereto.

19. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties and no representations have been made to induce any party to enter into this Agreement except as expressly set forth herein.

EXECUTED as of the dates set forth below.

PARAMOUNT OF WASHINGTON, INC.,  
a Washington corporation

By: W. Scott Lippert III

Title: CEO

Dated: June 26, 2006

POINT WELLS, LLC,  
a Washington limited liability company

By: Mahar K. Kumar

Title: Gen Mgr

Dated: June 26 2006

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Los Angeles

SS.

On Jun 26 2006

Date

before me,

Eva C. Bailey Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

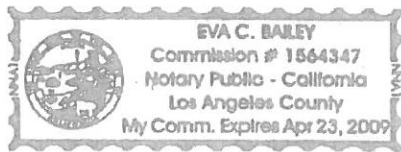
W. Scott Lovejoy III, Mark R. Milano

Name(s) of Signer(s)

☒ personally known to me

☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) ~~is~~/are subscribed to the within instrument and acknowledged to me that ~~he~~/she/they executed the same in ~~his~~/her/their authorized capacity(ies), and that by ~~his~~/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Description of Attached Document

Title or Type of Document:

Easement Agreement

Document Date:

June 2006

Number of Pages:

10

Signer(s) Other Than Named Above:

### Capacity(ies) Claimed by Signer

Signer's Name:

W. Scott Lovejoy III, Mark R. Milano

☐ Individual

☒ Corporate Officer — Title(s):

CEO, General Mgr

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other:

Signer Is Representing:

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

EXHIBIT A

Legal Description of Grantor's Adjoining Property

SNOHOMISH COUNTY ASSESSOR'S TAX PARCEL NO. 27033500303000

A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER AND OF GOVERNMENT LOT 4 AND OF VACATED HEBERLEIN ROAD, ACCORDING TO VOLUME 44 OF COMMISSIONER'S RECORDS, PAGE 44 AND OF PORTION OF LOT 4, EDMONDS TIDE LANDS, ACCORDING TO THE MAP ON FILE IN OLYMPIA, WASHINGTON ENTITLED "PLAT OF TIDE LANDS OF THE FIRST CLASS AT THE TOWN OF EDMONDS", ALL IN SECTION 35, TOWNSHIP 27 NORTH, RANGE 3 EAST, W.M., SNOHOMISH COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 2, SNOHOMISH COUNTY BOUNDARY LINE ADJUSTMENT FILE NUMBER 04-109874, RECORDED UNDER AUDITOR'S FILE NUMBER 200405180215 AND REFERENCED THERETO BY RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER 200405245217, RECORDS OF SNOHOMISH COUNTY, WASHINGTON,

EXCEPT THAT PORTION OF SAID PARCEL 2 SEGREGATED FOR TAX PURPOSES AS SNOHOMISH COUNTY ASSESSOR'S TAX PARCEL NO. 27033500300900, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 35;  
THENCE NORTH 01°11'56" EAST ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION A DISTANCE OF 482.03 FEET;  
THENCE NORTH 88°33'35" WEST A DISTANCE OF 30.00 FEET TO THE SOUTHEAST CORNER OF SAID TAX PARCEL NO. 27033500300900 AND THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING NORTH 88°33'35" WEST A DISTANCE OF 616.67 FEET;  
THENCE NORTH 01°11'56" EAST A DISTANCE OF 34.70 FEET;  
THENCE NORTH 88°33'35" WEST A DISTANCE OF 453.60 FEET;  
THENCE NORTH 01°11'56" EAST A DISTANCE OF 20.00 FEET;  
THENCE SOUTH 88°33'35" EAST A DISTANCE OF 580.00 FEET;  
THENCE SOUTH 01°11'56" WEST A DISTANCE OF 20.00 FEET;  
THENCE SOUTH 88°33'35" EAST A DISTANCE OF 490.27 FEET TO THE NORTHEASTERLY CORNER OF SAID TAX PARCEL NO. 27033500300900;  
THENCE SOUTH 01°11'56" WEST A DISTANCE OF 34.70 FEET TO THE TRUE POINT OF BEGINNING.

SITUATED IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

EXHIBIT B

Legal Description of Pt. Wells Adjoining Property

SNOHOMISH COUNTY ASSESSOR'S TAX PARCELS NO. 27033500300800, 27033500302900  
AND 27033500303100.

PORTIONS OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER  
AND OF GOVERNMENT LOT 3 AND OF VACATED HEBERLEIN ROAD, ACCORDING TO  
VOLUME 44 OF COMMISSIONER'S RECORDS, PAGE 44, ALL IN SECTION 35, TOWNSHIP 27  
NORTH, RANGE 3 EAST, W.M., LYING EASTERLY OF THE EASTERLY RIGHT OF WAY LINE  
OF THE SEATTLE AND MONTANA RAILWAY COMPANY, NOW KNOWN AS THE  
BURLINGTON NORTHERN SANTA FE RAILWAY, BY DEED RECORDED UNDER AUDITOR'S  
FILE NUMBERS 5277, 6220 AND 120070, SNOHOMISH COUNTY, WASHINGTON, MORE  
PARTICULARLY DESCRIBED AS FOLLOWS:

SNOHOMISH COUNTY ASSESSOR'S TAX PARCEL NO. 27033500302900

PARCEL 1, SNOHOMISH COUNTY BOUNDARY LINE ADJUSTMENT FILE NUMBER 04-  
109874, RECORDED UNDER AUDITOR'S FILE NUMBER 200405180215 AND REFERENCED  
THERE TO BY RECORD OF SURVEY MAP RECORDED UNDER AUDITOR'S FILE NUMBER  
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EXCEPT THAT PORTION OF SAID PARCEL 1 SEGREGATED FOR TAX PURPOSES AS  
SNOHOMISH COUNTY ASSESSOR'S TAX PARCEL NO. 27033500300800, DESCRIBED AS  
FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 35;  
THENCE NORTH 01°11'56" EAST ALONG THE NORTH-SOUTH CENTERLINE OF SAID  
SECTION A DISTANCE OF 991.97 FEET (60 RODS BY DEED) TO THE TRUE POINT OF  
BEGINNING;  
THENCE NORTH 88°33'35" WEST A DISTANCE OF 520.27 FEET;  
THENCE NORTH 01°11'56" EAST A DISTANCE OF 20.00 FEET;  
THENCE SOUTH 88°33'35" EAST A DISTANCE OF 520.27 FEET;  
THENCE SOUTH 01°11'56" WEST A DISTANCE OF 20.00 FEET TO THE NORTHEASTERLY  
CORNER OF SAID TAX PARCEL NO. 27033500300800, AND THE TRUE POINT OF  
BEGINNING.

SITUATED IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

SNOHOMISH COUNTY ASSESSOR'S TAX PARCEL NO. 27033500300800

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EXHIBIT B (Continued)

Legal Description of Pt. Wells Adjoining Property

THENCE NORTH 88°33'35" WEST A DISTANCE OF 520.27 FEET;  
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BEGINNING.

SITUATED IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

SNOHOMISH COUNTY ASSESSOR'S TAX PARCEL NO. 27033500303100

PARCELS B AND C, PER STATUTORY WARRANTY DEED, RECORDED UNDER AUDITOR'S  
FILE NUMBER 20050311233, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

SITUATED IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.



EXHIBIT C

Legal Description of Access Property

SNOHOMISH COUNTY ASSESSOR'S TAX PARCEL NO. 27033500300900

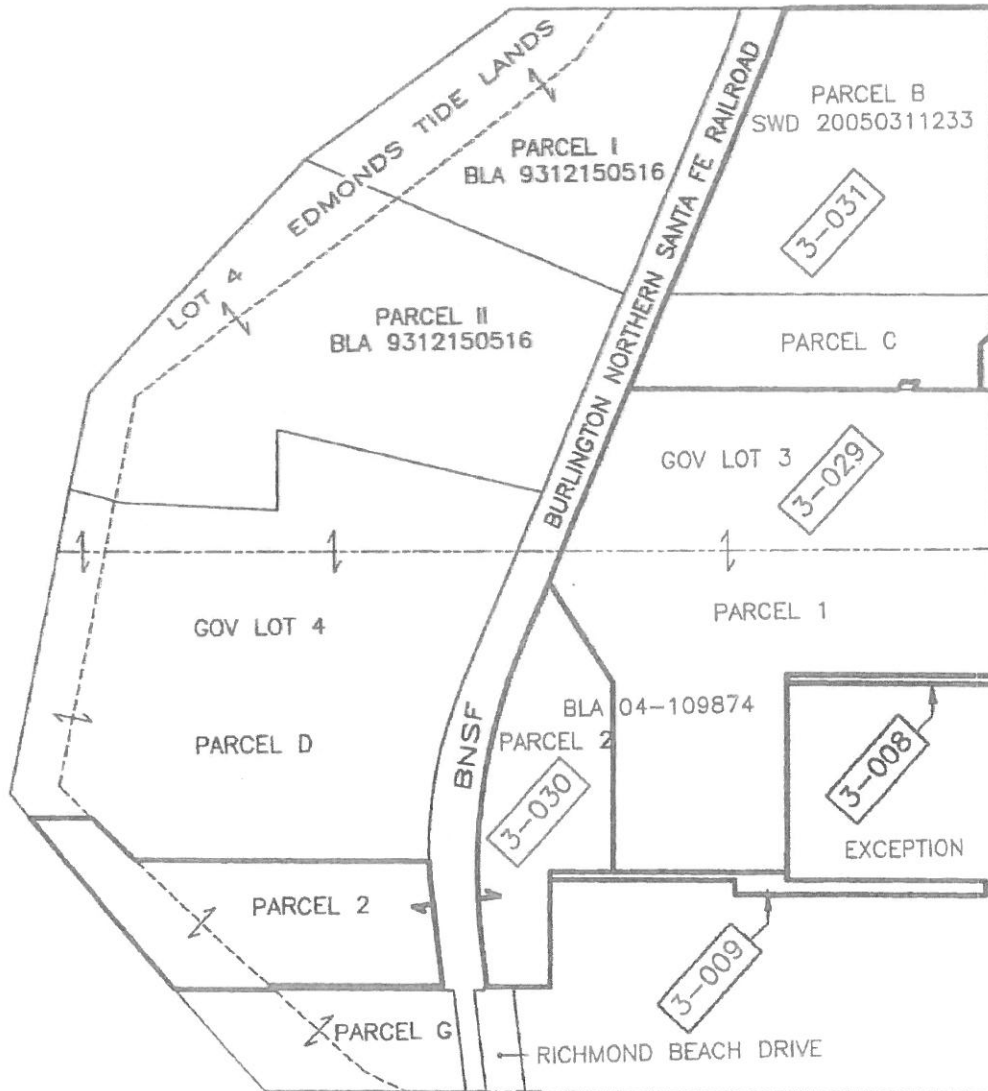
A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER AND OF GOVERNMENT LOT 4 AND OF VACATED HEBERLEIN ROAD, ACCORDING TO VOLUME 44 OF COMMISSIONER'S RECORDS, PAGE 44 AND OF PORTION OF LOT 4, EDMONDS TIDE LANDS, ACCORDING TO THE MAP ON FILE IN OLYMPIA, WASHINGTON ENTITLED "PLAT OF TIDE LANDS OF THE FIRST CLASS AT THE TOWN OF EDMONDS", ALL IN SECTION 35, TOWNSHIP 27 NORTH, RANGE 3 EAST, W.M., SNOHOMISH COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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THENCE SOUTH 01°11'56" WEST A DISTANCE OF 34.70 FEET TO THE TRUE POINT OF BEGINNING.

SITUATED IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

EXHIBIT D  
Location of Properties



Email to [efaison@townofwoodway.com](mailto:efaison@townofwoodway.com), [btrimm@townofwoodway.com](mailto:btrimm@townofwoodway.com),

Address to them , the Mayor, The Town Council

Thanks

Tom

Ps another email we come as well

Sent from my iPad

Begin forwarded message:

**From:** Thomas Whitson <[thomaswhitson59@gmail.com](mailto:thomaswhitson59@gmail.com)>

**Date:** August 22, 2017 at 8:37:18 AM PDT

**To:** Thomas Whitson <[thomaswhitson59@gmail.com](mailto:thomaswhitson59@gmail.com)>

**Subject:** Upper Bluff Development Notice

<Upper Bluff Development Notice.pdf>

Sent from my iPad

*Dear Town Council:*

*I am sending pictures of our view from 23918 115th Pl.w.  
taken shortly after we moved here. The bluff trees  
have now taken away most of what we at one  
time enjoyed (and are still what we are taxed for  
Peggy Loken stones 9/1/2017*

<https://mail.aol.com/webmail-std/en-us/printMessage>



**From:** Thomas Whitson <thomaswhitson59@gmail.com>

**To:** resslr3 <ressler3@aol.com>; forneywr <forneywr@gmail.com>; barb.brady46 <barb.brady46@gmail.com>; peggyscrapbook <peggyscrapbook@aol.com>; Henry Veldman <henryveldman@comcast.net>; sboulanger <sboulanger@comcast.net>

**Subject:** Re: Upper Bluff Development Notice

**Date:** Tue, Aug 29, 2017 6:52 pm

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Hi folks!

Thanks to all that have sent a letter to the Town!

And for those that haven't done it - Yes! There is still time. This coming Friday September 1 is the deadline. Handwritten or emailed sent to [Eric@townofwoodway.com](mailto:Eric@townofwoodway.com), [townhall@townofwoodway.com](mailto:townhall@townofwoodway.com). Or simply delivered by hand or snail mail is great as well. The notice you received has the address on it. Keep in mind Town Hall is closed on fridays due to budget cutbacks.

Tom Whitson  
206 920-2791

Sent from my iPad

On Aug 22, 2017, at 10:47 AM, Thomas Whitson <[thomaswhitson59@gmail.com](mailto:thomaswhitson59@gmail.com)> wrote:

Good morning,

I have attached an email I sent to Peter Block regarding the Upper Bluff Development Notice and the importance of responding to it in some fashion. The Town will need to have your comments by September 1

Please note that our concerns will add support to a pending decision to require a extensive geotechnical study and EIS

I mentioned briefly some concerns about development in my notes to Peter.

Let's all mention something to the Town to let them know we care about this and have concerns about homes built on steep unstable Bluff lands



As noted below you can email to Eric and Bill-addresses below

Thank you !

Tom Whitson  
Council member  
206 920-2791

Sent from my iPad

Begin forwarded message:

**From:** Thomas Whitson <[thomaswhitson59@gmail.com](mailto:thomaswhitson59@gmail.com)>

**Date:** August 22, 2017 at 10:21:07 AM PDT

**To:** [pmiblock@outlook.com](mailto:pmiblock@outlook.com)

**Subject:** Fwd: Upper Bluff Development Notice

Peter

Here is the notice attached

Please send on comments and concerns before September 1.

Today you and I discussed the steep slopes , need for large setbacks , mixed fill dirt on parts of land from earlier sewer project in the 90s, slow moving landslide risk on area in front of your west side neighbors, exceedingly small lot size, traffic , massive amount of water moving through underneath , having critical areas reduced to accommodate development, ill advised creation of steep slopes to be owned by the new HOA to top and remove "hazard" trees for views destroying multilayered canopy that protects the slopes, smells from Pt Wells oil plant are bad , noise and light pollution (glare)  
Liability for Town going forward.

Note: the agreement is available on our website under Land Use tab

RECEIVED

AUG 31 2017

31 August, 2017

Town of Woodway  
Eric Faison, Town Administrator  
23920 113th Place West  
Woodway, WA 98020

RE: Notice of Application, Point Wells, LLC - Upper Bluff

Living adjacent to the Upper Bluff, we have the following concerns that we want to see addressed as the review process proceeds.

- With the State of Washington's changes in requirements of set backs on slopes due to the experience at OSO, we want to verify that the most current rules apply to this project. We understand they applied before OSO happened, however with the new information regarding slides this best science must be applied to this project. If the project is allowed to use code requirements prior to OSO and the Town of Woodway accepts this, it would be a significant liability to the Town, and by extension its residents, if an untoward event occurs on the bluff in future years.
- Concerns with water flowing down hill. We have sump-pumps running constantly in the rainy season. We walk down to the end of 115th Place West and hear water in the storm system running year round.
- Traffic will become problematic and need to understand how that will be mitigated. Two homes driveways are behind our houses adjacent to the property in question .
- View Corridors must be included in any design of the development if it occurs.
- We currently enjoy much of the wild-life residing in the upper bluff. Woodway as a Town preserves wild life so we want to see a mitigating plan to allow wild life corridors in the development should it occur.
- A through Environmental Impact Study must be made, not a modified one that ignores prior landfill issues and previous slides such as the one that occurred in 1997 north of the Bluff, as well as the slides that eventually vacated Heberline Road.
- If the development occurs the Town's "Dark Sky" policy must be adhered to.

*H. Veldman - 8-31-17*  
Henry Veldman  
*A. Veldman 8/31/2017*  
Anita Veldman

23820 115th Place West  
Woodway, WA 98020

RECEIVED  
AUG 31 2017

To: The Town of Woodway Council  
23920 – 113<sup>th</sup> Pl. W.  
Woodway, WA 98020

August 31, 2017

From : John and Marissa Kiemele  
23914 – 115<sup>th</sup> Pl. W.  
Woodway, WA 98020

Re: Concerns over the development of the Upper Bluff

Dear Mayor Nichols and Woodway Town Council Members and other concerned parties,

We appreciate the opportunities over the past several months to engage in conversations of various kinds and to receive updates related to the development of the Upper Bluff recently annexed to the Town of Woodway. Thank you for the diligent time and attention you invest on behalf of Town residents like us and this critical project. We have considerable interest in what is happening with the Upper Bluff property since it sits directly to the west of our property on 115<sup>th</sup> Pl. W. We are one of several homes along the Upper Bluff whose back yards sit adjacent to this piece of property, and we would like to describe for you a few of our concerns regarding the impact of building on this Upper Bluff:

1. The instability of the ground – Knowing some of the local history of prior developments in the Woodway area and how the current soil of the Upper Bluff is predominantly fill materials, our concern is “how stable is that piece of property?” We hear of the propensity and frequency of these western bluffs to slide and wonder how this property will be any different? Given the recent Oso, WA, incident, it seems to us that this almost-definite risk of landslide needs thorough investigation to guarantee us current property owners that such a devastating and tragic slide of this bluff does not happen. We already witness regular erosion on the western edge of our property (the side of our property that backs on to the Upper Bluff area) due to what appears to be underground water movement, and for the past several years we have been composting the eroding areas, along with needed re-landscaping, in order to mitigate the current erosion. We cannot imagine how much more unstable the ground might become with the development of the Upper Bluff...and what further costs we as homeowners might have to incur, not to mention the liability issues this could pose for our Town.
2. Wetland protection and maintenance – We know by observation and also from recent reports from the Town Council that directly to the west of our property is designated as wetlands. As mentioned above, we are concerned how developing the Upper Bluff might impact or exacerbate these wetland issues. Also, our concern is that these designated sections be protected according to the WA standards and no compromises regarding setbacks, etc. be enacted toward this vulnerable section. Again, this raises questions about ground suitability and stability, but also about the negative ecological impact of disrupting this area with said development.
3. Increased traffic and safety hazards – We realize such concerns have been voiced before, but we definitely think this concern merit repeating. Since 238<sup>th</sup> is the only access into the Upper Bluff and into our 115<sup>th</sup> Place cul de sac, we are concerned about the negative impact on our cul de sac neighborhood due to the obvious increase in traffic flow. We are concerned about the several families whose young, active children automatically become more at risk with adding more car and truck traffic in and out of this already limited space. Speaking of limited space, the

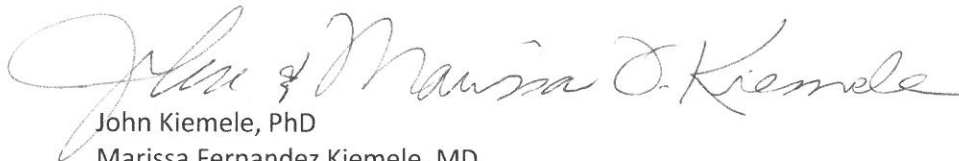


other day there was a street or utility crew working at the entrance to our cul de sac (at the corner of 238<sup>th</sup> and 115<sup>th</sup> Pl.) and several of us home owners were backed up on 238<sup>th</sup> unable to pass into the cul de sac at the end of the work day because of heavy equipment and trucks blocking the entrance. There just is no room to maneuver all the traffic that will result with this Upper Bluff development.

4. Impact quality of life - Again, this might also have been expressed before, however it bears repeating when considering lot allowances, building heights, view maintenance, etc. When we were looking for a home and property we were drawn to Woodway for several reasons, one being what was captured on the little sign that used to hang beneath the Town's "Welcome to Woodway" signs that read "The Quiet Place." That is something we have come to highly value as a result of living in Woodway. This and the natural, wooded spaciousness throughout given areas all adds a quality we are looking for in our way of life. We are concerned that this quality will be compromised with the development of the Upper Bluff unless specific studies and codes are put in place that mitigate against negative changes, and that these are then monitored and enforced accordingly. Reduced noise levels are also something that I rely upon when I invite clients to my home for the spiritual guidance and reflection opportunities that I offer. I am concerned that much of this environment currently conducive to my work will be disrupted certainly while construction is taking place and then of course afterwards with the increased traffic and increased neighborhood noise and activities. We do not look forward to these negative impacts on our way of life and livelihood.

Thank you for receiving our concerns about stability, protection, safety and quality of life as you deliberate next best steps on the property development of the Upper Bluff. We trust these concerns to you as the Town Council and respective parties involved with this property. We are more than happy to speak further about these issues as needed. Thank you again for your time and attention.

Sincerely,

A handwritten signature in cursive script that reads "John & Marissa D. Kiemele". The ink is dark and the signature is fluid, with the names connected together.

John Kiemele, PhD

Marissa Fernandez Kiemele, MD

23914 – 115<sup>th</sup> Place West

Woodway, WA 98020

425-412-0214



RECEIVED

AUG 30 2017

Paige A. Lewis  
23815 115<sup>th</sup> Place West  
Woodway, WA 98020  
206-234-7083  
lewis\_paige@hotmail.com

August 29, 2017

Mrs. Carla A. Nichols  
Mayor  
Town of Woodway  
23920 113<sup>th</sup> Place West  
Woodway, WA 98020

Dear Mayor Nichols,

I am writing to express my concerns regarding the use of the recently annexed Upper Bluff for a 36-lot subdivision, as proposed by the applicant, BD Giddings Engineering, PLLC, and property owner, Point Wells, LLC.

The proposed project will have clear drawbacks for my family and our neighbors on and near 238<sup>th</sup> Street and 115<sup>th</sup> Place West – increased traffic and noise, loss of trees and wildlife habitat, obstructed view, etc. – however, I will focus this letter on my safety concerns with far-reaching impact.

The Town of Woodway Comprehensive Plan<sup>1</sup> designates the Upper Bluff as a **geologically hazardous area**, defined by WAC 365-195-200(9) as “areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to siting of commercial, residential, or industrial development consistent with public health or safety concerns.” As detailed in the Comprehensive Plan and evidenced by previous landslide activity, including the significant slide in 1997, the Upper Bluff area is liquefaction prone, with steep slope, landslide, erosion, and seismic hazards.

According to the Washington State Department of Ecology Coastal Landsliding on Puget Sound report, most landslides, particularly those in developed areas, are aggravated by human actions such as “excavation and undermining of slopes, placement of fill material on slopes, failures of retaining walls, and clearing of vegetation.”<sup>2</sup> At least three of these would apply to the construction of the proposed subdivision and necessary access roads. Already rated with the highest liquefaction susceptibility by the Washington Division of Geology and Earth Resources<sup>3</sup>, the stability of the Upper Bluff is even more precarious due to the large volume of construction waste and fill deposited there during a 1990’s sewer project. The added load and pressure from new roads and homes on top of a highly permeable layer of sand, silt and gravel, and perched ground-water table<sup>4</sup>, coupled with disruptive excavation and loss of stabilizing trees will accelerate erosion and increase the likelihood and severity of a landslide<sup>2</sup>. If combined with an earthquake of any significance, another Woodway landslide could be catastrophic.

Excluding landslides caused by volcanic eruptions, earthquakes or dam collapses, the 2014 Oso slide is the deadliest single landslide event in United States history<sup>5</sup>. Forty-nine homes and other structures were destroyed, and 43 people were killed in this tragedy widely predicted by geologists, engineers and local residents. Snohomish County officials received national criticism for their decision to attempt to stabilize the slope with a new wall, after a 2010 study commissioned by the county confirmed the dangers<sup>6</sup>. In October 2016, survivors and the victims’ families reached settlements with the State of Washington and a

timber company, Grandy Lake Forest Associates, for \$50 million and \$10 million respectively<sup>7</sup>. The municipal liability for a Woodway disaster a fraction of this size would be devastating.

Based on clear historical precedent and the abundance of geological data stating the risks, I vehemently oppose building homes on the Upper Bluff and ask the Town Council to reject the proposed project until an objective, thorough set of environmental studies is completed and an independent EIS is reviewed.

Thank you for your consideration.

Kind Regards,



Paige A. Lewis

CC: Mr. Eric Faison, Town Administrator

References Cited:

<sup>1</sup> Town of Woodway Comprehensive Plan – 2015 Update; Environmentally Critical Areas section, page 18

<sup>2</sup> Coastal Landsliding on Puget Sound report #01-06-0194; Washington State Department of Ecology

<sup>3</sup> Washington Division of Geology and Earth Resources Open File Report 2004-20, Map 31A—Liquefaction Susceptibility Map of Snohomish County, Washington; September 2004

<sup>4</sup> Finite-Element Analysis of the Woodway Landslide, Washington; U.S. Geological Survey Bulletin 2180 by W.Z. Savage, R.L. Baum, M.M. Morrissey, and B.P. Arndt; page 1

<sup>5</sup> “Worst Landslides in U.S. History” Wunderground. Retrieved March 31, 2014

<sup>6</sup> Egan, Timothy (March 29, 2014b). "A Mudslide, Foretold". *The New York Times*. p. SR3

<sup>7</sup> "Families reach \$10 million settlement with Grandy Lake Forest Associates over deadly 2014 landslide". CBS News. October 10, 2016. Retrieved 10 October 2016.

RECEIVED

AUG 30 2017

Paige A. Lewis  
23815 115<sup>th</sup> Place West  
Woodway, WA 98020  
206-234-7083  
lewis\_paige@hotmail.com

August 29, 2017

Mr. Eric Faison  
Town Administrator  
Town of Woodway  
23920 113<sup>th</sup> Place West  
Woodway, WA 98020

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Thank you for your consideration.

Kind Regards,



Paige A. Lewis

CC: Mrs. Carla A. Nichols, Mayor

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<sup>7</sup> "Families reach \$10 million settlement with Grandy Lake Forest Associates over deadly 2014 landslide". CBS News. October 10, 2016. Retrieved 10 October 2016.



RECEIVED

AUG 29 2017

( Lock Box )

August 22, 2017

To Eric Faison:

My wife and I presently live at 23840 115<sup>th</sup> Pl W which borders the Upper Bluff, we have lived here for 20 years. We have some concerns with the future development that we are hoping will be addressed before any construction starts.

Our main concern is the wetlands behind us and what effect this project will have on the wetlands, on the creek that runs under our home and the bluff. We have seen the effect the water and hillside have had on our property over the past 20 years. Our backyard has slowly shifted to the west and onto the Upper Bluff property which prompted us to put in a retaining wall a couple years ago to help slow down the movement.

We are also concerned about the wildlife that calls the upper bluff home. A herd of 8-10 healthy deer, a family of coyotes, the eagles, hawks, owls and other assorted birds that make their homes in the lush undisturbed trees and hunt on the upper bluff. We have also seen, raccoons, fox and even a bear since we have lived here.

Noise, views, traffic, water pressure, property values, privacy,

We believe a thorough environmental review, wetland review and landslide review of the property is needed before any work is started.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Sallie Lumley". The signature is fluid and cursive, with the first names "Brent" and "Sallie" being more prominent than the last name "Lumley".

Brent and Sallie Lumley

RECEIVED

AUG 28 2017

John L. Guenther  
23826 115<sup>th</sup> Place West  
Woodway, Washington 98020

August 23, 2017

Mr. Eric Faison  
Woodway Town Administrator  
23920 113<sup>th</sup> Place West  
Woodway, Washington 98020

RE: Upper Bluff Development

Dear Mr. Faison:

With regard to the upper bluff development, I would like to voice some of my concerns as the process moves forward:

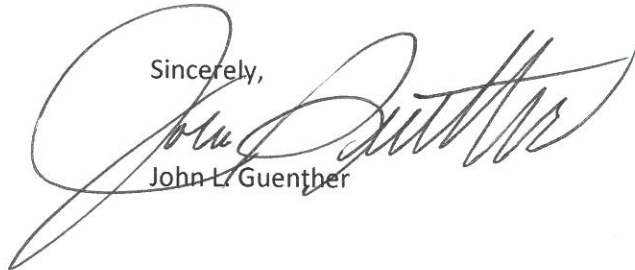
1. Bank stability and tree removal
2. Town liability
3. Increase water/runoff
4. Additional traffic

With development and the desire for water views, tree removal will be necessary. This of course will weaken the soil and stability of the hillsides. With that, what would be the town's liability for damaged property or railroad cleanup? Water has always been an issue and underground springs have posed problems for almost every homeowner on the block. Some still needing sump pumps even after the sewer installment. Finally, the additional traffic will be more than double what already travels east and west on 238<sup>th</sup>.

I have enjoyed living in Woodway for 48 years and have seen a lot of changes. Thank you for your attention to my concerns.

Sincerely,

John L. Guenther

A handwritten signature in black ink, appearing to read 'John L. Guenther', is written over the printed name.

JLG/lmr

RECEIVED

AUG 28 2017

August 27, 2017

Mayor Carla Nichols  
Town of Woodway Town Council Members  
Eric Faison  
Bill Trimm

This letter is in response to the notice received regarding completion of the application by BD Giddings Engineering to develop the Upper Bluff, specifically lots 1 - 5. I am a homeowner adjacent to this property and have lived here for approximately 53+ years. I have several concerns:


1) My main concern is the slope of the bluff and the continuing erosion of the bluff that is coming closer to my fence line. The bluff used to be approximately 65 feet from the NW corner of my property and is now approximately 35 feet from my property. Any removal of vegetation or trees in front of this property will accelerate the erosion of soil from the bluff. Any added erosion will affect the value of my property as well as my immediate neighbors.

2) In addition, I am concerned about the makeup of the soil on the bluff and under the property to be developed by BD Giddings Engineering because of my own personal experience that I will describe:

An oil tank leak occurred on my property. The oil tank was located in the center of my property on the east of my house. I had to hire a company to mitigate the oil spill - remove and clean the soil. Their work had to be approved by the Dept. of Ecology. It took over 8 years to resolve this soil cleanup because of the soil makeup under my property. My property was found to be sitting on a bed of clay directly underneath the layers of soil. In the clay were layers of rock and gravel that allowed water to seep into the oil spill area where it sat and pooled on top of the clay. The clay prohibited the dissipation of the oil and water mixture. The water filled the hole and consequently had to be removed manually by pumping.

I am concerned that if the bluff area also has this same layering of soil and clay that allows water to pool and not dissipate, that a slide in this area might be a possibility or at the very least is not suitable for building. Because of this, I am in favor of having a full environmental impact study to be done of not only the five lots, but the entire property that is proposed for development.

Sincerely,

  
Verla Houston  
11523 Heberlein Rd  
Woodway, WA 98020

August 17, 2017

Mayor Carla Nichols  
Town of Woodway Town Council Members  
Eric Faison  
Bill Trimm

This letter is in response to the notice received regarding completion of the application by BD Giddings Engineering, PLLC, to develop the Upper Buff, specifically proposed lots #1-5. As a homeowner with property adjacent to the proposed development, of course I have been aware of and have been following the progress of this proposal. The desire to develop this land is understandable. I believe current Woodway residents, especially those who will be directly and on a daily basis affected by this development should be given a good deal of consideration. It is our town and our lives, homes, land and quality of life that will be affected forever, going forward. The builder will build, make his money and move on, leaving the Town of Woodway and its residents to deal with all property and quality of life issues, and most significantly, liability issues in the future. No small consideration.

Regarding proposed lots #1-5 on Road B, I submit the following concerns:

1. Slope instability: As everyone knows, this is a steep slope. As shown in Exhibit B of the Annexation Agreement, it is about 230-235' high from sea level to bluff's edge along proposed lots 1-5. Assuming setback from bluff's edge of 1:1, even with 15% buffer width reduction allowed by the town of Woodway in the agreement, this would mean a setback from bluff of about 200'. Doesn't leave much room for building. In addition, this bluff is known to be unstable, with dozens of slides each year significant enough to disrupt train service between Seattle and Everett. Indeed, the area shown on Exhibit B as Overlook Park at the north end of Road B has visibly eroded over the past few years. Just go look—the land that was there only a few years ago is greatly diminished, visibly. Not so much proposed Park Area left. Also, there is natural water moving under this slope. I doubt that can be engineered as to be completely insignificant.
2. Fill of unknown type/size/shape/toxicity/permeability covering undetermined area size at proposed lots 1-5: On record and well known to long term residents here is that in the 1990s during construction at a different site, truck loads of debris from that project were dumped, daily over about a four month period, onto this area. Approximations from those living adjacent to these lots are about 15 truckloads per day over about a 4 month period. When the surface got too high, some debris fill was simply bulldozed



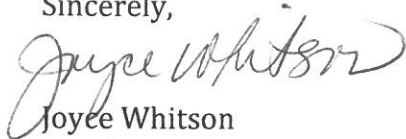
over the edge of the bluff. I contend that core samples taken at any one location cannot be generalized to any other areas of the location beneath proposed lots 1-5. The amount of fill in all likelihood varies by location. It may contain concrete, asphalt, organic matter, building materials or items with unknown toxicity in differing amounts. It seems unsafe if not foolhardy to create a weighted load of buildings for human habitation on this variable and uncertain foundation. If new building creates new instability it could jeopardize nearby lots as well, such as where I live. Again, knowing this prior to allowing building, the Town of Woodway would be liable for related future mishaps.

3. The third and last concern I wish to voice regarding building here is the vegetation that holds this bluff in place. These lots would likely be sold as view lots which would necessitate removal or topping of huge swaths of currently well established, multilayered growth. Everybody knows this vegetation is collectively essential for slope stability. Removal or disruption of large swaths could endanger any new development, but also areas that have been stable prior to vegetation disruption, such as those of us on adjacent lots. Having a new group of HOA owners interested in protecting their views in charge of managing the topping/removal of this vegetation is questionable at best. Town of Woodway tree ordinances would have to be more stringent than present and someone from the town would need to monitor cutting/topping/removal on an ongoing basis to protect bluff stability.

Given the issues above it seems building on lots #1-5 could be unwise, with the Town of Woodway bearing liability for any future problems due to these known factors. I have little familiarity with the area of proposed lots 6-36 so have no input regarding that aspect of the proposed development.

Thank you for listening. I hope the Town of Woodway will do the right thing by at least insisting on a full Environmental Impact Study, or at most declaring this bluff area of proposed lots #1-5 unsuitable for building for human habitation. Protecting the lives and ensuring the welfare of Woodway residents, those current and any of those to come, is of course paramount. Keeping residents safe should supersede any perceived monetary benefit, to the builder or the Town of Woodway, short or long term.

Sincerely,



Joyce Whitson  
Resident and owner at  
11511 238<sup>th</sup> St. SW  
Woodway

**Dan and Barbara Brady**  
**1517 Heberlein Road**  
**Woodway, WA 98020**

RECEIVED

AUG 22 2017

August 22, 2017

Town of Woodway

Woodway, WA 98020

Mayor Carla Nichols and Town of Woodway Town Council:

The proposed Upper Bluff development plan has many good things for the Town of Woodway. The large amount of open space is especially desirable. The lack of a road connecting the Point Wells high density development to our quiet community is important. We do not want a high traffic corridor on our residential streets.

Our largest concern is that the bluff area is a well-known landslide risk. In the mid 1950's, a landslide demolished Heberlein Road. The county rebuilt the road and the following year, it slid out a second time. The County, after community meetings, concluded that the area was not stable enough for a road, and closed the lower portion of Heberlein Road permanently. In the 1980's there were a series of slides at the end of Woodhaven Place (236<sup>th</sup>). When I moved to Woodway in 1976, the bluff was approximately 30 feet from the Standard Oil property line fence at the end of Woodhaven Place. The bluff is now at the fence line.

The bluff area between Heberlein Road (238<sup>th</sup> St SW) and the Woodhaven Place slide has been raised and leveled by the dumping of large amounts of construction fill, dirt, and debris. Most of this fill came from the Metro Sewer Line Project that constructed a major pipeline from the old Richmond Beach plant to the Edmonds Waste Water Treatment Plant in the early 1990's. The pipeline is approximately 3 ½ miles long. All unusable materials from this project were dumped on this bluff property. Whenever the piles of dirt, old paving, and other construction waster became too high, the contractors' bulldozers would push them over the bluff to create a flat area. The dumping took place most days over four months of construction.

Other dumping was from the Chevron Oil Terminal at Point Wells. Over many years, as tanks and buildings were removed or remodeled, the non-reusable materials were dumped in the same area. Most of this material was concrete from foundations.

Other slides along the bluff in Woodway are clearly visible from the water or from the railroad tracks below the bluffs. The slides at the former Dominican Retreat Center and along the west side of Dogwood Lane are most notable.

The BNSF Railroad reported over 90 slides per year between their Seattle and Everett Depots. There are so many slides that they keep a slide cleanup train parked in Edmonds each winter.

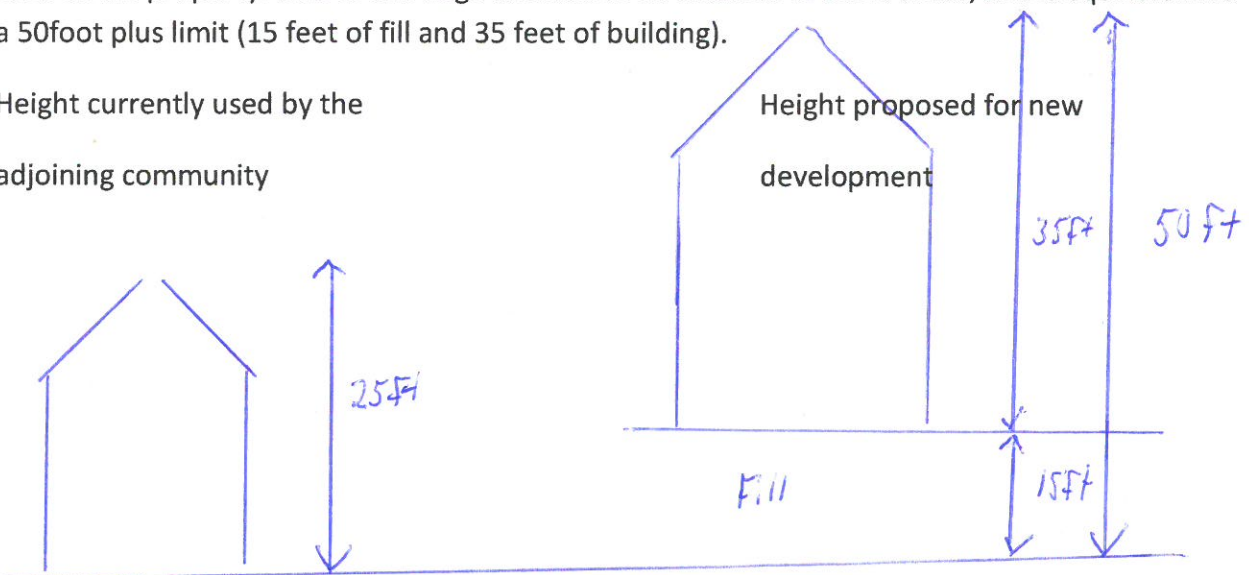
Building houses on fill dirt at the top of a known unstable 200+ foot tall bluff seems like a plan for disaster. Remember the Oso tragedy?

Our second concern is in regards of the building heights.

All of the homes east of the proposed development have been limited to 25 feet from the average of the original corners of the property. This has resulted in a community of very nice homes, many of which have good views.

The proposal calls for the new development's height restrictions to be 35 feet from the filled-in level of the property. Due to the large amount of fill material in some areas, this is equivalent to a 50foot plus limit (15 feet of fill and 35 feet of building).

Height currently used by the adjoining community



I fail to see why the developer should be offered a building height almost twice as high as the adjacent community. As we have seen in most of our town, it is possible to build beautiful

homes within the 25 foot limits. Please retain the 25 foot limit from the original natural grade of the property.

Please consider the slide risks and the building heights before approving any development for the upper bluff area.

Sincerely,

Dan Brady

Barbara Brady



RECEIVED

AUG 23 2017

23821 115<sup>th</sup> Place West  
Woodway, WA 98020

August 30, 2017

Eric Faison, Town Administrator  
Town of Woodway  
Woodway, WA 98020

Re: Upper Bluff Development Notice

Dear Mr. Faison,

As a resident of Woodway for almost 44 years, living on the West side of 115<sup>th</sup> Place West, directly above the proposed development for the Upper Bluff, we would like to share some observations and concerns with the Town regarding the referenced development.

Trees and Vegetation

Although trees and vegetation are quite noticeable from our home and in some cases block our views, I believe they are necessary to protect the slope of the Bluff and we would oppose any significant tree removal or tree topping.

Underground Water Flows

The Town is reminded of the significant underground water flow from the upland slopes to the bluff. The Town only needs to research the lot preparation that was necessary in order to construct the house on the South end of 115<sup>th</sup> some years ago.

Petroleum Odors from the Asphalt Operation at Point Wells


There are periodic and noxious petroleum odors which are noticeable on 115<sup>th</sup> Place West. These odors have been observed for the entire time we have lived here and are most noticeable on warm, calm conditions, or during light West winds, primarily on summer days. For years these odors were reported to the plant operators as well as Air Pollution authorities. We can't imagine that homeowners on the bluff would want to be so close to the source. We would expect that this condition could create a potential liability for the Town, since the Town would be issuing the building permits.

Light and Noise from Point Wells

The operations at Point Wells sporadically produce light and machinery noise affecting homes on 115<sup>th</sup> Place West. These conditions may also present a liability to the Town.

Thank you for your consideration.

Very truly yours,

  
Peter Block

  
Mary Lou Block