



Peter J. Eglick
eglick@ewlaw.net

May 10, 2017

*Via Email (dhanber@co.pierce.wa.us)
and Facsimile ((253) 798-7425)
and U.S. Mail*

Dennis Hanberg
Director & SEPA Responsible Official
Pierce County Planning & Public Works
2401 S. 35th Street, Room 2
Tacoma, WA 98409

Re: City of Puyallup Comments on Pierce County's April 26, 2017 Mitigated Determination of Nonsignificance (MDNS) for the proposed Knutson Farms Industrial Park Project ID # 469640

Dear Mr. Hanberg:

This letter provides comments by the City of Puyallup on Pierce County's April 26, 2017 SEPA MDNS for the proposed Knutson Farms Industrial Park.¹ The City has separately given notice of its assumption of SEPA lead agency status for this proposal per WAC 197-11-948. The City submits these comments nonetheless as precautionary and in the hope that the County will withdraw the MDNS and issue a DS for the proposal.

This letter incorporates all comments previously submitted by the City, its counsel (Eglick & Whited), and its third party experts (e.g., Transportation Solutions, Inc.) concerning the Knutson Farms proposal. *See Buck v. City of Shoreline*, No. 66423-9-I, 2012 Wash. App. LEXIS 789 (Ct. App. Apr. 2, 2012). The City also incorporates comments submitted by other parties, including, but not limited to, the Muckleshoot Indian Tribe, the City of Sumner, the Department of Fish and Wildlife, and the Department of Ecology. Attached to this letter is a short list of some of the comments that are incorporated as part of the record basis for these comments.

Introduction:

Rather than resolving significant adverse environmental impacts, the MDNS moves the proposal forward without actually mitigating its impacts. This might be overlooked for a project of modest

¹ The City of Puyallup reserves all rights with regard to the County's failure to provide timely access to complete, current short plat plans and related items. Only incomplete and/or outdated plans were made available until the day of issuance of the MDNS despite repeated requests by the City. See, e.g. 4/14/2017 Marcia Lucero email.

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scope. However, the proposal here involves almost three million square feet of warehouse development, acre upon acre of new impervious surfaces, as well as traffic impacts, including nearly 6,000 daily trips (if the underestimate by the applicant is credited) that will massively and adversely impact City of Puyallup streets and those who use them. The proposal for a site barely within the County will depend exclusively on the City of Puyallup's road network. Yet the "conditions" in the MDNS offer no effective, cognizable mitigation, particularly for the City and its citizens. The proposal also depends upon manipulation of the shoreline and floodway in an area of critical habitat, ignoring mapping, plans and Code provisions that are intended to discourage if not prohibit such actions.

The following summarize some of the MDNS' shortcomings with respect to specific unmitigated adverse impacts many of which, as noted, have already been described in prior comments:

Significant Adverse Impacts on Puyallup Traffic and Roads:

All traffic to and from the site will be routed through City streets. The applicant's Transportation Impact Analysis (TIA) states that there will be nearly 6,000 daily vehicle trips, including truck trips, to and from the site once it is fully operating. This quantity of trips alone, with many of them heavy truck trips, would have significant adverse impacts on the City's transportation system. However, before the City of Puyallup becomes the financier and developer of a "freight mobility network" over several miles of City of Puyallup streets for the benefit of a Pierce County economic development project, the City is entitled to have this massive project's significant adverse impacts fully acknowledged and mitigated.

Yet, as explained in the March 10, 2017 letter from Puyallup City Engineer Mark Palmer to County Development Engineer Jeff Kidston, the TIA relied upon by the MDNS understates the number of trips associated with the proposal, and consequently understates impacts. Further, it focuses chiefly on impacts related to intersection interactions rather than other more systemic impacts that will be felt as acutely by the City's streets and residents.

Even if the TIA trip counts were realistic, the MDNS mitigation conditions are not "reasonable and capable of being accomplished" and therefore do not provide effective mitigation. *See* RCW 43.21C.060. They place the burden on the City to take actions to accommodate the impacts of the development regardless of whether those accommodations themselves have adverse impacts on the City road network and its citizens. They contemplate that the applicant will contribute to the City disproportionately small sums toward big ticket improvements, necessitated by the proposal, to City roads and intersections, resulting in illusory rather than effective mitigation.

For example, one MDNS "mitigation" condition states: "To mitigate impacts to queues on Shaw Road East between 12th Avenue SE and 23rd Avenue SE, the applicant shall contribute \$600,000 to the City of Puyallup to help fund the City of Puyallup's planned capital project to widen Shaw Road East prior to the final building inspection on the first building." However, widening of Shaw Road East is a multimillion dollar project that is not currently funded. If and when it is funded, it will not be completed for many years. Allowing the applicant's proposal to

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proceed based on an arbitrary \$600,000.00 contribution provides no mitigation and represents the kind of ad hoc approach that SEPA is intended to avoid.

Similarly, the MDNS condition for \$500,000 “to help fund a new traffic signal at the intersection of 5th Avenue NE and East Main Avenue” falls short of proportional share and actual cost to construct a traffic signal and associated improvements.

The MDNS also fails to identify and address particular adverse traffic impacts, such as the disproportionate impacts to City road pavement sections designed for much lighter traffic than that caused by the kind of heavy truck traffic characteristic of and idiosyncratic to the proposed use. Nor does it meaningfully address impacts to traffic on arterial roads that lead to and from the project, such as on Shaw Road from 12th Avenue to 23rd Avenue SE.

Significant Adverse Impacts on Water, Plants, and Animals:

Development in this environmentally sensitive area would negatively impact the habitat of various threatened and endangered species, including Chinook salmon and steelhead trout.

As acknowledged by the SEPA Checklist, the site has been classified as an “environmentally sensitive” area. Most of the property lies within or near what the Pierce County Code (PCC) defines as the Puyallup River floodway and channel migration zone (CMZ); the property also contains at least four distinct wetlands. Many of the proposed warehouses are apparently, impermissibly within the CMZ as defined by adopted County mapping and plans. The obvious presence of at least one wetland (“D”) on the proposal site has been ignored by the applicant and the County in assessing impacts and regulatory requirements. Ditches and watercourses on and serving the site, including those potentially associated with wetlands, have not been disclosed and impacts associated with them have been ignored.

The MDNS is apparently based on acceptance of the proposal’s plan to redirect all stormwater to an outfall and into the Puyallup River without infiltration or cognizable treatment. The obvious impacts of directing such a substantial quantity of water into the Puyallup River, on water quality, habitat, and affected species is not addressed at all by the MDNS. The MDNS does not address significant adverse impacts from “starvation” of wetlands in the floodplain, thereby reducing wildlife habitat; physical and chemical impacts to salmon and other species resulting from the outfall; and potential river degradation due to run-off as well as contaminants and spills from the warehouse area (occurrences that can be associated with such uses) make their way with stormwater to the River.

Conflict with Land and Shoreline Use Codes:

The MDNS does not address the incongruity or impacts of this proposal for industrial development within or adjacent to the shoreline Conservancy Environment. The proposed warehouses also appear to be within the Puyallup River CMZ in conflict with applicable plans

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and codes. *See, e.g.*, PCC 18E.70.020; PCC 18E.70.040. The significant adverse impacts arising from these proposal aspects are also not addressed or mitigated.

The MDNS further relies on inaccurate wetland characterization, delineation, and location, and is thereby in conflict with applicable plans and codes without acknowledging resulting impacts.

The MDNS also does not address impacts on longstanding adopted plans for connecting the Riverwalk Trail to the Foothills Trail through the Knutson Farms site. Conditions to eliminate such impacts are not included in the MDNS. See Pierce County Code Ch.18E.70.

Conclusion:

This proposal is not for a discrete modest warehouse. Due to its massive size, ultra-sensitive location, and intense impacts, this project is a game changer. Preparation of an EIS that addresses impacts, alternatives, as well as timing, funding, and efficacy of mitigation should have already occurred.

Instead, the MDNS transgresses two key principles: first, that consideration and mitigation of significant adverse impacts do not stop at the permitting agency's borders; second, that it is both shortsighted and impermissible to paper over significant impacts on critical environmental resources for the sake of economic development.

Therefore, in light of the County's MDNS, the application record, and apparent County bias against full environmental review for this massive project, the City of Puyallup has assumed SEPA lead agency status and issued a Determination of Significance requiring preparation of an Environmental Impact Statement.

Sincerely,

EGLICK & WHITED PLLC



Peter J. Eglick
Outside Counsel for City of Puyallup

Attachment

cc: Marci Lucero (via email)
Client

Comments Sent by City of Puyallup:

12/31/2014	City of Puyallup Comments	Link
10/27/2015	Comment Letter from City of Puyallup	Link
12/02/2015	Traffic Scoping Email from City of Puyallup (Attached to TIA memo at link)	Link
06/22/2016	Comments from City of Puyallup	Submitted via facsimile and email to D. Hanberg on 6/22/16. Copy attached
07/15/2016	TSI Comment Letter	Link
07/18/2016	City Puyallup Attorney Comment Letter (with TSI 7/15 comment letter)	Link
09/02/2016	City of Puyallup Letter and Resolution	Link (Letter) Link (Resolution)
09/02/2016	Comments from City of Puyallup Public Works	Link
09/07/2016	Comment Letter from City of Puyallup (transmitting TSI 8/26 comments)	Link
10/21/2016	City of Puyallup Attorney Comment Letter which also included TSI Letter (October 20, 2016)	Link
10/24/2016	City of Puyallup Comment Letter from City Development Services Director	Link
10/27/2016	City of Puyallup Comments	Link
11/07/2016	City of Puyallup Comments	Link (transmittal email) Link (letter)
11/22/2016	Comments from City of Puyallup	Link
12/30/2016	Comments from City of Puyallup	Link
03/10/2017	Request for EIS from City of Puyallup	Link
03/10/2017	Comments City of Puyallup Engineering Dept.	Link
03/17/2017	Comments from City of Puyallup	Link

Comments Sent by Others:

01/02/2015	City of Summer Comments	Link
02/02/2015	Dept. of Fish & Wildlife Comments	Link
02/02/2015	Dept. of Commerce Comments	Link
02/05/2015	Puyallup Tribe of Indians Comments	Link
11/24/2015	City of Summer Traffic Scoping Comments	Link
05/17/2016	List of comments from various citizens (39 pages)	Link
05/23/2016	Comments from Dept. of Fish & Wildlife	Link
05/26/2016	Comments from Muckleshoot Indian Tribe	Link
07/06/2016	Comments from Puyallup Watershed Initiative	Link
07/15/2016	Comment Letter from Parks & Recreation	Link
07/18/2016	Comments from Dept. of Ecology (labeled as "Approval" on Pierce Co. website)	Link
07/18/2016	Comments from City of Summer	Link
07/18/2016	Comments from H. Straub	Link
07/18/2016	Comments from Hubbard	Link
07/28/2016	Comments from D. Christianson	Link
08/16/2016	Comments from Pierce Co. Public Works	Link
08/22/2016	Comments from James Clinton	Link
08/30/2016	Comments from James Clinton	Link
08/31/2016	Comments from Rails to Trails	Link
10/11/2016	Comments from Sue Casillas	Link
10/14/2016	Comments from Dept. of Fish & Wildlife	Link
10/20/2016	Comments from City of Summer	Link
10/24/2016	Comments from Muckleshoot Indian Tribe	Link
10/24/2016	Dept. of Ecology Comment Letter	Link
10/24/2016	Comments from Michael Holbert	Link
12/10/2016	Citizen Petition from Protect Puyallup	Link ("emails") Link ("petition language") Change.org Petition (petition)

02/23/2017	Comments from City of Summer	Link
05/01/2017	Comments from R. Heselrine	Link
05/01/2017	Comments from R. Vaidyanathan	Link
05/02/2017	Comments from K. Grace	Link

Fred Schmidt

From: Fred Schmidt
Sent: Wednesday, June 22, 2016 2:09 PM
To: dhanber@co.pierce.wa.us
Subject: Application No. 792206; Environmental Impact Statement and Substantial Development Permit for proposed
Attachments: Letter to Hanberg 062216.pdf

Good afternoon,

Attached please find Peter Eglick's letter to you of today's date regarding the above application.

Thank you,



Fred Schmidt
Paralegal
Eglick & Whited PLLC
1000 Second Avenue, Suite 3130
Seattle, WA 98104
206.441.1069

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Peter J. Eglick
eglick@ewlaw.net

June 22, 2016

*Via Email (dhanber@co.pierce.wa.us)
and Facsimile (253) 798-7425)*

Dennis Hanberg
Director
Pierce County Planning & Land Services
2401 S. 35th Street, Suite #2
Tacoma, WA 98409

Re: Environmental Impact Statement and Substantial Development Permit for proposed
Knutson Farms Industrial Park; Application No. 792206

Dear Mr. Hanberg:

This office is outside land use counsel for the City of Puyallup with regard to the proposed Knutson Farms Industrial Park (KFIP) project. The City has diligently sought to participate in review of the proposal, including through earlier comments. Now that a new notice for a revised application has issued, the City submits these initial responsive comments to ensure that County review of the proposal adheres to SEPA and SMA requirements in terms of both scope and substance.

The City submits these comments because it is already clear from the application materials available that the City and environment would be adversely impacted by the proposed development. It would place an enlarged outfall, several million square feet of active warehouse use, thousands of vehicle (including car and heavy truck) trips, and acres of parking on a site immediately adjacent to the City and the Puyallup River and within the River's floodplain. If completed, KFIP would disrupt and alter a "Conservancy" designated shoreline and floodplain.¹ This is proposed despite the adjacent riverfront trail and park use and despite the fact that the proposal would overburden traffic routes on which the City and its residents rely in their daily lives.

In light of these impacts², it is apparent that preparation of an Environmental Impact Statement (EIS) must commence now. An EIS is further required to ensure that the full scope of the project is reviewed on an integrated basis. That integrated review is required under the SMA which applies to all shorelines and shorelands of the state, as well as lands adjacent to shorelines and

¹ The project SEPA Checklist accepted by the County as its own calls out the shoreline "Conservancy" designation; however, the SMA SDP application refers to an "urban shoreline environment".

² Additional impacts are noted in the May 26, 2016 Muckleshoot Indian Tribe letter; these are incorporated here by reference.

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shorelands. Shorelands include wetlands as well as floodways and contiguous floodplain areas landward 200 feet from such floodways. RCW 90.58.030(2)(e). Based on project maps, as well as the March 3, 2016 Critical Areas and ESA Assessment and Conceptual Floodplain Restoration Plan site map, in addition to the shoreline contact, most of the KFIP project is within the Puyallup River floodplain or wetlands. And much of the rest of the project--if not all of the rest--is shown within 200 feet of the floodplain.

As a result, review of a substantial development permit for the project must encompass the entire project. As the Shorelines Hearings Board held in *Laccinole v. City of Bellevue*, SHB No. 03-025 (Conclusion of Law XLVII) (2004):

It makes no sense, under the language and policies of the act, to conclude regulation of a development under a shoreline permit, stops arbitrarily at that point where the integrated development leaves the shoreline. Thus, the Board has continuously ruled where buildings or structures, which constitute substantial development straddle the shorelines; those buildings or structures are subject to the regulations and policies of the SMA, through the permit system.

See Merkel v. Port of Brownsville, 8 Wn. App. 844, 509 P.2d 390 (1973); *Preserve Our Islands v. King County*, SHB No. 04-009 (2004).

Because the project's impacts will fall heavily on the City and its citizens, the City proposes that the County agree to City participation as "co-lead agency" with the County in preparation of an EIS for this proposal. See WAC 197-11-944. Regardless of whether the County agrees to this approach, the City will do what is necessary to ensure that full SEPA and SMA review is carried out and to protect its interests and those of its citizens in the River, the environment, and a viable transportation infrastructure. In that participant capacity the City again requests advance, direct notice as a vitally interested jurisdiction of any and all submissions, comment periods, and deadlines concerning the proposal. Meanwhile, the City reserves the right to submit additional comments as application review progresses.

Sincerely,

EGLICK & WHITED PLLC



Peter J. Eglick

cc: Planning and Land Services
Current Planning, Suite 175
2401 South 35th Street
Tacoma, WA 98409

Client

1000 Second Avenue, Suite 3130 Seattle, Washington 98104

telephone 206.441.1069 • www.cwlaw.net • facsimile 206.441.1089

TX Result Report

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FAX COVER SHEET

1000 Second Avenue, Suite 3130
 Seattle, Washington 98104
 Telephone: (206) 441-1069
 Facsimile: (206) 441-1089

Date: June 22, 2016

Send To:	Company	Fax	Telephone
Dennis Hanberg Director	Pierce Co. Planning & Land Services	(253) 798-7425	

Sender: Do you want receiving party to confirm receipt? No
 Receiving Party: Call to Confirm Receipt: No

FROM Peter J. Eglick

Client/Matter: Proposed Knutson Farms Industrial Park; Application No. 792206

Number of Pages (Including cover sheet): 3

Hard Copy to Follow: Copy also sent via email.

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