

TRANSMITTED BY E-MAIL

August 25, 2022

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Subject: 228th Multifamily Development, Northpoint Apartments
1010—228th Street SW, Bothell, WA
PFN: 21-109327-LDA
PFN: 22-102098-SPA
PFN: 22-102093-PRO
Ecology Permit No.s: WA0991044 & WAG503168

Lider Engineering has reviewed the files associated with the subject project, received through August 2, 2022. It is my opinion that the 544 apartment units with 994 parking stalls proposed by NP Snohomish County 228th Apartments, LLC (Northpoint), a Delaware LLC, will have significant adverse impacts that are not mitigated by the currently submitted design documents; and that a Determination of Significance (DS) and an Environmental Impact Statement (EIS) is warranted.

Northpoint purchased the Fruhling property on July 27, 2021 for \$6.5 million. On August 8, 2022, Northpoint hosted a public meeting at the Kenmore Gun Range, located directly across 228th Street SW from the proposed project. Approximately 300-400 people were in attendance. The overwhelming majority of people voiced strong opposition to this project as currently proposed, including the height variance granted to increase the density of apartments in an area with no other multi-family housing or transit service.

Project specific impacts have not been adequately addressed. Given the potential for probable significant adverse impacts to the environment and the community, PDS must issue a DS and require Northpoint to prepare an EIS, pursuant to WAC 197-11-360.

The following are the Lider Engineering preliminary comments based on documents provided to through August 2, 2022. My preliminary comments are as follows:

1. Dangerous Waste Impacts not Fully Identified

The Fruhling landfill was an unregulated site that took in fill and waste materials from many sources, without recording the origin or toxicity of the imported materials. At the August 8, 2022 public meeting Northpoint and its consultants failed to inform the public about the presence or extent of dangerous wastes at this site. While this information is posted on Ecology's website, it is very difficult to find in Ecology's user-unfriendly water

quality permit database - PARIS website. Most private citizens are not aware of the dangerous wastes present at Northpoint or the risk posed by disturbing these dangerous wastes.

SCC 30.91D.022 defines a dangerous waste as:

““Dangerous waste” means any discarded, useless, unwanted, or abandoned non-radioactive substances, including but not limited to certain pesticides or any residues or containers of such substances, which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes: (a) have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or (b) are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.” (Emphasis added)

Northpoint has been aware that dangerous wastes are present at this site yet has failed to disclose the impacts that dangerous wastes could pose to the residents and construction workers of this multifamily residential development.

Figure 1¹ below shows a clip from Ecology’s PARIS website of an extensive methane extraction system at Northpoint:



¹ Clip from 60% preliminary design drawing C-3, prepared by Dave Johnson, PE, Landau, 10/15/2021

Figure 1: Proposed Northpoint Methane Extraction Network, approval by Ecology is pending. This drawing is not easily accessible to the public on Ecology's website.

Methane (CH₄) is a flammable, odorless, colorless gas that is result of anaerobic decomposition of organic materials common in landfills. In sufficient quantities, methane can be explosive. Methane is a simple asphyxiant that is lighter than air. Methane can rise-up and seep through cracks in building slabs and foundation drains, concentrating in unventilated areas like crawl spaces, utility ducts, storage areas, and other poorly ventilated spaces; as well as in confined spaces such as manholes and vaults. Methane is a potent greenhouse gas that should be concentrated and burned and not released into the atmosphere. Calculations indicating the extent of methane production from the Landau Assoc. design should be included in an EIS to identify its impacts. The Landau Methane Extraction Plan has not been provided to Snohomish County or made generally available to the public, like at the August 8, 2022 public meeting. Approval by Ecology of the Landau methane extraction design is still pending.

The other dangerous waste reported so far is arsenic. Besides its obvious acute and chronic poison properties, arsenic is also a potent carcinogen.

Figure 2 below posted on Ecology's PARIS website by Landau Associates as a part of their March 2022 progress report to Ecology, but is still pending approval:

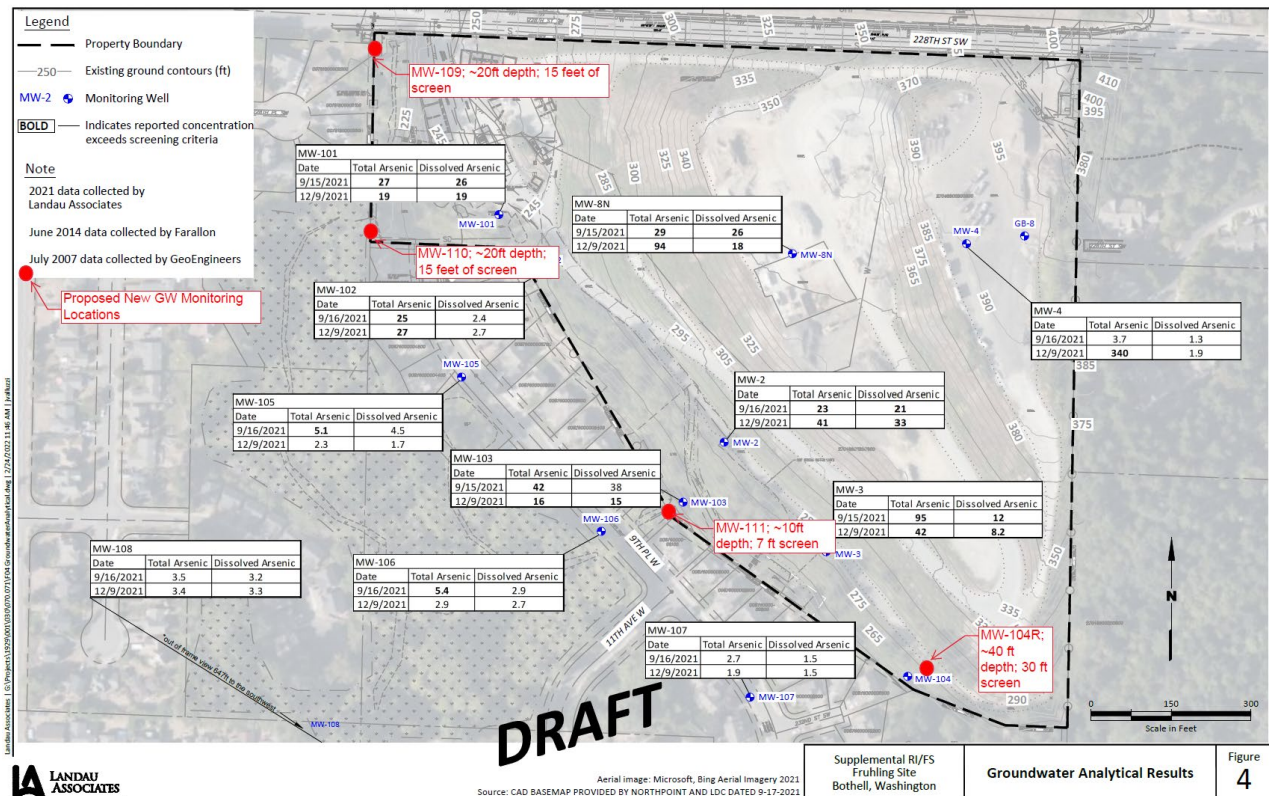


Figure 2: Landau Groundwater Analytical Results for Arsenic Testing, December 9, 2021. The current water quality criteria for the protection of human health for total inorganic arsenic is 0.018 µg/L per the USEPA.

While Landau failed to report the units for total arsenic in the map above, it appears that all measurements exceed levels for the protection of human health required by the EPA.

Both arsenic and methane are dangerous wastes per SCC 30.91D.022. Working with dangerous wastes requires special 40-hour training required under federal HAZWOPER rules, covered under 29 CFR 1910.120 and construction 29 CFR 1926.65. Excavation workers, laborers, concrete form workers, and any other person entering this site must be required to have this training, prior to working on site. Major construction and utility excavations on site will disturb and accelerate the transport of arsenic into adjacent neighborhoods and streams. It can be anticipated that arsenic laden soils will be tracked out of the Northpoint construction work areas and contaminate County roads. Arsenic dust from tracked out onto 228th Street SW will expose the public to carcinogen arsenic dust by inhalation. No construction work can be permitted until this site is fully cleaned up and given a “No Further Action” (NFA) by Ecology.

It will be irresponsible for PDS to issue any permits for this multifamily project, until such time that an EIS is prepared and a NFA determination has been issued by Ecology.

2. Failed Groundwater Treatment System

In the Lider Engineering letter dated April 22, 2022 to Rachel McCrea and copies to Snohomish County, it was reported that the groundwater treatment system that had been constructed on the Northpoint project site had failed and gone into overflow. Groundwater runoff containing arsenic and possibly other toxics exceeding the Model Toxics Control Act (MTCA) action levels is leaving the site and being discharged into a Crystal Creek tributary stream. This tributary stream is in close proximity to children and pets who could be exposed to carcinogenic chemicals like arsenic. To date, I have not received a formal response to the April 22, 2022 letter from Ecology, PDS, or Northpoint; nor has there been any testing for additional pollutants that might be present in the groundwater leaching out of the landfill.

Additional new information has come to light from recently received documents indicating that Snohomish County erred in its approval of the failed groundwater treatment system that has resulted in significant adverse impacts. These impacts must be addressed as part of a comprehensive project EIS.

To better understand Snohomish County’s failure to abide by the easement requirements to protect Eastglen’s private drainage easements and Native Growth Protection Areas (NGPA’s), a brief chronology of events is warranted:

- On November 21, 1997 Snohomish County approved the plat for the Eastglen subdivision. The Eastglen plat dedicated certain tracts as *drainage easements* or “DE”; and other areas as *private drainage easements* noted as “PDE” on the plat. Under the Eastglen plat, Snohomish County has, “the right of ingress and egress and the right to excavate, construct, operate, maintain, repair and/or rebuild an enclosed or open channel storm water conveyance system and/or

drainage facilities, under, upon or through the easement”. Snohomish County has no such rights to enter the *private drainage easement* areas, without written authorization from the Eastglen HOA; or to permit a third party such as Northpoint to do any work in either type of drainage easement.

- On December 3, 1997, the Snohomish County Council executed a Native Growth Protection Area Easement² (NGPAE) with Ed Fruhling, Fruhling, Inc. as a requirement for recording the plat of Eastglen subdivision. No clearing, grading, filling, building, construction, or road construction of any kind is allowed within the NGPAE areas except as is permitted by Snohomish County Code. This easement, approved by the County Council runs in perpetuity with the land, for the “benefit of the public forever”.
- On August 12, 2021 Matthew Ojala, PDS Engineering Supervisor executed a Stormwater Facility Easement with Northpoint on behalf of Snohomish County. The purpose of this easement was, “To protect the public from flooding, water quality degradation, damage to aquatic habitat, and other drainage impacts,...” The 2021 easement was recorded but was not approved by the County Council obligating Snohomish County to maintain a Model Toxics Control Act (MTCA) groundwater treatment facility to treat dangerous wastes, if the current (or future) property owner fails to maintain the treatment swale.
- On August 24, 2021, Ken Crossman, PDS, approved construction drawings titled *Fruhling Sand And Gravel Groundwater Treatment System*, under PFN: 21-109327-LDA. The description of work in the Clearing and Grading Application #946469 was:

“Construction of a groundwater treatment system to treat an existing groundwater discharge prior to discharge to an existing stream. The work includes associated retaining walls, access drive, stormwater management, and revegetation”

Mr. Crossman also permitted Northpoint to install a 10-foot wide landscape buffer in Eastglen’s private drainage easement (PDE), on the westerly side of the MTCA groundwater treatment facility without written permission from the Eastglen HOA.

- The MTCA groundwater treatment system was completed in late December, 2021.
- On April 22, 2022, based on photographs provided to Lider Engineering by a concerned citizen, it was determined that iron bacterial mats had choked-off the

² Reference NATIVE GROWTH PROTECTION AREA EASEMENT, Assessor Recording No. 9712030200, December 3, 1997

groundwater filtration media and that the bioretention swale was in overflow condition with groundwater passing over, but not through the intended filtration media, without treatment. The intent of the bioretention swale is to remove arsenic in the groundwater leachate from the Fruhling Landfill that was in excess of Model Toxics Control Act (MTCA) action levels. The April 22, 2022 letter was furnished both to the Department of Ecology and PDS. To date there has been no formal response from Ecology, Snohomish County, or Northpoint to the April 22, 2022 letter or how the failed bioretention swale will be removed and replaced with a functional treatment system.

The drawings approved by Ken Crossman on August 24, 2021 under PFN: 21-109327-LDA did not correctly show the stream or wetland buffers or describe any impact mitigation to stream buffers as a result of the loss of the NGPA required to construct the MTCA groundwater treatment facility. However, recently submitted design drawings show that the groundwater treatment system was constructed within the stream buffer, in violation of County Code (see figure 6 below).

PDS's approval of the dangerous waste, groundwater treatment system under a stormwater easement was based on incorrect or misleading information supplied by permit applicant Dan Fruhling. SCC 30.63A.570(2) prohibits stormwater treatment and flow control facilities construction within a natural vegetated stream buffer, as was done here. SCC 30.63A does not address MTCA groundwater remediation facilities with no stormwater input, yet PDS treated this dangerous waste treatment facility as a stormwater runoff treatment that might be used in treating typical PGIS runoff.

No stormwater treatment facility was constructed on the Fruhling property under the August 12, 2021 stormwater easement. Rather a groundwater treatment was constructed to treat dangerous waste arsenic leachate in excess of EPA and MTCA action levels. Therefore, the stormwater easement executed by Mr. Ojala is invalid because PDS does not have authority to enter into dangerous waste groundwater treatment easements and the August 12, 2021 easement must therefore be terminated immediately in accordance with paragraph 8 of the easement agreement because the construction of the treatment swale is in violation of the County code. Among other things, County workers are required to be 40-hour, HAZWOPER trained under Federal Law, OSHA 29 CFR 1910.120 & 1926.65, to perform any work in the MTCA remediation treatment swale as a safety precaution.

Mr. Ojala, PDS Engineering Supervisor exceeded his authority and violated County code when he authorized construction of roads, concrete retaining walls, and bioretention swale in the stream buffer, to treat arsenic-laden groundwater and possibly other toxic wastes leaching out of the Fruhling Landfill site in excess of MTCA action levels. While SCC 30.63A.590 grants the Director authority to execute drainage easements, it does not grant the Director, or his subordinates, authority to execute groundwater treatment facilities to treat dangerous waste groundwater leachate from the Northpoint MTCA remediation site.

The Plat of Eastglen, page 5, designates a 10-foot wide private drainage easement on the easterly side of Lots 28-30; and a 15-foot wide NGPA on the easterly side of Lot 31. Private Drainage Easement requirements are prescribed under SCC 30.63A.595. The Eastglen plat does not automatically permit Snohomish County or Northpoint use or access to Private Drainage Easements, designated as PDE's on the Eastglen plat. It was unlawful for Snohomish County to grant Northpoint access or use of Eastglen private drainage easements, without written authorization from the Eastglen HOA and the property owners. Under public records request K073269, PDS confirmed that it did not have written authorization by the property owners and Eastglen HOA authorizing access to the private drainage easement because this information was not in the PDS project file.

Figure 3 below show a clip from the Eastglen plat:

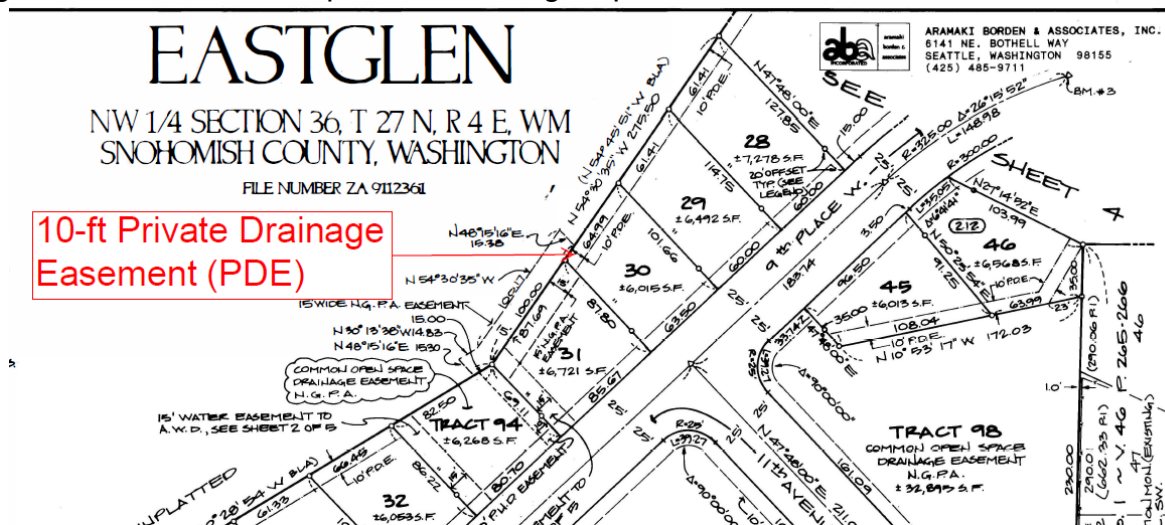


Figure 3: Annotated clip from page 5, Plat of Eastglen showing 10-ft Private Drainage Easements (PDE). SNOCO does not have authority to permit Northpoint to use these PDE's for landscaping or any other use

Allowable uses of drainage easements "DE's" are spelled out in the Eastglen Plat, Page 5, in figure 4 below:

DRAINAGE EASEMENTS (DE) DESIGNATED ON THE PLAT ARE HEREBY RESERVED FOR AND GRANTED TO SNOHOMISH COUNTY, EXCEPT THOSE DESIGNATED ON THE PLAT AS PRIVATE DRAINAGE EASEMENTS (PDE), TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS AND THE RIGHT TO EXCAVATE, CONSTRUCT, OPERATE, MAINTAIN, REPAIR AND/OR REBUILD AN ENCLOSED OR OPEN CHANNEL STORM WATER CONVEYANCE SYSTEM AND/OR OTHER DRAINAGE FACILITIES, UNDER, UPON OR THROUGH THE DRAINAGE EASEMENT.

Figure 4: Clip from plat of Eastglen, Page 2, Storm Drainage Notes, emphasis added in yellow highlight. PDE's are explicitly excepted and the plat does not grant SNOCO or any third party rights for use, access. PDE's are reserved for exclusive use by the Eastglen HOA.

The MTCA bioretention swale design approved by Ken Crossman failed to identify that work was being permitted on land not owned by Fruhling or Northpoint; and to trespass on a 10-foot wide private drainage easement for construction access and to install a permanent Type A landscape buffer between the Eastglen homes and the MTCA groundwater treatment system without documentation of written authorization from the

Eastglen HOA. This design clearly benefits only Northpoint in two ways: 1.) Northpoint avoids the expense of landscaping; and 2.) increases the buildable land above the swale, at the expense of the Eastglen homeowners.

Figure 5 below is an annotated clip from drawing L-2 approved by Ken Crossman on August 24 under PFN: 21-109327-LDA. 2021 permitting construction work in the Eastglen Private Drainage Easement, without authorization from the Eastglen HOA.

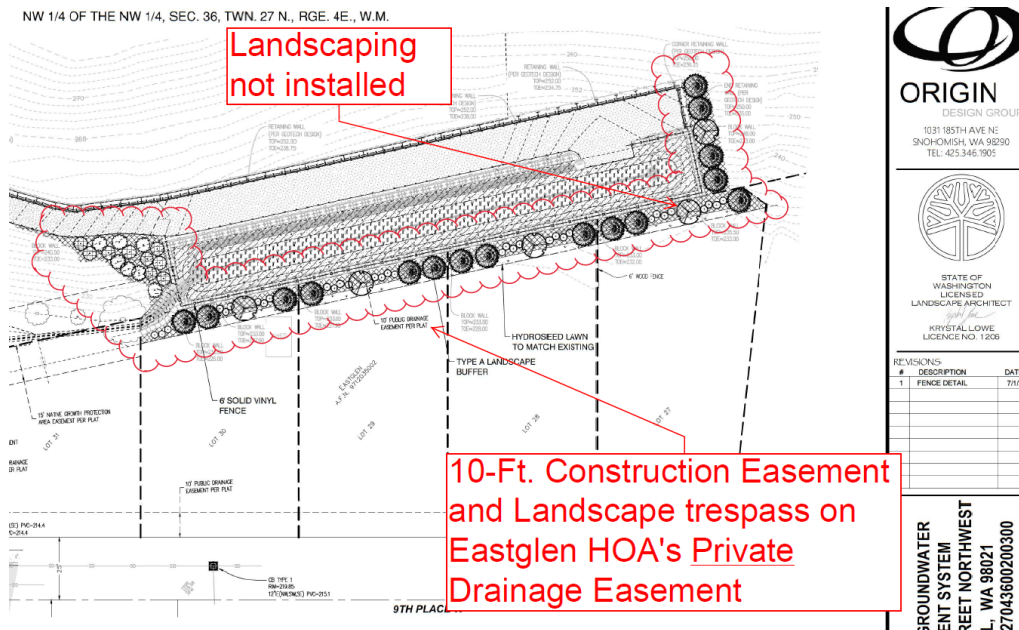


Figure 5: Annotated clip from Sheet L-2, sealed by Krystal Lowe, Fruhling Groundwater Treatment System, approved by Ken Crossman August 27, 2021 incorrectly calls out a public drainage easement, but is actually a private drainage easement (PDE) as designated on the Plat of Eastglen map. Snohomish County holds no rights to this PDE or to authorize its use by Northpoint to construct a landscape buffer in the PDE, without written approval by the Eastglen HOA.

Northpoint did construct the MTCA groundwater treatment facility inside the stream/wetland buffer as shown Sheet GR-03, sealed January 7, 2022 by Thomas Abbott, as shown in the annotated clip, Figure 6 below. This is a significant, unmitigated impact that has resulted in piecemealing the impacts from the Northpoint Apartments that must be addressed in a comprehensive project EIS. WAC 197-11-262 requires Snohomish County to issue a determination of significance because the MTCA remediation swale was constructed in the stream buffer, with no mitigation.

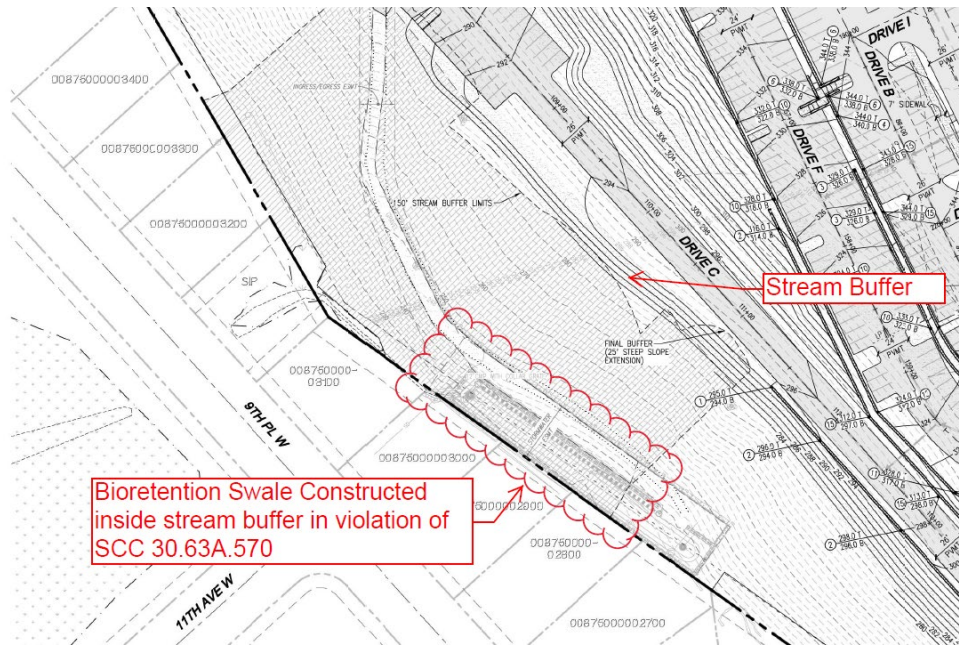


Figure 6: Annotated clip from Sheet GR-03, sealed January 7, 2022 showing the location of the groundwater remediation swale constructed in the stream buffer

The Type 1-A landscaping depicted in Figure 5 above was not installed. SCC 30.25.015(2) states:

“(2) No building permit shall be issued when landscaping is required until a landscaping plan has been submitted and approved by the department, if applicable. Landscaping plan requirements shall be defined by the department in a submittal requirements checklist, as authorized by SCC 30.70.030. The landscaping plan shall be prepared by a qualified landscape designer.”

And SCC 30.25.043(1) states:

“(1) All required landscaping shall be installed and a qualified landscape designer shall certify to the department that the installation complies with the code and the approved plans prior to issuance of a certificate of occupancy or final approval of the building permit.”

The Type 1A landscaping required by the approved landscape drawings was not installed in the Eastglen private drainage easement and PDS has not produced the required landscape certification letter to date. PDS is prohibited under County Code from issuing any building permits for Northpoint without completion of the approved landscape plan for the MTCA groundwater treatment system.

SCC 30.63B.130 states:

“(4) For any proposed cut, fill, rockery, or retaining wall within six inches of a site boundary line, a survey by a land surveyor licensed in Washington State shall be completed that ensures compliance with construction and land disturbing activity site plans prior to construction in the affected area.”

The bioswale retaining wall was designed on property boundary line, but there are no visible signs of survey capped rebar or property corners staked for the retaining wall

documenting that the retaining wall does not encroach into the Eastglen private drainage easement or the adjacent NGPA easement. A boundary line survey is required by County code to confirm that the retaining wall does not encroach into Eastglen's private drainage easement or the NGPA easement deeded by Fruhling under the Assessor's recording No. 9712030200. No boundary line survey was placed in the project file or shown on the Assessor's recorded records website. Under public records request K073269, PDS confirmed that it has no records that the retaining wall was ever surveyed.

Any water quality treatment facility, either surface or groundwater, must be constructed outside of stream and wetland buffers and long established NGPA's. The landscaping plan approved by Ken Crossman, PDS August 24, 2021 is now moot because it was never implemented and a revised landscape plan is now required.

To restore public confidence, Snohomish County PDS must demonstrate that it will enforce the County's codes for the benefit of the public and not for the benefit of out of state developers.

3. Harm to Crystal Creek Stream Buffer from Road Construction

The current design proposal calls for 11th Place West to be extended through the Critical Area Protection Area (CAPA), and within the 150-foot stream buffer, shown in Figure 7 below. Road construction in the stream buffer and CAPA are not allowed. Furthermore, there is no buffer width averaging proposed, nor is buffer width averaging possible in this location.

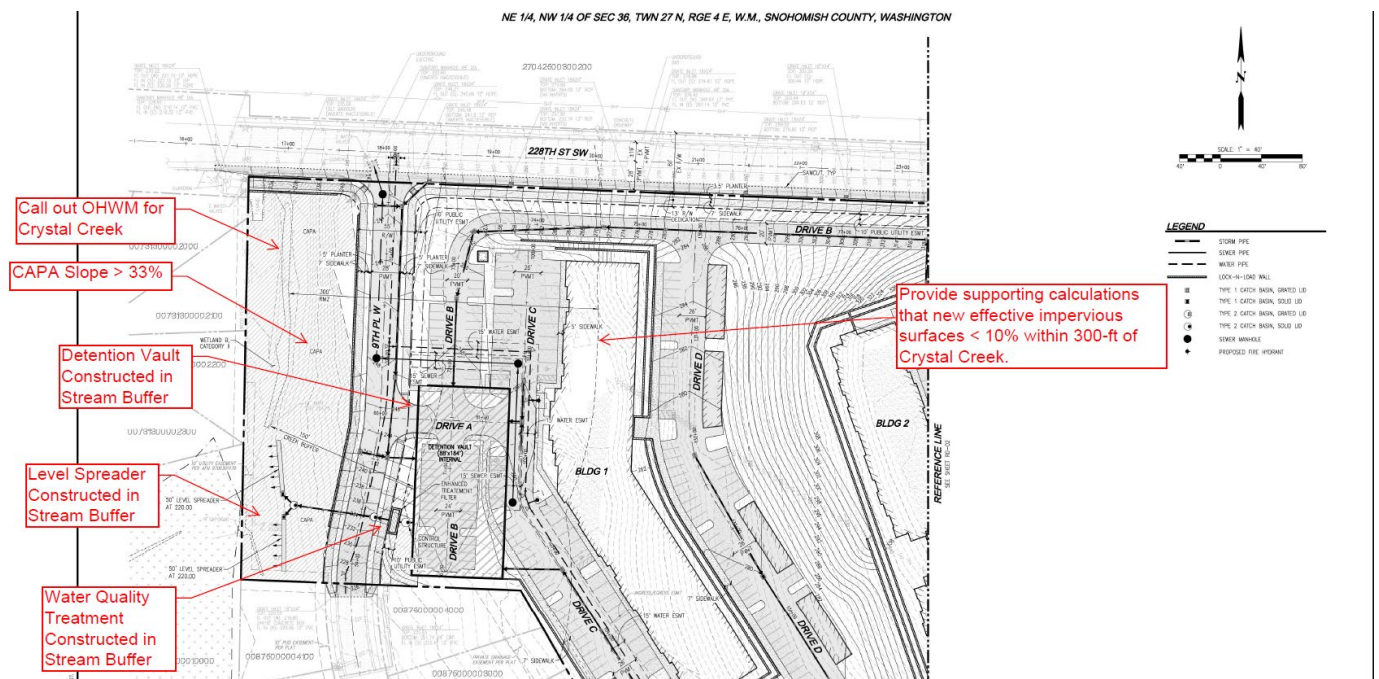


Figure 7: Annotated clip from drawing RD-01, sealed by Thomas Abbott, PE, January 27, 2022 for the NP 228th Apartments project and currently under review by PDS for final approval.

Specific comments are:

- Water quality treatment and portions of the stormwater detention vault are constructed within the 150-foot stream buffer. This is explicitly forbidden under the County Code and 2021 *Drainage Manual*. These structures must be re-designed such that they are not in the stream buffer.
- It is proposed that 11th Ave be extended north to 228th Street SW through the wetland and Crystal Creek stream buffers and Critical Area Protection Area (CAPA). This intensive use is not permitted under County Code in the 150-foot Type F stream buffer. No mitigation is proposed and this will create harm to federally listed threatened Chinook and other salmonid species reported in Crystal Creek.
- SCC 30.62A.320(1)(b)(ii) requires buffer widths on slopes 33 percent or greater to be extended an additional 25-feet beyond the standard buffer widths specified in SCC 20.62A. It appears that the CAPA slopes exceed the 33 percent minimum, and an additional 25-feet is required beyond the standard buffer widths.
- Under Volume I of the 2021 *Drainage Manual*, level spreaders are defined as:

“A temporary ESC device used to spread out stormwater runoff uniformly over the ground surface as sheet flow (i.e., not through channels). The purpose of level spreaders is to prevent concentrated, erosive flows from occurring, and to enhance infiltration.” (Emphasis added)

Here, Northpoint proposes to use a level spreader in a permanent stormwater application. Simply put, level spreaders quickly fail over time and are not reliable or maintainable to disperse stormwater flows. Stormwater will quickly concentrate in the path of least resistance and form a gully into Crystal Creek. Level spreaders are not permitted by Snohomish County for this type of stormwater dispersion.

- The Ordinary High Watermark (OHWM) is not called out on the drawings. All stream and wetland buffers must be dimensioned as flagged by a wetlands professional and surveyed by a licensed land surveyor. Revise and resubmit the drawings showing the OHWM; and all wetlands with their buffers.
- The drawings do not accurately depict the harm to the Crystal Creek buffer. The road will require sidecast soil into the buffer or a retaining wall on the steep slopes >33%. These impacts have not been addressed.
- The 150-foot stream buffer has been compromised by past non-conforming development on the Fruhling property and is a non-conforming use under the current code. As a condition for approval, Snohomish County must require the

150-foot stream buffer be fully restored and re-vegetated with native plantings to remedy past harm to Crystal Creek. No road construction can be permitted in the stream buffer, simply to facilitate permit issuance for the Northpoint apartments building permits.

4. Drainage Report

The following comments relate to the Drainage Report, sealed by Thomas Abbott, PE, July 15, 2022:

- Section 4.2 claims that the pre-developed condition is forested 22.04 acres. Modeling the pre-developed condition as forested is a requirement of the 2021 Drainage Manual for the proper application of the Western Washington Hydraulic Model (WWHM). The WWHM software is prescribed by the Department of Ecology for sizing stormwater flow control and water quality treatment facilities. However, the predeveloped condition was modeled as pasture, not forested, as shown in the Figure 8 below:

7/26/2022

228th St Apartments

22 102098 SPA

WWHM2012
PROJECT REPORT

Project Name: Detention Vault
Site Name:
Site Address:
City :
Report Date: 6/21/2022
Gage : Everett
Data Start : 1948/10/01
Data End : 2009/09/30
Precip Scale: 1.00
Version Date: 2021/08/18
Version : 4.2.18

Low Flow Threshold for POC 1 : 50 Percent of the 2 Year

High Flow Threshold for POC 1: 50 year

PREDEVELOPED LAND USE

Name : Onsite
Bypass: No

GroundWater: No

<u>Pervious Land Use</u>	<u>acre</u>
C, Pasture, Steep	22.04
Pervious Total	22.04
<u>Impervious Land Use</u>	<u>acre</u>
Impervious Total	0
Basin Total	22.04

Figure 8: Annotated clip from the Northpoint Apartments Drainage Report incorrectly modeling the predeveloped site as pasture rather than forested as required by code.

Pasture land has higher stormwater runoff volumes than the forested land; and by code, the pre-developed condition must be modeled as *forest*. By incorrectly modeling the predeveloped site as *pasture* rather than as *forest* for the pre-developed condition, the modeling makes it incorrectly appear that there is more runoff in the predeveloped site condition when the WWHM is run. This results in undersized stormwater detention and water quality facilities because smaller flow control facilities are required in the post developed condition to match the predeveloped stormwater runoff conditions. In turn, this incorrect modeling results in a significant cost savings to the developer by allowing construction of a smaller, substandard detention vault and water quality treatment system, at the expense of Crystal Creek and the downstream public. The incorrectly designed WWHM must be re-run and the stormwater flow control and water quality treatment facilities upsized to provide adequate stormwater treatment as required by code.

- Section 4.2 goes on to model the post-developed landscape condition as pasture, rather than landscaping. Again, this is an incorrect application of the WWHM as there are no grazing “pastures” or “meadows” proposed for the Northpoint development. The WWHM must be re-run using landscaping and not pasture as the post-developed condition for pervious surfaces, or lawn as appropriate.
- Section 4.6: New effective impervious surfaces cannot exceed 10% within the 300-foot Riparian Management Zone (RMZ) buffer of a fish bearing stream, such as Crystal Creek. It is claimed that only 0.24 acres of new effective impervious area will be added to the project, but there is no substantiation for this claim. A visual overview of the documents provided appears to show that the new effective impervious surface will be much greater than 10%. PDS must require calculations or quantity takeoffs to support this claim, prior to approval.
- As previously noted, the RMZ buffer width and stream buffer width must be increased by 25-feet due to the steepness (>33%) in the CAPA.
- Minimum Requirement 3, Source Control of Pollution is not met. Normally source controls are not an issue with residential developments; however, given the site’s history and documented release of dangerous waste arsenic to neighboring properties, source control must be addressed. The current, failed, MTCA groundwater bioretention swale does not function and there is currently no proposed source controls for the remainder of the site to prevent the off site release of arsenic and possibly other toxic and carcinogenic materials.
- There are two natural discharge locations at the site: one near the entrance to site and other near the failed MTCA groundwater bioretention swale. A survey is

required to show that the confluence of these two streams are less than ¼-mile apart to meet Minimum Requirement 4, Preservation of Natural Drainage Systems and Outfalls.

5. Traffic

The July 19, 2022, 6-page memorandum to David Irwin from Brad Lincoln responding to the Snohomish County's Transportation comments does not constitute a "Traffic Study" and no Traffic Study has been provided to me by Snohomish County for the Northpoint project.

SCC 30.63B.035 requires a traffic study when a development adds more than fifty-peak hour trips. The Northpoint project will likely generate 1,000 or more peak hour trips.

No traffic distribution analysis was provided as required by SCC 30.63B.035(5). Because no left turns will be permitted at lower 9th Avenue and 228th Street SW intersection, it can be anticipated that almost all north, south, and west bound traffic will use residential streets through the Eastglen neighborhood to access 14th Avenue W. Increased accidents can be anticipated as result of Northpoint residents speeding through neighbor either going or returning from work. These low volume residential streets shown if Figure 9 below are unsuited for the heavy traffic that Northpoint will generate and no connection should be allowed into the Eastglen neighborhood.

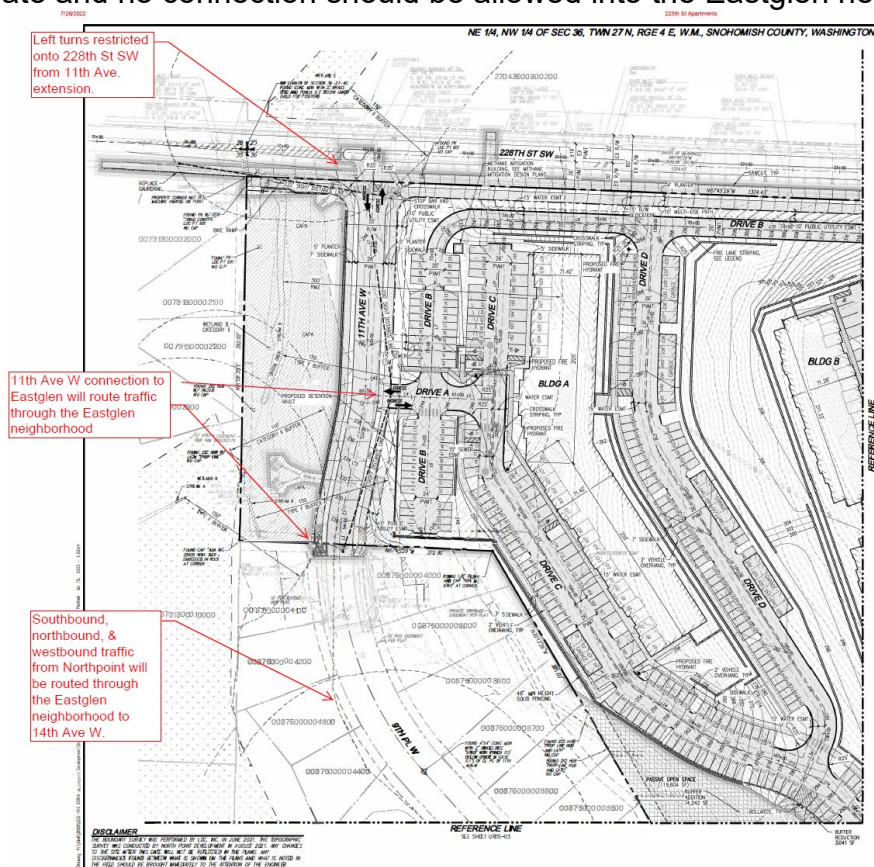


Figure 9 Annotated clip drawing URDS-01, sealed by Thomas Abbott, July 15, 2022 and currently under review by PDS. It can be anticipated that there will be a major traffic increase through the Eastglen neighborhood.

Impacts to the Canyon Park area have not been addressed for eastbound traffic. No Level of Service (LOS) calculations for pre-project and post-project traffic were provided for the WSDOT intersections at SR 527 and 228th Street SW; and the SR 527 and Interstate 405 interchange. Current traffic counts using current traffic data and not COVID-era data are required to analyze the LOS at these intersections. Developments impacting roads under the jurisdiction of the WSDOT, a city or another county, shall provide a traffic study to address impacts of the development, as may be required in an interlocal agreement pursuant to SCC 30.61.230(6) with the WSDOT, city or other county³.

Under no circumstances is it permissible to extend 14th Avenue W northwards to Cypress Way through wetlands and a priority habitat species (PHS) area wildlife corridor. Impacts to 14th Avenue West must addressed in a project EIS.

There is no transit service to this development. The nearest bus stop is half a mile away, and with bus service only once per hour. It is very unlikely that any residents will use transit at all, further increasing off-peak traffic as well as peak traffic volumes. There are no amenities such as shops, restaurants, or grocery stores within walking distance. Northpoint residents will be required to drive to these services further increasing traffic and air pollution problems. Lack of public transit is a fatal flaw in this project that prohibits its approval by PDS and Public Works without an EIS.

6. Air Pollution/Carbon Neutrality

Snohomish County and Washington State have policies to attempt to reach carbon neutrality within 10-years. California recently passed a law banning the sale of internal combustion engine cars by 2035; and Washington state has a similar law requiring it to follow California's lead. Northpoint will generate nearly one thousand vehicle parking spaces, with no provision for charging electrical vehicles. To help reach the goal of carbon neutrality, Northpoint should commit to provide at least one 50-amp, 125/250V, NEMA 14-50R, 3P, 4W, Straight Blade Receptacle, per dwelling unit in the parking lot. This will help encourage residents to purchase electrical vehicles, or plug-in hybrid vehicles.

The cost of installing one 50-amp receptacle vehicle charging station per dwelling unit, with ground-fault interruption circuit (GFIC) protection will be minimal to the overall cost of the project. In turn, residents can provide their own portable Level II charger to plug into the 50-amp receptacle or Northpoint could provide a hardwired Level II docking station. This will help reduce our dependence on imported fossil fuels, fight climate change, and reduce air pollution.

³ Reference SCC 30.63B.035(8)

7. Multiple Residential Zoning is Incorrect at this location

SCC 30.21.025.1.b.iii states:

“(iii) Multiple Residential (MR). The intent and function of the Multiple Residential zone is to provide for high-density development, including townhouses and multifamily structures generally near other high-intensity land uses;” (Emphasis Added)

There are no multifamily structures or similar high intensity uses near the Northpoint development, nor are there likely ever to be any multifamily structures constructed nearby. The area is surrounded by single family homes and numerous HOA's have expressed opposition to this project. Because this zoning does not comply with SCC 30.21.025.1.b.iii, an Environmental Impact Statement is required to address the lack of transit at the Northpoint Apartment complex.

8. Stream Diversion & Offsite Flow must be Addressed

Snohomish County's Drainage Inventory Online Mapping tool shows an untyped stream flowing from the FEMA Regional Center property to the east and joining the Crystal Creek tributary stream at the eastside of the Northpoint property. It appears that Fruhling's gravel mining and landfill operations may have diverted the untyped FEMA Center stream from the Crystal Creek tributary stream possibly draining to the south basin to the south or routing the flow in a suspected underground pipe as shown in Figure 10 below:

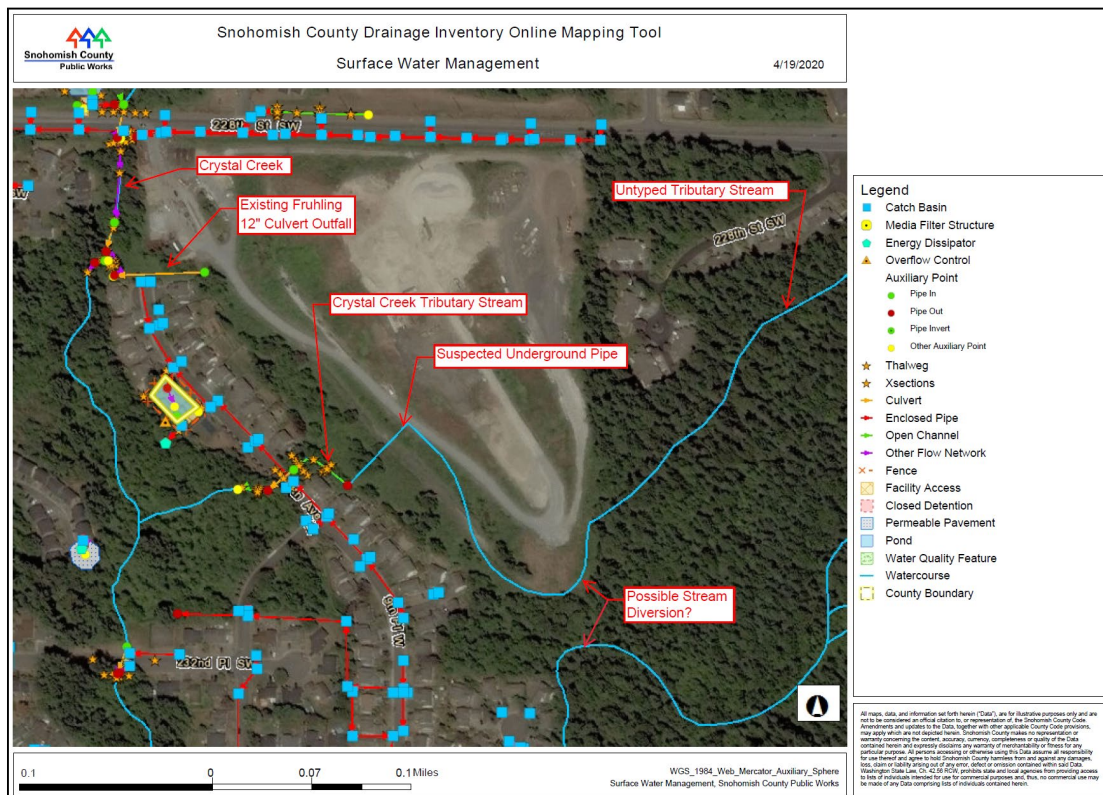


Figure 10: Annotated SNOCO Drainage Inventory Map showing the location of two existing Fruhling outfalls, suspected underground piping, and possible stream diversion that must be investigated as a part of an EIS.

In a March 21, 2022 inspection report, Ecology inspector Jay Fennel reported a possible third outfall to Crystal Creek:

“While returning to the facility to access the groundwater treatment swale, we observed water flowing down the western property hillside and into Crystal Creek. Hiking to near the top of the hillside confirmed that the water actively discharged from a pipe that originates somewhere within the facility (photos 8-9). When asked the location of the pipe's inlet, D. Fruhling replied that the location was unknown and that the facility was previously unaware that the pipe existed and that it had been actively discharging.”

Mr. Fennell's photographs 8 & 9 are shown in Figure 11 below:



Figure 11: Photos 8 & 9 from Jay Fennell's, Dept. of Ecology March 21, 2022 inspection report. The pipe size was not noted but appears to be either a 12" or 18" N-12 HDPE pipe, flowing at an estimated 1-cubic foot per second.

Mr. Fennell's photo appears to show either a 12-inch or 18-inch N-12 HDPE pipe and appears to be flowing approximately 1-cfs. This pipe was obviously installed relatively recently in the landfill by Fruhling. If Fruhling or Northpoint cannot identify the inlet to this pipe, then a TV camera should be run up the pipe to video inspect the pipe and determine its location origin. Underground utility locations methods can then be used to paint the pipe's location on the ground surface above using the TV camera cables.

Additional investigation is required to determine if there are any other buried or abandoned pipes in the landfill that could be transporting arsenic polluted groundwater to the Crystal Creek tributary stream. This pipe should then be shown on the drawings and additional treatment measures installed to reduce the total arsenic levels to below

0.018 µg/L. It does not appear that flow from the pipe identified by Mr. Fennell is being monitored for arsenic.

Conclusion

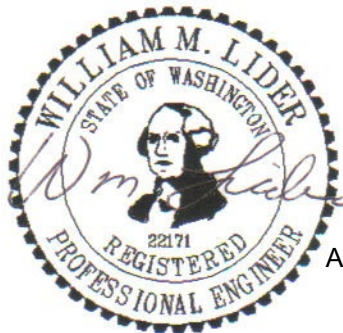
There is significant public opposition to this project in its current form. The Northpoint development has significant problems and unmitigated impacts that have not been addressed. Therefore, barring major revisions to the proposed design, Snohomish County must issue a Determination of Significance (DS) and require an Environmental Impact Statement under WAC 197-11, before approving any site plan for the Northpoint project.

It is wrong to allow such a large, high-volume apartment complex to be built in a residential area, with no transit service, on a dangerous waste site, without an EIS. Similar high-volume apartment complexes in Bothell or Lynnwood are being constructed near transit hubs with local amenities such as shops, restaurants, and grocery stores within walking distance.

Thank you for your consideration and response to these comments. I reserve the right to submit additional comments or augment my current comments as new information is provided.

Please notify me promptly of any decisions on the project or significant changes.

Respectfully submitted,
LIDER ENGINEERING, PLLC



August 25, 2022

William Lider, PE, CESCL
Principal Engineer

cc: SKWC Board of Directors
Kate Lunceford, League of Women Voters
Marjorie Fields, Sierra Club
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