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BEFORE THE HEARING EXAMINER
FOR THE CITY OF FEDERAL WAY, WASHINGTON

In Re:

Appeal by Save Weyerhaeuser Campus
of the Mitigated Determination of
Nonsignificance
for Greenline Warehouse "A" (File
Number 16-102948-S.E.), and
associated and related projects,
Greenline Business Park
Application (file 17-105491) and
Greenline Warehouse "B" (File
Number 17-104236-UP)

No.

NOTICE OF APPEAL OF
Greenline Warehouse "A"
Process III Project Approval --
February 4, 2019
City File 16-102947-UP

Comes now Save Weyerhaeuser Campus and appeals the decision described
herein pursuant to FWRC 19.65.120.

1. IDENTITY OF APPELLANT.

The appellant herein is Save Weyerhaeuser Campus, a Washington nonprofit
corporation (SWC) organized and existing to protect and preserve the community and
natural values of the Weyerhaeuser Campus. SWC is represented in this matter by J.
Richard Aramburu of the Law Offices of J. Richard Aramburu, PLLC, located at 720 3rd
Avenue, Suite 2000, Seattle, Washington 98104, Telephone (206) 625-9515, Facsimile
(206) 682-1376, email Rick@Aramburu-Eustis.com. SWC has submitted multiple
comments on the Warehouse "A" project and other projects within the Weyerhaeuser
campus and has standing under FWRC 19.65.120.

1 **2. DECISION BEING APPEALED.**

2 SWC appeals the Process III Project Approval issued by the City on February 4,
3 2019. A copy of that decision is attached and is referenced here as “the Decision.”

4 **3. STATEMENT OF ALLEGED ERRORS.**

5 The 2019 Process III decision is in error for the following reasons.

6 **3.1** City staff erred in applying code regulations that applied on August 23,
7 1994. Decision, Paragraph 36.b. page 22.

8 The Director erred in making Finding 2. The City Staff applied these twenty-five
9 year old standards by erroneously determining that the Concomitant Zoning Agreement
10 (CZA) controls development on the subject property. City staff should apply current
11 code provisions to the application for the following reasons:

12 **3.1.1** Washington law prohibits a City Council that adopted zoning
13 regulations in 1994 from binding a successor City Council. See Paragraph 18 of the
14 CZA. See also *Miller v. City of Port Angeles*, 38 Wa.App. 904 (1984)

15 **3.1.2** RCW 35A.14.330 requires that any preannexation agreement
16 contain the “time interval” that the ordinance may remain in effect before it may be
17 amended, supplemented or modified by a subsequent ordinance. The City claims that
18 the effect of CZA is indefinite and binding on all future councils forever.

19 **3.1.3** GMA requires periodic review of zoning and critical area ordinances
20 under RCW 36.70A.130, including public participation. However, because the City has
21 erroneously considered the CZA as binding on them indefinitely, the City has failed to
22 engage in periodic review of the code provisions related to the CP-1 zone in which the
23 proposal is located.

24 **3.1.4** RCW 36.70A.172 requires that cities include “Best Available
25 Science” (BAS) in developing policies and development regulations “to protect the
26 functions and values of critical areas.” The City has not applied the BAS to the review
27 of the Warehouse “A” proposal.

1 **3.2** The City failed to consider the cumulative impacts of the other applications
2 pending for development in the CP-1 zone found in the CZA, including Warehouse “B”
3 and the “Greenline Business Park,” which are being proposed by the same applicant.

4 **3.3** The proposal, singularly, and when considered cumulatively with Warehouse
5 “B” and the Greenline Business Park, violates Conclusion of law 2(C) in Ordinance 94-
6 219 that: “The character of the Subject Property will be preserved under the
7 Concomitant Agreements” because of the extent and impacts of the proposals, and
8 violates Conclusion 2(B) because “unusual environmental features of the site will not be
9 preserved, maintained and incorporated into the design to benefit the community. . .”.

10 **3.4** The proposal, singularly and when considered cumulatively with Warehouse
11 “B” and the Greenline Business Park, violates Recital C of the CZA at page two
12 because it, or they, will not preserve the “unique natural features of the site.”
13 Conclusion of Law 2(C).

14 **3.4a** By reviewing the proposal based on critical area and other regulations
15 applicable in 1994 when the CZA was adopted, the Director violated the requirement
16 that Federal Way use “Best Available Science” to protect critical area and
17 environmental values.

18 **3.5** Pursuant to FWRC 19.65.100(2)(a)(i), the proposal, singularly and when
19 considered cumulatively with Warehouse “B” and the Greenline Business Park, is not
20 consistent with the Federal Way Comprehensive Plan and Finding 36.a in the Decision
21 is in error for the following reasons:

22 **3.5.1** The plan does not limit growth outside the City center to areas that
23 are already urbanized. Chapter II, page II-2.

24 **3.5.2** The proposal does not protect environmentally sensitive areas,
25 including North Lake, on-site wetlands, and the Hylebos watershed. *Id.* The proposal
26 fails to consider the de-watering of wetlands and interruption of ground water recharge
27 on downstream resources, including East Hylebos Creek. *Id.*

1 **3.5.3** The proposal does not retain open space, enhance recreational
2 opportunities, conserve fish and wildlife habitat, increase access to natural resource
3 lands and water and develop parks of recreational facilities. *Id.*

4 **3.5.4** The proposal does not protect and enhance the state of
5 Washington’s high quality of life, including air and water quality and the availability of
6 water, due to the project development and extent, as well as adverse impacts from
7 large amounts of vehicle and truck traffic. *Id.*

8 **3.5.5** The proposal does not “identify and encourage the preservation of
9 lands, sites and structures that have historical significance.” *Id.*

10 **3.5.6** The proposal does not “create an attractive, welcoming and
11 functional built environment.” Chapter II, page II-8. The proposal creates a large
12 warehouse structure in a sensitive area in a residential community.

13 **3.5.7** The proposal does not “use development standards and design
14 guidelines to maintain neighborhood character and ensure compatibility with
15 surrounding uses.” *Id.*

16 **3.5.8** The proposal does not “preserve and protect Federal Way’s single
17 family neighbors.” Chapter II, page II-11.

18 **3.5.9** The proposal does not “protect residential areas from impacts of
19 adjacent non-residential uses.” *Id.*

20 **3.5.10** The proposal does not require “development to be compatible and
21 well integrated into its surrounds and adjacent zone through site and building design
22 and development standards that reduce or eliminate land use conflicts, ensure project
23 aesthetics and improve vehicular and pedestrian traffic flow and safety. Chapter II,
24 page II-14.

25 **3.5.11** The proposal violates Comprehensive Plan Goal LUG 8 because
26 the proposal does not “create office and corporate park development that is known
27 regionally, nationally and internationally for its design and function.”

1 **3.5.12** The proposal violates Policy LUP 49 because the proposal will not
2 “encourage quality development that will compliment existing uses.”

3 **3.6** Pursuant to FWRC 19.65.100(2)(a)(ii), the proposal, singularly and when
4 considered cumulatively with Warehouse “B” and the Greenline Business Park, is not
5 consistent with all applicable provisions of the Federal Way codes for the following
6 reasons:

7 **3.6.1** The Director did not apply provisions of the current code because he
8 erroneously believed the CZA was binding on the City indefinitely.

9 **3.6.2** The proposal does not meet the standard of “superior quality” that is
10 imposed by the CZA.

11 **3.6.3** The proposal does not “preserve the unique features of the site” as
12 required by the CZA.

13 **3.6.4** The proposal does not meet the standard in the CZA to require
14 development to be “characterized by large contiguous sites with landscape, open space
15 amenities and buildings of superior quality.”

16 **3.6.5** The proposal does not meet the standards of the current stormwater
17 design manual because the applicant has not prepared a complete downstream
18 analysis to consider impacts to streams and wetlands, including North Lake and the
19 several branches of Hylebos Creek.

20 **3.6.6** The proposal does not consider or analyze impacts to drainage,
21 including that the discharge of drainage water is not at the natural locations and not at
22 the same volume as under preexisting conditions.

23 **3.6.7** The proposal does not consider adverse impacts to groundwater
24 and downstream resources caused by the interruption of groundwater infiltration due to
25 the construction of large impervious surfaces, including the elimination of storage of
26 stormwater in current wetlands on site.

27 **3.6.8** The proposal does not provide for the collection and treatment of
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1 surface water and removal of pollutants, including petroleum products, from surfaces
2 used by vehicles and trucks.

3 **3.6.9** The proposal does not meet the criteria in the CZA (Section XI, A.2)
4 that “alterations to existing landscaping in connection with new development shall
5 match or be compatible with existing vegetation.”

6 **3.6.10** The proposal will not have a “beneficial impact upon the
7 community” as required by Section 2(A) of Ordinance 94-219.

8 **3.6.11** The proposal will not meet the standards of Section 2(a) of
9 Ordinance 94-219 that development on the site “will not be detrimental to existing or
10 potential surrounding land uses as defined by the Comprehensive Plan.”

11 **3.6.12** The hydrological model used to size stormwater detention ponds
12 overestimates existing peak flows from the site and underestimates the volume of
13 required stormwater detention.

14 **3.6.13** The areas of Warehouse A and B should be considered a single
15 project on a single site for purposes of compliance with the applicable stormwater
16 manual.

17 **3.7** Pursuant to FWRC 19.65.100(2)(a)(iii), the proposal singularly, and when
18 considered cumulatively with Warehouse “B” and the Greenline Business Park, is not
19 consistent with the public health, safety, and welfare, for the following reasons:

20 **3.7.1** The Director did not apply principals of “Best Available Science” to
21 his decision as required by RCW 36.70A.172.

22 **3.7.2** The proposal will create truck and freight traffic, and associated
23 construction (Condition of Approval 29) that will create dangerous circumstances to
24 pedestrians, bicyclists and local traffic as well as impacts to water quality from runoff
25 from roads impacted by project traffic.

26 **3.7.3** The Director did not consult with other organizations in making his
27 determination, including impacted tribes and WRIA 10 organizations in downstream
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1 areas.

2 **3.7.4** The proposal does not meet the standards of current Federal Way
3 codes as set forth in Paragraph 3.6 above.

4 **3.7.5** The proposal did not consider or comply with executive basin
5 plans for the Hylebos Watershed, including, but not limited to the Pierce County
6 Hylebos Watershed Plan, the Earth Corps Hylebos Watershed Plan and the King
7 County East Hylebos Watershed Plan.

8 **3.7.6** The City has not taken action to remediate or mitigate for physical
9 actions taken on the site by the current property owner that have changed the hydraulic
10 regime of the site.

11 **3.7.7** The City has authorized and approved the elimination of smaller
12 wetlands and their buffers.

13 **3.7.8** The City did not require site specific testing of the Warehouse A or
14 other portions of the site for levels of arsenic that may exceed established standards.

15 **3.8** Pursuant to FWRC 19.65.100(2)(a)(iv), the streets and utilities in the area of
16 the subject proposal singularly, as well as when including the cumulative impacts from
17 Warehouse "B" and the Greenline Business Park, are not adequate to serve the
18 anticipated demand from the proposal for the following reasons:

19 **3.8.1** The streets in the vicinity of the project, including Weyerhaeuser
20 Way and other local streets, and on and off ramps from State Route 18, are insufficient
21 and inadequate to accommodate the impacts from Warehouse A.

22 **3.8.2** The streets in the vicinity of the project, including Weyerhaeuser
23 Way and other local streets, and on and off ramps from State Route 18, are not
24 sufficient and are not adequate to accommodate the impacts from the several projects
25 currently proposed by the Applicant, including Warehouse A.

26 **3.8.3** The Traffic Impact Assessment fails to provide analysis of all known
27 or proposed projects in the vicinity of the project that may contribute traffic to the same
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1 streets or highways as the subject proposal.

2 **3.8.4** The street reconstruction described in Condition 29 will create a de-
3 facto reclassification of Weyerhaeuser Way South as a truck route, inconsistent with
4 the Federal Way Comprehensive Plan.

5 **3.9** Pursuant to FWRC 19.65.100(2)(a)(v), the access to the subject property is
6 not at the optimal location and configuration.

7 **3.10** Pursuant to FWRC 19.65.100(2)(a)(vi), the traffic safety impacts for all
8 modes of transportation, both on and off site, are not adequately mitigated.

9 **3.10.1** The proposal, including mitigation, does not mitigate for the traffic
10 safety impacts on local streets from project traffic, including large trucks.

11 **3.10.2** The proposal will create truck and freight traffic that will create
12 dangerous circumstances to pedestrians, bicyclists and local traffic using the adjacent
13 streets.

14 **3.11** Identification of specific disputed factual findings and conclusions of the
15 director. The following Findings are disputed in part or in full: 1, 2, 4, 6 (Second and
16 Third Paragraphs), 7, 8, 9, 10, 11, 13, 14, 15, 16, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29,
17 30, 32, 35, 36, 37 and Conclusion.

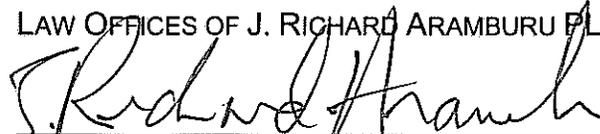
18 **3.12** Included for review by the Hearing Examiner is the SEPA appeal of the
19 11/30/18 Modified MDNS filed on November 30, 2018.

20 **4. CONCLUSION.**

21 The Hearing Examiner is requested to consider the cumulative impacts of the
22 three IRG proposals and to deny the Warehouse A proposal as currently configured.

23 Respectfully submitted this 21st day of February, 2019.

24 LAW OFFICES OF J. RICHARD ARAMBURU PLLC

25 

26 J. Richard Aramburu, WSBA #466
27 Attorney for Save Weyerhaeuser Campus