



memorandum

date October 5, 2016

to Jim Harris and Stacey Welsh, City of Federal Way Department of Community Development

from Jessica Redman and Ilon Logan

subject Critical Areas Report and Conceptual Mitigation Plan Review: Preferred Freezer Services LLC

At the request of the City of Federal Way (City), Environmental Science Associates (ESA) reviewed wetland determinations and a conceptual mitigation plan prepared by Talasaea Consultants Inc. for the property at approximately 33663 Weyerhaeuser Way on the former Weyerhaeuser Company Campus in Federal Way, Washington. The 19-acre site is a combination of two parcels (King County Tax Parcel Numbers 6142600005 and 6142600200) currently owned by Federal Way Campus, LLC who is in the process of selling the parcels to Victory Unlimited Construction, LLC. The applicant, Preferred Freezer Services, LLC (through Victory Unlimited Construction, LLC) has submitted a proposal to the City to develop a 305,000-square-foot facility that will contain 230,000 square feet of freezer warehouse, offices and docks, and an additional 75,000 square feet for use by Orca Bay Seafoods, Inc. A site visit was performed by two ESA ecologists and one Talasaea ecologist on August 1st, 2016.

Site Background and Purpose of Review

In 1994, the Weyerhaeuser Company entered into a pre-annexation zoning agreement with the City, known as the Concomitant Agreement, to ensure that once annexed, the Weyerhaeuser Company Campus was developed “with maximum flexibility which will insure optimal development, while preserving the unique natural features of the site” (Weyerhaeuser Company Concomitant Pre-Annexation Zoning Agreement, 1994). The Concomitant Agreement has detailed zoning provisions for the property and states that any portions of the property classified as environmentally sensitive, including wetlands, are under the jurisdiction of, and shall comply with, Article XIV (Environmentally Sensitive Areas) of the 1994 Federal Way Code (FWC). The purpose of this review is to determine if the proposed project is in compliance with Concomitant Agreement and Chapter 22, Article XIV of the 1994 FWC.

Review of Documents

ESA reviewed the *Existing Conditions Report and Conceptual Mitigation Plan* (dated June 16, 2016 and hereinafter referred to as the Report) and the *Critical Areas Report Addendum – 1994 Federal Way Code* (dated August 8, 2016 and hereinafter referred to as the Addendum) prepared by Talasaea Consultants, Inc. The *Preferred Freezer Site Plan* dated June 16, 2016 prepared by ESM Consulting Engineers was also reviewed. According to the documents, eight wetlands were identified on or near proposed location of the Preferred Freezer Services Project (the Project). All eight wetlands were rated as Category III wetlands using the *Washington State Wetland Rating System for Western Washington – 2014 Update* (Ecology, 2014). The total area of the eight wetlands is 15,000 square-feet. Construction of the project will impact four of the wetlands (Wetlands EB, ED, EE, and EF) for a total of 7,831 SF as justified in the Addendum. According to the Concomitant Agreement, “development affecting wetlands which are individually smaller than 2,500 square feet and/or cumulatively smaller than 10,000 square feet in size in



any 20-acre section of property” is exempt from sensitive areas regulations. Therefore, the proposed impacts to the four wetlands are considered exempt by the City and no mitigation is required. (Note: although Wetland ED is greater than 2,500 square feet, it is exempt because cumulative Project impacts are less than 10,000 square feet).

Per the 1994 FWC (Section 22-1357), all regulated wetlands have a standard 100-foot buffer. The Addendum notes that the buffer width only applies to wetlands that are not exempt and the only non-impacted wetland that is not exempt is Wetland DR. The project proposes to impact approximately 18,464 square feet of wetland buffer around Wetland DR. At its narrowest point, the buffer for Wetland DR will be 17-feet wide. The applicant proposes approximately 19,200 square feet of buffer replacement and 49,802 square feet of buffer enhancement and restoration to mitigate for buffer impacts. The project will also maintain the 50-foot forested buffer along public roads, a requirement of the Concomitant Agreement.

At the Federal level, the Project is being evaluated by the U.S. Army Corps of Engineers (Corps) for consistency with Nationwide Permit 39 (Commercial and Institutional Developments). The applicant is proposing to address mitigation for impacts to wetlands through the King County In-Lieu (ILF) Program. A Credit-Debit analysis, using the *Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington* (Ecology, 2012) is included in the Report which resulted in an estimated 5.6724 credits needed to replace lost wetland functions.

Review Comments and Recommendations

Based on the site visit and document review for consistency with the City of Federal Way requirements and regulations, we have the following comments and recommendations:

- During the site visit, ESA staff investigated and agreed with the wetland delineation boundaries established by Talasaea.
- We reviewed the completed wetland rating forms and agree with the wetland classifications assigned by Talasaea.
- The application of the exemption provisions as presented in Table 1 and associated narrative in the Addendum (see page 4) need to be revised. The exemption in the Concomitant Agreement states that a maximum of 10,000 square feet of cumulative wetland area shall be exempt within any 20-acre section of property. Thus, the claim that six (6) of the eight (8) wetlands are exempt because they are each less than 2,500 square feet is inaccurate when considering the maximum amount allowed under the exemption. To remedy any confusion, we recommend Table 1 be revised to not include the right-hand column and to discuss the proposed use of the exemption in the narrative only. The narrative should specify the wetlands that will be filled, their individual size, and cumulative wetland area to be filled (which should be less than 10,000 square feet).
- Because the proposed project’s direct impacts to wetlands are considered to be exempt and do not require justification under the Concomitant Agreement, the justifications that the project meets the City’s criteria to justify a wetland impact are not warranted and could be removed from Section 3.1 (Wetland Impact Analysis) of the Addendum.
- The buffers of non-exempt wetlands (e.g., Wetland DR and DT) should be included on the Preferred Freezer Building Site Plan and all other plans associated with the proposed project such as grading plans, utility plans, landscape plans.



- The buffer of Wetland DR should not cross into the hardscape and is currently shown as overlapping Weyerhaeuser Way South. Because roadways adjacent to wetland buffers do not provide ecological buffer functions (i.e. hydrologic, water quality, and habitat functions) and no protection to the wetland, buffers are typically administered to the edge of an existing constructed roadway or built environment. The Report and Addendum figures should be updated if these changes are made.
- Because Wetland DT is not exempt (per the third bullet above), a buffer impact analysis should be performed for this wetland to ensure the project meets the criteria for land surface modifications within the buffer area, similar to the analysis provided for Wetland DR in Section 3.3 of the Addendum.
- According to the Concomitant Agreement (XII.G), one stipulation of buffer reduction is that “such adjustments may reduce the average setback up to 50 percent, provided the minimum setback is 50 feet from any proposed building” (note: the Concomitant Agreement and the 1994 FWC use the term “setback”, which we note is synonymous with the term buffer). We provide the following to comments regarding this stipulation:
 - 1) In addition to the area of buffer reduction, the total buffer area should be included on the Report and Addendum figures to ensure that the average setback is less than the allowed 50 percent of the total buffer area as required by the Concomitant Agreement. We are unable to evaluate whether the proposal meets this requirement based on the current information.
 - 2) The proposal includes reducing Wetland DR’s buffer to 17-feet to accommodate a parking lot. We believe this is inconsistent with the requirement stated above that the minimum buffer be 50 feet from any proposed building. Although a parking lot is not a building per se, we note that the overarching goal of the Concomitant Agreement is to preserve “the unique natural features of the site” and we interpret this to include any development that will negatively affect the ecological function of wetlands or their buffer. It is our opinion that a reduction of wetland buffer below 50 feet to accommodate a parking lot, building, or other built feature is inconsistent with the Agreement’s requirements for buffer averaging.
- According to Figure 8 of the Report and Figure 5 of the Addendum, the majority of the proposed buffer mitigation (enhancement and restoration) will occur within the required 50-foot forested buffer along Weyerhaeuser Way South, which is mandated by the Concomitant Agreement. Section IV.B of the Agreement states that “the property owner shall designate a qualified Forester whose responsibility shall be to maintain and preserve the buffer” and a “General Maintenance Plan” for the forested buffer would need to be approved by the Director. Because of these requirements, it appears that the buffer enhancement measures listed in the Report (including native plant installations and invasive species removal) would be required in this area (i.e., the 50-foot buffer) regardless of Project buffer impacts. Therefore, it is our opinion that converting portions of the mandatory forested buffer to an enhanced wetland buffer is not an acceptable mitigation strategy because the goals of the 50-foot forested buffer would already be addressed through implementation of the required General Maintenance Plan. In summary, the proposed buffer mitigation should occur outside of the required 50-foot forested buffer.



Specific to the Wetland Buffer Impact Analysis in Section 3.3 of the Addendum, we have the following comments on the justification provided for each of the land surface modification criteria in 1994 FWC Section 22-1359(d):

1. *It will not adversely affect water quality.*

We agree the proposed buffer reduction of Wetland DR would not affect water quality onsite. However, determining if the proposed routing of roof runoff to onsite wetlands (primarily Wetland DQ) will have an adverse effect on water quality is outside of ESA's expertise and scope of work.

2. *It will not destroy nor damage a significant habitat area.*

We cannot fully agree with this statement because the Report and Addendum did not provide an assessment of wildlife habitat and wildlife use of the site or an analysis of impacts to wildlife or habitat associated with the proposal. In addition, we disagree with the statement "almost 1/3 of the buffer occurs over existing roadways" as explained in Bullet 6 above.

3. *It will not adversely affect drainage or stormwater retention capabilities.*

Similar to our response to Criteria 1 above, it is outside ESA's expertise and scope of work to evaluate any stormwater management plans or perform an analysis of changes to on-site hydrology.

4. *It will not lead to unstable earth conditions nor create erosion hazards.*

Based on our understanding of the proposal and site topography, we agree the project will not create erosion hazards nor unstable earth conditions. A review of geological hazards is outside of ESA's expertise and scope of work.

5. *It will not be materially detrimental to any other property in the area of the subject property not to the city as a whole, including the loss of significant open space or scenic vista.*

We agree the project will not be detrimental to any other property in the subject area primarily because the area is largely undeveloped. We also agree that though project will result in a loss of existing forest, this area is private property and not designated as open space.

6. *It is necessary for reasonable development of the subject property.*

Based on conversations with City staff, justification regarding "reasonable development of the subject property" shall be a policy decision for the City to administer.

Lastly, we reviewed the proposed approach to mitigation of wetland impacts provided in the Report (Sections 7 and 8), which is required to satisfy state and federal regulations for wetland impacts. Based on a cursory review of the Credit/Debit analysis and calculations, we noticed that the "Concurrent" temporal loss factor was used when calculating the losses in functions, or Debits. It is our experience that calculations must be made using the "Delayed" temporal loss factor when mitigating via the King County ILF Program. We note that this would substantially alter the number of credits to be purchased if this change was made.



Preferred Freezer Services LLC
Wetland and Conceptual Mitigation Plan Review DRAFT
October 2016

Sincerely,

ESA

A handwritten signature in blue ink that reads "Ilon E. Longan". The signature is fluid and cursive, with the first name "Ilon" and the last name "Longan" clearly legible.

Ilon Longan

A handwritten signature in blue ink that reads "Jessica Redman". The signature is fluid and cursive, with the first name "Jessica" and the last name "Redman" clearly legible.

Jessica Redman