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November 9, 2018

Stacey Welsh
Federal Way City Hall
33325 8th Avenue South
Federal Way, Washington 98003

Via Email:
Stacey.Welsh@
cityoffederalway.com

Re: MDNS for Greenline Building "A" Development (File No. 16-102948-SE)

Dear Ms. Welsh:

This office represents Save Weyerhaeuser Campus (SWC), a Washington nonprofit corporation organized and existing to protect and preserve the community and natural values of the Weyerhaeuser Campus and adjacent areas. SWC has been active over the past several years in providing comment on proposals by Industrial Realty Group (IRG) to develop three projects on the former Weyerhaeuser Campus.

On October 26, 2018, the Federal Way SEPA Responsible Official issued a Mitigated Determination of Nonsignificance (MDNS) for the Greenline Warehouse A, a 225,950 square foot general commodity warehouse with 287 parking spaces on a 15.46 acre parcel. The proponent is Federal Way Campus LLC. The comment period for this proposal ends on November 9, 2018.

This letter constitutes SWC's comments on the Warehouse A proposal. In summary, the MDNS was issued in error for two reasons. First, the city should have defined the scope of this threshold determination to be the entirety of the IRG proposals on the former Weyerhaeuser Campus, including Greenline Warehouse "B" (File No. 17-104236-UP) and the Greenline Business Park (File No. 17-105491). These overall proposals clearly would have significant adverse impacts. Secondly, the impacts of Warehouse "A" alone create a reasonable likelihood of more than a moderate adverse impact on environmental quality. In either case, the currently issued MDNS should be withdrawn and scoping should begin for preparation of a full environmental impact statement.

This comment letter incorporates the comments provided by SWC on the Greenline Business Park proposal on May 29, 2018, which are attached hereto (see Attachment

A) and incorporated by this reference. In that letter, SWC indicated that the Greenline Business Park and Warehouses “A” and “B” should be consolidated for land use and environmental review.

STANDARDS FOR ISSUANCE OF A THRESHOLD DETERMINATION.

Under the SEPA rules the city must determine whether a proposal “is likely to have a probable significant adverse environmental impact.” WAC 197-11- 330(1)(b). A single significant impact is enough to warrant an EIS, but also “(c) Several marginal impacts when considered together may result in a significant adverse impact;” . . . *Id.* at 330(3)(c). Here there are several impacts that must be considered, including historic impacts as outlined by letters from King County, the State of Washington Department of Archaeology & Historic Preservation (DAHP) and other agencies and individuals. SWC has read these letters, agrees with them and incorporates them by reference herein.

CUMULATIVE IMPACTS.

The Greenline Business Park has been under consideration for almost a year. On November 14, 2017, IRG submitted multiple documents to the city as a part of the Greenline Business Park application. Included were the following:

- A full Process IV site plan with 18 pages of detailed project drawings for the proposal.
- Facade drawings showing design details of glazing and exterior materials.
- A parking analysis for the building.
- A geotechnical report
- A critical areas report and conceptual mitigation plan
- A trip generation analysis
- A completed environmental checklist.
- Preliminary Technical Information Report Analyzing stormwater impacts.

According to the Environmental Checklist, the Business Park proposal would cover 32 acres with impervious surfaces (including a total of 1,466 parking stalls) and about 900 people would work at the completed project. Some additional materials for the project were submitted to the City in late March, 2018, which included a visual impact, air quality and noise report. No additional project drawings were provided.

As noted in our May 29 letter, the Warehouse “A” and “B” and Greenline Business Park projects should be combined for review. Comments herein supplement that letter.

Correspondence from the City on the Warehouse “A” MDNS has contended that Warehouse “B” and the Greenline Business Park are complex projects that may take

additional time for review, thus environmental review under SEPA cannot take place at this time. The City's position reflects a fundamental misunderstanding of the law.

Under WAC 197-11-055, two obligations are created for local government. First, under Subsection 1:

The SEPA process shall be integrated with agency activities at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to seek to resolve potential problems.

(Emphasis supplied). This obligates the local government to assure that SEPA becomes a part of local decision making. Second, under Subsection 2:

(2) Timing of review of proposals. The lead agency shall prepare its threshold determination and environmental impact statement (EIS), if required, at the earliest possible point in the planning and decision-making process, when the principal features of a proposal and its environmental impacts can be reasonably identified.

(a) A proposal exists when an agency is presented with an application or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the environmental effects can be meaningfully evaluated.

(Emphasis supplied). Under WAC 197-11-310(2):

(2) The responsible official of the lead agency shall make the threshold determination, which shall be made as close as possible to the time an agency has developed or is presented with a proposal (WAC 197-11-784). If the lead agency is a GMA county/city, that agency must meet the timing requirements in subsection (6) of this section.

(Emphasis supplied). WAC 197-11-784 provides that: "A proposal exists at that stage in the development of an action when an agency is presented with an application . . ." Note that the use of the word "shall" in WAC 197-11-310(2) is mandatory, but the City has not issued a threshold determination for the Greenline Business Park, despite having detailed project plans and environmental reports for approximately a year. The City's failure to act violates its obligation to issue a threshold determination "as close in time as possible to the time an agency . . . is presented with a proposal", placing itself in violation of this clause.

The City apparently takes the position that a threshold determination should be issued only late in the process after complete, thorough review of the application. However, that is not consistent with the SEPA rules cited above. We suspect that City staff engages in negotiation with applicants, including IRG, concerning conditions of

threshold determinations. Not only does that process eliminate public review of threshold determinations, it makes the comment period on a DNS or MDNS a meaningless exercise because agreements may have already been reached with the applicant and public comments are likely to be ignored.

The time for the city to issue a threshold determination for the Greenline Business Park project has long since passed. Abundant detail is available for that project and the applicant long ago submitted environmental documents for review. As indicated in our May 29 letter, combined review of the three IRG projects is mandated by SEPA and the SEPA rules.

The City and the Applicant are not permitted to hold SEPA review hostage to their advantage to prevent combined review of clearly integrated projects. The divide and conquer strategy is wholly out of place in these proceedings. An environmental impact statement is required for these projects and the MDNS should be withdrawn.

TRAFFIC IMPACTS ARE SIGNIFICANT.

The MDNS substantially ignores the significant impacts of new traffic on the local streets and on SR 18 and I-5.

The head-in-the-sand approach of the City is contrary to law and ignores impacts outside the City's jurisdiction. While the MDNS provides for some mitigation to city streets, it does not address at all state highways that will be impacted, except to acknowledge the obvious, that "I-5 southbound congestion routinely occurs between SR 18 and South 320th interchange." However, no mitigation is even suggested for these impacts, other than to say that trucks from Warehouse "A" could utilize the South 320th Street /SR-5 interchange. Local residents and business owners are seriously impacted by this congestion on state highways, but this impact is ignored by the City.

The traffic projected from the currently proposed developments, as drawn from the existing trip generation reports, is as follows:

Total for Warehouses A/B only:

- All vehicles -- 1,948
- Trucks -- 390
- AM peak -- 255 vehicles, 51 trucks
- PM peak -- 197 vehicles, 39 trucks

Greenline Business Park

- All vehicles -- 3,217
- Trucks -- 418
- AM and PM peak -- 427 vehicles, 56 trucks
- Saturday peak -- 320 vehicles, 42 trucks

Total for all developments (Warehouses A, B, Greenline):

All vehicles -- 5,165
Trucks -- 808
AM peak hour -- 682 vehicles, 107 trucks
PM peak hour -- 624 vehicles, 95 trucks

The addition of 5,165 trips per day to the existing street system must be considered significant.

Nor can the City ignore comments by the Washington Department of Transportation made to the City in February, 2017, on these issues. That letter, from Ramin Pazooki, Assistant Regional Administrator for WSDOT, is attached (Attachment B). His letter points out that the two access points for the IRG proposals, Weyerhaeuser Way/SR 18 and S. 320th/I-5, both “currently operate under severe congestion, particularly during the P.M. peak period, but with the growing economy and increasing traffic volumes we anticipate a spread of the peak period congestion.” He also notes that the “close proximity” of the SR 18/Weyerhaeuser Way interchange to the I-5/SR 18 interchange means the roadway “has significant capacity constraints with minimal weaving opportunity.” Mr. Pazooki also notes that the ramp signals at WSDOT interchanges are managed to limit the risk to “mainline I-5 and SR 18 thus putting more demand on the City’s street network.” In conclusion, he notes that state projects to address the congestion identified are not funded.

COMPLIANCE WITH TRANSPORTATION CONCURRENCY MANAGEMENT PROGRAM IN FWCC CHAPTER 19.90.

In addition, it appears that the City has ignored compliance with its own ordinances. The City has adopted its “Transportation Concurrency Management” system in FWCC chapter 19.90. This chapter implements the transportation concurrency provisions of the Federal Way comprehensive plan . The principal implementing mechanism of concurrency management is the Capacity Reserve Certificate or “CRC.” A development permit applicant that generates any net new trips in the peak hour requires a CRC. FWCC 19.90.120. As applicable here, a CRC application must consider cumulative impacts:

(2) For the purposes of this chapter, application for a development permit shall include consideration of the cumulative impacts of all development permit applications for contiguous properties that are owned or under the control of the same owner, when one or more development permits would be issued within two years of the date of issuance of a development permit for such contiguous property.

FWCC 19.90.120. As applied here, the applicant for the Warehouse A project is also the owner of two other contiguous properties which currently are the subject of development permit applications, as discussed in our May 29, 2018 letter attached (Attachment A). Given the length of time the two applications have been pending, it appears these permits would be issued within two years.

As indicated above, each of these applications “shall include consideration of the cumulative impacts of all development permit applications.” As seen by the charts above, the total traffic impact from these uses is huge. However, the development application for the Warehouse A project does not include consideration of the cumulative impacts of the Warehouse B or Greenline Business application. Accordingly, the Warehouse A application is incomplete and insufficient and must be returned to the applicant for compliance with FWCC 19.90.120(2). Without an application that is compliant with the Code, no threshold determination under SEPA can be issued and the current MDNS should be withdrawn.

We understand that city staff takes the position that the requirements of FWCC 19.90.120(2) are met because the City issued a CRC for the Preferred Freezer/Orca Bay Seafood proposal under City File No. 16-102866-CN on July 16, 2016. That project was described in the July 16, 2016 CRC as: “Corporate HQ with Manufacturing/Processing.” That CRC has a specific limitation that reads as follows:

This CAPACITY RESERVE CERTIFICATE is valid only for the specific development approval consistent with development parameters and the City file number contained with this certificate. If the development is changed, expired, cancelled or withdrawn, it will be subjected to reevaluation for concurrency purposes.

Under “Terms of the Capacity Reserve Certificate,” the 2016 CRC states:

This CAPACITY RESERVE CERTIFICATE is valid until the underlying development permit expires, is withdrawn or cancelled, whichever occurs first.

This limitation tracks with FWCC 19.90.100 that provides that the CRC is only valid “until the development permit expires, is withdrawn, or is cancelled, whichever occurs first.”

In fact, the Preferred Freezer/Orca Bay project was withdrawn in 2016. As the MDNS indicates, the new project is “Greenline Warehouse “A” which is described as a “general commodity warehouse” with a brand new Federal Way file number, 16-102948-S.E.

Based on the foregoing, the prior CRC is no longer valid. Accordingly, any development application is subject to FWCC 19.90.120(2), and consideration of the

“cumulative impacts” of both the Warehouse B and Greenline Business Park applications is required.

Further, consistency with Chapter 19.90 as resolving transportation and traffic issues does not resolve all traffic congestion issues. FWCC 19.90.190(2) states as follows:

(2) Concurrency determinations provide for mitigation only for vehicle capacity issues during the weekday evening peak hour. Mitigation of transportation impacts outside of vehicle capacity issues during the weekday evening peak hour shall be addressed through other review processes (in city code, land use permit conditions, or SEPA). This analysis may be prepared either by the applicant or the city at the applicant’s expense.

In the Transportation Concurrency Management code, the “Peak Hour” is extremely limited:

“*Peak hour*” means the highest volume of traffic for a continuous hour between 4:00 p.m. and 6:00 p.m. on weekdays.

FWCC 19.90.010 “Definitions.” Accordingly, the scope of CRC mitigation is limited to a single evening hour during weekdays. However, it is well known that traffic congestion extends well beyond the one hour referenced in the code; indeed, WSDOT mentions the extension of severe traffic congestion to multiple hours during the afternoon peak. Traffic congestion is also a weekend issue. More importantly, the CRC does not consider any congestion during the morning peak traffic time. It is incumbent on the city to consider adverse traffic and transportation impacts during the extended afternoon peak hours, weekend hours and the morning peak hours. The City offers no mitigation for these serious impacts, which affect persons both inside and outside the city.

CITY RECOGNITION OF SERIOUS TRAFFIC PROBLEMS.

We also note that the City itself objected to a proposal of the King County Solid Waste Division (KCSWD) for a transfer station at the north corner of I-5 and S. 320th Street in a letter written to the King County Executive on October 3, 2012, more than six years ago. A copy of that letter is attached hereto as Attachment C. The letter indicated that “the S. 320th corridor is a commonly-used diversion route when SR 18 backs up due to congestion on I-5” and “during these times, westbound traffic on S. 320th becomes a solid backup from 23rd Avenue S to Peasley Canyon Road.” The letter indicates that this congestion “also causes traffic back-ups on the freeway off-ramps onto the mainline of I-5, resulting in a significant safety concern.” The letter also stated the City had additional concerns “about resident safety” due to the additional traffic from the transfer station. The transfer station’s traffic analysis projected that 12 new net P.M. peak hour project trips would be generated by the transfer station. As you can see

from the foregoing charts, the traffic from the IRG proposals dwarfs the traffic impacts from the proposed transfer station. This information certainly indicates the need for a full environmental impact statement.

In the present case, environmental review of the Greenline Business Park should have begun some time ago and a threshold determination is well overdue. As described above, substantial detail has been known about the Greenline Business Park for at least a year, including detailed project plans, traffic analysis, critical area reports and similar reports and studies. I also attach the report from Ross Tilghman, an expert transportation planner that addresses other serious deficiencies in the transportation analysis. See Attachment D.

STORMWATER AND DRAINAGE ISSUES.

The proposal, together with the other applications, will have significant impacts related to stormwater on Hylebos Creek and other resources downstream of the proposals. A basin plan has been developed by King County for this drainage, entitled the "Hylebos Creek and Lower Puget Sound Current and Future Conditions Report", adopted in 1994. See <https://your.kingcounty.gov/dnrp/library/1991/kcr773.pdf> Because of the sensitive nature of the Hylebos Basin, special treatment is required under the current stormwater manual. The conditions and modifications are outlined in the chart attached to that report. Plainly the addition of this large amount of stormwater requires careful environmental review in a full environmental impact statement.

MDNS DOES NOT PROVIDE EFFECTIVE MITIGATION.

The City has issued a MDNS, listing what is labeled as a "Summary" of Mitigation Measures. None of the supposed mitigation measures call out or identify any changes in the project itself. Conditions 2 and 5 are related to construction impacts, but they do not impact the build itself.

Condition 4 indicates that if the building use "includes cold storage, processing or manufacturing, "then the current Air Quality Report (March, 2018) must be revised." However, the proposal, as stated on the MDNS, is for a "general commodity warehouse." Condition 4 seems to state that the applicant can change the use of the building and still retain the MDNS. Indeed, this condition is suspiciously similar to the Preferred Freezer project that was withdrawn in 2016, which included "cold storage, processing or manufacturing" uses. The City cannot allow the project to change uses in mid review, but retain this MDNS. The City should require that the use of the building be what is stated on the MDNS itself.

We are unclear what process the City used in determining to issue the MDNS. Was there a notice to the applicant that a determination of significance was likely, as described in WAC 197-11-350(2)? Did the applicant make any changes in the proposal

so that an MDNS could be issued? It appears that no changes were made in the proposal and this should be stated in the MDNS.

Condition 8 references the conditions related to roadway surface and depth due to possibly heavy truck use and road reconstruction. Amazingly, there is no discussion of or mitigation to the traveling public or neighborhood residents of the huge volume of traffic anticipated from these projects. There is also no condition related to possible limitation of truck or other vehicular traffic, such as by directing such traffic to different routes or limiting hours of use. It appears that the City has misapprehended its ability to mitigate impacts. The MDNS should be rescinded and conditions related to actual traffic volumes be included, or because of the massive volume of traffic anticipated from these projects, an environmental impact statement should be prepared.

CONCLUSION.

The MDNS on Warehouse A has been issued in error. It should be withdrawn, a determination of significance issued and scoping initiated for an environmental impact statement. As noted in this comment, a fundamental error of the Responsible Official is the failure to consider the cumulative impacts of the three projects for which applications have been pending for more than a year. In addition, the City has failed to properly consider the massive volume of traffic from the site, and the adverse downstream impacts of the large amount of stormwater coming from this property.

Sincerely,

ARAMBURU & EUSTIS, LLP

A handwritten signature in black ink, appearing to read "Richard Aramburu". The signature is written in a cursive, flowing style.

J. Richard Aramburu

JRA:cc

cc: Clients