

Aven, Heather M.

From: brooks anderson <brksanderson@gmail.com>
Sent: Monday, October 16, 2023 12:50 PM
To: Bell, Kathy M.
Subject: Request to receive email of all notices regarding the Woods at Viewcrest applications

You don't often get email from brksanderson@gmail.com. [Learn why this is important](#)

Dear Planner Bell:

I am very concerned about the significant environmental adverse impacts of this proposed project. Please send me all notices regarding the Woods at Viewcrest .

Thank you.

--

Brooks Anderson

Aven, Heather M.

From: Larry Horowitz <dakini1@comcast.net>
Sent: Tuesday, October 17, 2023 11:38 PM
To: Bell, Kathy M.
Subject: Woods at Viewcrest public comment update
Attachments: PMBC 8-17-23 letter to Kathy Bell re 8-7-23 Woods at Viewcrest RFI.pdf

Hi Kathy,

Thank you for updating the public comment section on the [Woods at Viewcrest project webpage](#) through 10/15/23.

I noticed that the new subsection for [Comments Received January 1, 2023 - October 15, 2023](#) does not include the 8/17/23 letter from *Protect Mud Bay Cliffs* (PMBC) that was sent to you via email with copies to Seth Fleetwood, Blake Lyon, Kurt Nabbefeld, Steve Sundin, Renee LaCroix, Michael Lilliquist, Doug Allen, and Mak Kaufman.

Below is the cover email sent from PMBC Steering Committee member Wendy Larson via info@mudbaycliffs.org on 8/17/23. I have attached a PDF of the actual comment letter referenced in Wendy's email.

At your convenience, would you please confirm that you received the 8/17/23 PMBC letter. Also, would you please add the PMBC letter to the public comment section on the Woods at Viewcrest webpage.

Thanks in advance. The 8/17/23 cover email from Wendy Larson is appended below.

Best,
Larry Horowitz

From: Wendy Larson <info@mudbaycliffs.org>
Date: Thursday, August 17, 2023 at 3:56 PM
To: kbell@cob.org <kbell@cob.org>
Cc: SMFleetwood@cob.org <SMFleetwood@cob.org>, mayorsoffice@cob.org <mayorsoffice@cob.org>, bglyon@cob.org <bglyon@cob.org>, knabbefeld@cob.org <knabbefeld@cob.org>, ssundin@cob.org <ssundin@cob.org>, RLaCroix@cob.org <RLaCroix@cob.org>, mlilliquist@cob.org <mlilliquist@cob.org>, doua461@ecy.wa.gov <doua461@ecy.wa.gov>, doug.allen@ecy.wa.gov <doug.allen@ecy.wa.gov>, makk461@ecy.wa.gov <makk461@ecy.wa.gov>
Subject: Comment letter from PMBC re 8/7/23 RFI

Dear Kathy,

Please find attached a comment letter from members of the Protect Mud Bay Cliffs (PMBC) Coordination Committee regarding the [8/7/23 RFI](#) you sent to the Woods at Viewcrest applicant.

Sincerely,

Wendy Larson

Info@MudBayCliffs.org

On 10/3/2023 3:37 PM, Bell, Kathy M. wrote:

Hi Larry,

Thanks for the suggestion and I am working with staff to update the project webpage.

Take care.

Kathy Bell | Senior Planner

Planning & Community Development Dept., City of Bellingham

360.778.8347 kbell@cob.org



The Bellingham Plan will help shape the city's future. Learn how you can take part!
[The Bellingham Plan | Engage Bellingham](#)

Note: My incoming/outgoing e-mail messages are subject to public disclosure requirements per RCW 42.56

From: Larry Horowitz [<dakini1@comcast.net>](mailto:dakini1@comcast.net)

Sent: Tuesday, October 3, 2023 10:02 AM

To: Bell, Kathy M. [<kbell@cob.org>](mailto:kbell@cob.org)

Subject: Woods at Viewcrest public comment update

Kathy,

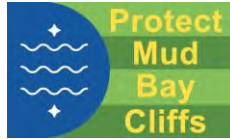
While we're waiting for the Woods at Viewcrest applicant to respond to the December RFI, would it be possible to update the City's webpage with the public comments received since 1/5/23?

If you would prefer that I submit a public records request, please let me know.

Thanks in advance,
Larry Horowitz



Virus-free. www.avg.com



1050 Larrabee Ave Suite 104 · PMB #476
Bellingham, WA 98225

August 17, 2023

Kathy Bell, Senior Planner
Planning & Community Development Department
City of Bellingham
210 Lottie Street
Bellingham, WA 98225
Via Email

Copy Via Email:
Seth Fleetwood, Mayor
Blake Lyon, Planning Director
Kurt Nabbeheld, Development Services Manager
Steve Sundin, Senior Planner
Renee LaCroix, Public Works Natural Resources
Michael Lilliquist, Councilmember
Doug Allen, WA Department of Ecology
Mak Kaufman, WA Department of Ecology

Re: *The Woods at Viewcrest* · August 7, 2023 Request for Information (RFI)

Dear Kathy:

Protect Mud Bay Cliffs (PMBC) appreciates the opportunity to provide public comment on *The Woods at Viewcrest* subdivision proposal.

PMBC agrees with the Planning Department's 8/7/23 decision to issue a third [Request for Information](#) (RFI) from *The Woods at Viewcrest* applicant. As indicated in our previous communications, we concur that the proposed stormwater management plan for TDA 2 is not exempt from flow control.

At the same time, we are both surprised and disappointed by what is missing from this third RFI, which fails to request information regarding several key issues, including:

- At least eight aspects of the application materials are insufficient and must be addressed before the City begins to prepare a SEPA threshold determination;
- Mud Bay consists of estuarine intertidal wetlands and is not a flow control exempt Salt Waterbody;

Protect Mud Bay Cliffs is a local community group sponsored by *Responsible Development*. *Responsible Development*, formed in 2005, is a Bellingham, WA based qualified Public Charity under Section 501(c)(3) of the Internal Revenue Code.

- Several Action Items from previous Requests for Information have yet to be addressed by the applicant.

Please add the following comments, which describe these issues in more detail, to the record for The Woods at Viewcrest subdivision proposal:

1) **A fully-informed SEPA threshold determination requires adequate information about potential significant adverse environmental impacts.**

The 8/7/23 RFI states that the City “*has determined the revised application materials are substantially sufficient to address the December 21 RFI except for the additional information requested herein. This information is necessary before the City can prepare a SEPA threshold determination.*”

PMBC disagrees that the revised application materials will be sufficiently complete to enable the City to prepare a SEPA threshold determination - even if the applicant provides the requested information.

While this third RFI addresses certain issues related to the project’s stormwater management plan, it fails to address the other significant application deficiencies PMBC detailed in our 6/28/23 letter to Planning Director Blake Lyon. A copy of this letter and *Summary of Application Deficiencies* is attached for your convenience.

In addition to the multiple stormwater deficiencies addressed by the RFI, our detailed analysis identifies the following key application deficiencies that preclude the City from having sufficient information to prepare a SEPA threshold determination:

(a) **Adverse impacts to receiving waters:** The application documents continue to avoid demonstrating that the intended short-term construction and long-term operation management measures will result in less than significant adverse environmental impacts to the receiving estuarine intertidal wetlands within Mud Bay and the Chuckanut Bay estuary. These estuarine wetlands include the mudflats and the marsh.

(b) **Feasibility-only analysis:** The [Geotech Report](#) (Page 2, Section 1.3) is a “feasibility-level geotechnical evaluation and large-scale geologic hazard assessment” that is insufficient to ensure the safety, environmental, and ecological risks of the proposal are properly mitigated. The feasibility-only Geotech Report is not capable of identifying key significant adverse environmental impacts that would need to be mitigated in order for the City to issue a Mitigated Determination of NonSignificance (MDNS).

- (c) **Bias:** The Geotech Report is strongly biased in favor of the Woods at Viewcrest high-risk development proposal. For example, the Geotech Report states, “We anticipate conventional design and construction practices will be suitable for this project, assuming a typical level of risk is acceptable.” (Page 24, Section 5.1, emphasis added)

This statement is entirely unfounded based on the fact that the Geotech Report is a feasibility-only analysis lacking any evaluation of individual lots. This bias is reflected throughout the Geotech Report. Because of this strong bias - and the fact that this subdivision proposal is both unconventional and high risk - the report cannot be relied upon to identify potential significant adverse environmental impacts.

- (d) **Test pits:** The [2019 Ecology Stormwater Manual](#) (page 731) states that soil/subsurface test pits and infiltration rate testing should occur between December 1 and April 1 (the “wet season”). However, according to the Geotech Report (Page 7, Section 3.1), the test pit investigations were conducted during the dry season, on 6/30/20 and 7/1/20. Consequently, the findings of these test pit logs and laboratory testing are unreliable for purposes of identifying potential significant adverse environmental impacts. The applicant should be required to conduct test pit investigations during the wet season, as recommended by the Ecology Manual.
- (e) **Landslide & erosion hazard areas and their buffers:** The *Proposed Building Envelope & Existing CAO Areas* plan on page 5 of the [Project Plans](#) reveals that the City’s requirements for Landslide Hazard Area buffers have not been met. Failure to provide adequate buffers for landslide and erosion hazard areas substantially increases the potential for significant adverse environmental impacts. Statutory buffers must be required before the City begins to prepare a SEPA threshold determination.
- (f) **The [Traffic Impact Analysis \(TIA\)](#) is fatally flawed** because the analysis:
- Was conducted during the pandemic lockdown when traffic was considerably below normal;
 - Fails to analyze traffic impacts on Clark Road, which will carry much of the traffic to and from the proposed subdivision both during the multiple-phase construction period and after the subdivision is completely built out;
 - Fails to consider that all of Viewcrest Road - and a major portion of Clark Road (between Willow and Linden) - are significantly narrower than current standards, were not designed to handle the additional traffic burden this proposal would impose, have limited sight distances,

and are known to be unsafe for vehicles, cyclists, pedestrians, pets, and wildlife;

- Is based on 38 single-family units, whereas the project has the capacity for 38 quadplexes totaling 152 multi-family units, a four-fold increase in potential traffic from the project alone. Additionally, existing single family lots within the Edgemoor Neighborhood also have the potential to house quadplexes, further increasing the cumulative adverse impacts, especially at the bottleneck where State Route 11 (Chuckanut Drive) intersects the 12th Street Bridge, Hawthorn Road, and Parkridge Road.

Because of these flaws, the City cannot rely on the Traffic Impact Analysis to determine the likelihood of significant adverse environmental impacts.

- (g) The [Wildlife Habitat Assessment](#) appears unreliable as it fails to include a bald eagle nest in a tree on the Woods at Viewcrest property that is in plain sight from the shoreline. “We saw no evidence of nesting activity by bald eagles in the vicinity of the project site during our field investigations.” (Page 6) The incomplete Wildlife Habitat Assessment cannot be relied upon by the City to prepare a SEPA threshold determination.
- (h) The [Wetland Delineation Update & Critical Areas Summary](#) is flawed because the timing of the site visits during the dry season (on 6/22/20, 6/26/20 and 8/31/21) is not conducive to observing streams and seeps on the property. Nor does the report adequately consider that the reduction of forested land cover will increase the volume of water draining through the land and over the land surface. This increased water - infiltrating through the steep hillside - exacerbates the existing slope instability and suggests a high risk of flooding, erosion and landslide hazards. A complete and thorough mapping of streams and seeps during the wet season is necessary to evaluate the potential for significant adverse environmental impacts.

For the reasons stated in our 6/28/23 letter to Planning Director Blake Lyon, it is PMBC’s position that these application deficiencies must be addressed before the City issues a Notice of Application and prepares a SEPA threshold determination.

2) **Mud Bay is not a flow control exempt Salt Waterbody.**

The 8/7/23 RFI states, “A direct discharge to Chuckanut Bay would exempt the proposal from flow control...” While we agree that Chuckanut Bay is a flow control exempt Salt Waterbody under Appendix I-A of the 2019 Department of Ecology [Stormwater Management Manual for Western Washington](#) (SWMMWW), Mud Bay is not exempt from stormwater flow control.

On 2/9/23, Larry Horowitz spoke with Jessica Bennett and exchanged emails with Jessica and fellow Public Works engineer Jeremy Thompson detailing the reasons Mud Bay is not exempt from stormwater flow control. A copy of these emails, including an evidence-based analysis that concludes that Mud Bay is not flow control exempt, is included in Appendix 1 below.

On 2/13/23, Jeremy stated, *“This comment has been forwarded to the planning department who are handling the public comment portion of this project.”*

Presumably the planning department already has this email thread and is aware of the reasoning behind this conclusion.

PMBC stands by this evidence-supported determination that Mud Bay is not exempt from flow control, and we respectfully request that City staff clarify in the RFI that Chuckanut Bay is exempt, but Mud Bay is not.

3) **Previous RFI Action Items have yet to be addressed by the applicant.**

The 8/7/23 RFI also does not take into account several previous RFI Action Items the applicant’s revised application materials do not adequately address. Critical information requested in past RFIs still needs to be submitted to continue review of the application.

- a. Application materials have internal inconsistencies and insufficient information to determine if each building envelope can be located outside of setback regulations applicable for lot development. The Applicant was referred to Bellingham Municipal Code (BMC) Table 20.30.040 for compliance requirements.
- b. Application materials have internal inconsistencies and insufficient information to verify each building envelope can be located outside of regulated critical areas, critical area buffer widths, and proposed public trail easements. All impacts to critical areas are required to have mitigation plans clearly established.
- c. The Vegetation Management Plan (VMP) still does not identify which significant trees within both Management Area #1 and Management Area #2 are anticipated to be removed. One of the Action Items on page 4 of the 12/21/22 RFI requested the applicant to *“Either revise the VMP or provide additional documentation that identifies the number, species type and location of significant trees (> 6” diameter at breast height) within Management Area #2 ...”*

The RFI Response to this Action Item included the following:

“Please note that not all vegetation within Management Area #2 is proposed for removal (or will be removed).” [page 6]

According to Exhibit S Tree Survey Notes:

SURVEY NOTES:

- 1) *TREES 6" DBH AND ABOVE SURVEYED IN MAY 2023 IN RESPONSE TO A REQUEST FOR INFORMATION FROM THE CITY OF BELLINGHAM.*
- 2) *ONLY TREES LIKELY TO BE AFFECTED BY PROPOSED PUBLIC AND PRIVATE SHARED ROADS, AND/OR NEAR BOUNDARIES OF DESIGNATED GEOLOGICAL CRITICAL AREAS IN PROXIMITY TO PROPOSED BUILDING SITES WERE SURVEYED.*

In order for the City to issue a fully-informed SEPA threshold determination, state law requires the City to have adequate information regarding potential significant adverse impacts.

As detailed in this letter, the application materials are both flawed and insufficient, and they do not provide adequate information about potential significant adverse impacts. The applicant must be required to address these flaws and provide the information needed in order for the City to issue a fully-informed SEPA threshold determination.

Thank you for the opportunity to provide public comment. Please contact PMBC if you have any questions or would like additional information.

Sincerely,

Protect Mud Bay Cliffs Coordination Committee

Paul Brock · Ava Ferguson · Larry Horowitz

Wendy Larson · Janet Migaki · Brent Woodland

Info@MudBayCliffs.org

APPENDIX 1***February 2023 emails from Jessica Bennett, Larry Horowitz, & Jeremy Thompson***

On 2/9/2023 5:31 PM, Bennett, Jessica J. wrote:

Hi Jeremy,

I just got off the phone from a citizen (Larry Horowitz) with comments on Jones Preliminary Plat. I have included him here at his request and he wanted to share a reference for us. He specifically was asking about a comment I made in the pre-application meeting minutes but will likely be submitting formal comments soon to the Planning Department on the subdivision application. I told him I would pass along his concern to you as the new private development engineer on this project so you know of the issue and be in the loop. He plans to follow up with Steve Sundin as well.

He questions whether Mud Bay should be considered flow control exempt due to the hydrology of the estuary that allows it to be devoid of water for long periods, that it's an Estuarine/Marine Wetland, the area is actually fee simple land, etc. I explained that from my understanding of the Ecology Manual, all saltwater bodies (which we have included intertidal estuarian outfalls that are below the ordinary high water line, though this area is definitely not straight forward) are exempt, as long as all restrictions listed in the manual are met. My comment at pre-application was they needed to address the exemption explicitly and I do not know if they have at this point (it wasn't at pre-app or their initial application).

I also explained that even if the outfall they are proposing meets all those restrictions, it's possible that through the City's critical area ordinance, shoreline regulations, or other state agency requirements that flow control could be required to reduce impact to habitat or other natural features. I foresee that this will be addressed via the critical area or shoreline permit. This isn't something Public Works will determine but I wanted to make sure you were aware of this so you could coordinate with Steve Sundin to check to make sure the Preliminary Stormwater Site Plan is consistent with those other permit requirements. I think it's a valid question/argument but I really don't know if our code and regulations will require flow control.

Thanks,

Jessica J Bennett, PE
Project Engineer II - Capital
City of Bellingham
Public Works Engineering

Subject: SUB2022-0011 / Jones Preliminary Plat

Date: Thu, 9 Feb 2023 22:45:35 -0800

From: Larry Horowitz

To: Bennett, Jessica J., Thompson, Jeremy D.

CC: Baldwin, Brent L.

Jessica, Jeremy and Brent,

As you know, a primary purpose of flow control BMPs is to prevent flooding, control erosion, and improve aquatic habitat. According to the US [Environmental Protection Agency](#) (EPA):

“Population growth and the development of urban/urbanized areas are major contributors to the amount of pollutants in the runoff as well as the **volume and rate of runoff** from impervious surfaces. Together, they can cause changes in hydrology and water quality that result in **habitat modification and loss**, increased flooding, **decreased aquatic biological diversity**, and increased sedimentation and erosion.” (Emphasis added)

The benefits of effective stormwater runoff management include, among other things, protection of wetlands and aquatic ecosystems. Note that such protection is warranted for all five types of wetlands: Marine, Estuarine, Riverine, Lacustrine, and Palustrine.

Regarding the flow control exemption for *The Woods at Viewcrest* threshold discharge area (TDA) 2, the issues are:

- 1) Are the Mud Bay Category I Estuarine, Intertidal Wetland habitats exempt *Salt Waterbodies?* and
- 2) Will the failure to require flow control BMPs result in habitat modification & loss and decrease aquatic biological diversity?

1) **Are the Mud Bay Category I Estuarine, Intertidal Wetland habitats exempt *Salt Waterbodies?***

In her email, Jessica indicates that exempt salt waterbodies include “intertidal estuarian outfalls that are below the ordinary high water line.” In other words, the city considers *intertidal estuaries* as exempt salt waterbodies. **But what about Category I Estuarine Intertidal Wetlands?**

I have attached a City of Bellingham CityIQ Map of Chuckanut Bay and Mud Bay. Note that Chuckanut Bay and Mud Bay are separate areas on the CityIQ system. In the map attached, the words “Mud Bay” are slightly hidden by the blue shading, but if you look closely, you’ll see them.

This map highlights the city’s wetlands in blue and green shading, with the green areas representing site specific delineations. As an intertidal estuary, Mud Bay’s wetlands are *Estuarine Intertidal Wetlands* that consist of eelgrass beds, salt marshes, and mudflats, which mirrors the Department of Ecology’s *Estuarine Wetland* definition found on page 1049 of the [Stormwater Management Manual for Western Washington](#) (SWMMWW). Mud Bay’s Estuarine Wetlands comprise the entire shoreline of Mud Bay, including the shoreline below *The Woods at Viewcrest* property.

Importantly, Ecology’s manual has a separate definition for *Estuary*, indicating that Ecology recognizes that an *Estuarine Wetland* is not the same as an *Estuary* and should not be treated the same.

Regarding the rating of Mud Bay’s Estuarine Wetlands, Section 2.1 (*Category I*) on page 5 of Ecology’s [Wetland Rating System for Western Washington](#) states

"Relatively undisturbed estuarine wetlands larger than 1 acre are **Category I** wetlands because they are **rare and provide unique natural resources** that are considered to be valuable to society. These wetlands need a **high level of protection to maintain their functions** and the values society derives from them." (Emphasis added)

Are Mud Bay’s estuarine wetlands relatively undisturbed?

According to the City of Bellingham’s [Chuckanut Bay Shorelands](#) webpage, "Northeast Chuckanut Bay [aka Mud Bay] is Bellingham’s **richest and most biologically diverse estuary**... The tidal basin is also known as 'Mud Bay' after a navigational description used on some charts and maps." (Emphasis added)

Beginning in 2009, the City of Bellingham initiated an extensive [Chuckanut Village Marsh Restoration](#) project to enhance "the area’s ability to provide pocket estuary functions, including improving water quality and providing rearing, foraging and osmoregulation for **juvenile salmonids** migrating from nearby Chuckanut Creek." (Emphasis added)

According to the [City of Bellingham’s study of its pocket estuaries](#), "The Chuckanut Creek estuary provides the **highest level of functions** of the pocket estuaries reviewed for this report." (Emphasis added)

Without a doubt, the Mud Bay Estuarine Wetlands are Category I wetlands and meet Ecology’s “Relatively undisturbed estuarine wetlands larger than 1 acre” requirement.

Is Mud Bay's mudflat wetland habitat a water body?

According to [WorldAtlas](#), "Mudflats refer to **land near a water body** that is regularly flooded by tides and is usually barren (without any vegetation)... This **coastal landform** usually occurs in sheltered areas of the coast like bays, coves, lagoons, estuaries, etc." (Emphasis added)

Based on this definition, Mud Bay's mudflats are terrestrial rather than aquatic - a landform, not a water body. Note that *The Woods at Viewcrest* proposes discharging stormwater from TDA2 directly into Mud Bay's mudflat wetland without implementing any flow control BMPs. But Mud Bay's mudflat is not a salt waterbody and is not exempt from flow control.

2) Will the failure to require flow control BMPs result in habitat modification & loss and decrease aquatic biological diversity?

Chapter 8 (*Stormwater and Wetlands*), Section 8.1 (*Unmanaged stormwater and mitigation sequencing*), and Section 8.2 (Hydroperiod protection) of Ecology's [Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance](#) state:

"Stormwater needs to receive treatment prior to discharge to a wetland and its buffer. Any required stormwater management Best Management Practices (BMPs) including Runoff Treatment BMPs, **Flow Control BMPs**, and the outlet structures from stormwater facilities, must be provided outside of the wetland and its buffer boundaries." (Emphasis added)

"Use of existing wetlands for stormwater management is not appropriate unless **all regulatory permits and requirements are met**. New development, redevelopment, and stormwater management projects that discharge unmanaged stormwater into a wetland or buffer **will result in an impact to the wetland**. **Flow-controlled**, treated stormwater discharged into wetland buffers is not expected to result in a wetland impact." (Emphasis added)

"Protection of many wetland functions and values depends on maintaining the existing wetland's hydroperiod... **Wetland hydroperiod protection measures are required** in order to avoid excessive hydrologic alteration of existing wetlands that meet any of the following general conditions:

- The wetland is rated **Category I** or II in the Wetland Rating System [Note: Mud Bay is a Category I Estuarine Intertidal Wetland.]
- The wetland contains federal or state listed rare, sensitive, threatened, or endangered species. [Note: **Chum Salmon** is on the Federal Threatened List and **Olympia Oyster** meets the WA State Priority Species Criterion 2 and 3.] (Emphasis added)

Based on these regulations, Mud Bay's Category I estuarine wetlands will require Wetland Hydroperiod Protection. Page 137 of Ecology's Stormwater Manual states:

"In most cases, if Wetland Hydroperiod Protection is required per I-3.4.8 MR8: Wetlands Protection, then the Flow Control Performance Standard is also required per I-3.4.7 MR7: Flow Control." (Emphasis added)

These regulations, which require both Wetland Hydroperiod Protection and Flow Control BMPs, are designed to ensure that the volume and rate of runoff from impervious surfaces do not result in habitat modification & loss or decreased aquatic biological diversity.

Conclusion:

The Mud Bay estuarine wetlands require protection above and beyond what is required for an estuary. These wetlands are not genuine salt waterbodies that are exempt from flow control and do require the implementation of flow control BMP's to protect aquatic habitat and biological diversity.

The city should require Flow Control BMPs be implemented for TDA2 of *The Woods at Viewcrest* subdivision application.

Jessica, thanks again for your time this afternoon and for the opportunity to share the concerns that our group, *Protect Mud Bay Cliffs*, has regarding the stormwater management plan for this project.

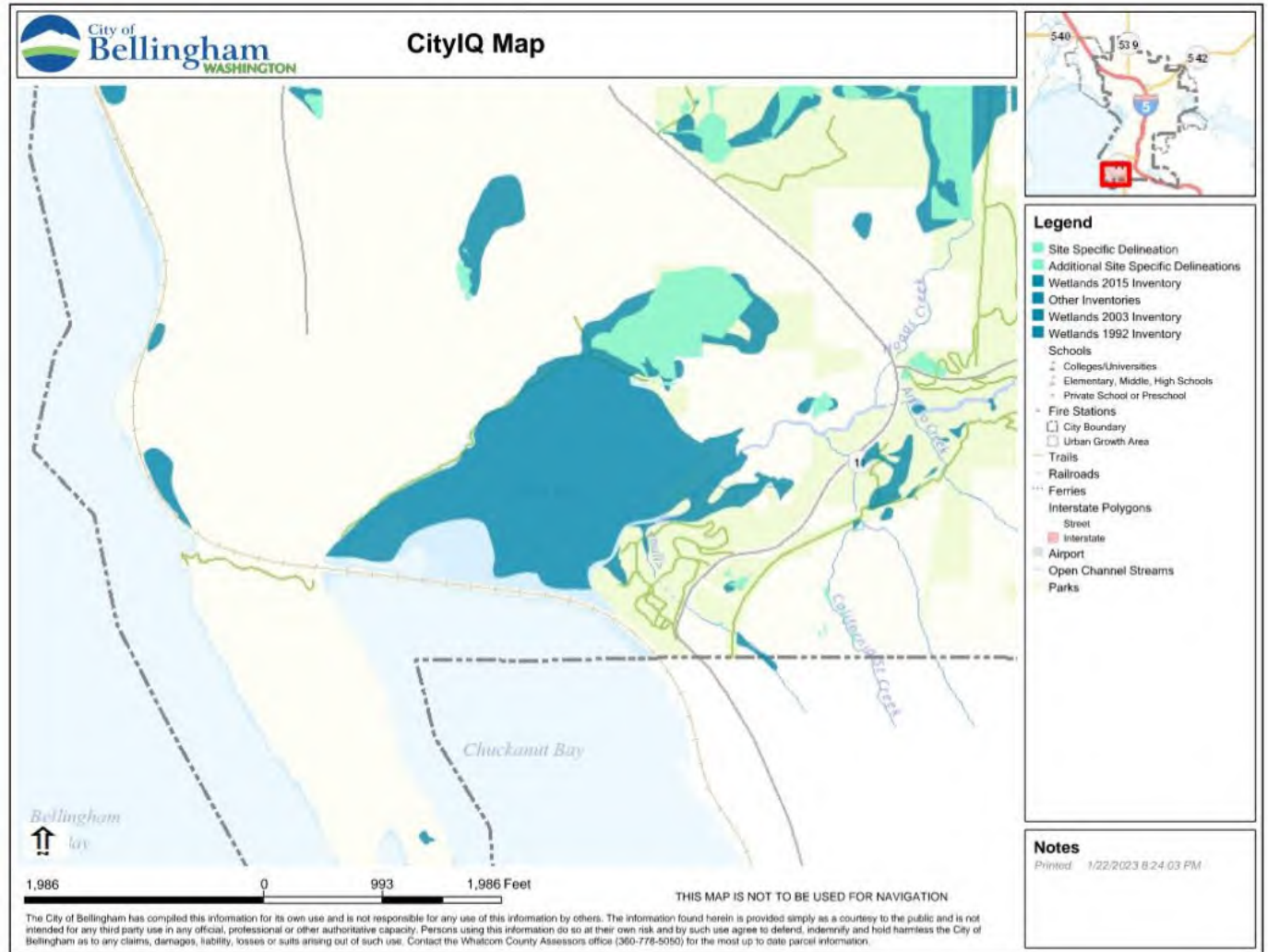
Please let me know if you have any questions or would like additional information.

Best,
Larry Horowitz

Subject:Re: Mud Bay stormwater discharge
Date: Mon, 13 Feb 2023 16:50:37 +0000
From: Thompson, Jeremy D.
To: Larry Horowitz
CC: Bennett, Jessica J., Baldwin, Brent L.

Hi Larry,
This comment has been forwarded to the planning department who are handling the public comment portion of this project.

Jeremy Thompson, PE
Engineer II - Development
City of Bellingham Public Works Department - Engineering Division





1050 Larrabee Ave Suite 104 · PMB #476
Bellingham, WA 98225

June 28, 2023

Mr. Blake Lyon
Planning & Community Development Department Director
City of Bellingham
210 Lottie Street
Bellingham, WA 98225
Via Email

Copy Via Email:
Seth Fleetwood, Mayor
Kurt Nabbeled, Development Services Manager
Kathy Bell, Senior Planner
Steve Sundin, Senior Planner
Michael Lilliquist, Councilmember

Re: *The Woods at Viewcrest* · Summary of Application Deficiencies

Dear Mr. Lyon:

Protect Mud Bay Cliffs Steering Committee members Janet Migaki, Kate Grinde, Brent Woodland and I would like to thank you for taking time to meet with us on June 27. We appreciate the opportunity to explain why it's in the best interest of all parties for the City to issue a third Request for Information (RFI) from *The Woods at Viewcrest* subdivision applicant.

BMC 21.10.190 and BMC 21.10.200 require an applicant to meet the City's submittal requirements before the City can make a determination of completeness and issue a notice of application. The Woods at Viewcrest application fails to meet these submittal requirements. A third RFI is necessary to secure the information needed to address the application's significant deficiencies.

A copy of the 6-page *Summary of Application Deficiencies* document we reviewed during our meeting is attached. The electronic version of this summary contains hyperlinks to the referenced source documents to facilitate staff's review of these application deficiencies.

A critical aspect of The Woods at Viewcrest proposal is the threat to public health and safety. A key function of government - and a primary responsibility of a city mayor - is

to protect public health and safety. As you know, members of Protect Mud Bay Cliffs requested a meeting with Mayor Fleetwood to share our concerns about the potential public safety threats this development - on the steep and unstable cliffs overlooking Mud Bay - is likely to impose.

Because Mayor Fleetwood declined our request and refused to meet with us, the burden of ensuring public safety falls onto you as Director of the Planning & Community Development Department. In order to address the project's safety, environmental, and ecological risks, the City and the public require sufficient information to determine those risks and develop mitigation strategies. A third RFI is essential to acquire this information.

It would be inappropriate for the City to make a determination of completeness and issue a notice of application. Doing so would force the public, public agencies, tribes, and other stakeholders to waste valuable resources reviewing the more than 800 pages of incomplete application materials now - and then again once the significant application deficiencies are addressed.

This duplication of effort can be avoided if the City issues a third, more comprehensive, Request for Information.

Again, thank you for your time and your consideration of our request. Please let us know if you have any questions or would like additional information.

Sincerely,
Larry Horowitz
On behalf of Protect Mud Bay Cliffs
A Responsible Development Program
dakini1@comcast.net / Info@MudBayCliffs.org
(360) 746-7154

The Woods at Viewcrest

Summary of Application Deficiencies

Executive Summary

BMC 21.10.190 and 21.10.200 require an applicant to meet the City's **submittal requirements** for the city to make a **determination of completeness** and issue a **notice of application**. The Woods at Viewcrest application fails to meet the City's submittal requirements as detailed below. The City should issue a third **request for information** to address these deficiencies.

1. **STORMWATER**: The Preliminary Stormwater Management Report is not consistent with BMC 15.42 and the 2019 Department of Ecology Stormwater Management Manual for Western Washington.
2. **GEOHAZARDS**: The Geotechnical Investigation & Geohazard Report is a feasibility-only analysis and is not sufficient for continued processing of the Woods at Viewcrest consolidated applications.
3. **LANDSLIDE & EROSION HAZARD AREAS AND THEIR BUFFERS**: The City's requirements for Landslide Hazard Area buffers have not been met.
4. **INCOMPLETE APPLICATION MATERIALS**: Certain Land Use application materials related to critical hazard areas are incomplete and contain sections not addressed.
5. **SEPA CHECKLIST DEFICIENCIES**: We noted several deficiencies in the SEPA Checklist that will be detailed prior to the SEPA review.
6. **TRAFFIC**: The Traffic Impact Analysis is fatally flawed.
7. **WETLANDS / HABITAT RATINGS**: The low wetland ratings for wildlife habitat are inconsistent with the 2021 City of Bellingham Wildlife Corridor Analysis.
8. **WILDLIFE HABITAT ASSESSMENT / BALD EAGLE NEST**: The Wildlife Habitat Assessment appears unreliable as it fails to include a bald eagle nest in a tree on the Woods at Viewcrest property that is in plain sight from the shoreline.
9. **PUBLIC TRAIL EASEMENT / 10th STREET VARIANCE**: The public trail to Sea Pines Road should be completely abandoned because it "would pose an extreme safety hazard" according to a public comment letter from three Sea Pines Road residents.

The Woods at Viewcrest

Summary of Application Deficiencies

Detailed Analysis

1. **STORMWATER:** The [6/16/23 Preliminary Stormwater Management Report](#) (SMR) is not consistent with [BMC 15.42](#), the [2019 Department of Ecology Stormwater Management Manual for Western Washington](#) (Ecology Manual) and/or *Minimum Requirements* (MR) of BMC [15.42.060.F](#) and Ecology Manual Section I-3.4.
 - a. **MR #7 (Flow Control)** ([BMC 15.42.060.F](#)): Stormwater runoff from TDA 2 has been modified to discharge through the Sea Pines Road stormwater system into wetlands within the Chuckanut Village Marsh. **This marsh is not a flow-control-exempt waterbody.** The [SMR](#) does not comply with MR #7 because no on-site flow control BMPs as required by MR #7 are implemented for stormwater runoff from TDA 2.
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 - i. MR #4 requires energy dissipation for all outfalls; however, the proposed outfall at the Chuckanut Village Marsh has no dissipation; and
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Although revised [6/16/23 SMR](#) (Section 6.1.5, page 9) correctly references the appropriate section of the current [2019 Ecology Manual](#), **Sections 6.1.5(1) through 6.1.5(6) still do not comply with the requirements of the 2019 Ecology Manual** and continue to erroneously reflect the steps outlined in the outdated [2005 Ecology Manual](#). (Section 3.1.5, Volume I, pages 3-3 to 3-5).

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Mr. Woodland, who has extensive professional project management experience, concludes that (1) additional evaluation is required beyond the feasibility scope and (2) because of the higher than typical risks inherent in the Woods at Viewcrest proposal, further engineering is needed. The information provided by the Geotech Report is insufficient.

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will invariably lead to takings claims when subdivided lots cannot accommodate a residential unit.

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8. **WILDLIFE HABITAT ASSESSMENT / BALD EAGLE NEST:** The [Wildlife Habitat Assessment](#) appears unreliable as it fails to include a bald eagle nest in a tree on the Woods at Viewcrest property that is in plain sight from the shoreline. "We saw no evidence of nesting activity by bald eagles in the vicinity of the project site during our field investigations." (Page 6) What else has the assessment failed to include?
9. **PUBLIC TRAIL EASEMENT / 10th STREET VARIANCE:** The [12/21/22 RFI](#) (Page 2) indicates that the City is "likely to recommend that an approval of the variance associated with 10th Street should be conditioned to require construction of the public trail [to Sea Pines Road] ... in lieu of the pedestrian facility that would have otherwise been associated with the street construction."

According to the 5/31/23 letter from Sea Pines Road residents Rud Brown, Sheila Kyle-Browne, and Greg Gudbranson, **the public trail to Sea Pines Road should be completely abandoned because it "would pose an extreme safety hazard** that will ultimately result in serious injury or death of a cyclist or runner, due to the location of its entry onto Sea Pines Rd." The letter provides details of their concern and references the AASHTO Guide for the Development of Bicycle Facilities (2012), which is listed as a primary resource relied on by the City when developing the Bellingham Bicycle Master Plan.

Because the proposed trail poses a public safety hazard, in a third RFI, the City should require the applicants to include the pedestrian facility that the trail was intended to replace.

Aven, Heather M.

From: Larry Horowitz <dakini1@comcast.net>
Sent: Wednesday, October 18, 2023 4:31 PM
To: Bell, Kathy M.
Subject: The Woods at Viewcrest - Summary of Application Deficiencies - Third RFI
Attachments: PMBC letter - Woods at Viewcrest Third RFI.pdf

Kathy,

It appears that the attached 6/28/23 letter from PMBC (and the cover email appended below) are also not included in the [Comments Received January 1, 2023 - October 15, 2023](#) section, in addition to the 8/17/23 PMBC letter and cover email previously discussed.

At your convenience, would you please confirm that you received my 6/28/23 email and the 6/28/23 PMBC letter. Also, would you please add the 6/28/23 PMBC letter to the Woods at Viewcrest public comment section.

Thank you,
Larry Horowitz

----- Forwarded Message -----

Subject:The Woods at Viewcrest - Summary of Application Deficiencies - Third RFI

Date:Wed, 28 Jun 2023 06:27:23 -0700

From:Larry Horowitz <dakini1@comcast.net>

To:Lyon, Blake G. <bglyon@cob.org>

CC:Seth Fleetwood <SMFleetwood@cob.org>, Seth Fleetwood <mayorsoffice@cob.org>, Kurt Nabbefeld <knabbefeld@cob.org>, Kathy Bell <kbell@cob.org>, Steve Sundin <ssundin@cob.org>, Michael Lilliquist (CC) <mlilliquist@cob.org>, Larry Horowitz <dakini1@comcast.net>

Blake,

Thanks again for your time yesterday. Janet, Kate, Brent and I enjoyed meeting you, and we appreciate your consideration of our request for a third RFI based on *The Woods at Viewcrest* application's significant deficiencies. Please find attached a public comment letter for the record.

Please let me know if you have any questions or would like additional information.

Best,
Larry Horowitz
Landline: 360.746.7154

cc:
Seth Fleetwood
Kurt Nabbefeld
Kathy Bell
Steve Sundin
Michael Lilliquist



Virus-free. www.avg.com



1050 Larrabee Ave Suite 104 · PMB #476
Bellingham, WA 98225

June 28, 2023

Mr. Blake Lyon
Planning & Community Development Department Director
City of Bellingham
210 Lottie Street
Bellingham, WA 98225
Via Email

Copy Via Email:
Seth Fleetwood, Mayor
Kurt Nabbeled, Development Services Manager
Kathy Bell, Senior Planner
Steve Sundin, Senior Planner
Michael Lilliquist, Councilmember

Re: *The Woods at Viewcrest* · Summary of Application Deficiencies

Dear Mr. Lyon:

Protect Mud Bay Cliffs Steering Committee members Janet Migaki, Kate Grinde, Brent Woodland and I would like to thank you for taking time to meet with us on June 27. We appreciate the opportunity to explain why it's in the best interest of all parties for the City to issue a third Request for Information (RFI) from *The Woods at Viewcrest* subdivision applicant.

BMC 21.10.190 and BMC 21.10.200 require an applicant to meet the City's submittal requirements before the City can make a determination of completeness and issue a notice of application. The Woods at Viewcrest application fails to meet these submittal requirements. A third RFI is necessary to secure the information needed to address the application's significant deficiencies.

A copy of the 6-page *Summary of Application Deficiencies* document we reviewed during our meeting is attached. The electronic version of this summary contains hyperlinks to the referenced source documents to facilitate staff's review of these application deficiencies.

A critical aspect of The Woods at Viewcrest proposal is the threat to public health and safety. A key function of government - and a primary responsibility of a city mayor - is

to protect public health and safety. As you know, members of Protect Mud Bay Cliffs requested a meeting with Mayor Fleetwood to share our concerns about the potential public safety threats this development - on the steep and unstable cliffs overlooking Mud Bay - is likely to impose.

Because Mayor Fleetwood declined our request and refused to meet with us, the burden of ensuring public safety falls onto you as Director of the Planning & Community Development Department. In order to address the project's safety, environmental, and ecological risks, the City and the public require sufficient information to determine those risks and develop mitigation strategies. A third RFI is essential to acquire this information.

It would be inappropriate for the City to make a determination of completeness and issue a notice of application. Doing so would force the public, public agencies, tribes, and other stakeholders to waste valuable resources reviewing the more than 800 pages of incomplete application materials now - and then again once the significant application deficiencies are addressed.

This duplication of effort can be avoided if the City issues a third, more comprehensive, Request for Information.

Again, thank you for your time and your consideration of our request. Please let us know if you have any questions or would like additional information.

Sincerely,
Larry Horowitz
On behalf of Protect Mud Bay Cliffs
A Responsible Development Program
dakini1@comcast.net / Info@MudBayCliffs.org
(360) 746-7154

The Woods at Viewcrest

Summary of Application Deficiencies

Executive Summary

BMC 21.10.190 and 21.10.200 require an applicant to meet the City's ***submittal requirements*** for the city to make a ***determination of completeness*** and issue a ***notice of application***. The Woods at Viewcrest application fails to meet the City's submittal requirements as detailed below. The City should issue a third ***request for information*** to address these deficiencies.

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2. **GEOHAZARDS**: The Geotechnical Investigation & Geohazard Report is a feasibility-only analysis and is not sufficient for continued processing of the Woods at Viewcrest consolidated applications.
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The Woods at Viewcrest

Summary of Application Deficiencies

Detailed Analysis

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8. **WILDLIFE HABITAT ASSESSMENT / BALD EAGLE NEST:** The [Wildlife Habitat Assessment](#) appears unreliable as it fails to include a bald eagle nest in a tree on the Woods at Viewcrest property that is in plain sight from the shoreline. "We saw no evidence of nesting activity by bald eagles in the vicinity of the project site during our field investigations." (Page 6) What else has the assessment failed to include?
9. **PUBLIC TRAIL EASEMENT / 10th STREET VARIANCE:** The [12/21/22 RFI](#) (Page 2) indicates that the City is "likely to recommend that an approval of the variance associated with 10th Street should be conditioned to require construction of the public trail [to Sea Pines Road] ... in lieu of the pedestrian facility that would have otherwise been associated with the street construction."

According to the 5/31/23 letter from Sea Pines Road residents Rud Brown, Sheila Kyle-Browne, and Greg Gudbranson, **the public trail to Sea Pines Road should be completely abandoned because it "would pose an extreme safety hazard** that will ultimately result in serious injury or death of a cyclist or runner, due to the location of its entry onto Sea Pines Rd." The letter provides details of their concern and references the AASHTO Guide for the Development of Bicycle Facilities (2012), which is listed as a primary resource relied on by the City when developing the Bellingham Bicycle Master Plan.

Because the proposed trail poses a public safety hazard, in a third RFI, the City should require the applicants to include the pedestrian facility that the trail was intended to replace.

Aven, Heather M.

From: Robert Gage <rbrtgg@gmail.com>
Sent: Wednesday, October 25, 2023 9:05 AM
To: Bell, Kathy M.
Subject: Jones Preliminary Plat

You don't often get email from rbrtgg@gmail.com. [Learn why this is important](#)

Dear Kathy, Please accept this email as my request to receive all notices regarding the Jones Preliminary Plat subdivision application at 352 Viewcrest Rd / Parcel # 370213075542.

Sincerely,

Robert Gage
614 Willow Ct S
Bellingham, WA 98225
(206) 790-3401

Aven, Heather M.

From: Susie Sherburne <susanne.sherburne@gmail.com>
Sent: Thursday, October 26, 2023 9:21 PM
To: Bell, Kathy M.
Subject: The Woods at Viewcrest

You don't often get email from susanne.sherburne@gmail.com. [Learn why this is important](#)

Hi Kathy,

I live in the Edgemoor neighborhood and would like to be updated on the progress of the Woods at Viewcrest project. I live outside of the 500 foot mandatory notice boundary.

Please email updates to: susanne.sherburne@gmail.com

Thank you very much,
Susanne Sherburne

--

Susie

Aven, Heather M.

From: Victoria Goodhope <vgoodhope@gmail.com>
Sent: Thursday, November 2, 2023 7:45 PM
To: Bell, Kathy M.
Subject: Jones Subdivision

You don't often get email from vgoodhope@gmail.com. [Learn why this is important](#)

Dear Kathy,

Please accept this email as my request to receive all notices regarding the Jones Preliminary Plat subdivision application at 352 Viewcrest Rd / Parcel # 370213075542.

Sincerely,

Victoria Goodhope
614 Willow Ct S
Bellingham, WA 98225
360-441-2968

Aven, Heather M.

From: Christopher Grannis <chrgra@ymail.com>
Sent: Wednesday, November 8, 2023 11:20 AM
To: Bell, Kathy M.; MY - mayorsoffice@cob.org; Lyon, Blake G.; Lilliquist, Michael W.
Subject: Letter from South Neighborhood Association re: Proposed development above Mud Bay Cliffs

You don't often get email from chrgra@ymail.com. [Learn why this is important](#)

To:
Kathy Bell, Senior Planner Kbell@cob.org
Planning & Community Development Department
City of Bellingham

Mayor Seth Fleetwood mayorsoffice@cob.org
Blake Lyon, Planning Director bglyon@cob.org
Michael Lilliquist mlilliquist@cob.org

Re: 38 lot development on Mud Bay

SNA believes the proposed 38 lot development, on the north shoreline of the Chuckanut Creek Estuary, aka, "Mud Bay" the City identified wetland estuary, will have a significant adverse environmental impact.

The South Neighborhood Association requests the Planning Department declare that Mud Bay consists of estuarine intertidal wetlands and is not a flow control exempt Salt Water body, and require that missing or incomplete information, identified by the organization "Protect Mud Bay Cliffs" be provided by the developer before the City begins to prepare a SEPA threshold determination. [PMBC 8-17-23 letter to Kathy Bell re 8-7-23 Woods at Viewcrest RFI.pdf](#)

The site is now mature forest and much of the proposed site involves steep sandstone cliffs. Building infrastructure and preparing building sites threaten the unstable geology. Removing trees and topsoil will compromise the wetlands and destroy habitat and City identified wildlife corridors. The current proposal to drain untreated storm water polluted with new blacktop and roofing runoff, landscaping chemicals, pet waste, and automobile pollution into sensitive wetlands, a salt water marsh, and the Estuary would cause significant adverse environmental impact.

We value the health of the Salish Sea and its ecosystems--a critical component being its wetlands and estuaries. These ecosystems are important from the beginning of the food chain in the wetlands to the Salmon and Orcas in the Salish Sea. An Environmental Impact Study is essential for this proposal.

Monica Cassidy
Christopher Grannis
Steve Wilson
Jessica Orr

Aven, Heather M.

From: brooks anderson <brksanderson@gmail.com>
Sent: Monday, November 20, 2023 11:42 AM
To: Bell, Kathy M.
Cc: Seth Fleetwood; Lyon, Blake G.; Nabbefeld, Kurt D.; Sundin, Steven C.; LaCroix, Renee S.; Lilliquist, Michael W.; doug.allen@ecy.wa.gov; mak461@ecy.wa.gov
Subject: Request an EIS for proposed development of Mud Flats Cliff

To: Kathy Bell, Senior Planner

Fairhaven Neighbors is aware there is a proposal to develop the cliffs above Mud Bay, a City recognized wetland estuary.

The proposed development will affect the mature forested cliffs, the stability of the sandstone cliffs themselves, habitat corridors, the safety of surrounding homes, and importantly, the wetland estuary called Mud Bay. Given the fragile nature of the estuary and the mature forested cliffs, we are concerned about potential environmental impacts if the land is developed as proposed.

We have noticed that the City has not required important additional information about such impacts from the developer. Some of these are documented in a letter from the "Protect Mud Bay Cliffs" citizen organization, https://drive.google.com/file/d/16OafHqPIEL3_OS5awlCEacT4aGYj3J4y/view

The absence of answers to the concerns presented in the above referenced letter and the fact that City Planners have not required answers to these many environmental impacts greatly concerns us.

Given the depth and breadth of the known environmental concerns, our neighborhood voted to request the City require an Environmental Impact Statement for this proposed development. Such a document will give the City neutral,

professional, scientific information and will guide the City in its important protection of our common, precious environment.

Sincerely,

On behalf of Fairhaven Neighbors Board of Directors

Brooks Anderson, President Fairhaven Neighbors

--

--

Brooks Anderson

Aven, Heather M.

From: Lisa Heisey <lisakheisey@gmail.com>
Sent: Monday, November 27, 2023 5:22 PM
To: Bell, Kathy M.; Sundin, Steven C.
Cc: Lilliquist, Michael W.
Subject: Woods at Viewcrest/Mud Bay Development

RE: "Woods at Viewcrest" Development

To the City of Bellingham Planning Department:

I would like to add my voice to the growing number of citizens who would like to ensure that the "Woods at Viewcrest" development proposal on Bellingham's southside be fully and properly vetted to ensure responsible development.

This is recognized as a highly environmentally sensitive area featuring Chuckanut "Mud Bay" cliffs, shoreline and wetland estuaries. It is extremely important for the City of Bellingham to take the utmost care to avoid and/or mitigate any detrimental effects of development. I am not a scientist, nor am I anti-development, but see from the city updates there are still unanswered issues related to storm water discharge, wetland delineation of Chuckanut Bay Marsh and shoreline permits. This is in addition to the MANY other environmental impact questions that have been put forward by others more knowledgeable than myself.

Given the highly sensitive nature of this area, I respectfully request the City of Bellingham require an Environmental Impact Statement (EIS) so the City will have the necessary research and environmental impact information needed to responsibly address this development proposal.

The City has one chance to get this right to protect the Chuckanut Bay shoreline and estuary; please require an EIS for the Woods at Viewcrest development.

Sincerely,

Lisa Heisey
912 Wilson Ave.
Bellingham, WA 98225
LisaKHeisey@gmail.com

Aven, Heather M.

From: Kimberly Absher <kimberly@Planetwomen.org>
Sent: Thursday, November 30, 2023 7:33 AM
To: Bell, Kathy M.
Subject: Request for notices

You don't often get email from kimberly@planetwomen.org. [Learn why this is important](#)

Dear Bellingham Senior Planner Kathy Bell,

Please accept this email as my request to receive via email all notices regarding the Woods at Viewcrest applications.

Thank you,
Kimberly Absher

Kimberly Absher (she/her)
Marketing & Communications
Associate
Based in Seattle, WA
www.PlanetWomen.org



Aven, Heather M.

From: <David> <dbcobwa@gmail.com>
Sent: Thursday, November 30, 2023 9:56 AM
To: Bell, Kathy M.
Subject: Woods at Viewcrest applications

You don't often get email from dbcobwa@gmail.com. [Learn why this is important](#)

Dear Kathy,

Please accept this email as my request to receive via email all notices regarding the Woods at Viewcrest applications.

I haven't received any notices lately so I want to make sure I'm on the emailing list.

Respectfully,

David Bourlier
356 Viewcrest Rd
Bellingham WA 98229
dbcobwa@gmail.com

Aven, Heather M.

From: John Goodman <goodman.wb@gmail.com>
Sent: Thursday, November 30, 2023 9:38 AM
To: Bell, Kathy M.

Dear Kathy,

Please accept this email as my request to receive via email all notices regarding the "Woods at Viewcrest" applications (The Jones Property).

Yours truly,
John Goodman
1704 Fairhaven Ave.
Bellingham, WA 98229
360-739-6398

Aven, Heather M.

From: Gwen <gwynefar5@protonmail.com>
Sent: Thursday, November 30, 2023 11:16 AM
To: Bell, Kathy M.
Subject: Woods at Viewcrest

You don't often get email from gwynefar5@protonmail.com. [Learn why this is important](#)

Please accept this email as my request to receive via email all notices regarding the Woods at Viewcrest applications.

Aven, Heather M.

From: Vanessa Haycock <vanessahaycock45@gmail.com>
Sent: Thursday, November 30, 2023 2:06 PM
To: Bell, Kathy M.
Subject: Sign up for email notice please

You don't often get email from vanessahaycock45@gmail.com. [Learn why this is important](#)

Hi Kathy

Please accept this email as my request to receive via email all notices regarding the **Woods at Viewcrest applications**

Thank you so much

Vanessa Haycock NTS, LMP, CCHT

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P: (360) 296 FIVE842

Aven, Heather M.

From: Philipshantz <philipshantz@gmail.com>
Sent: Thursday, November 30, 2023 7:44 AM
To: Bell, Kathy M.
Subject: Request

You don't often get email from philipshantz@gmail.com. [Learn why this is important](#)

Kathy

Please accept this email as my request to receive via email all notices regarding the Woods at Viewcrest applications.

Philip Shantz

Aven, Heather M.

From: Phyllis Self <pasself@gmail.com>
Sent: Thursday, November 30, 2023 11:56 AM
To: Bell, Kathy M.
Subject: Woods at Viewcrest

[You don't often get email from pasself@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Please email me all notices regarding the Woods at Viewcrest application. Mail to:

Pasself@gmail.com

Thank you Phyllis Self

Sent from my iPad

Aven, Heather M.

From: Kathe Vago <khv414@comcast.net>
Sent: Thursday, November 30, 2023 9:00 AM
To: Bell, Kathy M.
Subject: Woods at Viewcrest

[You don't often get email from khv414@comcast.net. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Please send me all notices regarding The Woods at Viewcrest application.

Thank you.

Kathe Hartley

Sent from my iPhone

Aven, Heather M.

From: Jean Waight <jeanwaight@gmail.com>
Sent: Thursday, November 30, 2023 8:22 PM
To: Bell, Kathy M.
Subject: Please add me

You don't often get email from jeanwaight@gmail.com. [Learn why this is important](#)

I would like to receive all notices regarding The Woods at Viewcrest applications.

Thank you!

Jean Waight
Bellingham
jeanwaight@gmail.com

Aven, Heather M.

From: Gary Ranz <geranz@icloud.com>
Sent: Friday, December 1, 2023 5:47 PM
To: Bell, Kathy M.
Subject: the Woods @ Viewcrest

You don't often get email from geranz@icloud.com. [Learn why this is important](#)

"Please accept this email as my request to receive via email all notices regarding the Woods at Viewcrest applications."

Gary E. Ranz

ttfn geranz :-{}

Aven, Heather M.

From: Cynthia Kuhn <divabelle21@gmail.com>
Sent: Sunday, December 3, 2023 5:17 AM
To: Bell, Kathy M.
Subject: Request

You don't often get email from divabelle21@gmail.com. [Learn why this is important](#)

Hello,

Please accept this email as my request to receive via email all notices regarding the Woods at Viewcrest applications.

Thank you,
Cynthia Kuhn
405 Viewcrest Rd, Bellingham, WA 98229

Aven, Heather M.

From: Elizabeth Paley <ezpaley@gmail.com>
Sent: Monday, December 4, 2023 11:42 PM
Subject: The Woods At Viewcrest proposed development (Jones Family Property) RFI #3 12-3-23

Hello, all,

I appreciate your concern for the residents' safety that this process revolves around, and that we may make comments in letters like these.

I own property that hits Viewcrest Rd. nearly straight across from the applicant's proposed entry road. Our house, itself, is set back quite a ways, but sewer and water lines come up through a dog-leg/pipe-stem piece of this parcel, & we have a Viewcrest Rd. address. So we are one of the closest properties to the proposed subdivision entry road and potential impact.

I don't understand how the city could assuredly say there would be no significant environmental impact and move forward to approve this subdivision's application without much more accurate and extensive documentation! This development would be set upon the edge of steep cliffs which have shown signs of past landslides, which have wetlands (not yet adequately documented in the wet season). These cliffs overlook and drain into a sensitive pocket estuary for which great sums of money have been spent in the past to increase salmon habitat, which has eagles and heron in vast numbers fishing from it. Much of the property is heavily wooded with mature conifers that are holding the ground stable with their roots. Existing homeowners nearby have had flooding in their yards as recently as 2021 (documented) and that certainly would be exacerbated by the logging of the trees/forests, as well as by any impermeable surfaces of roads and roofs necessary for 38+ homes. Also, existing homeowners' properties that are open to the south, even those at the top along Viewcrest, have had issues with extreme wind gusts and can verify their individual circumstances with wind shear in years prior to the development's logging anything.

How could this 3rd RFI answer all remaining questions with only the present level of SEPA documentation for so many other concerns? Some measures were taken in off-seasons or during the pandemic shutdown and don't give enough evidence that the impacts upon the environment would be acceptable. There are many probable adverse impacts across all realms of the application! So this is a letter written after seeing that the 3rd RFI had asked only about specific stormwater issues (which of course are extremely important) but ignored the other issues with this subdivision that might render the SEPA determination as being significant.

First of all, it will eliminate a high number of mature trees that sequester great amounts of carbon and provide a home to diverse wildlife, some of which are on the protected list. There is a large sequoia right where the family's property lies south of our CrestView plat at 10th St. The tree might be 200 years old. Why would the planning department allow cutting to happen to any of the most mature trees on this densely forested property when there's such a huge push to plant as many trees as possible within the city for canopy, shade, cleaner air, and places to recreate? Would planting saplings later on, along the edge of the new road, really do anything to offset the forest that will be lost? I would say that the development down here has a similar issue to the one on the property at Meridian and Birchwood. Only here, development would have more potential to impact existing homeowners.

And I have to disagree with the submitted wildlife report. In the recent years, I have documented the existence of swallowtail butterflies and great-horned owls, among other less protected animals. The cliffs alone should make this parcel unavailable for development, as cliffs are protected, as are the many snags throughout the area!

Along with that, is my growing concern about how much impact the development will have upon the wind speeds, which were recently clocked in November at a weather station right along Viewcrest at 80 mph gusts during many hours. In the year 2007, November winds were the highest I can recall. I could get local documentation, but the point is that prevailing winds come throughout the year from the south, up the bay. The winds already qualify as exposure D level before they hit the cliffs, and then they "up-speed", accelerating from an already dangerous level. I believe most people living near the cliffs have difficulty keeping rains from penetrating their windows and houses, as it is forced by wind at high speeds. Also, though our house is set back from the edge a short way, we have had one large tree top shear off in those extremely high gusts in 2007, fly 35 feet, and land with one part on one room of the house. The branches entered into another room entirely. That was a large piece of the trunk! About a year after that, we had 90

feet of a tree blow over and across our yard in a windstorm. Since then, we regularly get 30' limbs being ripped off and landing in the yard or along a gutter, most recently. Our closest neighbor just had a huge part of a tree land on their roof in the recent storm with the 80mph wind speeds. It's already an unsafe area to live in, due to incredible gusts. (The airport figures are completely inaccurate for this area.) And any removal of trees in the development will increase the speed that is already enhanced by both the bay and the cliffs!

This part of my letter is partly excerpted from previous ones, as these issues remain. In some cases, I have found errors in the application documents where two separate entry roads are referred to in the application. There are other places, too, where the initial proposal didn't get edited before application submission. This becomes a source of concern, in case application acceptance now might reflect acceptance of a map with two entry roads that should no longer exist (or other outdated info.) One map shows the newly designed single entry to be almost across from vacated Lyla Ln (our property) when there is definitely a house right across from the Lyla Ln vacation, for example.

One of my biggest concerns is the traffic impact of having all the new residents enter from only one block, the single entrance would be within 2 houses of our entry road to CrestView plat...creating potential accidents if cars turned out and quickly accelerated. Every new resident will impact our property and this tiny stretch of Viewcrest.. Why isn't the developer required to employ two different access streets to spread the effect out? And what happens if 152 homes are eventually built within the Jones family's property, now that no single family zoning exists? 204 additional trips/hr will certainly impact this block. We likely have less than 50 trips/hr, at present.

I have also examined in detail the full length of Viewcrest, and as we have mentioned in past pedestrian safety meetings with the city, this street is already very unsafe. While providing a main access to and from town for street residents and those of all of Edgemoor south of Viewcrest, the road isn't built wide enough for two cars (or particularly trucks, or worse, large construction vehicles) to pass side-by-side... esp., at the hill just west of 16th. With only two cars passing, we often have to drive off the side of the paved road in the mud to allow another car to go the opposite direction. You can see the many muddy ruts along the edges of Viewcrest.

I will go into greater detail when I respond to the application once it's been accepted, but by then, hopefully, I'll be referring to a much more comprehensive study of the various true existing traffic issues (a study that includes all the other impacts beyond the intersection at Chuckanut, & be closer to accurate in numbers now (vs. when the application's SEPA traffic study was done in Aug '20 during the deep pandemic shutdown). Presently, the issue of congestion at the bridge near the middle school is already dangerous in case of evacuation of areas south of the bridge. With all the students and staff, along with no other direct route for escape in case of tsunami's or fires, etc., the bridge is a huge bottleneck which we have documented in photos even before subdivision approval. The development will then contribute to an even higher evacuation danger level (think Lahaina).

Lastly, about traffic, the vast majority of drivers on Viewcrest and from the southern parts of Edgemoor do not regularly use that intersection with Chuckanut...the only intersection studied for the development. Drivers in this area go to Fairhaven or Bellingham by turning north at 16th street, and that's a scary intersection, esp. now that cars are backing out from a trailhead parking lot across from it (same distraction and danger as at Chuckanut & Viewcrest).

After 2021's November's record rains, and with much of our yard filling up (photos to document that) from stormwater runoff (and only draining slowly over time due to the previously saturated soil), I am now far more concerned about the potential of existing homes flooding after any mature trees or other helpful vegetation is replaced with impervious surfaces such as roads, infrastructure, driveways, roofs, etc. I have great respect for the power of water to destroy. For that reason, I have walked with a hoe in hand annually during the fall (and throughout the extended season of fir needles and maple leaves blocking street drains). My goal is to remove obstructions and keep the water from damaging anything downhill. I trained our children to do this with me, and we found that many of the drains had been poorly engineered in spots where the grates were higher than the pavement or flowing water (worthless).

Some drains have been remedied over the years, however, incredible amounts of water regularly pour downhill on Viewcrest Rd.(flowing west from approximately where the entry road to the subdivision would be to Fieldston and beyond), sometimes the road looks like a river. This situation exists even before the Jones' property's natural absorption system along and above Viewcrest has been disturbed. The idea of just tying their newly-built road drains & system from above, on the north side of the development, into "existing conveyance along Viewcrest" is not at all well thought out. A detailed study including water flow patterns and measurements of the water's depth in test holes needs to be done during cumulative intense rains & after the soil had become saturated (which is often the case for months, and was certainly so from Nov. '21 to late Dec, and longer...including snow.)

The wetland that exists along the east side of our CrestView Plat filled completely with water at one point in Nov.'21, and was close to inundating the house to the east of it on Viewcrest before it very slowly percolated down. That took a period of at least 6 weeks. For longer than that, it remained above its normal level.

So the measurements of water depth in test pits or other data gathered during summer of '20 or during the longest dry spell and hottest days ever recorded in Bellingham (summer of '21) in the document supporting their decision in section 3c (water) on the SEPA checklist are not indicative of what will happen in winter. This subject needs much more comprehensive testing during the correct season in order to reveal the true situation and whether there are safety issues for existing homes with the area's stormwater extensive runoff.

I could be more specific and cover more topics from the checklist, but suffice it to say that the documents that were included were often less-than-adequate and/or biased. (As in the case of justifying their much smaller lot sizes within the development... saying they were equal to adjacent ones. The actual existing homes directly across Viewcrest between 10th street and west beyond Clark (like our plat) have some of the largest lots of any in the area but were handily not included in the application's reference to nearby lot sizes.)

My request at this point in time, then, is that the city ask AVT and the Jones family to document more appropriately before the application is accepted. Too many issues, safety to existing homes, in particular, would be left only partially explored if this application were to be accepted, as is. All the areas mentioned (in the meeting with Blake Lyon and in the ENA letter) of what ought to have been requested in RFI #3 still need to be addressed. Due to the myriad of complex issues, thorough and unbiased studies are what I am asking for, and that would best be done in the form of a comprehensive EIS.

Please reply to let me know you have read this,
Elizabeth Paley
357 Viewcrest Rd, Bellingham, WA 98229

Aven, Heather M.

From: Cheryl Adkinson <adkinson1@gmail.com>
Sent: Thursday, December 7, 2023 5:06 PM
To: Bell, Kathy M.
Subject: request for notices

You don't often get email from adkinson1@gmail.com. [Learn why this is important](#)

Date: 12-7-2023

To: Senior Planner Kathy Bell
City of Bellingham

Dear Ms Bell,

I am a Bellingham resident. I am writing to request that you send me all notices regarding the Woods at Viewcrest applications. Please send them by e-mail to adkinson1@gmail.com

Thank you for your consideration,

Cheryl D Adkinson MD

*Cheryl D Adkinson MD MA FACEP
Associate Professor (retired)
Emergency Medicine,
University of Minnesota Medical School
Hennepin County Medical Ctr
Minneapolis, MN*

Aven, Heather M.

From: jaci.nicolai@comcast.net
Sent: Thursday, December 7, 2023 1:25 PM
To: Bell, Kathy M.
Subject: request to receive via email all notices regarding the Woods at Viewcrest applications.

You don't often get email from jaci.nicolai@comcast.net. [Learn why this is important](#)

“Please accept this email as my request to receive via email all notices regarding the Woods at Viewcrest applications.

Thank you!

jaci.nicolai@comcast.net

Aven, Heather M.

From: Catherine Reade <cereade404@gmail.com>
Sent: Thursday, December 7, 2023 12:55 PM
To: Bell, Kathy M.
Subject: RFI

You don't often get email from cereade404@gmail.com. [Learn why this is important](#)

"Please accept this email as my request to receive via email all notices regarding the Woods at Viewcrest applications."

Thank you,

Catherine Reade

Cereade404@gmail.com

Sent from my iPhone

Aven, Heather M.

From: Cinda Zemel <cindazemel@gmail.com>
Sent: Thursday, December 7, 2023 10:03 PM
To: Bell, Kathy M.
Subject: Request to receive notices

You don't often get email from cindazemel@gmail.com. [Learn why this is important](#)

Please accept this email as my request to receive via email all notices regarding the Woods at Viewcrest applications.

Thank you,
Cinda Zemel

Sent from my iPhone

Aven, Heather M.

From: Colleen curtis <colleenhcurtis@hotmail.com>
Sent: Friday, December 8, 2023 8:13 AM
To: Bell, Kathy M.
Subject: request

You don't often get email from colleenhcurtis@hotmail.com. [Learn why this is important](#)

Please accept this email as my request to receive via email all notices regarding the Woods at Viewcrest applications.

Thank you,
Colleen Curtis

Aven, Heather M.

From: Tracie Johannessen <tracie.johannessen@gmail.com>
Sent: Friday, December 8, 2023 7:42 AM
To: Bell, Kathy M.
Subject: The Woods at Viewcrest

You don't often get email from tracie.johannessen@gmail.com. [Learn why this is important](#)

Please accept this email as my request to receive via email all notices regarding the Woods at Viewcrest applications.

Sincerely,
Tracie Johannessen

Aven, Heather M.

From: Nancy Orlowski <nmorlowski@yahoo.com>
Sent: Friday, December 8, 2023 7:13 AM
To: Bell, Kathy M.
Subject: Mud Bay

You don't often get email from nmorlowski@yahoo.com. [Learn why this is important](#)

Please accept this email as my request to receive via email all notices regarding the Woods at Viewcrest applications

Thanks for your service to our community,

Nancy Orlowski

Sent from my iPhone

Aven, Heather M.

From: Diane Trunek <dianetrunek@gmail.com>
Sent: Friday, December 8, 2023 12:32 PM
To: Bell, Kathy M.
Subject: Woods at Viewcrest

You don't often get email from dianetrunek@gmail.com. [Learn why this is important](#)

Please accept this email as my request to receive via email all notices regarding the Woods at Viewcrest applications.

Thank you,
Diane Trunek, 505 Briar Road, Bellingham, WA 98225

Aven, Heather M.

From: Rebekah Jayne <rebekah.m.jayne@gmail.com>
Sent: Wednesday, December 13, 2023 8:34 AM
To: Bell, Kathy M.
Subject: Woods at Viewcrest

You don't often get email from rebekah.m.jayne@gmail.com. [Learn why this is important](#)

Please accept this email as my request to receive via email all notices regarding the Woods at Viewcrest applications.

Thank you,
Rebekah

Aven, Heather M.

From: Larry Horowitz <dakini1@comcast.net>
Sent: Monday, December 18, 2023 7:26 AM
To: Bell, Kathy M.
Subject: Public Comment re: The Woods at Viewcrest subdivision Proposal
Attachments: PMBC 12-18-23 letter to Blake Lyon w attachments.pdf



To: Blake Lyon, City of Bellingham Director of Planning & Community Development

Cc:
Kim Lund, City of Bellingham Mayor Elect
Kurt Nabbefeld, Development Services Manager
Kathy Bell, Senior Planner
Steve Sundin, Senior Planner
Renee LaCroix, Public Works Natural Resources
Bellingham City Council
Doug Allen, WA Department of Ecology
Mak Kaufman, WA Department of Ecology

Re: Public Comment letter from *Protect Mud Bay Cliffs*
- The Woods at Viewcrest subdivision proposal
- Applicant's 12/5/23 response to the 8/7/23 Request for Information (RFI)
- Is the Woods at Viewcrest Wetland Delineation Fundamentally Flawed?

Date: December 18, 2023

Mr. Lyon,

Please find attached a public comment letter from *Protect Mud Bay Cliffs* regarding *The Woods At Viewcrest* subdivision proposal on Viewcrest Road in Bellingham. This letter addresses one of the three critical issues we had hoped to discuss with you when we were scheduled to meet on December 13. Like the issue addressed in the attached letter, the two issues not addressed will also have a major impact on the proposed subdivision applications.

We look forward to hearing from you to reschedule our meeting once you are feeling better. We believe it's essential to share information about the other two issues before the city prepares a Notice of Application.

Sincerely,
Larry Horowitz, Member
Protect Mud Bay Cliffs Coordination Committee



1050 Larrabee Ave Suite 104 · PMB #476 · Bellingham, WA 98225
MudBayCliffs.org · Info@MudBayCliffs.org

December 18, 2023

Mr. Blake Lyon
City of Bellingham Director of Planning & Community Development
210 Lottie Street
Bellingham, WA 98225

Copy Via Email:

Kim Lund, City of Bellingham Mayor Elect
Kurt Nabbefeld, Development Services Manager
Kathy Bell, Senior Planner
Steve Sundin, Senior Planner
Renee LaCroix, Public Works Natural Resources
Bellingham City Council
Doug Allen, WA Department of Ecology
Mak Kaufman, WA Department of Ecology

Re: ***The Woods at Viewcrest*** subdivision proposal
Applicant's 12/5/23 response to the 8/7/23 Request for Information (RFI)
➤ ***Is the Woods at Viewcrest Wetland Delineation Fundamentally Flawed?***

Dear Mr. Lyon:

Protect Mud Bay Cliffs (PMBC) appreciates the opportunity to provide public comment on *The Woods at Viewcrest* subdivision proposal.

In our 8/17/23 letter to Senior Planner Kathy Bell, we provided details about multiple issues and concerns regarding *The Woods at Viewcrest* application materials and the City's 8/7/23 *Request for Information* (RFI). The city has yet to require the applicant to address the vast majority of these issues.

One of the issues we provided details about is the applicant's failure to recognize and consider the existing Mud Bay estuarine wetlands. Although PMBC communicated this critical omission to the city via email in February 2023, and again in our [8/17/23 letter](#), it still has not been addressed by either the applicant or the city. PMBC's 8/17/23 letter can be viewed at <https://bit.ly/PMBCLetter8-17-23>.

The attached document - "*Is The Woods At Viewcrest Wetland Delineation Fundamentally Flawed?*" - provides a summary and analysis of the facts surrounding Mud Bay's wetlands and establishes an incontrovertible record that the vast majority

of Mud Bay, including all the shoreline immediately below the proposed subdivision, is classified as Category I estuarine wetlands.

Also attached is the expert opinion of John Rybczyk, Ph.D., Department of Environmental Science Professor and Academic Director, Marine and Coastal Science at Western Washington University. For the past 23 years, Dr. Rybczyk has been taking his Wetlands Ecology students to Mud Bay for field trips. He knows the area well. In his letter, Dr. Rybczyk concurs with the U.S. Fisheries and Wildlife Service's *National Wetland Inventory* designation of the entirety of Mud Bay as estuarine wetlands.

The applicant's failure to acknowledge Mud Bay's estuarine wetlands has wide-ranging impacts on the application documents and supporting materials. In addition to the wetland delineation being fundamentally flawed and unreliable, the stormwater management plan, the SEPA checklist, the critical area permit application, and the shoreline permit application - all of which rely upon the delineation findings - are clearly invalid.

Due to these errors and omissions, *The Woods at Viewcrest* application documents and supporting materials cannot be determined to be sufficient for the city to prepare a SEPA threshold determination.

As we wrote in our 8/17/23 letter:

"In order for the city to issue a fully-informed SEPA threshold determination, state law requires the city to have adequate information regarding potential significant adverse impacts.

"As detailed in this letter, the application materials are both flawed and insufficient, and they do not provide adequate information about potential significant adverse impacts. The applicant must be required to address these flaws and provide the information needed in order for the city to issue a fully-informed SEPA threshold determination."

In addition to the multiple other flaws identified in our 8/17/23 letter, the major failure to acknowledge and consider the existing Mud Bay Category I wetlands must be corrected before the city issues a Notice of Application.

Thank you for the opportunity to provide public comment. Please contact us if you have any questions or would like additional information.

Sincerely,
Protect Mud Bay Cliffs Coordination Committee
Paul Brock · Ava Ferguson · Larry Horowitz
Wendy Larson · Janet Migaki · Brent Woodland



MudBayCliffs.org · Info@MudBayCliffs.org

Is *The Woods At Viewcrest* Wetland Delineation Fundamentally Flawed?

FACTS

1. **Mud Bay** is separate and distinct from **Chuckanut Bay** as evidenced by maps produced by the City of Bellingham CityIQ system and other official mapping systems.
2. The Washington State Department of Ecology (Ecology) [Stormwater Management Manual for Western Washington](#) (Stormwater Manual) defines **Estuarine Wetland** as:

“Generally, an eelgrass bed; salt marsh, or rocky, sandflat, or mudflat intertidal area where fresh and salt water mix.” Pg. 1049 (Emphasis added)
3. Ecology’s [Washington State Wetland Rating System for Western Washington](#) (Wetland Rating System) states:

“Relatively undisturbed estuarine wetlands larger than 1 ac are Category I wetlands because they are rare and provide unique natural resources that are considered to be valuable to society.” Pg. 5 (Emphasis added)

“Estuarine wetlands are also put into a separate category because the indicators used to characterize how well a freshwater wetland functions cannot be used for estuarine wetlands. No rapid methods have been developed to date to characterize how well estuarine wetlands function in the state at the time of this update.” Pg. 6 (Emphasis added)
4. Mud Bay is a large, relatively undisturbed estuary that consists almost entirely of rocky, sandflat and mudflat intertidal areas¹ where fresh and salt water mix. In other words, Mud Bay meets Ecology’s exact definition for *Category I Estuarine Wetland*. Mud Bay’s rocky, sandflat and mudflat areas are, by Ecology’s definition, Category I estuarine wetlands.
5. *The Woods At Viewcrest* [wetland delineation](#) prepared by Northwest Ecological Services (NES) states:

¹ [Management Recommendations for City of Bellingham Pocket Estuaries](#) pg. 7, Table 2 “Chuckanut Creek” at <https://cob.org/wp-content/uploads/pocket-estuary-mgmt-recommendations-02.06.pdf>

“The U.S. Fish and Wildlife Service (USFWS) *National Wetland Inventory* (NWI) mapper indicates an estuarine and marine wetland habitat throughout the entirety of Chuckanut Bay [actually Mud Bay]. CityIQ mapping indicates a field-verified estuarine wetland at the northern end of the bay, however this is located approximately 1,000 ft northwest from the subject parcel. Within 1,000 ft of the project area, Chuckanut Bay is an unvegetated, intertidal zone and does not meet wetland criteria.” Pg. 4 (Emphasis added)

ANALYSIS

The NES wetland delineation submitted as part of *The Woods At Viewcrest* application materials contains significant errors and omissions related to the Mud Bay estuarine wetlands.

Although the City of Bellingham’s own CityIQ maps show Mud Bay as being distinct from Chuckanut Bay, the delineation refers to Mud Bay as Chuckanut Bay.

The NES wetland delineation recognizes the existence of estuarine wetlands throughout the entirety of Mud Bay (referred to as Chuckanut Bay) as identified by the USFWS NWI mapper. However, the delineation only considers a single “field-verified” estuarine wetland based solely on a CityIQ map, which includes only the *Site Specific Delineation* wetland layer. A more complete CityIQ map, which also includes the *Other Inventories* wetland layer, shows a solid zone of wetlands covering the vast majority of Mud Bay.

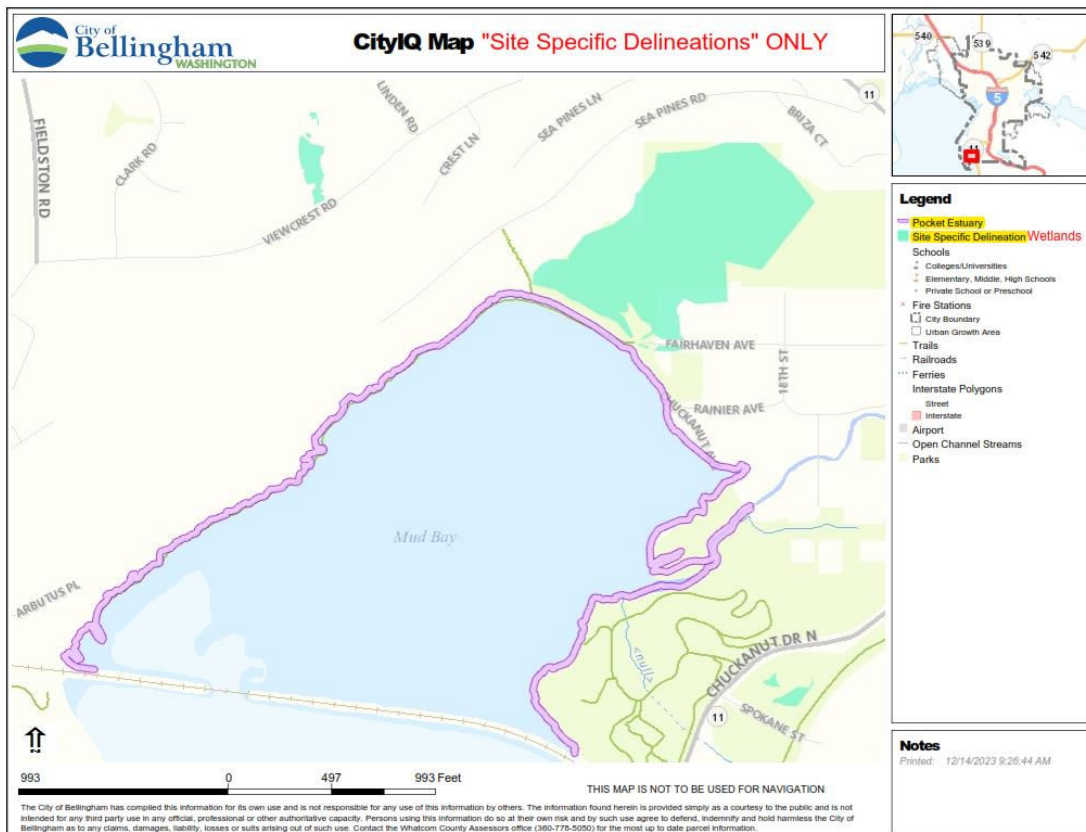
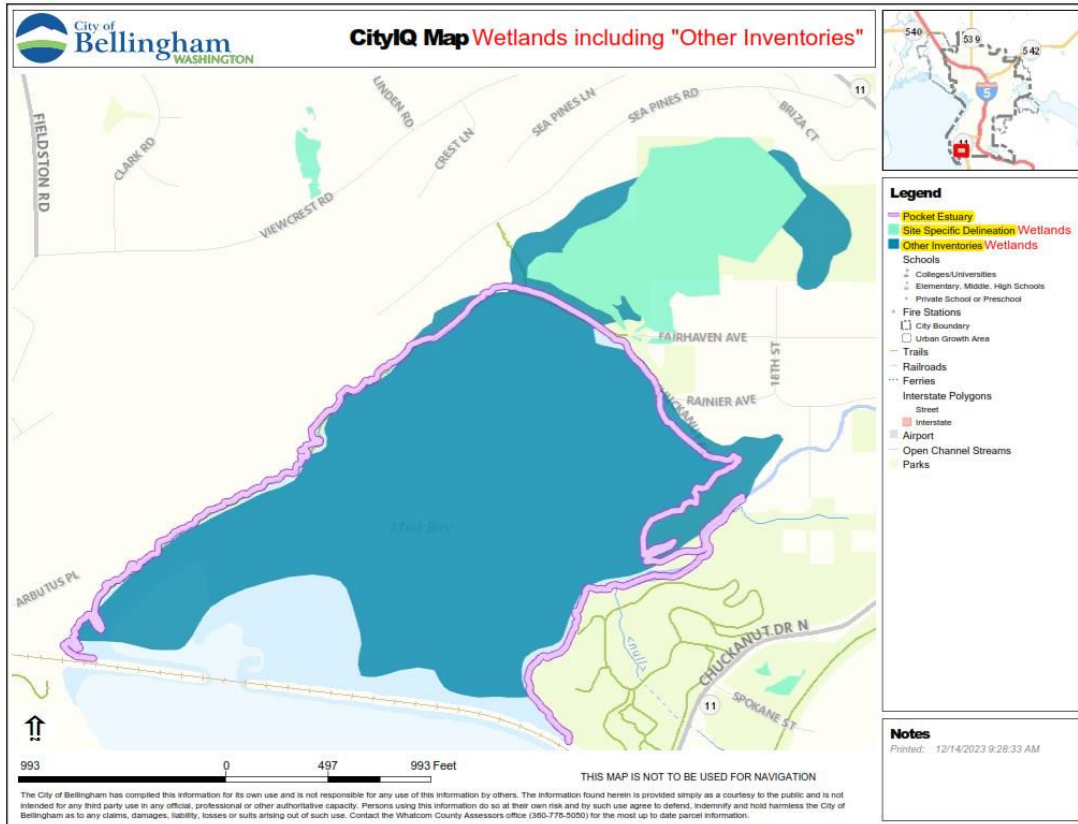
[CityIQ maps that include different wetland layers are shown on the following page. The first map includes both the *Site Specific Delineation* and the *Other Inventories* layers. The second only includes the *Site Specific Delineation* layer, the apparent source of the erroneous omission of Mud Bay’s estuarine wetlands by NES.]

There is no indication that the NES wetland delineation attempted to confirm whether Mud Bay’s wetlands that were not “field verified” are, in fact, estuarine wetlands. Nor does the delineation acknowledge that Ecology has placed estuarine wetlands in a separate category because they are not conducive to field verification and, therefore, would not be included on a map of site specific delineated (i.e. “field verified”) wetlands.

The claim that “Chuckanut Bay is an unvegetated, intertidal zone and does not meet wetland criteria” suggests a lack of understanding that estuarine wetlands are not rated based on freshwater “wetland criteria” and that mudflats and other intertidal estuarine wetlands are commonly barren and unvegetated.

CONCLUSION

The NES delineation’s omission of the Mud Bay Category I estuarine wetlands is a significant and fundamental flaw. The NES wetland delineation cannot be relied upon for purposes of evaluating adverse impacts or issuing a SEPA threshold determination.



December 14, 2023 Email from John Rybczyk, PhD

Dear Mr. Horowitz,

I am an estuarine ecologist and professor at Western Washington University. I have a Ph.D. in Oceanography and Coastal Sciences from Louisiana State University. My work involves modeling the non-linear feedbacks that allow coastal wetlands to maintain a dynamic equilibrium with sea-level. I use those models to predict the resiliency of estuarine systems to rising water levels and to guide the course of restoration and mitigation efforts.

I am very familiar with Mud Bay, I have been taking my Wetlands Ecology students there for the past 23 years. According to the U.S. Fisheries and Wildlife Service's National Wetland Inventory, the entirety of Mud Bay is designated as the following kinds of estuarine wetlands.

- 1) The vast majority of the bay, including all the shoreline immediately below the proposed subdivision is classified as Estuarine, Intertidal, Unconsolidated Shore, Regularly Flooded.
- 2) A small area centering around the delta of Chuckanut Creek is classified as Estuarine, Intertidal, Emergent, Persistent, Regularly Flooded. (note: emergent and persistent refer to the type of vegetation found there).
- 3) A small area adjacent to the railroad tracks and the bridge, is classified as Estuarine, Subtidal, Unconsolidated Bottom, Subtidal.

In my expert opinion, I concur with the National Wetland Inventory designations. I have also observed the native eelgrass, *Zostera marina*, growing in Mud Bay. This would perhaps change the designation of region one above, from Estuarine, Intertidal, *Unconsolidated Shore*, Regularly Flooded, to Estuarine, Intertidal, *Aquatic Bed*, Regularly Flooded. However, the USFW wetlands inventory requires 30% aerial coverage of aquatic vegetation to change the designation from Unconsolidated Shore to Aquatic Bed. I don't have any data regarding the exact % coverage. Nonetheless, both designations are wetland designations.

This opinion is not to be construed as my own support for, or against, the activities of the Protect Mud Bay Cliffs organization, Jones Subdivision, or the Woods at Viewcrest.

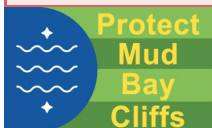
Sincerely,

John M. Rybczyk
Professor
Academic Director, Marine and Coastal Science
Department of Environmental Science
Western Washington University
Bellingham, WA 98225

Aven, Heather M.

From: Larry Horowitz <dakini1@comcast.net>
Sent: Thursday, January 11, 2024 1:42 PM
To: Lyon, Blake G.
Cc: MY - mayorsoffice@cob.org; Nabbefeld, Kurt D.; Bell, Kathy M.; Sundin, Steven C.; LaCroix, Renee S.; CC - Shared Department (ccmail@cob.org)
Subject: Public Comment re: The Woods at Viewcrest subdivision Proposal
Attachments: PMBC letter to Blake Lyon re Woods at Viewcrest Fourth RFI.pdf

CAUTION: This message originated from outside of this organization. Please exercise caution with links and attachments.



To: Blake Lyon, City of Bellingham Director of Planning & Community Development

Cc:
Mayor Kim Lund
Kurt Nabbefeld, Development Services Manager
Kathy Bell, Senior Planner
Steve Sundin, Senior Planner
Renee LaCroix, Public Works Natural Resources
Bellingham City Council

Re: Public Comment letter from *Protect Mud Bay Cliffs*
- *The Woods at Viewcrest* · Summary of Application Deficiencies

Date: January 11, 2024

Mr. Lyon,

Thank you for taking time to meet with my *Protect Mud Bay Cliffs* (PMBC) colleagues and me yesterday. We appreciate the opportunity to have an open dialogue with you. Please find attached a public comment letter regarding *The Woods At Viewcrest* subdivision proposal on Viewcrest Road in Bellingham. This letter addresses the need for a fourth Request for Information (RFI).

Below is a list of documents referenced in this letter and in the packet materials we shared with you. Website links are provided for easy access.

[Packet of materials](#) presented at our 1/10/24 meeting
<https://bit.ly/PMBC-Lyon-20240110>

PMBC's [Stormwater Outlet Structures & Bellingham's Mud Bay](#) document
<https://bit.ly/PMBC-OUTLET12-18-23>

PMBC's [12/18/23 letter](#) to you
<https://bit.ly/PMBCLetter12-18-23>

PMBC's [8/17/23 letter to Kathy Bell](#) with PMBC's 6/28/23 letter to you attached

<https://bit.ly/PMBCLetter8-17-23>

Department of Ecology 2019 [*Stormwater Management Manual for Western Washington*](https://apps.ecology.wa.gov/publications/documents/1910021.pdf)
<https://apps.ecology.wa.gov/publications/documents/1910021.pdf>

Department of Ecology [*Washington State Wetland Rating System For Western Washington*](https://apps.ecology.wa.gov/publications/documents/2306009.pdf) updated July 2023
<https://apps.ecology.wa.gov/publications/documents/2306009.pdf>

Department of Ecology 2021 [*Wetland Mitigation in Washington State Part 1*](https://apps.ecology.wa.gov/publications/documents/2106003.pdf)
<https://apps.ecology.wa.gov/publications/documents/2106003.pdf>

City of Bellingham 2006 [*Management Recommendations for City of Bellingham Pocket Estuaries*](https://cob.org/wp-content/uploads/pocket-estuary-mgmt-recommendations-02.06.pdf)
<https://cob.org/wp-content/uploads/pocket-estuary-mgmt-recommendations-02.06.pdf>

[John Rybczyk, Ph.D. expert opinion](https://bit.ly/PMBC-Rybczyk) re: Mud Bay estuarine wetland
<https://bit.ly/PMBC-Rybczyk>

Thank you for your consideration of our request to issue a fourth RFI.

Sincerely,
Larry Horowitz, Member
Protect Mud Bay Cliffs Coordination Committee



1050 Larrabee Ave Suite 104 · PMB #476
Bellingham, WA 98225

January 11, 2024

Mr. Blake Lyon
Planning & Community Development Department Director
City of Bellingham
210 Lottie Street
Bellingham, WA 98225
Via Email

Copy Via Email:
Mayor Kim Lund
Kurt Nabbeffeld, Development Services Manager
Kathy Bell, Senior Planner
Steve Sundin, Senior Planner
Renee LaCroix, Public Works Natural Resources
Bellingham City Council

Re: *The Woods at Viewcrest* · Summary of Application Deficiencies

Dear Mr. Lyon:

Protect Mud Bay Cliffs (PMBC) Coordination Committee members Ava Ferguson, Wendy Larson, Brent Woodland and I would like to thank you for taking time to meet with us on January 10. We appreciate the opportunity to explain why it's in the best interest of all parties for the City to issue a fourth Request for Information (RFI) from *The Woods at Viewcrest* subdivision applicant.

Sections 21.10.190 and 21.10.200 of the Bellingham Municipal Code require an applicant to meet the City's submittal requirements before the City can make a determination of completeness and issue a notice of application. The Woods at Viewcrest application fails to meet these submittal requirements. A fourth RFI is necessary to secure some of the crucial information needed to address the application's significant deficiencies.

A copy of the packet materials we shared with you during our meeting, including the Agenda and Exhibits A through J, can be viewed at bit.ly/PMBC-Lyon-20240110.

Exhibits H & J highlight the Department of Ecology compensatory mitigation of wetlands requirements that can be found on page 195 of Ecology's *Stormwater*

Management Manual for Western Washington (Stormwater Manual) and page 197 of Ecology's *Wetland Mitigation in Washington State Part 1* document. These requirements are addressed in more detail in PMBC's *Stormwater Outlet Structures & Bellingham's Mud Bay* document, which can be viewed at bit.ly/PMBC-OUTLET12-18-23. A copy of this document is also attached.

During our meeting, we also referenced PMBC's 12/18/23 letter to you, which can be viewed at bit.ly/PMBCLetter12-18-23. This letter establishes for the record the overwhelming evidence that the vast majority of Mud Bay is a Category I estuarine wetland.

Because Mud Bay is a Category I wetland, certain Department of Ecology requirements must be adhered to when designing a stormwater management system for runoff from *The Woods at Viewcrest* Threshold Discharge Area (TDA) 2 that will discharge directly or indirectly into Mud Bay. These requirements include:

- The outlet structures from stormwater facilities must be provided outside of the wetland and its buffer boundaries;
- Outflow from the stormwater facility or project site should be diffused prior to discharge into the buffer;
- Wetland Hydroperiod Protection to avoid excessive hydrologic alteration of existing wetlands from development must be provided; and
- Flow Control Best Management Practices (BMPs) must be provided because stormwater cannot be discharged directly into a Category I wetland.

In order to address the project's safety, environmental, and ecological risks, the City and the public require sufficient information to determine those risks and develop mitigation strategies. A fourth RFI to address the issues we discussed during our meeting is essential to acquire this information.

In addition, as PMBC explained in our June 28, 2023 letter to you and in our August 17, 2023 letter to Kathy Bell, it's critical for the City to also include in the fourth RFI the numerous issues we raised in those letters. Both of these letters can be viewed at bit.ly/PMBCLetter8-17-23.

It would be inappropriate for the City to make a determination of completeness and issue a notice of application prior to issuing a fourth RFI. Doing so would force the public, public agencies, tribes, and other stakeholders to waste valuable resources reviewing the more than 800 pages of incomplete and inaccurate application materials now - and then again once the significant application deficiencies are addressed.

This duplication of effort can be avoided if the City issues a fourth, sufficiently comprehensive, Request for Information.

Again, thank you for your time and your consideration of our request. Please let us know if you have any questions or would like additional information.

Sincerely,

Larry Horowitz

On behalf of Protect Mud Bay Cliffs

A Responsible Development Program

dakini1@comcast.net / Info@MudBayCliffs.org

(360) 746-7154



MudBayCliffs.org · Info@MudBayCliffs.org

Stormwater Outlet Structures & Bellingham's Mud Bay

QUESTION: Can a stormwater outlet structure be placed at the *ordinary high water mark*¹ (OHWM) of Bellingham's Mud Bay?

BACKGROUND

The Washington State Department of Ecology *Stormwater Management Manual for Western Washington* provides *Wetland Protection Guidelines* at Appendix I-C. Section I-C.6 *Compensatory Mitigation of Wetlands* states:

It is always necessary to treat stormwater prior to discharge to a wetland and its buffer. Any required Runoff Treatment BMPs including the **outlet structure** must be provided **outside of the wetland and its buffer boundaries**. If outflow from a BMP or project site is concentrated, flow should be diffused **prior to discharge into the buffer**.² (Emphasis added)

The requirement that stormwater outlet structures must be placed outside of the wetland and its buffer is confirmed by the Department of Ecology *Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance* document. Chapter 8 *Stormwater and Wetlands* states:

Stormwater needs to receive treatment prior to discharge to a wetland and its buffer. Any required stormwater management Best Management Practices (BMPs) including Runoff Treatment BMPs, Flow Control BMPs, and the **outlet structures** from stormwater facilities, must be provided **outside of the wetland and its buffer boundaries**.³ Outflow from the stormwater facility or project site should be diffused **prior to discharge into the buffer**. (Emphasis added)

¹ Dept of Ecology's definition of [ordinary high water mark](https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Shoreline-Management-Act-SMA/Shoreline-Management-Act-jurisdiction/Ordinary-high-water-mark) can be found at <https://ecology.wa.gov/Water-Shorelines/Shoreline-coastal-management/Shoreline-coastal-planning/Shoreline-Management-Act-SMA/Shoreline-Management-Act-jurisdiction/Ordinary-high-water-mark>

² Dept of Ecology [Stormwater Management Manual for Western Washington](https://apps.ecology.wa.gov/publications/documents/1910021.pdf) (July 2019) pg. 195 at <https://apps.ecology.wa.gov/publications/documents/1910021.pdf>

³ Dept of Ecology [Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance](https://apps.ecology.wa.gov/publications/documents/2106003.pdf) pg. 197 at <https://apps.ecology.wa.gov/publications/documents/2106003.pdf>

As detailed in a separate Protect Mud Bay Cliffs companion document, *Stormwater Flow Control & Bellingham's Mud Bay*, the vast majority of Mud Bay and its shoreline is comprised of Category I estuarine wetlands, including mudflats and saltmarsh.

City of Bellingham documents confirm that Mud Bay's wetlands provide a high level of function for wildlife habitat. Mud Bay has been determined to be Bellingham's "richest and most biologically diverse estuary"⁴ that provides "the highest level of functions"⁵ among the city's pocket estuaries.

Mud Bay's estuarine wetlands are regulated by the City of Bellingham's *Shoreline Master Program* (SMP), which requires a regulated buffer of 200 feet extending from the Mud Bay OHWM.

CONCLUSION & SUMMARY

The Washington State Department of Ecology *Stormwater Management Manual for Western Washington* and *Wetland Mitigation in Washington State Part 1* documents provide consistent guidance and regulations for stormwater discharged into a wetland and its buffer.

Each document states that outlet structures from stormwater facilities must be provided outside of the wetland and its buffer boundaries.

Due to the presence of Category I estuarine wetlands, a stormwater outlet structure cannot be placed at the ordinary high water mark of Mud Bay.

The placement of any stormwater outlet structure at Mud Bay's ordinary would violate Ecology's guidance and regulations. To comply with Ecology's regulations and the Bellingham SMP buffer requirements, a stormwater outlet structure would need to be placed 200 feet from the Mud Bay OHWM.

⁴ [Chuckanut Bay Shorelands](https://cob.org/services/recreation/parks-trails/parks-guide/chuckanut-bay-shorelands) webpage on City of Bellingham website at <https://cob.org/services/recreation/parks-trails/parks-guide/chuckanut-bay-shorelands>

⁵ [Management Recommendations for City of Bellingham Pocket Estuaries](https://cob.org/wp-content/uploads/pocket-estuary-mgmt-recommendations-02.06.pdf) pg 8 at <https://cob.org/wp-content/uploads/pocket-estuary-mgmt-recommendations-02.06.pdf>