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DEPARTMENT OF COMMUNITY PLANNING

STAFF REPORT

TO: Board of Clark County Councilors

FROM: Oliver Orjiako, Director

DATE: March 1, 2016

SUBJECT: Public Hearing; SEPA appeal on the designation of a rural industrial land bank (RILB)

BACKGROUND

The purpose of the hearing is for the Board to consider an appeal on the addendum prepared as part of the SEPA process for a rural industrial land bank (RILB). The county received an application for a RILB in February 2014, and has been addressing the GMA requirements that must be met, which include a programmatic level of environmental review. Pursuant to CCC Section 40.570.080(D)(2)(b)(2), appeals of an EIS ‘...shall be decided by the board in conjunction with its decision on the underlying recommendation’. The underlying recommendation in this case is the designation of a RILB.

CCC Section 40.570.080.D.3 requires that the County prepare a record for any appeal including findings and conclusions, testimony under oath and a taped or written transcript. The Board of County Councilors will hold hearings on the proposal and would create the record for the appeal. This document provides a staff report and responses to the appeal comments to be considered by the Board of County Councilors and would be part of the record. Per Section 40.570.080.D.4, “[t]he procedural determination by the county’s responsible official shall carry substantial weight in any appeal proceeding.”

PROGRAMMATIC LEVEL OF ENVIRONMENTAL REVIEW

RCW 36.70A.367(2)(b) requires that ‘the environmental review for amendment of the comprehensive plan must be at the programmatic level...’ and must include an inventory of developable land and ‘an analysis of the availability of alternative sites within urban growth areas and the long-term annexation feasibility of sites outside urban growth areas.’ Further, the State Environmental Policy Act allows agencies to use existing environmental documents. WAC 197-11-600(2) states that “an agency may use

environmental documents that have previously been prepared in order to evaluate proposed actions, alternatives, or environmental impacts. The proposals may be the same as, or different than, those analyzed in the existing documents.”

Alternative sites were chosen based on three factors: 1) generally-accepted industrial site criteria; 2) Clark County Comprehensive Plan policies and Title 40 provisions; and 3) whether the site was included in the EIS on the 2007 Comprehensive Plan update. The 2007 EIS considered a range of natural and built environment topics addressing the cumulative effects of the subject Sites 1-4 becoming urban and changing to employment uses along with other urban and rural growth proposals. Accordingly, the environmental impacts of the subject proposal are covered by the range of alternatives and impacts analyzed in the existing environmental documents (WAC 197-11-600(3(b)(ii))).

Building on the 2007 EIS already completed, an addendum (as allowed by WAC 197-11-600(4)(c)) was prepared that provides the programmatic level environmental review. An addendum may add analyses or information about the proposal, but does not substantially change the analysis of significant impacts and alternatives in the existing environmental document where the subject properties had been evaluated for conversion to industrial or employment uses. As stated above, four sites in addition to the docket site were chosen for further study (Addendum Part 1 Inventory, page 15). The environmental review is included in Addendum Parts 2 and 3 (appendices). Most of the work was done on identifying the environmental effects of developing the docket site, but all the sites were analyzed for industrial site suitability, critical areas, and agricultural viability.

SEPA PROCESS AND APPEAL

The county, on October 7, 2015, published a Notice of Determination of Significance with the addendum to the EIS that contains the alternative sites analysis, the master planning process, and the development regulations. There was a 14-day comment period, even though a comment period for addenda is not required by the WAC.

A SEPA appeal on the addendum was filed on November 4, 2015. The appeal was submitted via email from James Hunter, and is attached. Mr. Hunter states that:

“The boundaries of the Review and Addendum's study area are inadequate. They fail to include consideration of impacts of the proposal on Agricultural Resource lands and other actively farmed parcels to the north of the docket site. It also fails to address the impacts of the proposal on commercial berry growing operations in the study area and in the omitted area to the north of the docket site. These concerns are discussed in my comments on the addendum submitted to the Community Planning Department.”

RESPONSE TO APPEAL

The County analyzed more than 3,100 acres of land in the docket site (Site 1) and abutting parcels designated as agricultural lands of long-term commercial significance.

The analysis acknowledges that if the Site 1 were designated as RILB, the County would lose some designated agricultural land in larger parcel sizes. The potential sharing of equipment by the Lagler dairy and other farms is added to the De-Designation Analysis in Section 4.0 of the 'Responses to Comments' document.

Caneberries are important to the County agriculturally, though the market value of fruits/tree nuts/berries declined from 2007 to 2012 from \$9.9 million to \$6.8 million based on the 2012 Census of Agriculture. Given that smaller farms have become more prevalent in the County, the high value of berry crops may continue to be attractive for producers.

It should be noted that the WAC 365-190-050(5) criterion references supporting agricultural businesses countywide, such as processors, farm suppliers, and equipment maintenance and repair facilities:

(5) When applying the criteria in subsection (3)(c) of this section, the process should result in designating an amount of agricultural resource lands sufficient to maintain and enhance the economic viability of the agricultural industry in the county over the long term; and to retain supporting agricultural businesses, such as processors, farm suppliers, and equipment maintenance and repair facilities.

The County will continue to allow agriculture in all zones including the proposed IL-RILB overlay. Supporting processing plants, equipment maintenance, and other facilities may locate in the IL-RILB overlay where it is applied.

Findings

The 2007 EIS on the Comprehensive Plan addressed the Docket site and alternative sites for industrial and employment uses. The 2007 EIS was not challenged and remains valid.

On October 7, 2015, Clark County issued a Determination of Significance and Adoption of Existing Environmental Document, and provided an Addendum, in accordance with State Environmental Policy Act (SEPA) rules (WAC 197-11-600 and WAC 197-11-630). The County voluntarily included a comment period of 14 days from October 7 to October 21, 2015, whereas SEPA rules do not require it.

An addendum (as allowed by WAC 197-11-600(4)(c)) was prepared that provides the programmatic level environmental review. An addendum may add analyses or information about the proposal, but does not substantially change the analysis of significant impacts and alternatives in the existing environmental document where the subject properties had been evaluated for conversion to industrial or employment uses

The County also included an appeal period following the comment period from October 21 to November 4, 2015 consistent with CCC 40.570.080.D.2.b(2). During the appeal period, one appeal was filed.

The County's RILB record shows an area-wide analysis was conducted for the de-designation analysis of over 3,100 acres. In addition, the responses to SEPA comments provide clarifications to the de-designation analysis to respond to appellant comments. No changes to overall conclusions of the Addendum were made.

The Board of County Councilors is holding a hearing on the appeal to provide for recorded testimony.

Per CCC 40.570.080.D.4, "[t]he procedural determination by the county's responsible official shall carry substantial weight in any appeal proceeding."

Conclusions

The County SEPA determination and associated notices and addendum together with the clarifications and corrections in the SEPA responses to comments provide adequate analysis of the docket application.

From: [Cnty Board of County Councilors General Delivery](#)
To: [Euler, Gordon](#)
Cc: [Wiser, Sonja](#)
Subject: SEPA appeal - please advise.
Date: Tuesday, November 03, 2015 2:28:44 PM

Gordy,
Do you deal with this type of issue?
Please advise.
Linnea

From: huntersgreens@spiritone.com [<mailto:huntersgreens@spiritone.com>]
Sent: Tuesday, November 03, 2015 5:53 AM
To: Cnty Board of County Councilors General Delivery; Mielke, Tom; Madore, David; Stewart, Jeanne
Subject: Write your Councilor

First Name: James
Last Name: Hunter
Phone: 360 256-3788
Email: huntersgreens@spiritone.com
Address: 11116 N.E. 156th St
City: Brush Prairie
State: WA
Subject: SEPA Appeal of RILB Addendum to GMP FEIS
Message: I Wish to appeal the adequacy of the Clark County Rural Industrial Land Bank Programmatic Environmental Review pursuant to RCW 36.70A.367 (2)(b), and Addendum to the Clark Comprehensive Growth Management Plan Final Environmental Impact Statement May 4, 2007.

The boundaries of the Review and Addendum's study area are inadequate. They fail to include consideration of impacts of the proposal on Agricultural Resource lands and other actively farmed parcels to the north of the docket site. It also fails to address the impacts of the proposal on commercial berry growing operations in the study area and in the omitted area to the north of the docket site. These concerns are discussed in my comments on the addendum submitted to the Community Planning Department.

Thank you for your consideration.