CITY OF MONROE EAST MONROE APPEAL DOCUMENTS FILE #13-APHE-0001

MONROE

WASHINGTON

City Response to Appeal of the Final Environmental Impact Statement (FEIS) for the East Monroe Comprehensive Plan Amendment and Rezone

13-APHE-0001

October 31, 2013

TO:	MR. CARL COX, CITY OF MONROE HEARING EXAMINER
FROM:	MELISSA SARTORIUS, AICP, SENIOR PLANNER/SEPA OFFICIAL
HEARING DATE:	NOVEMBER 7, 2013
SUBJECT:	SEPA APPEAL DATED OCTOBER 18, 2013 OF THE FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS) ISSUED FOR THE EAST MONROE COMPREHENSIVE PLAN AMENDMENT AND REZONE

Dear Mr. Cox;

This letter is in response to the appellants' October 18, 2013 Notice of Appeal. The appellants raise a list of twelve issues to which we respond below.

Background.

First and foremost we would like to provide background on this matter, which has been a contentious matter in the Monroe community for years. A summary timeline is attached as Exhibit M14 and abbreviated below.

An application for amending the Comprehensive Plan and rezoning certain properties in East Monroe from their current designation of Limited Open Space to Commercial was first received by the City on July 23, 2010. The original application resulted in a Draft Phased Environmental Impact Statement (DPEIS) issued by the City of Monroe on February 29, 2012. Numerous comments were received on the DPEIS and addressed in the April 23, 2012 Final Phased EIS (FPEIS). An appeal of the FPEIS was filed and an open record hearing was held on July 19, 2012. The Monroe Hearing Examiner concluded that the FPEIS was inadequate as a matter of law. In summary, although the proposal is a non-project action, additional detail and analyses of potential impacts was determined necessary to aid the decision making process of amending the Comprehensive Plan and Rezone.

After consideration of the 2012 Hearing Examiner decision, the size of the proposal was reduced to exclude an easternmost parcel, (formerly known as Lot F). The current proposal under consideration consists of five parcels totaling 42.8 acres and is zoned Limited Open Space. Since the Hearing Examiner decision, the applicant hired a team of consultants to perform the necessary analyses and expand on previous work to draft the EIS that is the subject of this appeal.

While the City believes the background is important and may provide supplemental information, the matter under current consideration should be decided on, and only on, the project record on this application up to this point and any oral testimony given by parties of record at the public hearing on November 7th.

Brief Chronology.

1970 – Area annexed into City of Monroe, zoned RS-9600 (residential?)
1987 - Two east parcels annexed into the City of Monroe, zoned agricultural
1994 - All parcels rezoned to Limited Open Space (LOS)
2004 - Submittal from applicant to change 48 acres from LOS to General Commercial (GC)
- Planning Commission recommended denial of docketing the application; proposal considered to be inconsistent with the goals and objectives of the Comprehensive Plan; concerns about impacts to the Capital Facilities Plan and levels of service
2004- Heritage Church Boundary Line Adjustment and Short Plat designating Native Growth Protection Areas (NGPAs) on site. Filed with Snohomish County Auditor on May 3, 2004.
2005 - Council did not approve docketing the proposal; in lieu of docketing for 2005, Council voted to consider preparing a Sub-Area Plan as part of the 2006 docket
2006 - Council denied Sub-Area Plan due to lack of funding
2010 - Applicant submitted expanded area of 68 acres to change from LOS to GC
- Planning Commission recommended denial of docketing the application
- Council voted approval of proposal for the 2011 docket less 18 acres within the shoreline jurisdiction
2012 - Council adopted ordinance amending Comprehensive Plan and Rezoning from LOS to GC
- Phased EIS ruled inadequate by Hearing Examiner
- Council voided ordinance amending Comprehensive Plan and Rezoning from LOS to GC
2013 - Applicant initiated preparation of full Environmental Impact Statement

As part of the 2013 EIS process, the East Monroe EIS Comprehensive Plan Amendment and Rezone was or will be presented before the Monroe Planning Commission at the following meetings:

- August 26 – Introduction of East Monroe DEIS
- September 9 – Review of East Monroe DEIS
- September 30 - Introduction of East Monroe FEIS
- October 14 – Review 2013 East Monroe Comprehensive Plan Amendments/ East Monroe
- October 21 – Review 2013 East Monroe Comprehensive Plan Amendments/ East Monroe
- October 28 – Review 2013 East Monroe Comprehensive Plan Amendments/ East Monroe
- November 18 – Public Hearing on 2013 Comprehensive Plan Amendments/ East Monroe
- November 25 – PC Recommendation on 2013 Comprehensive Plan Amendments/ East Monroe

The issue was presented before the Monroe City Council at the following 2013 meetings:

- October 15 - Introduction of East Monroe Final Environmental Impact Statement
- October 22 - Review East Monroe Comprehensive Plan Amendment and Rezone
- December 3 - Review 2013 Comprehensive Plan Amendments/East Monroe

Additionally, the following are public comment periods/public noticing for the 2013 project separate from the City Council and Planning Commission notices:

- August 14 – September 13, Notice of Availability of Draft EIS. 30 day Public Comment Period on Draft EIS. Publication in the SEPA Registrar
- September 5 – Public Hearing on Draft EIS
- September 27 – Issuance of Final EIS with Notice of Availability. Publication in the SEPA Registrar. 15 working day appeal period on Final EIS begins
- October 22 - Notice of Appeal and Public Hearing at City Hall
- October 18 – 15 working day appeal period on FEIS ends
- November 7 – SEPA Appeal Hearing before Hearing Examiner

Standard of Review.

The primary purpose of an environmental impact statement is to ensure that SEPA policies are an integral part of the ongoing programs and actions of state and local government. An EIS shall provide impartial discussion of significant environmental impacts and shall inform decision makers and the public of reasonable alternatives, including mitigation measures that would avoid or minimize adverse impacts or enhance environmental quality. WAC 197-11-400(1)-(2).

The legal sufficiency of the analysis and data contained within an environmental impact statement (EIS) is to be judged by what the courts refer to as "the rule of reason." *Klickitat County Citizens Against Imported Waste v. Klickitat County*, 122 Wn.2d 619, 633, 860 P.2d 390 (1993); R. Settle, *The Washington State Environmental Policy Act: A Legal and Policy Analysis*, §14(a)(i) (4th ed. 1983). Under this rule, an EIS is adequate if it contains "a reasonably thorough discussion of the significant aspects of the probable environmental consequences" of the proposed action. *Organization to Preserve Agricultural Lands (OPAL) v. Adams County*. 128 Wn.2d 869, 913 P.2d 793 (1996); *Weyerhaueser v. Pierce County*, 124 Wn.2d 26, 38, 873 P.2d 498 (1994). In other words, an EIS is adequate if the environmental effects, reasonable alternatives, and potential mitigation measures for the proposal are "reasonably disclosed, discussed, and substantiated with supporting opinions and data." *Cathcart-Maltby-Clearview Community Council v. Snohomish County*, 96 Wn.2d 201, 209-11, 634 P.2d 852 (1981); *SEAPC v. Cammack II Orchards*, 49 Wn. App. 609, 614, 744 P.2d 110 (1987). An EIS need not address every remote and speculative consequence of an action; only probable, significant, environmental consequences must be addressed. *Cheney v. Mountlake Terrace*, 87 Wn.2d at 344; *SEAPC v. Cammack II Orchards*, 49 Wn. App. at 614. It is extremely rare to find a case under Washington law in which an EIS has been held to be inadequate. In fact, there are only three reported decisions in which that has been the case. Settle, *Washington State Environmental Policy Act*, § 14.01[1].

In an appeal proceeding challenging the adequacy of an EIS, the burden is on the appellants to prove that the EIS is inadequate by a preponderance of the evidence. *Juanita Bay Valley Community Ass'n. v. Kirkland*, 9 Wn. App. 59, 73-74, 510 P.2d 1140 (1973) (once SEPA

procedures have been complied with, burden is on appellant to show City's decision was invalid). A proposition is proved by a preponderance of the evidence when the decision maker finds, after considering all of the evidence which bears on the issue, that the proposition is more probably true than not true. *In re Sego*, 82 Wn.2d 736, 739, 513 P.2d 831 (1973). In an appeal of EIS adequacy, this means that an appellant must show that, in light of all of the evidence, it is more probable than not that the EIS fails to adhere to the requirements of the SEPA's statute or regulations, or that it fails to "reasonably disclose, discuss, and substantiate its opinions" as to the probable significant adverse environmental impacts of the proposal. In determining whether an appellant has met that burden, the Hearing Examiner is required to give the SEPA Responsible Official's determination that the EIS is adequate "substantial weight." RCW 43.21C.075(3)(d); RCW 43.21C.090; WAC 197-11-680(3)(a)(viii); MMC § 20.04.200(C).

With respect to EISs on nonproject proposals, the SEPA Rules acknowledge that the lead agency is accorded more flexibility in the EIS's content than for "project" proposals, given that there is normally less detailed information available on their environmental impacts and on any subsequent project proposals. WAC 197-11-442(1). The lead agency is only required to "discuss impacts and alternatives in the level of detail appropriate to the scope of the nonproject proposal and to the level of planning for the proposal." WAC 197-11-442(2). In addition, if the nonproject proposal concerns a specific geographic area, site specific analyses are not required. WAC 197-11-442(3).

Response to Issues.

Issue 1.

SEPA requires that an EIS evaluate the proposed action, a "no-action alternative", and other "reasonable alternatives." WAC 197-11-440(5)(b)(ii). The SEPA Rules do not define what the "no-action" alternative must look like. Thus, as stated in the Department of Ecology's SEPA Handbook[1], "the lead agency has some discretion in its design." As further stated in the Handbook, "It [no-action alternative] is typically defined as what would be most likely to happen if the proposal did not occur. *If a rezone is proposed, what is the most likely development on the site under existing zoning*?" The Appendix to the SEPA Handbook also states:

> **Q**: What is an "alternative" when preparing an EIS for a comprehensive plan? How is the no action alternative defined?
>
> **A:** A range of alternatives should be evaluated, exploring the different land use options, including different urban growth area boundaries, characteristics and densities of development, etc. The no-action alternative for a comprehensive plan is generally defined as no change in existing regulation—zoning, development regulations, critical area ordinances, etc. (or the lack thereof) would be unchanged. The environmental impacts *of predicted growth* under this "no-action" scenario are then compared to that of the other alternatives.

SEPA Handbook, Appendix A.10. *See also, Hood Canal Coalition v. Jefferson County*, 152 Wn.

[1] Source: http://www.ecy.wa.gov/programs/sea/sepa/handbk/hbch03.html#3.3.2.1

App. 1065 (2009) (unreported) (no action alternative entailed analysis of mining development as a permitted use on the property under then-current zoning); *Davidson Serles v. City of Kirkland*, GMHB No. 09-3-007c, FDO (Oct. 5, 2009) (no action alternative analyzed for a comprehensive plan amendment and rezone projected build-out on the three parcels under existing zoning).

The FEIS followed precisely the Handbook's guidance by using development under the parameters of the existing LOS zoning designation as the "no action" alternative. As stated above, a no-action alternative does not mean "no development" of the property. Rather, land uses that could occur under the existing zoning designation of LOS include single-family homes, group homes, mobile home/manufactured homes, greenhouse, fitness club, agricultural uses[2], day care center (conditional), religious institution (conditional), school (conditional), cement manufacturing (special use), and animal slaughtering (special use). For a complete listing, see the zoning matrix table in MMC 18.10.050, which is also included in the FEIS as Appendix B. Accordingly, the FEIS does not include 'no development of the site' as the no action alternative, because under the current zoning designation, development could occur. The concept of analyzing no development whatsoever of the site would presumably be a change to the existing LOS zoning, and subsequently a new alternative in itself.

In any case, even assuming *arguendo* that the lead agency is required to utilize the existing use of the property as the "no action" alternative, Appellants have incorrectly identified agricultural purposes as the East Monroe site's existing use. The property is not currently used for productive agriculture and nor has it been used for agricultural purposes since the applicant purchased it 15 years ago in September 1998. Some portions of the site have been used for agriculture in the known past, mainly for the grazing of livestock and raising hay. Currently, it is best described as vacant with a portion of abandoned agricultural land. The Snohomish County Assessor's Database classifies the property as use code "910" Undeveloped (vacant) Land. The Growth Management Act defines agricultural land as land primarily devoted to the commercial production of crops[3]. The property has no commercial operations associated neither with it currently nor in the recent past. Nevertheless, the DEIS acknowledged that the site has been used in the past for agriculture in Sections 3.4, 3.6, 3.7.1, and Appendix D as well as pastoral uses (Table 3, Section 3.1, 3.4, 3.5, Appendix D). As a result of comments received on the Draft EIS (DEIS), additional sections were added to the document. Specifically, a section titled "Existing Conditions" was added to Sections 1.1 and 2.2 of the FEIS to include additional information on the existing and historical use of the site, including its prior agricultural use. Additionally, under Section Three, the Affected Environment section of each environmental element contains the background and existing conditions of each element.

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[2] Per MMC 18.02.010, "Agricultural use" means those activities conducted on lands defined in RCW 84.34.020(2), and activities involved in the production of crops or livestock for wholesale trade. An activity ceases to be considered agriculture when the area on which it is conducted is proposed for conversion to a nonagricultural use or has lain idle for more than five years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and ongoing agricultural activity.

[3] RCW 36.70A.030(2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by *RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

Moreover, as stated in the response to comments, the City of Monroe does not currently have any designated agricultural lands within City limits as per RCW 36.70A.170 nor any land zoned specifically for agricultural production. A goal of the Growth Management Act is to preserve productive agricultural and resource lands outside of urban limits and within urban limits if the city has enacted a program authorizing the transfer or purchase of development rights [RCW 36.70A.060(4)]. This is reflected in the Snohomish Countywide Planning Policies, though the City of Monroe does not currently have a program authorizing the transfer or purchase of development rights. A primary goal for cities is to develop to urban densities; that is what the City of Monroe and other cities in Washington State are required to do per the GMA.

In sum, the City appropriately defined the no action alternative as encompassing authorized development under the existing Limited Open Space (LOS) Comprehensive Plan designation and current zoning. Utilizing agricultural uses as the "no action" alternative is neither representative of the current use of the property nor is reasonable given that new agricultural uses are not favored within the urban growth area. The City's designation of the no action alternative is in accordance with the Department of Ecology's guidance and, for the reasons stated above, is well within the discretion given to the lead agency to design the appropriate "no action" alternative.

Issue 2.

The FEIS discloses and discusses, in reasonably appropriate detail given the nonproject nature of the proposal, the environmental impacts related to compensatory flood storage and the cut and fill estimated to raise the site above the 100-year floodplain elevation primarily in Section 3.1.2 and Table 3. Because the proposal is a nonproject action, the FEIS is only required to analyze the broad impacts of the proposal per WAC 197-11-442(2) and WAC 197-11-443(2). In fact, the FEIS goes into extensive detail to determine the amount of cut and fill required to raise the site above the floodplain elevation. This level of detail is above and beyond the level of detail required for a non-project action (see pages 25-44). Figure 10 shows cut and fill areas at a conceptual level and Figure 11 is a cross-section of the property showing the general areas to be cut and filled. Figure 11 also illustrates the estimated amount of fill to raise the property above the 100 year floodplain elevation.

Compensatory flood storage is required at a 1:1 ratio where for every 1 cubic foot of fill placed below the 100-year flood elevation in the floodplain limits, 1 cubic foot of volume of compensatory flood water storage must be added to offset the volume lost by placement of the fill. When a specific development is proposed, an analysis of the precise volume of compensatory storage required will be performed. This will determine the need and extent of excavation for compensatory flood storage. If and when the area develops, the excavation proposed would likely occur south of the slough, in critical area buffers, and outside of both stream and wetland boundaries. The excavation, fill and grading would provide for flood storage to help ensure that flood water levels will not exceed the flood water elevations that could currently be reached on the north bank of the slough.

Landslide evaluation was included in the EIS process. Preliminary site evaluation indicated that development south of the toe of the slope will not impact landslide activities at the higher elevations. See the Geotechnical Soils Evaluation in Appendix C of the FEIS for more detail.

Protection of steep slopes is provided by maintaining setbacks in accordance with City of Monroe Critical Areas Ordinance (MMC 20.05); this reference has been added to the FEIS.

Detailed earthwork calculations are not required in a non-project EIS. Rather, they are typically required at project action level in accordance with the standards set forth in WAC 197-11-442 and 443, which recognize that nonproject proposals may be approved based on an EIS assessing broad impacts and that when a project is proposed consistent with the nonproject action an additional EIS will be prepared.

In sum, it is appropriate for a non-project EIS to analyze the general environmental impacts of cut and fill proposed by an alternative. It is neither appropriate nor required to analyze specific earthwork calculations at a non-project level. However, this EIS went above and beyond the standard to quantify the amount of earthwork in the EIS to provide decision makers with as much detailed information as possible for an informed decision.

Material excavated from the site may or may not be used for fill. It is likely that unsuitable excavated materials will be hauled to a pre-approved disposal site and suitable fill material will be imported as necessary. It is incumbent on the applicant to demonstrate compliance with the standards in the MMC and all other local, state, and federal regulations at the time of application for development.

Any evidence that the Geotechnical Evaluation is insufficient or incorrect shall be borne by the Appellant's technical expert in this field.

Issue 3.

Under the state's Growth Management Act, local governments are required to use the best available science when reviewing and revising their policies and regulations on critical areas per WAC 365-195. "Best available science" means current scientific information used in the process to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925 (MMC 20.05.030). Thus, "best available science" is a term of art specific to the Growth Management Act and designation of critical areas. The only standard by which an FEIS is to be judged is the "rule of reason," which merely requires that the environmental impacts of a proposal are reasonably disclosed, discussed, and substantiated with supporting opinions and data. According to WAC 197-11-420, the lead agency must assure that the EIS is prepared in a "professional manner and with appropriate interdisciplinary methodology."

In accordance with this standard, the FEIS acknowledges that in order to develop on the developable portions of the property as shown in Figure 3, fill would be needed to prevent flooding. This is cited in Section 3.1.2 and Table 3 of the FEIS. The FEIS proposes filling the developable portions of the site above the 100 year floodplain elevation and cutting areas within critical area buffers only for compensatory flood storage. The FEIS uses the preliminary 2007 FEMA/FIRM maps to set the 100 year floodplain elevation and attempts to calculate the amount of fill needed to raise the site at 46,500 cubic yards using appropriate interdisciplinary methodology.

The FEIS analyzes the impacts associated with the proposed extensive filling of portions of the site. The impacts associated with the fill are proposed to be mitigated primarily through the provision of compensatory flood storage to off-set the placement of fill. This approach also provides the opportunity for restoration and enhancement of low functioning critical areas as further described in Appendix D. The analysis of the cut and fill and compensatory flood storage required was performed by technical experts in the Geotechnical Evaluation and the Wetland Resources Critical Areas Report (Appendices C and D respectively), none of whose opinions have been rebutted by the appellants. It will be incumbent on the applicant to demonstrate compliance with the standards in the MMC, and all other local, state, and federal regulations at the time of application for development. Please also see the response to Issue 8 below.

Issue 4.

Pursuant to WAC 197-11-440(6)(e), an EIS must describe significant impacts of the proposal on the built environment, including the "cost of and effects on public services, such as utilities, roads, fire, and police protection." Section 3.12 of the FEIS specifically discusses and is exclusively devoted to the impacts of the proposal on public utilities, including water, sewer, and stormwater. Section 3.12 identifies that in any alternative, development of the site would require connection to and installation of public utilities.

The water and sewer lines to the site will most likely be tied in and connected to the City's systems at the intersection of US-2 and Main St. Extension of these lines will likely be built within existing US-2 right-of-way for the majority of the route with the exception of the crossing of Woods Creek. A decision on whether the lines should be elevated and run under/alongside the existing bridge over the creek or bored underneath the creek will be determined at the time of development. Boring under water sources usually results in minimal or no impacts and is an accepted methodology when dealing with environmental concerns. A full analysis of the potential environmental impacts from the construction of the water and sewer lines is appropriate at a project action level. Such an analysis at a non-project action stage without knowing the use and size and location of lines is speculative at best. In general, the environmental impacts of extending water and sewer lines to the site would primarily be ground disturbance where the water and sewer lines would actually be constructed, and any environmental impacts associated with crossing Woods Creek. The ground disturbance impacts are temporary and can be mitigated using existing local, state, and federal regulation and best management practices. Impacts associated with crossing the creek would be examined as part of the project level environmental review and could also be mitigated using existing local, state, and federal regulation and best management practices.

Section 3.12 of the FEIS does discuss temporary impacts associated with the installation of water and sewer mains. It also discusses options for the utility connections, including additional facilities. Stormwater utilities are discussed at length in Section 3.12. Potential mitigating measures are also proposed. The above is also summarized and analyzed in Table 3 of the FEIS. Generally, most utility impacts can be mitigated by existing local, state, and federal regulation as well as utility impact fees. It is incumbent on the applicant to demonstrate compliance with the standards in the MMC and all other local, state, and federal regulations at the time of application for development.

Connection to city services within an urban growth area is generally seen as a positive benefit by the State of Washington to protect basic public health and safety and the environment [RCW 36.70A.020 (1) and (12).] The Growth Management Act directs jurisdictions to provide public facilities and services to support development. Positive environmental benefits include the removal or preclusion of septic facilities, the capture and adequate treatment of pollutants and sediments, and other benefits that may occur as a property is connected to urban services.

Accordingly, to the extent possible at the nonproject stage, Section 3.12 and Table 3 identify the impacts of the proposal upon the water, sewer, and stormwater utility and disclose the applicable mitigation measures to satisfy the rule of reason.

Issue 5.

Proper public noticing and commenting procedures were followed on the DEIS and FEIS as per WAC 197-11-455, 197-11-510, and 197-11-460. See Exhibits M4-M6 for copies of the notices and affidavits. This EIS went above and beyond the standard for a non-project action by holding a voluntary public hearing to gather public comments on the DEIS on September 5, 2013. The FEIS resulted in 16 written comments from 19 individual commenters as well the oral testimony received at the public hearing. All comments on the DEIS were organized into a comment/response matrix and included with the FEIS in the Comments/Responses section.

As per WAC 197-11-560, possible agency responses to comments are meant to (a) Modify alternatives including the proposed action, (b) Develop and evaluate alternatives not previously given detailed consideration by the agency, (c) Supplement, improve, or modify the analysis. (d) Make factual corrections, and (e) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons that support the agency's response and, if appropriate, indicate those circumstances that would trigger agency reappraisal or further response.

The appellants have not specifically identified any of the city's responses which they believe fail to meet this standard, except those responses made to the comments of the Department of Ecology (DOE). Thus, in general, comments seeking further information were responded to with additional explanation or clarification as explained above if they were valid and effective in making the FEIS a more clear and concise document. As demonstrated by the FEIS Comments/Response section, comments were responded to with meaningful discussion. In addition, some comments received were not specific to the content of the FEIS, in which case the agency response was "comment noted." WAC 197-11-560 states that "Recognizing their generally more limited resources, members of the public shall make their comments as specific as possible and are encouraged to comment on methodology needed, additional information, and mitigation measures in the manner indicated in this section." The SEPA Handbook states that "It may be appropriate to respond to a comment on the draft EIS with "comment noted" when the comment lacks substance (e.g. "I don't want the proposal"). If the comment is generic or nonspecific (e.g., "There will be unacceptable air quality impacts"), the response might be: 'Your comment was noted, but the comment was not specific enough to respond to. Please see Section XX of the Final EIS for a discussion of air quality impacts and possible mitigation"" (SEPA Handbook Chapter 3.5.1). The City's responses were made in compliance with this guidance.

With respect to the comments made specifically by DOE, the City responded to each of DOE's three major concerns as outlined in the letter dated September 13, 2013. As to the first concern regarding lack of analysis on the baseline/no action alternative, the FEIS added a section titled "Existing Conditions" to Sections 1.1 and 2.2 of the FEIS to address this issue in part. In addition, as explained above in the response to Issue 1, the no-action alternative does not necessarily equate to analysis of a "no development" scenario in accordance with the guidance established by DOE. The lead agency has discretion in the design of the no action alternative.

As to DOE's second concern relating to loss of agricultural land and economic concerns, see the responses to Issues 1, 7, and 11 respectively.

Finally, DOE expressed concern that the proposed habitat enhancements and excavation for compensatory flood storage have the potential to significantly alter the slough and wetlands. To address DOE's concerns, the Applicant and Respondent communicated with Mr. Paul Anderson, DOE's Snohomish County Wetland Specialist, to better understand and alleviate the concerns raised in his letter. On September 30th, 2013, Mr. Anderson met on site with Scott Brainard of Wetland Resources, Inc. and Paul Popelka of the City of Monroe to verify the wetland delineation boundaries. Through this process it became apparent that Mr. Anderson believed some work was proposed to take place within the actual wetland and stream boundaries when, in fact, that is not the case as proposed by the EIS. The work proposed would occur within the critical area buffers only. This was clarified with Mr. Anderson and also reflected in the FEIS. Mr. Anderson then sent a letter to the City following the meeting that confirmed that he concurred with the delineation and that he had no remaining questions. This letter is presented as Exhibit M15. Thus, the concerns raised by DOE relating to the wetland delineation boundaries in the FEIS have been addressed and resolved.

DOE's more general concern that discussion of environmental impacts in the FEIS is cursory and general in nature is explained by the fact that the proposal is a non-project action. The EIS acknowledges that additional analysis and permitting will be required at the project application stage.

Mr. Anderson also questioned how commercial development of the site will provide an overall net benefit to the environment in the long term versus leaving the property undeveloped in its current state. While this is an interesting question, it is not the question before the Hearing Examiner to be decided because the property could develop now under its current zoning designation (LOS). The option before the community is not whether to develop it or preserve it forever; it is whether to keep the existing zoning designation or change it to commercial zoning. Therefore, as explained in detail above, the comments received on the DEIS were thoroughly reviewed and appropriately responded to according to the standards established in WAC 197-11-560.

Issue 6.

Again, under the "rule of reason," the FEIS must only contain a reasonably thorough discussion of the significant aspects of the probable environmental consequences to Highway 2 caused by the proposed action. In this case, the FEIS is clearly drafted to inform decision makers of the probable

impacts to Highway 2, as much as they can be determined at the nonproject stage.

The FEIS addresses transportation issues associated with potential development of the property in several sections of the document but most specifically in the form of a Transportation Impact Analysis (TIA) Report found in Appendix F. Intersection level of service analysis was conducted in the report, which concluded that off-site intersections will operate at acceptable levels of service under any of the three alternatives presented in the EIS.

The report does not fail to address access to Highway 2; in fact the TIA concludes that access will require improvements in the form of inbound left-turn channelization, separate outbound lanes, and an outbound left-turn acceleration lane. The transportation environmental impacts are also summarized in Table 3, which establishes the daily trips that will potentially be generated along Highway 2 by each of the three alternative development scenarios and the mitigation measures already mentioned.

Deference should be given to WSDOT and WSDOT's comments on the DEIS (Comment Letter #6, page 20 in the Comments/Responses Section) since US-2 is a state highway. The analysis and detailed construction plans of a roundabout as specified in WSDOT's letter are appropriate at a project specific level. Gibson Traffic Consultants reached out to WSDOT to ensure they would comment on the DEIS and in doing so showed their support of the FEIS in deferring specifics until the time of a specific development proposal.

Conducting a comprehensive traffic evaluation at a non-project level will not necessarily yield the results sought by the Appellants since it is undetermined when and where improvements to US-2 by WSDOT will occur; it is merely too speculative at this point. WSDOT does have some preliminary plans for this corridor and those have been incorporated into the FEIS in Sections 3.10 and in the TIA. It is understood that since this is a non-project action, a comprehensive traffic evaluation will be required at the time of development and be borne by the applicant. Any development on the property will require coordination with WSDOT, and it is noted in the FEIS that WSDOT has already acquired additional right-of-way along the southern edge of the property to accommodate planned improvements to SR-2.

Any evidence that the TIA is insufficient or lacking shall be borne by the Appellant's technical expert in this field.

Issue 7.

The issue raised is irrelevant and not germane to the SEPA process. The economic feasibility of a project and specifically, the risk associated with the cost of developing a property, is not a criterion for environmental review under the SEPA.

As stated in the response to comments of the FEIS, per WAC 197-11-450, a cost-benefit analysis is not required by SEPA:

> A cost-benefit analysis (WAC 197-11-726) is not required by SEPA. If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered by an agency for the proposal, it may be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. For purposes of complying with SEPA, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations

Simply put, a fiscal analysis is not an environmental element under SEPA per WAC 197-11-444. A lead agency may include optional elements in an EIS based upon comments received during the scoping process per WAC 197-11.440. In this instance, the scoping process identified the elements in the EIS and a fiscal analysis was not included.

Additionally, the cost of development will be the sole responsibility of the owner/developer. Public infrastructure will be financed by private development consistent with GMA goals of 'growth pays for growth'. The City may incur some costs in the future associated with maintenance and increased load on utility systems; however those costs are generally offset by the City's required impact fees and connection fees at the time of development.

Issue 8.

The FEIS responded to most if not all of the comments. In some cases where the content of the comments addressed the same or similar issues, one comprehensive response was provided and referred back to in future comments. This EIS went above and beyond the standard for a non-project action by holding a voluntary public hearing on September 5, 2013 to gather public comments on the DEIS.

As a result of comments received on the DEIS regarding flooding of the property, city archives were researched for photos of the 2006 flooding event. Most of the photos from that event were of city-owned property including parks and recreational areas. Private property was not generally photographed by city staff as the priority was for city owned property. However, four photos were found showing the East Monroe property during the flood event. The photos provided in the FEIS in Figure 13 and in Section 3.3.2 are city archives and were added to the EIS as a result of public comment on the draft. Therefore, the FEIS uses the best information available at the time. Moreover, pursuant to WAC 197-11-402(4), "[d]escription of the existing environment and the nature of environmental impacts shall be limited to the affected environment and *shall be no longer than is necessary to understand the environmental consequences of the alternatives*, including the proposal." Because the FEIS extensively discusses the fact that the property is in the floodplain and acknowledges historical flooding of the site, an exhaustive set of photographs of flooding at the site is unnecessary and would violate WAC 197-11-402(5), stating that "EISs shall be no longer than necessary to comply with SEPA and these rules."

The City is not disputing that parts of the property are in the floodplain, hence the extensive discussion of cut and fill and compensatory flood storage utilizing the most conservative approach in consulting the preliminary FEMA/FIRM maps from 2007. If the appellants are arguing the depth of water in November 2006, the City has no time lapse photos of the site, therefore the four photos provided in the FEIS may not show the water level prior to or after the photos were taken. However, for the limited purposes of a non-project EIS analyzing the broad environmental impacts of the proposal, the FEIS demonstrates that the property will adhere to the adopted FEMA flood maps at the time of development.

Please also see the responses to Issues 3 and 5 above.

Issue 9.

The appellants incorrectly assert that the FEIS does not include a correct FEMA map. Appendix E of the FEIS includes the preliminary FEMA/FIRM map issued by FEMA in 2007. This map was intentionally used to obtain the most conservative estimate of the floodplain area, *i.e.*, the worst-case scenario. Although the 2007 FEMA map is considered "preliminary," meaning there remains a question at the federal level as to whether the map will become "effective,"[4] the preliminary map was used to examine the broadest spectrum of potential impacts from flooding. The preliminary maps were issued by FEMA for consideration by communities prior to finalization. They are, for all intents and purposes, considered the best available science for floodplains in the area even if they are not technically considered effective at this time. The EIS does consider the worst-case scenario for flooding and goes above and beyond the FEMA maps currently used by the City of Monroe. More discussion on this issue is found in the FEIS on page 39.

For further clarification, the City of Monroe currently considers areas of floodplain in its city limits as those areas depicted in the 2005 FEMA/FIRM map Panel #1357 of 1575 for the west half of the city and the 1999 FEMA/FIRM map Panel #1377 of 1575 for the eastern half of the city including the East Monroe property. This is best illustrated by Exhibit M16 showing the combination of the two different adopted panels. The City considers the two FIRM panels as the effective floodplain maps since the preliminary 2007 FEMA/FIRM maps have yet to be finalized.

In any event, the FEIS discusses the requirement for adhering to the adopted FEMA Flood maps at the time of development.

---

[4] Source: http://www.fema.gov/view-your-communitys-preliminary-flood-hazard-data-0

What is the Difference Between Preliminary and Effective Data?

Preliminary data are not for use, distribution, or replication until the data are finalized and labeled as "effective" on the MSC. Preliminary data are for review and guidance purposes only. By viewing preliminary data, the user acknowledges that the information provided is preliminary and subject to change. Preliminary data, including new or revised FIRMs, FIS reports, and FIRM Databases, are not final and are presented on the MSC as the best information available at this time. Additionally, preliminary data cannot be used to rate flood insurance policies or enforce the Federal mandatory purchase requirement. Preliminary data will be removed and replaced once effective data are available.

Unlike preliminary data, effective data and maps are official and should be used for National Flood Insurance Program (NFIP) purposes and viewing risk premium zones applicable to a community. If you don't want to view preliminary data, go to your community's effective FIRM or effective FIS Report on the MSC Product Catalog.

As to the issue of flood insurance rates, the appellants must clarify how they believe using FEMA maps changes the rates and their specific concerns regarding this. As we understand it, the risk of flooding is not changing for downstream or upstream properties because the EIS contemplates mitigating the effects of the fill by creating the additional flood storage. This of course, would have to be demonstrated to meet local, state, and federal regulations at the time of development and would be reviewed at a project specific level.

Issue 10.

The Appellants complain that the FEIS relied upon LIDAR methodology rather than a 1999 field survey to obtain the elevations of the East Monroe site. As a result of comments on the DEIS, LIDAR is referenced in the FEIS in Table 2 and a topographic survey map using LIDAR technology were added to the FEIS as Appendix J. LIDAR (light detection and ranging) is a remote sensing technology that that measures distance with a laser and analyzes the reflected light. Mapping leader Environmental Systems Research Institute (ESRI) defines LIDAR as "an optical remote-sensing technique that uses laser light to densely sample the surface of the earth, producing highly accurate x,y,z measurements"[5]. The LIDAR data used in the FEIS came from the Puget Sound LIDAR Consortium from Snohomish County Information Services in March of 2010. The LIDAR data was collected between 2005 and 2006 and published on January 9th, 2007.

As stated above, the only standard by which an FEIS is to be judged is the "rule of reason," which merely requires that the environmental impacts of a proposal are reasonably disclosed, discussed, and substantiated with supporting opinions and data. According to WAC 197-11-420, the lead agency must assure that the EIS is prepared in a "professional manner and with appropriate interdisciplinary methodology." LIDAR is a widely accepted methodology used to discern the elevations and topography of property. The Appellants have not offered any technical expert in this field demonstrating otherwise and nor have they presented evidence that there are significant differences in the interpolated elevations between the 1999 survey and the LIDAR data. Other variables such as the calibration of equipment and field verification may also factor into the precision of elevation measurements even if such differences exist. Thus, the LIDAR methodology satisfies WAC 197-11-420's required use of professional and appropriate interdisciplinary methodology. Even assuming that 1999 survey is preferable in terms of accuracy, site specific analysis is not required for a nonproject EIS. Therefore, use of the LIDAR data would reasonably inform decision makers regarding environmental impacts of the proposal even if the 1999 survey was more accurate.

Issue 11.

As with Issue 7 above, the issue raised is irrelevant and not germane to the SEPA process. The economic feasibility of a project and specifically, the risk associated with the cost of developing a property is not a criterion for environmental review under the SEPA.

5 http://resources.arcgis.com/en/help/main/10.1/index.html#//015w00000041000000

Although the FEIS did not need to address the economic feasibility of the developing the property under SEPA, it did do so in a general manner; not a detailed analysis. Sections 1 (Summary, pg. 2) and 3.12.1 briefly discuss the economic feasibility of development.

Issue 12.

The Appellants complain that the FEIS is inconsistent with GMA goals and requirements to protect critical areas, retain open space, conserve fish and wildlife habitat, and availability of public facilities to support development. However, Appellants' argument is misplaced. To the extent that the proposal violates the GMA goals and requirements, Appellants may appeal any decision by the City Council to adopt the Comprehensive Plan Amendment and Rezone to the Growth Management Hearings Board, which has exclusive jurisdiction to determine such matters. RCW 36.70A.280(1)(a) ("The growth management hearings board shall hear and determine only those petitions alleging either: (a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter [Chapter 36.70A RCW]. . . "); *Davidson Serles & Assocs. v. City of Kirkland*, 159 Wn. App. 616, 626, 246 P.3d 822 (2011) ("Growth management hearings boards have exclusive jurisdiction to determine compliance with the Growth Management Act . . . . The Growth Management Act (GMA), chapter 36.70A RCW, 'clearly contemplates that challenges to comprehensive plan amendments [and development regulations] must be brought before the [Board].'") Accordingly, the Hearing Examiner lacks jurisdiction to determine whether the proposal violates the GMA.

Conclusion.

In conclusion, the FEIS provides an impartial discussion of significant environmental impacts and *reasonably* informs decision makers and the public of reasonable alternatives, including mitigation measures that would avoid or minimize adverse impacts or enhance environmental quality. Particularly in light of the fact that the proposal is a nonproject action and that lead agencies are afforded "more flexibility in preparing EISs on nonproject proposals", the East Monroe FEIS reasonably and adequately informs decision makers and the public of the significant aspects of the probable environmental consequences of the proposed Comprehensive Plan Amendment and Rezone from LOS to General Commercial. The Responsible Official's determination of the FEIS's adequacy must be given substantial weight.

The appellants have failed to satisfy their burden of proof to show by a preponderance of the evidence that the FEIS fails to "reasonably disclose, discuss, and substantiate its opinions" as to the probable significant adverse environmental impacts of the proposal. Generally, the appellants' concerns can be categorized into the following areas: (1) the no action alternative is not a "no development" scenario; (2) the FEIS fails to adequately address or calculate the environmental impacts of increased fill required to raise the site, of increased traffic on Highway 2, and of increased demand on utilities; (3) the FEIS failed to adequately address comments received on the DEIS; and (4) that the financial challenges of commercial development at the site have not been adequately addressed. Each of these arguments is without merit.

As discussed at length above, the lead agency has discretion to fashion or design the "no action" alternative. In this case, the City utilized a "no action" alternative specifically recommended by DOE's SEPA Handbook, *i.e.*, use of a development scenario under the current zoning as the benchmark for comparison. In addition, as allowed under WAC 197-11-420(2), the City as the lead agency required the applicant to retain an outside consultant to prepare the EIS in a professional manner and using appropriate interdisciplinary methodology. The authors of the EIS also utilized subconsultants such as wetland biologists, traffic engineers, and geotechnical engineers to develop expert opinions, none of which have been rebutted by a corresponding expert witness on behalf of the appellants. The FEIS does discuss the issues of fill and compensatory flood storage, impacts to Highway 2, and increased demand on utilities at length, as described above. In addition, the Comments and Responses section of the FEIS substantively address comments received where appropriate, including those of DOE. Finally, the economic viability of development following any enactment of the Comprehensive Plan Amendment and Rezone is simply not an element of the environment required to be studied under SEPA.

For the foregoing reasons, the City respectfully requests that the Hearing Examiner conclude that the FEIS is adequate as a matter of law.

LIST OF EXHIBITS
APPEAL PUBLIC HEARING
(13-APHE-0001)

PROJECT:	**13-APHE-0001 - Appeal of the Final Environmental Impact Statement (FEIS) for the East Monroe Comprehensive Plan Amendment and Rezone**
APPELLANT:	**Lowell Anderson and Jeffrey W. Rogers**
HEARING DATE:	**November 7, 2013 at 10:00 a.m.**

EXHIBITS

Exhibit M1:	Final EIS for the East Monroe Comprehensive Plan Amendment and Rezone, issued September 27, 2013
Exhibit M2:	Draft EIS for the East Monroe Comprehensive Plan Amendment and Rezone, issued August 14, 2013
Exhibit M3:	Appeal/Reconsideration Application and Appeal Letter, dated October 18, 2013
Exhibit M4:	Draft EIS Notices and Affidavits
Exhibit M5:	Final EIS Notices and Affidavits
Exhibit M6:	Notices and Affidavits of the Appeal Hearing on November 7, 2013
Exhibit M7:	Determination of Significance and Request for Comments on Scope of Environmental Impact Statement, issued July 21, 2011
Exhibit M8:	Citizen Initiated Comprehensive Plan Amendment Application dated July 23, 2010
Exhibit M9:	Rezone Application dated April 10, 2012 and May 1, 2012.
Exhibit M10:	Hearing Examiner's Decision on the issue of the 2012 SEPA Appeal dated July 24, 2012 (sans exhibits)
Exhibit M11:	Order Granting Reconsideration in Part by the Hearing Examiner dated August 8, 2012
Exhibit M12:	Hearing Examiner's Decision Revised after Reconsideration on the issue of the 2012 SEPA Appeal dated August 9, 2012
Exhibit M13:	Growth Management Hearings Board Case No. 12-3-0007 (Anderson) Order on Dispositive Motion
Exhibit M14:	Chronology of East Monroe Project
Exhibit M15:	Letter from Paul Anderson (Department of Ecology) to Scott Brainard (Wetland Resources) dated October 10, 2013
Exhibit M16:	City of Monroe Floodplains and Shoreline Boundary Map dated October 8, 2013

EXHIBITS M1 & M2 ARE LOCATED IN SEPARATE NOTEBOOKS

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Planning & Permitting Division
Permit Assistance Center

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OCT 18 2013
CITY OF MONROE

APPEAL/RECONSIDERATION APPLICATION AND PROCESS

APPEAL – The appellant must submit an appeal within 15 working days of the decision or interpretation date.

RECONSIDERATION – The appellant or interested party must submit a request for reconsideration within 10 working days of the decision date.

DATE AND TIME OF SUBMITAL: October 18, 2013

PROJECT NAME / CITY FILE # OF APPEAL *OR* RECONSIDERATION:
East Monroe Comprehensive Plan Amendment / FEIS

TYPE OF DECISION OR DETERMINATION BEING APPEALED OR RECONSIDERED:

☒ **APPEAL OF ADMINISTRATIVE INTERPRETATIONS *OR* ADMINISTRATIVE APPROVALS TO THE HEARING EXAMINER**

☐ **CODE VIOLATION** ☐ **LAND USE**

☐ **APPEAL TO CITY COUNCIL**

☐ **RECONSIDERATION REQUEST**

State the specific reasons why you believe the decision to be wrong. The appellant bears the burden of proof.
Please see attached letter dated October 18, 2013 outlining appellants rationale for appeal.

Your desired outcome or changes to the decision: FEIS is deemed inadequate

Property Address of project (If applicable)

Tax Parcel # of project (If applicable):

APPELLANT(S) / PETITIONER(S) INFORMATION

(If more than one person, attach information on separate sheet.)

PRINTED NAME: Lowell Anderson
SIGNATURE: Lowell Anderson **E-MAIL:** N/A
ADDRESS: 129 E Rivmont Dr Monroe WA 98272
PHONE: 360 794-7075 **CELL #:** —

EXHIBIT# M-3

October 18, 2013

City of Monroe
Attention: Melissa Sartorius, SEPA Official
806 W. Main Street
Monroe, WA 98272

RE: **Notice of Appeal of FEIS East Monroe Comprehensive Plan Amendment and Subsequent Rezone**

Dear Ms. Sartorius:

This letter constitutes our Notice of Appeal of the adequacy of the East Monroe Comprehensive Plan Amendment and Subsequent Rezone Final Environmental Impact Statement ("FEIS") in accordance with MMC 20.04 and MMC 21.60.

The bases for our appealing the adequacy of the FEIS are as follows:

1. The FEIS failed to consider and analyze, under the no action alternative, the site's existing use for agricultural purposes. Not considering the property's current usage and surrounding properties renders the FEIS inadequate as the identified options in the FEIS all contemplate development of the site.

2. The FEIS failed to adequately address the environmental impacts of securing compensatory flood storage on the East Monroe site. The extensive "cut and fill" required to bring the developable area of the property above the flood plain presents serious risks of erosion, slope degradation and landslides to the adjoining property owners to the north due to the steep slopes which will be jeopardized by the diversion and displacement of water caused by the cut and fill. Using the existing stream and slough areas as water storage has not been adequately analyzed in the FEIS as it has not provided any details of the relevant earth work calculations showing that the proposed grading and fill is property balanced, nor any detailed drawings of the areas to be graded.

   We take exception to the claims outlined in the FEIS including Table 4 that there is adequate available fill on site to permit development of 10.17 contiguous acres. We dispute the assertion that the site has 46,500 cubic yards of available fill as stated in the FEIS.

3. The FEIS has not adequately addressed the issue of flooding that has historically occurred on the East Monroe site, including using the "best available science".

4. Given that the East Monroe site lacks public facilities and utilities, the FEIS fails to adequately address the environmental implications of extending sewer, water

and other utilities from existing locations within the City limits to the East Monroe site.

5. The FEIS has failed to adequately address issues identified in comments by the Washington Department of Ecology, as well as other commentators. Legitimate issues have been raised by the Department of Ecology and other commentators, and such comments have not been fully addressed in the FEIS.

6. The FEIS has failed to address the access to Highway 2 issues and related traffic and public safety issues associated with such access issues. Given the extensive back-ups that occur on Highway 2 during weekends and holidays, further analysis and consideration needs to be given to the access issues.

7. Given the economic and financial challenges any commercial development of the site faces, the FEIS and City Council need to address the environmental impacts of a developer commencing development of the site and not having the financial wherewithal to successfully conclude development that could leave the site and the critical areas on, and adjacent to the site, in jeopardy. As such, there needs to be assurances addressed in the FEIS and by the City Council to address such risks.

8. The FEIS has failed to address many issues raised by the commentators by simply noting that such comments were not applicable. For example, the FEIS claims that the property remained above water during a November, 2006 flood. We will provide ample evidence through testimony and photographic evidence that the property was substantially underwater during a major flood in 2006.

9. The FEIS does not include a correct FEMA map and fails to address the implications on increased flood insurance rates as a result of the City converting this Limited Open Space to General Commercial.

10. The FEIS uses a LIDAR methodology rather than the 1999 field survey which provides more accurate information concerning the elevations of the East Monroe site.

11. The FEIS summary asserts that the proposed comprehensive plan amendment would allow the site to be developed in an economically feasible manner. We dispute such a conclusion and will provide evidence supporting our position that the site is unable to be developed for commercial purposes in an economically feasible manner.

12. The FEIS is inconsistent with the Growth Management Act goals and requirements in that it does not adequately address protection of critical areas; retaining open space; conserving fish and wildlife habitat; and the site lacks public facilities to support development. Additionally, the process has not

encouraged citizen participation nor coordination between jurisdictions including Snohomish County, State of Washington and federal agencies.

We request additional time for the planned appeal so we can adequately prepare and provide appropriate testimony at the public hearing.

We also request the opportunity to file one or more briefs supporting our appeal of the adequacy of the FEIS and a prehearing conference.

Finally, we request leave to supplement this Notice of Appeal with additional issues and parties.

If we need to take any further steps to perfect this Appeal, please advise us as soon as possible.

Very truly yours,

Lowell Anderson

Jeffrey W. Rogers

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Permit Assistance Center
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APPEAL/RECONSIDERATION APPLICATION AND PROCESS

APPEAL – The appellant must submit an appeal within 15 working days of the decision or interpretation date.

RECONSIDERATION – The appellant or interested party must submit a request for reconsideration within 10 working days of the decision date.

DATE AND TIME OF SUBMITAL: _____

PROJECT NAME / CITY FILE # OF APPEAL *OR* RECONSIDERATION: _____

_____

TYPE OF DECISION OR DETERMINATION BEING APPEALED OR RECONSIDERED:

☐ APPEAL OF ADMINISTRATIVE INTERPRETATIONS *OR* ADMINISTRATIVE APPROVALS TO THE HEARING EXAMINER.

☐ CODE VIOLATION ☐ LAND USE

☐ APPEAL TO CITY COUNCIL

☐ RECONSIDERATION REQUEST

State the specific reasons why you believe the decision to be wrong. The appellant bears the burden of proof.

_____

_____

_____

Your desired outcome or changes to the decision: _____

_____

_____

Property Address of project (If applicable) _____

Tax Parcel # of project (If applicable): _____

APPELLANT(S) / PETITIONER(S) INFORMATION

(If more than one person, attach information on separate sheet.)

PRINTED NAME: JEFFREY W. ROGERS

SIGNATURE: [signature] E-MAIL: JEFF_ROGERS@COMCAST.NET

ADDRESS: 20002 HERMITAGE LN MONROE, WA 98272

PHONE: 425 377-6812 CELL #: _____

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MONROE MONITOR & VALLEY NEWS

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AFFIDAVIT OF PUBLICATION

State of Washington, Snohomish County

I, Scott Freshman, under penalty of perjury, do hereby declare:

I am a representative of the Monroe Monitor & Valley News (the 'Newspaper') whose regular jo duties include the authorization to execute Affidavits of Publication on behalf of the Newspaper

The Newspaper was adjudicated to be qualified to publish legal notices in the above county by Court Order;

On the below dates, the Newspaper published a legal notice, a copy of which is attached herel in relation to the file known as:

City of Monroe Notice of Availability of Draft
EIS, E. Monroe Comprehensive Plan

On the below dates, the Newspaper circulated copies, including the attached notice, in the regular course of business throughout the above County;

Insertion Dates: 08/20/13

Scott Freshman

Subscribed and sworn to me this day Aug. 20, 2013

Notary Public:

Kathryn Savelesky
NOTARY PUBLIC
BY APPOINTMENT

EXHIBIT# M-4

CITY OF MONROE
NOTICE OF AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) FOR THE EAST MONROE COMPREHENSIVE PLAN AMENDMENT AND SUBSEQUENT REZONE

This notice is to advise you tha a Draft Environmental Impact Statement (DEIS) has been issued and is available for public review for the proposed East Monroe Comprehensive Plan Amendment and Subsequent Rezone. The proponent, Heritage Baptist Fellowship, has requested an amendment to the Monroe Comprehensive Plan to change the subject property land use designation from Limited Open Space (LOS) to General Commercial (GC). The subject property is comprised of five parcels of land (42.81 acres) located within the eastern portion of the City of Monroe north of the Skykomish River along the north side of State Route 2. The City of Monroe is the Lead Agency for the DEIS. The proponent has completed the DEIS under contract with PACE Engineers, Inc. The analysis was undertaken to meet the direction of the State Environmental Policy Act (SEPA). The non-project DEIS evaluates the environmental impacts of two alternatives and a no-action alternative, which are discussed in detail in the DEIS. No specific development proposal is under application and this is a non-project action. Any future development application for a project action must demonstrate that the development complies with Monroe Municipal Code (MMC) requirements. The applicant will be responsible for demonstrating compliance with the standards in the MMC, and all other local, state, and federal regulations at the time of application for development.

Draft DEIS Date of Issuance: August 14, 2013

Draft EIS Comments: The public and other reviewers are invited to comment on the DEIS. You may submit written comments on the Draft EIS no later than September 13, 2013 at 5:00 pm. All written comments must be received by that time and date. Written comments via mail, fax, or email should be submitted to: SEPA Responsible Official Melissa Sartorius, Senior Planner @ City of Monroe 806 West Main Street Monroe, WA 98272 / ions: Monroe City Hall 806 W Main St Monroe WA 98272 / Monroe Library 1070 Village Way Monroe, WA 98272. Copies on CD-ROM are also available for purchase for $5 from the City of Monroe at 806 West Main Street, Monroe, WA 98272. Printed copies can be acquired for the cost of reproduction by the City at $50.00 per copy. If you have special accommodation needs, please contact the City of Monroe at (360)-794-7400.

Melissa Sartorius, SEPA
Responsible Official
Senior Planner
City of Monroe
Published Aug. 20, 2013

AFFIDAVIT OF MAILING
DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR EAST MONROE

STATE OF WASHINGTON)

North of the Skykomish River along the north side of SR2
Project location

COUNTY OF SNOHOMISH)

CPA2011-01 – East Monroe Economic Development Group Comprehensive Plan amendment
File number and Project Name

I, **Kim Shaw**, being first duly sworn on oath deposes and says that on the **14th day of August, 2013,** I made application with the United States Post Office to mail on __ **August 15th, 2013** a copy with prepaid postage of the **Notice of Availability of the Draft Environmental Impact Statement (DEIS) for East Monroe Comp. Plan Amendment and subsequent rezone.** Attached is the list of names and addresses to whom this information was mailed.

Kim Shaw
Signed

Subscribed and sworn to me this 20th day August, 2013

NOTARY SEAL

VICKI L. THAYER
NOTARY PUBLIC
COMMISSION EXPIRES 5-09-16
STATE OF WASHINGTON

Vicki L Thayer
NOTARY PUBLIC in and for the State of Washington, residing at:

Lake Stevens

Printed Name: Vicki L. Thayer

My commission expires: May 9, 2016

NAME	ADDRESS	CITY	STATE	ZIP CODE
AL WALLACE	21904 CALHOUN RD.	MONROE	WA	98272
AL-ZAHMEA LEYLA	21033 CALHOUN RD	MONROE	WA	98272-8754
ANDERSON DENNIS E & SHARON R	21826 CALHOUN RD	MONROE	WA	98272-8752
ANDERSON LOWELL & BARBARA	129 E RIVMONT DR	MONROE	WA	98272
ANDERSON RONALD R	22114 SR2	MONROE	WA	98272
ANGEL RICHARD A & SALLEY M	19916 OLD OWEN RD	MONROE	WA	98272
AVERY DENNIS G & KATHLEEN D	21312 CALHOUN RD	MONROE	WA	98272
BAUER RYAN CHARLES	21205 CALHOUN RD	MONROE	WA	98272-8736
BERGER KENNETH A & DEBORAH	105 RIVMONT DR E	MONROE	WA	98272
BLAIR FAMILY	15403 CALHOUN RD	MONROE	WA	98272
BOYLE MARTIN & LINDA	PO BOX 951	MONROE	WA	98272
BRADLEY SHAYNE P & ALISON	21104 CALHOUN RD	MONROE	WA	98272
BROWN DON AND NEVA	21119 CALHOUN RD	MONROE	WA	98272
BROWER DON R	21119 CALHOUN RD	MONROE	WA	98272-8735
BURSLEM NORMAN O & ANITA E	112 E RIVMONT DR	MONROE	WA	98272
C. INMAR	21720 CALHOUN RD	MONROE	WA	98272
CARLIN KEVIN	113 RIVMONT DR W	MONROE	WA	98272
CARNES GENE A	108 E RIVMONT DR	MONROE	WA	98272
CAVASSA PAUL JR & NANCY M	21113 CALHOUN RD	MONROE	WA	98272-8735
CHALMERS JEANNIE	21700 CALHOUN RD	MONROE	WA	98272
CHALMERS KENNETH	21700 CALHOUN RD	MONROE	WA	98272-8752
CLARK CHRISTINE	108 E RIVMONT DR	MONROE	WA	98272
CLEVE MAEL	121 E RIVMONT DR	MONROE	WA	98272
CLIVE ELLARD	21804 CALHOUN RD.	MONROE	WA	98272
COOGAN JAMES & CYNTHIA	106 E RIVMONT DR	MONROE	WA	98272
COLE BRIAN	8425 SMUGGLERS COVE	MUKILTEO	WA	98275
DALY GEORGE & MADA	PO BOX 1104	MONROE	WA	98272
DENISE GULAS	4 ACADEMY WAY	MONROE	WA	98272
DENNIS ANDERSON	21826 CALHOUN RD.	MONROE	WA	98272
DIANE ELLIOTT	15550 174TH AVE SE	MONROE	WA	98272
DINWIDDIE GAIL M	20983 EAST RIVMONT DR	MONROE	WA	98272
DOUG & KAY FISHER	110 E RIVMONT DR	MONROE	WA	98272
DOUG HAMAR	PO BOX 1104	MONROE	WA	98272
DUANE MATTERN	21112 CALHOUN RD	MONROE	WA	98272
DUSTIN WATKINS	102 W RIVMONT DR	MONROE	WA	98272
ELLARD CLIVE	21804 CALHOUN ROAD	MONROE	WA	98272
EHRHORN KARIN & CORY	21130 CALHOUN ROAD	MONROE	WA	98272
FEDERAL NATIONAL MORTGAGE ASSOCIATION	14523 SW MILIKAN WAY STE 200	BEAVERTON	OR	97005
FELIX NORMAN R	21029 CALHOUN RD	MONROE	WA	98272-8754
FINCH WILLIAM E	106 W RIVMONT DR	MONROE	WA	98272
FISHER KEN	13530 MUIR DR SE	MONROE	WA	98272
FRED WALSER	692 PARK LANE	MONROE	WA	98272
FREEZE CAROLE	116 E RIVMONT DR	MONROE	WA	98272
FREI GEORGE A	15309 CALHOUN ROAD	MONROE	WA	98272
GAST KENNETH M & KAREN L	21330 CALHOUN RD	MONROE	WA	98272
GEE KENNETH R/LINDA S	17922 131ST PL SE	SNOHOMISH	WA	98290
GEE RICHARD D & KIMBERLEY K	109 RIVMONT DR W	MONROE	WA	98272
GIBSON DONNA J	112 W RIVMONT DR	MONROE	WA	98272
GOWDEY HOGES & WILHELMINA TRUSTEES	123 E RIVMONT DR	MONROE	WA	98272
HAGER JAMES R	21314 CALHOUN RD	MONROE	WA	98272
HAMAR DOUGLAS	PO BOX 1104	MONROE	WA	98272
HANSON HAROLD & GERALDINE M	PO BOX 337	MONROE	WA	98272
HASSLINGER GLENN & LOUISE	21016 CALHOUN RD SE	MONROE	WA	98272
HEATH MIKE	25405 138TH ST SE	MONROE	WA	98272
HEICHEL ARON W	21220 CALHOUN RD	MONROE	WA	98272
HEICHEL ELAINE R TTEE	21220 CALHOUN RD	MONROE	WA	98272
HOLBERY JAMES D	6218 105TH AVE NE	KIRKLAND	WA	98033
HOLM DEREK R & CINDY	21121 CALHOUN RD	MONROE	WA	98272-8735
HOLMAN CRAIG H	114 W RIVMONT DR	MONROE	WA	98272
HONS RUTH LILLIAN REVOCABLE LIVING TRUST	21416 CALHOUN RD	MONROE	WA	98272
JEFF SHERWOOD	17493 136TH PL SE	MONROE	WA	98272
JOHNSON MARGARET A	21010 E RIVMONT DR	MONROE	WA	98272
JONES AMANDA J	21021 CALHOUN RD	MONROE	WA	98272
JOSHUA FREED	12900 NE 180TH ST., SUITE 220	BOTHELL	WA	98011
KELT ANDRA SUSAN	106 W RIVMONT DR	MONROE	WA	98272
KIENZIE SHARON J	820 CADY RD UNIT B 203	EVERETT	WA	98203

KIENZLE SHARON J	21130 CALHOUN RD	MONROE	WA	98272-8735
KINNEAR LINDA J	PO BOX 1499	MONROE	WA	98272
KOEPPEN KENNETH O	109 W RIVMONT DR	MONROE	WA	98272
KRAFT JAMES E & JANET M	119 RIVMONT DR E	MONROE	WA	98272
KREUTZ ROBERT & SANDRA	7908 UPPER RIDGE DR	EVERETT	WA	98203
KRISTIANSEN BJARNE & JANET	21210 CALHOUN RD	MONROE	WA	98272-8736
LABUGUEN FELIPE C & GAYLE D	110 W RIVMONT DR	MONROE	WA	98272
LABUGUEN PHIL & GAYLE	110 W RIVMONT DR	MONROE	WA	98272
LANGE DONALD V	107 RIVMONT DR W	MONROE	WA	98272
LARRY & BARBARA BARKER	22010 CALHOUN RD	MONROE	WA	98272
LARSEN RON W & SUSAN M	15020 NE 144TH ST	REDMOND	WA	98052
LASHBROOK JOHN	114 E RIVMONT DRIVE	MONROE	WA	98272
LINDA KINNEAR	111 E RIVMONT DR	MONROE	WA	98272
LITTLE JERRY D	PO BOX 814	POMEROY	WA	99347
MAGANA JOSE	124 E RIVMONT DR	MONROE	WA	98272
MAGELSEN JAMES & COLLEEN	PO BOX 400	MONROE	WA	98272
MAGELSEN JAMES A	109 RIVMONT DR	MONROE	WA	98272
MARGARET OHLSEN	PO BOX 775	MONROE	WA	98272
MARTIN ROBERT M	103 E RIVMONT DR	MONROE	WA	98272
MATTERN DUANE & LILA	PO BOX 214	MONROE	WA	98272
MCCAMMON CHAD	21624 CALHOUN RD	MONROE	WA	98272-8738
MCCANN TOM P & VANLOM JUSTIN B	PO BOX 1480	MONROE	WA	98272
MCCOLLUM MICHAEL J & LINDY S	21728 CALHOUN RD	MONROE	WA	98272-8752
MCCORMICK BRIAN M	21325 CALHOUN RD	MONROE	WA	98272-8737
MILLS JENNIFER	21231 CALHOUN RD	MONROE	WA	98272
MONAHAN BARRY/MOBERG LINDA/DEYARMON RICH	21020 CALHOUN RD	MONROE	WA	98272-8729
MONROE I O O F CEMETERY	610 S LEWIS ST	MONROE	WA	98272
MULHOLLAND HAROLD	112 E RIVMONT DR	MONROE	WA	98272
MULLEN VICKIE	10312 210TH ST SE	MONROE	WA	98272
MURDOCK ARTHUR K	20930 RIVMONT DR E	MONROE	WA	98272
NATIONSTAR MORTGAGE LLC	350 HIGHLAND DR	LEWISVILLE	TX	75067
NICOLE ANDERSON	109 RIVMONT DR E	MONROE	WA	98272
NORDBY R SCOTT	19507 FALES RD	SNOHOMISH	WA	98290
RESIDENT	106 E RIVMONT DR	MONROE	WA	98272
RESIDENT	108 E RIVMONT DR	MONROE	WA	98272
RESIDENT	109 E RIVMONT DR	MONROE	WA	98272
RESIDENT	111 E RIVMONT DR	MONROE	WA	98272
RESIDENT	117 RIVMONT DR E	MONROE	WA	98272
RESIDENT	121 E RIVMONT DR	MONROE	WA	98272
RESIDENT	122 W RIVMONT DR	MONROE	WA	98272
RESIDENT	125 E RIVMONT DR	MONROE	WA	98272-8751
RESIDENT	126 W RIVMONT DR	MONROE	WA	98272
RESIDENT	127 W RIVMONT DR	MONROE	WA	98272
RESIDENT	20983 RIVMONT DR E	MONROE	WA	98272
RESIDENT	21010 CALHOUN RD	MONROE	WA	98272-8754
RESIDENT	21016 CALHOUN RD SE	MONROE	WA	98272
RESIDENT	21122 CALHOUN RD	MONROE	WA	98272-8735
RESIDENT	21207 CALHOUN RD	MONROE	WA	98272-8736
RESIDENT	21405 CALHOUN RD	MONROE	WA	98272-8757
RESIDENT	21410 SR 2	MONROE	WA	98272
RESIDENT	21416 CALHOUN RD	MONROE	WA	98272-8757
RESIDENT	21424 CALHOUN RD	MONROE	WA	98272
RESIDENT	21500 CALHOUN RD	MONROE	WA	98272-8756
RESIDENT	21509 SR 2	MONROE	WA	98272
RESIDENT	21600 OLD OWEN RD	MONROE	WA	98272
RESIDENT	21608 CALHOUN RD	MONROE	WA	98272-8738
RESIDENT	21611 SR 2	MONROE	WA	98272
RESIDENT	21616 CALHOUN RD	MONROE	WA	98272-8738
RESIDENT	21709 CALHOUN RD	MONROE	WA	98272-8752
RESIDENT	21712 CALHOUN RD	MONROE	WA	98272-8752
RESIDENT	21808 CALHOUN RD	MONROE	WA	98272-8752
RESIDENT	21817 CALHOUN RD	MONROE	WA	98272-8752
RESIDENT	22210 SR 2	MONROE	WA	98272
OHLDE LEE E & SONIA D	15015 210TH AVE SE	MONROE	WA	98272-9704
OHLSEN HAROLD N & MARGARET	PO BOX 775	MONROE	WA	98272
OLSON DOUGLAS	128 W RIVMONT DR	MONROE	WA	98272
O'ROARTY BENJAMIN C & CASEY W	21021 CALHOUN RD	MONROE	WA	98272-8754

RESIDENT	100 W RIVMONT DR	MONROE	WA	98272
RESIDENT	116 W RIVMONT DR	MONROE	WA	98272
RESIDENT	125 E RIVMONT DR	MONROE	WA	98272
RESIDENT	127 E RIVMONT DR	MONROE	WA	98272
RESIDENT	15309 CALHOUN RD.	MONROE	WA	98272
RESIDENT	20930 RIVMONT DR E	MONROE	WA	98272
RESIDENT	21010 RIVMONT DR	MONROE	WA	98272
RESIDENT	21322 CALHOUN RD	MONROE	WA	98272
RESIDENT	21712 CALHOUN RD	MONROE	WA	98272
RESIDENT	22028 CALHOUN RD	MONROE	WA	98272
RESIDENT	21916 CALHOUN RD	MONROE	WA	98272
RESIDENT	21706 CALHOUN RD	MONROE	WA	98272
RESIDENT	21231 CALHOUN RD	MONROE	WA	98272
PALMIERO FRED J & CAROL A	PO BOX 717	SUMNER	WA	98309
PALO NORTH LLC	4501 126TH AVE CT E	EDGEWOOD	WA	98372
PARKER WILLIAM J	21231 CALHOUN RD	MONROE	WA	98272-8749
PARRY JOHN THOMAS	118 E RIVMONT DR	MONROE	WA	98272
PETTERSSON RAGNAR	17624 15TH AVE SE STE 112A	MILL CREEK	WA	98012
PHILLIPS LUISE	7231 E BROADWAY RD UNIT 228	MESA	AZ	85208
QUALEY RICHARD N	3 SUNNYSIDE BLVD	LAKE STEVENS	WA	98258
QUALEY RICHARD N	3 SUNNYSIDE BLVD	EVERETT	WA	98205
RAKOW JOSH	15207 229TH DR SE	MONROE	WA	98272
RALPH YINGLING	23719 150TH ST SE	MONROE	WA	98272
RICHARD ANGEL	21500 CALHOUN RD	MONROE	WA	98272
ROBERT SALTZGIVER	21000 RIVMONTE DR E	MONROE	WA	98272
ROBERTS JAN	21818 CALHOUN RD	MONROE	WA	98272-8752
ROBINSON HENRY J & ANN	21213 CALHOUN RD	MONROE	WA	98272
ROGERS JEFFREY W & JANET	127 RIVMONT DR E	MONROE	WA	98272
RON MCCAMMON	700 150TH RD NE	SNOHOMISH	WA	98290
ROSENCRANS KAREN & RONALD	105 W RIVMONT DR	MONROE	WA	98272
RUTH RICHARD M & JILL	21104 CALHOUN RD	MONROE	WA	98272-8735
RYAN CHARLES BAUER	21205 CALHOUN RD	MONROE	WA	98272
RYDER MARK	17443 160TH ST	MONROE	WA	98272
SALTZGIVER ROBERT B	21000 E RIVMONT DR	MONROE	WA	98272
SANDVIG DANIEL L	21727 CALHOUN ROAD	MONROE	WA	98272
SCARBORO KIRK & BEVERLY	103 W RIVMONT DR	MONROE	WA	98272
SCHLILATY ROBERT K	2345 SQUAK MT LOOP SW	ISSAQUAH	WA	98027
SETZER DONALD	PO BOX 1147	MONROE	WA	98272
SHARON KIENZLE	21130 CALHOUN RD	MONROE	WA	98272
STAGGS WADE & GAIL	116 E RIVMONT DR	MONROE	WA	98272
STRUBS CHARLES R & SUSAN	21810 CALHOUN ROAD	MONROE	WA	98272
SUSAN STRUB	21810 CALHOUN RD.	MONROE	WA	98272
THEIMER HELMUT & KAREN	PO BOX 1073	TWISP	WA	98856
TOM MCCANN & JUSTIN VANLOM	PO Box 1480	Monroe	WA	98272
TOM PERRY	20128 OLD OWEN RD	MONROE	WA	98272
TOMLIN RACHEL B	21029 CALHOUN RD	MONROE	WA	98272-8754
TONGG RORY P & KATHRYN R	PO BOX 1262	MONROE	WA	98272
USHLER AARON GUY	21720 CALHOUN RD	MONROE	WA	98272
VANDER HOUWEN KEITH J	17323 TROMBLEY RD	SNOHOMISH	WA	98290-6329
VICKIE MULLEN	10312 210TH ST SE	MONROE	WA	98272
WALLACE ALFRED A	21904 CALHOUN RD	MONROE	WA	98272-8739
WILLMORE GRAHAM	7104 FOSTER SLOUGH RD	SNOHOMISH	WA	98290-5897
WEBSTER TORI	21334 CALHOUN RD	MONROE	WA	98272
WILKINS DALE R	119 RIVMONT DR E	MONROE	WA	98272
WILKINSON MICHAEL & DEB	104 W RIVMONT DR	MONROE	WA	98272
WILTSE ARLENE	116 W RIVMONT DR	MONROE	WA	98272
WILTSE JAMES A	4517 STATE ROUTE 92	LAKE STEVENS	WA	98258.
WRIGHT ALICE A	21733 CALHOUN RD	MONROE	WA	98272-8752
YINGLING RALPH	23719 150TH ST SE	MONROE	WA	98272
ZEIGER RENEE M	21322 CALHOUN RD	MONROE	WA	98272-8737
ZYLSTRA MARVIN	21313 CALHOUN RD	MONROE	WA	98272-8737
ARMY CORPS OF ENGINEERS	PO BOX C-3775	SEATTLE	WA	98124

NOTICE OF AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) FOR THE EAST MONROE COMPREHENSIVE PLAN AMENDMENT AND SUBSEQUENT REZONE

This notice is to advise you that a Draft Environmental Impact Statement (DEIS) has been issued and is available for public review for the proposed East Monroe Comprehensive Plan Amendment and Subsequent Rezone. The proponent, Heritage Baptist Fellowship, has requested an amendment to the Monroe Comprehensive Plan to change the subject property land use designation from Limited Open Space (LOS) to General Commercial (GC). The subject property is comprised of five parcels of land (42.81 acres) located within the eastern portion of the City of Monroe north of the Skykomish River along the north side of State Route 2 (see the map below).

The City of Monroe is the Lead Agency for the DEIS. The proponent has completed the DEIS under contract with PACE Engineers, Inc. The analysis was undertaken to meet the direction of the State Environmental Policy Act (SEPA). The non-project DEIS evaluates the environmental impacts of two alternatives and a no-action alternative, which are discussed in detail in the DEIS.

No specific development proposal is under application and this is a non-project action. Any future development application for a project action must demonstrate that the development complies with Monroe Municipal Code (MMC) requirements. The applicant will be responsible for demonstrating compliance with the standards in the MMC, and all other local, state, and federal regulations at the time of application for development.

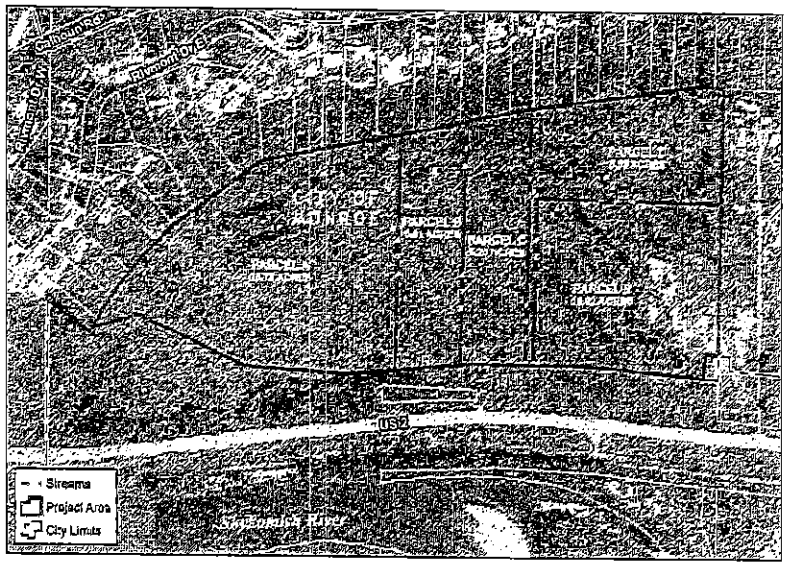
Draft DEIS Date of Issuance August 14, 2013 **Draft EIS Comments** The public and other reviewers are invited to comment on the DEIS. You may submit written comments on the Draft EIS no later than **September 13, 2013 at 5:00 pm.** All written comments must be received by that time and date. Written comments via mail, fax, or email should be submitted to: **SEPA Responsible Official** Melissa Sartorius, Senior Planner @ City of Monroe 806 West Main Street Monroe, WA 98272 / Fax: (360)-794-4007 Phone: (360)-794-7400 Email: msartorius@monroewa.gov. Please note that comments received in response to the DEIS, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. **Public Hearing** A public hearing will be held to allow participants to offer oral comments on the DEIS. The hearing will commence at **September 5, 2013 at 7:00 pm** at Monroe City Hall, 806 West Main Street, Monroe, WA 98272. **Availability of the Draft EIS and Appendices** The complete East Monroe Comprehensive Plan Amendment and Subsequent Rezone Draft Environmental Impact Statement (DEIS) and Appendices can be downloaded from the project website: www.monroewa.gov/eastmonroe. Copies of these documents are also available for public review at the following locations:

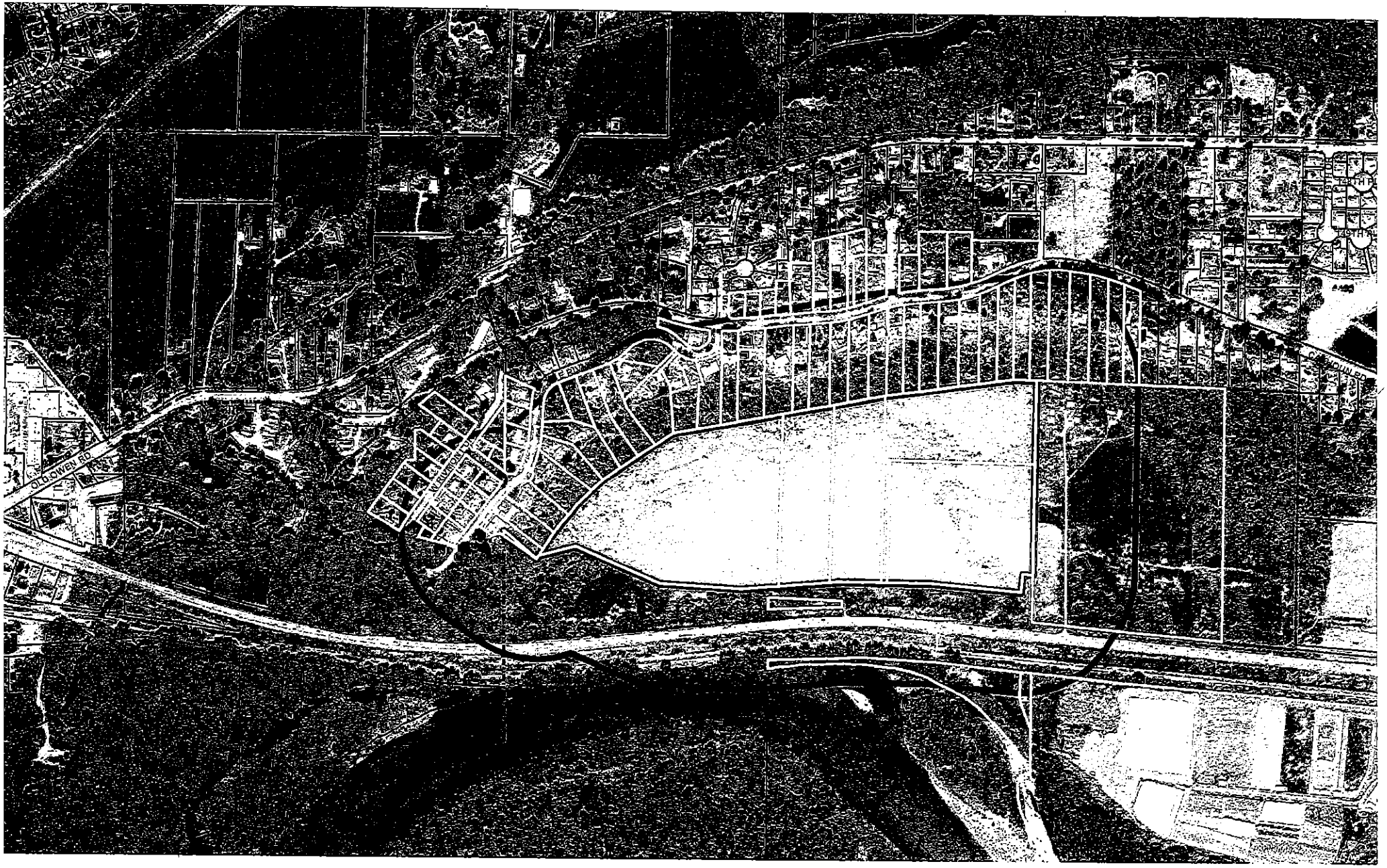
Monroe City Hall 806 W Main St Monroe WA 98272 / Monroe Library 1070 Village Way Monroe, WA 98272

Copies on CD-ROM are also available for purchase for $5 from the City of Monroe at 806 West Main Street, Monroe, WA 98272. Printed copies can be acquired for the cost of reproduction by the City at $50.00 per copy. If you have special accommodation needs, please contact the City of Monroe at (360)-794-7400.

Melissa Sartorius, SEPA Responsible Official
Senior Planner
City of Monroe

EAST MONROE COMPREHENSIVE PLAN AMENDMENT AND SUBSEQUENT REZONE




OLD OWEN RD
E BRIDGE
NEW WOODLAND
BRIDGE
E BRIDGE
ROCKLAND RD

AFFIDAVIT OF EMAILING
NOTICE OF DRAFT EIS – EAST MONROE

STATE OF WASHINGTON)

North of the Skykomish River along the North side of SR2, Monroe, Washington
Project location

COUNTY OF SNOHOMISH)

CPA2011-01 – East Monroe Economic Development Group Comprehensive Plan Amendment
File Number and Project Name

I, **Kim Shaw**, being first duly sworn on oath deposes and says that on the **14th Day of August, 2013,** I emailed a **Notice of Draft EIS, Monroe, WA**. Attached is the list of agencies, names and addresses to whom this information was emailed.

Kim Shaw
Signed

Subscribed and sworn to me this 14th day August, 2013

NOTARY SEAL

VICKI L. THAYER
COMMISSION EXPIRES
NOTARY
PUBLIC
5-09-16
STATE OF WASHINGTON

Vicki L Thayer
NOTARY PUBLIC in and for the State of Washington, residing at:

Lake Stevens

Printed Name: Vicki L. Thayer

My commission expires: May 9, 2016

Distribution List

City of Monroe
- Elected Officials
  - Mayor
    - Robert G. Zimmerman
  - City Council
    - Ed Davis
    - Jason Gamble
    - Jim Kamp
    - Kevin Hanford
    - Kurt Goering
    - Patsy Cudaback
    - Tom Williams
  - Planning Commission
    - Bill Kristiansen
    - Bridgette Tuttle
    - Dave Demarest
    - Dian Duerksen
    - Jeff Sherwood
    - Steve Jensen
    - Wayne Rodland
- City Administrator
- Deputy City Clerk
- Economic Development Manager
- Finance Director
- Operations & Maintenance Manager
- Parks & Recreation Director
- Planning & Permitting Manager
- Police Chief

Other Agencies
- Local
  - French Slough Flood Control District
  - Snohomish County Fire Protection District #3
  - Snohomish County Parks & Recreation
  - Snohomish County Planning & Development Services
  - Snohomish County Traffic Operations
  - Snohomish Health District
  - Sno-Isle Library District (Monroe Branch)
  - Valley General Hospital
- State
  - Department of Archeology & Historic Preservation
  - Department of Commerce
  - Department of Ecology & SEPA Register
  - Department of Fish & Wildlife
  - Department of Natural Resources
  - Department of Transportation
  - Parks & Recreation Commission
  - Puget Sound Clean Air Agency

Tribal

Tulalip Tribes

Federal

Federal Emergency Management Agency, Region X
National Marine Fisheries Service - NOAA
U.S. Army Corps of Engineers
U.S. Environmental Protection Agency, Region X

Utilities

Comcast
Frontier Communications
Puget Sound Energy
Republic Services
Snohomish County PUD #1
Waste Management

Media

City of Monroe Website
Monroe Monitor

Schools

Monroe School District #3
Snohomish School District

Other Groups

Burlington Northern Santa Fe Railroad
East Monroe Economic Development Group
ESA Adolfson
Fallgatter Law Group
Futurewise & Pilchuck Audubon Society
Heritage Baptist Fellowship
Mead Gilman & Associates Professional Land Surveying
PACE Engineers, Inc.
Remington Heights Homeowners Association

Individuals (see attached)

Kim Shaw

From: Kim Shaw
Sent: Wednesday, August 14, 2013 4:58 PM
To: 'megan.mcintyre@bnsf.com'; 'Casey_brown@cable.comcast.com'; 'gretchen.kaehler@dahp.wa.gov'; 'joshuafreed@mac.com'; 'mmuscari@esassoc.com'; 'josie@fallgatterlawgroup.com'; 'science.kilner@fema.dhs.gov'; 'Neilwheeler@comcast.net'; 'steven.crosby@ftr.com'; 'Kristin@futurewise.org'; 'pastor.minnick@comcast.net'; 'ed@meadgilman.com'; Ralph Yingling; 'kate.hawe@noaa.gov'; 'webmaster@pilchuckaudubon.org'; 'craigk@pscleanair.org'; 'david.matulich@pse.com'; 'board@remingtonheightsmonroe.com'; 'jprichard@republicservices.com'; 'sharon.swan@snoco.org'; 'ehquestions@shd.snohomish.wa.gov'; 'debra.werdal@co.snohomish.wa.us'; Mike Fitzgerald eMail; 'spwccs@co.snohomish.wa.us'; 'crenderlein@snopud.com'; 'debra.werdal@co.snohomish.wa.us'; 'TOM.LAUFMANN@SNO.WEDNET.EDU'; Betsy Lewis; 'kfinley@tulaliptribes-nsn.gov'; 'epa-seattle@epa.gov'; 'susanb@paceengrs.com'; 'COLLETTE@VALLEYGENERAL.COM'; 'reganc@wsdot.wa.gov'; 'ike.nwankwo@commerce.wa.gov'; 'paan461@ecy.wa.gov'; 'sepaunit@ecy.wa.gov'; 'SEPADESK@DFW.WA.GOV'; 'sepacenter@dnr.wa.gov'; 'RFREEDMAN@WM.COM'; 'pazooki@wsdot.wa.gov'; 'Eileen.lefebvre@providence.org'; 'marksoltman@doh.wa.gov'; 'eip@parks.wa.gov'
Subject: Draft Environmental Impact Statement (DEIS) for the East Monroe Comprehensive Plan Amendment and Subsequent Rezone
Attachments: Notice of Availability of DEIS.pdf

Dear Interested Person/Agency,

The Draft Environmental Impact Statement (DEIS) for the East Monroe Comprehensive Plan Amendment and Subsequent Rezone has been issued by the City of Monroe and is available for public review. Please find the Notice of Availability for the project attached to this email.

The complete East Monroe Comprehensive Plan Amendment and Subsequent Rezone Draft Environmental Impact Statement (DEIS) and Appendices can be downloaded from the project website at: www.monroewa.gov/eastmonroe

The proposed action is an amendment to the Monroe Comprehensive Plan to change the subject property land use designation from Limited Open Space (LOS) to General Commercial (GC). The subject property is comprised of five parcels of land (42.81 acres) located within the eastern portion of the City of Monroe north of the Skykomish River along the north side of State Route 2. No specific development proposal is under application and this is a non-project action.

You are invited to comment on the DEIS. You may submit written comments on the Draft EIS no later than **September 13, 2013 at 5:00 pm.** All written comments must be received by that date and time. Written comments via mail, fax, or email should be submitted to City of Monroe, Attn: Melissa Sartorius, SEPA Official, 806 W. Main St., Monroe, WA 98272, or Fax: (360)-794-4007, or msartorius@monroewa.gov.

A public hearing will be held to allow participants to offer oral comments on the DEIS. The hearing will commence at **September 5, 2013 at 5:00 pm** at Monroe City Hall, 806 West Main Street, Monroe, WA 98272.

Thank you, Kim

Kim Shaw, CPT
Permit Supervisor

Kim Shaw

From: Kim Shaw
Sent: Wednesday, August 14, 2013 5:11 PM
To: Kurt Goering
Subject: Draft Environmental Impact Statement (DEIS) for the East Monroe Comprehensive Plan Amendment and Subsequent Rezone
Attachments: Notice of Availability of DEIS.pdf

Kurt,
An email bounced back from a previous email sent regarding this, so we are sending yours again. Our apologies.

Dear Elected Officials / Staff,

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Thank you, Kim

Kim Shaw, CPT
Permit Supervisor
PH-360.863.4532
Fax-360.794.4007
www.monroewa.gov

Kim Shaw

From: Kim Shaw
Sent: Thursday, August 15, 2013 8:12 AM
To: 'megan.mcintyre@bnsf.com'; 'Casey_brown@cable.comcast.com'; 'gretchen.kaehler@dahp.wa.gov'; 'joshuafreed@mac.com'; 'mmuscari@esassoc.com'; 'josie@fallgatterlawgroup.com'; 'science.kilner@fema.dhs.gov'; 'Neilwheeler@comcast.net'; 'steven.crosby@ftr.com'; 'Kristin@futurewise.org'; 'pastor.minnick@comcast.net'; 'ed@meadgilman.com'; Ralph Yingling; 'kate.hawe@noaa.gov'; 'webmaster@pilchuckaudubon.org'; 'craigk@pscleanair.org'; 'david.matulich@pse.com'; 'board@remingtonheightsmonroe.com'; 'jprichard@republicservices.com'; 'sharon.swan@snoco.org'; 'ehquestions@shd.snohomish.wa.gov'; 'debra.werdal@co.snohomish.wa.us'; Mike Fitzgerald eMail; 'spwccs@co.snohomish.wa.us'; 'crenderlein@snopud.com'; 'debra.werdal@co.snohomish.wa.us'; 'TOM.LAUFMANN@SNO.WEDNET.EDU'; Betsy Lewis; 'kfinley@tulaliptribes-nsn.gov'; 'epa-seattle@epa.gov'; 'susanb@paceengrs.com'; 'COLLETTE@VALLEYGENERAL.COM'; 'reganc@wsdot.wa.gov'; 'ike.nwankwo@commerce.wa.gov'; 'paan461@ecy.wa.gov'; 'sepaunit@ecy.wa.gov'; 'SEPADESK@DFW.WA.GOV'; 'sepacenter@dnr.wa.gov'; 'RFREEDMAN@WM.COM'; 'pazooki@wsdot.wa.gov'; 'Eileen.lefebvre@providence.org'; 'marksoltman@doh.wa.gov'; 'eip@parks.wa.gov'
Subject: Draft Environmental Impact Statement (DEIS) for the East Monroe Comprehensive Plan Amendment and Subsequent Rezone
Attachments: Notice of Availability of DEIS.pdf

Dear Interested Person/Agency,

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A public hearing will be held to allow participants to offer oral comments on the DEIS. The hearing will commence at **September 5, 2013 at 5:00 pm** at Monroe City Hall, 806 West Main Street, Monroe, WA 98272.

Thank you, Kim

Kim Shaw, CPT
Permit Supervisor

AFFIDAVIT OF POSTING
NOTICE OF AVAILABILITY OF DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) FOR EAST MONROE COMPREHENSIVE PLAN

STATE OF WASHINGTON)

COUNTY OF SNOHOMISH)

270706-001-025-00, 270705-002-061-00, 270705-002-062-00, 27005-002-063-00, 27005-002-064-00,
Project location

CPA2011-01 East Monroe DEIS
File Number and Application Name

I, Melissa Sartorius (print name) being first duly sworn on oath, depose and say: That I am a citizen of the United States of America; That I am competent to be witness herein; That on the 14 day of August, 2013, that I posted one sign for the **Notice of Availability for the East Monroe DEIS** on or near the property concerned, in a conspicuous place; and the correct date of posting of said notice, to wit:

City of Monroe Library
Location of notice

Signed

Subscribed and sworn to me this 20th day of August, 2013

NOTARY SEAL

VICKI L. THAYER
COMMISSION EXPIRES
NOTARY
PUBLIC
5-09-16
STATE OF WASHINGTON

NOTARY PUBLIC in and for the State of Washington, residing at:

Snohomish County

Printed Name: Vicki L Thayer

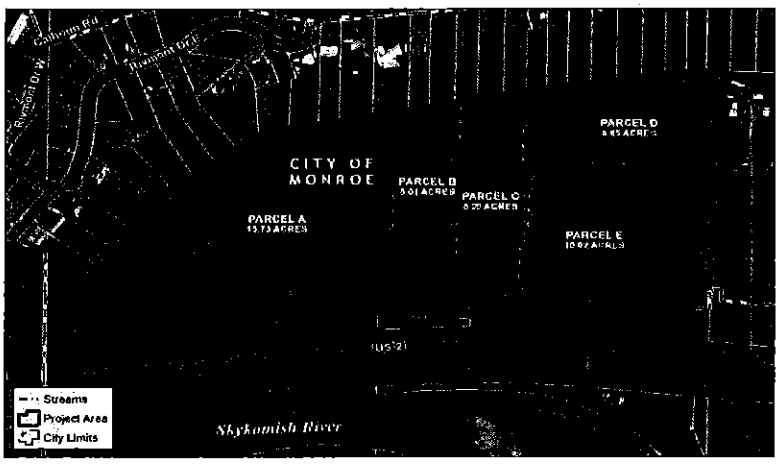
My commission expires: May 9, 2016

WASHINGTON

NOTICE OF AVAILABILITY
DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)
FOR THE
EAST MONROE COMPREHENSIVE PLAN AMENDMENT AND SUBSEQUENT REZONE

This notice is to advise you that a Draft Environmental Impact Statement (DEIS) has been issued and is available for public review for the proposed East Monroe Comprehensive Plan Amendment and Subsequent Rezone. The proponent, Heritage Baptist Fellowship, has requested an amendment to the Monroe Comprehensive Plan to change the subject property land use designation from Limited Open Space (LOS) to General Commercial (GC). The subject property is comprised of five parcels of land (42.81 acres) located within the eastern portion of the City of Monroe north of the Skykomish River along the north side of State Route 2 (see the map below).

The City of Monroe is the Lead Agency for the DEIS. The proponent has completed the DEIS under contract with PACE Engineers, Inc. The analysis was undertaken to meet the direction of the State Environmental Policy Act (SEPA). The non-project DEIS evaluates the environmental impacts of two alternatives and a no-action alternative, which are discussed in detail in the DEIS.



No specific development proposal is under application and this is a non-project action. Any future development application for a project action must demonstrate that the development complies with Monroe Municipal Code (MMC) requirements. The applicant will be responsible for demonstrating compliance with the standards in the MMC, and all other local, state, and federal regulations at the time of application for development.

Draft DEIS Date of Issuance
August 14, 2013

Draft EIS Comments
The public and other reviewers are invited to comment on the DEIS. You may submit written comments on the Draft EIS no later than **September 13, 2013 at 5:00 pm.** All written comments must be received by that time and date.

Written comments via mail, fax, or email should be submitted to:

SEPA Responsible Official
Melissa Sartorius
Senior Planner
City of Monroe
806 West Main Street
Monroe, WA 98272
Fax: (360)-794-4007
Phone: (360)-794-7400
Email: msartorius@monroewa.gov

Please note that comments received in response to the DEIS, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection.

Public Hearing

A public hearing will be held to allow participants to offer oral comments on the DEIS. The hearing will commence at **September 5, 2013 at 7:00 pm** at Monroe City Hall, 806 West Main Street, Monroe, WA 98272.

Availability of the Draft EIS and Appendices

The complete East Monroe Comprehensive Plan Amendment and Subsequent Rezone Draft Environmental Impact Statement (DEIS) and Appendices can be downloaded from the project website:

www.monroewa.gov/eastmonroe

Copies of these documents are also available for public review at the following locations:

Monroe City Hall	Monroe Library
806 West Main Street	1070 Village Way
Monroe, WA 98272	Monroe, WA 98272

Copies on CD-ROM are also available for purchase for $5 from the City of Monroe at 806 West Main Street, Monroe, WA 98272. Printed copies can be acquired for the cost of reproduction by the City at $50.00 per copy.

If you have special accommodation needs, please contact the City of Monroe at (360)-794-7400.

Melissa Sartorius, SEPA Responsible Official
Senior Planner
City of Monroe

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BY

THE MONROE MONITOR & Valley News

RIM PUBLICATIONS

Publishers of

MONROE MONITOR & VALLEY NEWS

125 E. Main, Ste. 202 Monroe, WA 98272
(P) 360.794.7116 (F) 360.794.6202

AFFIDAVIT OF PUBLICATION

State of Washington, Snohomish County

I, Scott Freshman, under penalty of perjury, do hereby declare:

I am a representative of the Monroe Monitor & Valley News (the 'Newspaper') whose regular j duties include the authorization to execute Affidavits of Publication on behalf of the Newspape

The Newspaper was adjudicated to be qualified to publish legal notices in the above county b Court Order;

On the below dates, the Newspaper published a legal notice, a copy of which is attached here in relation to the file known as:

City of Monroe Notice of FEIS
Availability, E. Monroe Comp. Plan Amendment

On the below dates, the Newspaper circulated copies, including the attached notice, in the regular course of business throughout the above County;

Insertion Dates: 10/01/13

Scott Freshman

Subscribed and sworn to me this day Oct. 2, 2013

Notary Public:

Kathryn Savelesky
NOTARY PUBLIC
MY APPOINTMENT EXPIRES 07/31/2016
STATE OF WASHINGTON

EXHIBIT# M5

CITY OF MONROE
NOTICE OF AVAILABILITY OF FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS) FOR THE EAST MONROE COMPREHENSIVE PLAN AMENDMENT AND REZONE

This notice is to advise you that a Final Environmental Impact Statement (FEIS) has been issued by the City of Monroe and is now available for public review for the proposed East Monroe Comprehensive Plan Amendment and Rezone. The Draft EIS for this project was issued for public review on August 14, 2013. Sixteen written comments were received on the DEIS during the comment period ending Friday, September 13, 2013. A public hearing to gather public comments on the DEIS was held at City Council Chambers on Thursday, September 5, 2013. The written comments and a transcript of the public hearing are included in the FEIS. The City of Monroe has now issued the FEIS which contains revisions and consideration of comments received on the Draft EIS. Proposed Action: The proponent, Heritage Baptist Fellowship, has requested an amendment to the Monroe Comprehensive Plan to change the subject property land use designation from Limited Open Space (LOS) to General Commercial (GC). The subject property is comprised of five parcels of land (42.81 acres) located within the eastern portion of the City of Monroe, north of the Skykomish River along the north side of State Route 2. The City of Monroe is the Lead Agency for the FEIS. The proponent has completed the FEIS under contract with PACE Engineers, Inc. The analysis was undertaken to meet the direction of the State Environmental Policy Act (SEPA). FEIS Date of Issuance: September 27, 2013. Next Actions: Following publication of the FEIS, the City of Monroe Planning Commission will hold a public hearing on the Comprehensive Plan amendments on October 28th, 2013. The Planning Commission will then forward a recommendation on the amendments to the City Council in November. Final action on the amendments is scheduled for December 17, 2013. Please note that all dates listed are subject to change. Appeal: Any agency or person may appeal the adequacy of a Final Environmental Impact Statement (FEIS), within 15 working days of issuance by filing an appeal in conformance with MMC 21.60.010. The appeal shall be filed on forms provided by the SEPA responsible official and must be filed in original form. The appeal shall set forth the specific reason, rationale, and/or basis for the appeal. Payment of the appeal fee, as specified in the city's current Fee Resolution, shall occur at the time the appeal is filed. Appeal of the FEIS may be filed no later than Friday, October 18, 2013 at 5:00 pm. Availability of the FEIS and Appendices: The complete East Monroe Comprehensive Plan Amendment and Rezone Final Environmental Impact Statement (FEIS) and Appendices can be download-

AFFIDAVIT OF MAILING
NOTICE OF FINAL EIS – EAST MONROE

STATE OF WASHINGTON) **North Side of Skykomish River along the North side of SR2**
Address

COUNTY OF SNOHOMISH) **CPA2011-01 – East Monroe Economic Development Group Comprehensive Plan Amendment**
Application Name and File

I, Jessica Johnson, being first duly sworn on oath depose and say that on the **27th day of September, 2013**, made application with Click 2 Mail to mail on **September 28th, 2013**, a copy with prepaid postage of the **Notice of Final EIS- East Monroe, Monroe, WA.** Attached is a list of names and addresses to whom this information was mailed and confirmation of the order.

Signed

Subscribed and sworn to me this 2ND day October, 2013

NOTARY SEAL

VICKI L. THAYER
COMMISSION EXPIRES
NOTARY
PUBLIC
5-09-16
STATE OF WASHINGTON

NOTARY PUBLIC in and for the State of Washington, residing at:

Lake Stevens

Printed Name: Vicki L. Thayer

My commission expires: May 9, 2016

NAME	ADDRESS	CITY	STATE	ZIP CODE
AL WALLACE	21904 CALHOUN RD.	MONROE	WA	98272
AL-ZAHMEA LEYLA	21033 CALHOUN RD	MONROE	WA	98272-8754
ANDERSON DENNIS E & SHARON R	21826 CALHOUN RD	MONROE	WA	98272-8752
ANDERSON LOWELL & BARBARA	129 E RIVMONT DR	MONROE	WA	98272
ANDERSON RONALD R	22114 SR2	MONROE	WA	98272
ANGEL RICHARD A & SALLEY M	19916 OLD OWEN RD	MONROE	WA	98272
AVERY DENNIS G & KATHLEEN D	21312 CALHOUN RD	MONROE	WA	98272
BAUER RYAN CHARLES	21205 CALHOUN RD	MONROE	WA	98272-8736
BERGER KENNETH A & DEBORAH	105 RIVMONT DR E	MONROE	WA	98272
BLAIR FAMILY	15403 CALHOUN RD	MONROE	WA	98272
BOYLE MARTIN & LINDA	PO BOX 951	MONROE	WA	98272
BRADLEY SHAYNE P & ALISON	21104 CALHOUN RD	MONROE	WA	98272
BROWN DON AND NEVA	21119 CALHOUN RD	MONROE	WA	98272
BROWER DON R	21119 CALHOUN RD	MONROE	WA	98272-8735
BURSLEM NORMAN O & ANITA E	112 E RIVMONT DR	MONROE	WA	98272
C. INMAR	21720 CALHOUN RD	MONROE	WA	98272
CARLIN KEVIN	113 RIVMONT DR W	MONROE	WA	98272
CARNES GENE A	108 E RIVMONT DR	MONROE	WA	98272
CAVASSA PAUL JR & NANCY M	21113 CALHOUN RD	MONROE	WA	98272-8735
CHALMERS JEANNIE	21700 CALHOUN RD	MONROE	WA	98272
CHALMERS KENNETH	21700 CALHOUN RD	MONROE	WA	98272-8752
CLARK CHRISTINE	108 E RIVMONT DR	MONROE	WA	98272
CLEVE MAEL	121 E RIVMONT DR	MONROE	WA	98272
CLIVE ELLARD	21804 CALHOUN RD.	MONROE	WA	98272
COOGAN JAMES & CYNTHIA	106 E RIVMONT DR	MONROE	WA	98272
COLE BRIAN	8425 SMUGGLERS COVE	MUKILTEO	WA	98275
DALY GEORGE & MADA	PO BOX 1104	MONROE	WA	98272
DENISE GULAS	4 ACADEMY WAY	MONROE	WA	98272
DENNIS ANDERSON	21826 CALHOUN RD.	MONROE	WA	98272
DIANE ELLIOTT	15550 174TH AVE SE	MONROE	WA	98272
DINWIDDIE GAIL M	20983 EAST RIVMONT DR	MONROE	WA	98272
DOUG & KAY FISHER	110 E RIVMONT DR	MONROE	WA	98272
DOUG HAMAR	PO BOX 1104	MONROE	WA	98272
DUANE MATTERN	21112 CALHOUN RD	MONROE	WA	98272
DUSTIN WATKINS	102 W RIVMONT DR	MONROE	WA	98272
ELLARD CLIVE	21804 CALHOUN ROAD	MONROE	WA	98272
EHRHORN KARIN & CORY	21130 CALHOUN ROAD	MONROE	WA	98272
FEDERAL NATIONAL MORTGAGE ASSOCIATION	14523 SW MILIKAN WAY STE	BEAVERTON	OR	97005
FELIX NORMAN R	21029 CALHOUN RD	MONROE	WA	98272-8754
FINCH WILLIAM E	106 W RIVMONT DR	MONROE	WA	98272
FISHER KEN	13530 MUIR DR SE	MONROE	WA	98272
FRED WALSER	692 PARK LANE	MONROE	WA	98272
FREEZE CAROLE	116 E RIVMONT DR	MONROE	WA	98272
FREI GEORGE A	15309 CALHOUN ROAD	MONROE	WA	98272
GAST KENNETH M & KAREN L	21330 CALHOUN RD	MONROE	WA	98272
GEE KENNETH R/LINDA S	17922 131ST PL SE	SNOHOMISH	WA	98290
GEE RICHARD D & KIMBERLEY K	109 RIVMONT DR W	MONROE	WA	98272
GIBSON DONNA J	112 W RIVMONT DR	MONROE	WA	98272
GOWDEY HOGES & WILHELMINA TRUSTEES	123 E RIVMONT DR	MONROE	WA	98272
HAGER JAMES R	21314 CALHOUN RD	MONROE	WA	98272
HAMAR DOUGLAS	PO BOX 1104	MONROE	WA	98272
HANSON HAROLD & GERALDINE M	PO BOX 337	MONROE	WA	98272
HASSLINGER GLENN & LOUISE	21016 CALHOUN RD SE	MONROE	WA	98272
HEATH MIKE	25405 138TH ST SE	MONROE	WA	98272
HEICHEL ARON W	21220 CALHOUN RD	MONROE	WA	98272
HEICHEL ELAINE R TTEE	21220 CALHOUN RD	MONROE	WA	98272
HOLBERY JAMES D	6218 105TH AVE NE	KIRKLAND	WA	98033
HOLM DEREK R & CINDY	21121 CALHOUN RD	MONROE	WA	98272-8735
HOLMAN CRAIG H	114 W RIVMONT DR	MONROE	WA	98272
HONS RUTH LILLIAN REVOCABLE LIVING TRUST	21416 CALHOUN RD	MONROE	WA	98272
JEFF SHERWOOD	17493 136TH PL SE	MONROE	WA	98272
JOHNSON MARGARET A	21010 E RIVMONT DR	MONROE	WA	98272
JONES AMANDA J	21021 CALHOUN RD	MONROE	WA	98272
JOSHUA FREED	12900 NE 180TH ST., SUITE 220	BOTHELL	WA	98011
KELT ANDRA SUSAN	106 W RIVMONT DR	MONROE	WA	98272
KIENZIE SHARON J	820 CADY RD UNIT B 203	EVERETT	WA	98203
KIENZLE SHARON J	21130 CALHOUN RD	MONROE	WA	98272-8735
KINNEAR LINDA J	PO BOX 1499	MONROE	WA	98272
KOEPPEN KENNETH O	109 W RIVMONT DR	MONROE	WA	98272

KRAFT JAMES E & JANET M	119 RIVMONT DR E	MONROE	WA	98272
KREUTZ ROBERT & SANDRA	7908 UPPER RIDGE DR	EVERETT	WA	98203
KRISTIANSEN BJARNE & JANET	21210 CALHOUN RD	MONROE	WA	98272-8736
LABUGUEN PHIL & GAYLE	110 W RIVMONT DR	MONROE	WA	98272
LANGE DONALD V	107 RIVMONT DR W	MONROE	WA	98272
LARRY & BARBARA BARKER	22010 CALHOUN RD	MONROE	WA	98272
LARSEN RON W & SUSAN M	15020 NE 144TH ST	REDMOND	WA	98052
LASHBROOK JOHN	114 E RIVMONT DRIVE	MONROE	WA	98272
LINDA KINNEAR	111 E RIVMONT DR	MONROE	WA	98272
LITTLE JERRY D	PO BOX 814	POMEROY	WA	99347
MAGANA JOSE	124 E RIVMONT DR	MONROE	WA	98272
MAGELSEN JAMES & COLLEEN	PO BOX 400	MONROE	WA	98272
MAGELSEN JAMES A	109 RIVMONT DR	MONROE	WA	98272
MARGARET OHLSEN	PO BOX 775	MONROE	WA	98272
MARTIN ROBERT M	103 E RIVMONT DR	MONROE	WA	98272
MATTERN DUANE & LILA	PO BOX 214	MONROE	WA	98272
MCCAMMON CHAD	21624 CALHOUN RD	MONROE	WA	98272-8738
MCCANN TOM P & VANLOM JUSTIN B	PO BOX 1480	MONROE	WA	98272
MCCOLLUM MICHAEL J & LINDY S	21728 CALHOUN RD	MONROE	WA	98272-8752
MCCORMICK BRIAN M	21325 CALHOUN RD	MONROE	WA	98272-8737
MILLS JENNIFER	21231 CALHOUN RD	MONROE	WA	98272
MONAHAN BARRY/MOBERG LINDA/DEYARMON RICH	21020 CALHOUN RD	MONROE	WA	98272-8729
MONROE I O O F CEMETERY	610 S LEWIS ST	MONROE	WA	98272
MULHOLLAND HAROLD	112 E RIVMONT DR	MONROE	WA	98272
MULLEN VICKIE	10312 210TH ST SE	MONROE	WA	98272
MURDOCK ARTHUR K	20930 RIVMONT DR E	MONROE	WA	98272
NATIONSTAR MORTGAGE LLC	350 HIGHLAND DR	LEWISVILLE	TX	75067
NICOLE ANDERSON	109 RIVMONT DR E	MONROE	WA	98272
NORDBY R SCOTT	19507 FALES RD	SNOHOMISH	WA	98290
RESIDENT	106 E RIVMONT DR	MONROE	WA	98272
RESIDENT	108 E RIVMONT DR	MONROE	WA	98272
RESIDENT	109 E RIVMONT DR	MONROE	WA	98272
RESIDENT	111 E RIVMONT DR	MONROE	WA	98272
RESIDENT	117 RIVMONT DR E	MONROE	WA	98272
RESIDENT	121 E RIVMONT DR	MONROE	WA	98272
RESIDENT	122 W RIVMONT DR	MONROE	WA	98272
RESIDENT	125 E RIVMONT DR	MONROE	WA	98272-8751
RESIDENT	126 W RIVMONT DR	MONROE	WA	98272
RESIDENT	127 W RIVMONT DR	MONROE	WA	98272
RESIDENT	20983 RIVMONT DR E	MONROE	WA	98272
RESIDENT	21010 CALHOUN RD	MONROE	WA	98272-8754
RESIDENT	21016 CALHOUN RD SE	MONROE	WA	98272
RESIDENT	21122 CALHOUN RD	MONROE	WA	98272-8735
RESIDENT	21207 CALHOUN RD	MONROE	WA	98272-8736
RESIDENT	21405 CALHOUN RD	MONROE	WA	98272-8757
RESIDENT	21410 SR 2	MONROE	WA	98272
RESIDENT	21416 CALHOUN RD	MONROE	WA	98272-8757
RESIDENT	21424 CALHOUN RD	MONROE	WA	98272
RESIDENT	21500 CALHOUN RD	MONROE	WA	98272-8756
RESIDENT	21509 SR 2	MONROE	WA	98272
RESIDENT	21600 OLD OWEN RD	MONROE	WA	98272
RESIDENT	21608 CALHOUN RD	MONROE	WA	98272-8738
RESIDENT	21611 SR 2	MONROE	WA	98272
RESIDENT	21616 CALHOUN RD	MONROE	WA	98272-8738
RESIDENT	21709 CALHOUN RD	MONROE	WA	98272-8752
RESIDENT	21712 CALHOUN RD	MONROE	WA	98272-8752
RESIDENT	21808 CALHOUN RD	MONROE	WA	98272-8752
RESIDENT	21817 CALHOUN RD	MONROE	WA	98272-8752
RESIDENT	22210 SR 2	MONROE	WA	98272
OHLDE LEE E & SONIA D	15015 210TH AVE SE	MONROE	WA	98272-9704
OHLSEN HAROLD N & MARGARET	PO BOX 775	MONROE	WA	98272
OLSON DOUGLAS	128 W RIVMONT DR	MONROE	WA	98272
O'ROARTY BENJAMIN C & CASEY W	21021 CALHOUN RD	MONROE	WA	98272-8754

RESIDENT	100 W RIVMONT DR	MONROE	WA	98272
RESIDENT	116 W RIVMONT DR	MONROE	WA	98272
RESIDENT	125 E RIVMONT DR	MONROE	WA	98272
RESIDENT	127 E RIVMONT DR	MONROE	WA	98272
RESIDENT	15309 CALHOUN RD.	MONROE	WA	98272
RESIDENT	20930 RIVMONT DR E	MONROE	WA	98272
RESIDENT	21010 RIVMONT DR	MONROE	WA	98272
RESIDENT	21322 CALHOUN RD	MONROE	WA	98272
RESIDENT	21712 CALHOUN RD	MONROE	WA	98272
RESIDENT	22028 CALHOUN RD	MONROE	WA	98272
RESIDENT	21916 CALHOUN RD	MONROE	WA	98272
RESIDENT	21706 CALHOUN RD	MONROE	WA	98272
RESIDENT	21231 CALHOUN RD	MONROE	WA	98272
PALMIERO FRED J & CAROL A	PO BOX 717	SUMNER	WA	98309
PALO NORTH LLC	4501 126TH AVE CT E	EDGEWOOD	WA	98372
PARKER WILLIAM J	21231 CALHOUN RD	MONROE	WA	98272-8749
PARRY JOHN THOMAS	118 E RIVMONT DR	MONROE	WA	98272
PETTERSSON RAGNAR	17624 15TH AVE SE STE 112A	MILL CREEK	WA	98012
PHILLIPS LUISE	7231 E BROADWAY RD UNIT 228	MESA	AZ	85208
QUALEY RICHARD N	3 SUNNYSIDE BLVD	LAKE STEVENS	WA	98258
QUALEY RICHARD N	3 SUNNYSIDE BLVD	EVERETT	WA	98205
RAKOW JOSH	15207 229TH DR SE	MONROE	WA	98272
RALPH YINGLING	23719 150TH ST SE	MONROE	WA	98272
RICHARD ANGEL	21500 CALHOUN RD	MONROE	WA	98272
ROBERT SALTZGIVER	21000 RIVMONTE DR E	MONROE	WA	98272
ROBERTS JAN	21818 CALHOUN RD	MONROE	WA	98272-8752
ROBINSON HENRY J & ANN	21213 CALHOUN RD	MONROE	WA	98272
ROGERS JEFFREY W & JANET	127 RIVMONT DR E	MONROE	WA	98272
RON MCCAMMON	700 150TH RD NE	SNOHOMISH	WA	98290
ROSENCRANS KAREN & RONALD	105 W RIVMONT DR	MONROE	WA	98272
RUTH RICHARD M & JILL	21104 CALHOUN RD	MONROE	WA	98272-8735
RYAN CHARLES BAUER	21205 CALHOUN RD	MONROE	WA	98272
RYDER MARK	17443 160TH ST	MONROE	WA	98272
SALTZGIVER ROBERT B	21000 E RIVMONT DR	MONROE	WA	98272
SANDVIG DANIEL L	21727 CALHOUN ROAD	MONROE	WA	98272
SCARBORO KIRK & BEVERLY	103 W RIVMONT DR	MONROE	WA	98272
SCHLILATY ROBERT K	2345 SQUAK MT LOOP SW	ISSAQUAH	WA	98027
SETZER DONALD	PO BOX 1147	MONROE	WA	98272
SHARON KIENZLE	21130 CALHOUN RD	MONROE	WA	98272
STAGGS WADE & GAIL	116 E RIVMONT DR	MONROE	WA	98272
STRUBS CHARLES R & SUSAN	21810 CALHOUN ROAD	MONROE	WA	98272
SUSAN STRUB	21810 CALHOUN RD.	MONROE	WA	98272
THEIMER HELMUT & KAREN	PO BOX 1073	TWISP	WA	98856
TOM MCCANN & JUSTIN VANLOM	PO Box 1480	Monroe	WA	98272
TOM PERRY	20128 OLD OWEN RD	MONROE	WA	98272
TOMLIN RACHEL B	21029 CALHOUN RD	MONROE	WA	98272-8754
TONGG RORY P & KATHRYN R	PO BOX 1262	MONROE	WA	98272
USHLER AARON GUY	21720 CALHOUN RD	MONROE	WA	98272
VANDER HOUWEN KEITH J	17323 TROMBLEY RD	SNOHOMISH	WA	98290-6329
VICKIE MULLEN	10312 210TH ST SE	MONROE	WA	98272
WALLACE ALFRED A	21904 CALHOUN RD	MONROE	WA	98272-8739
WILLMORE GRAHAM	7104 FOSTER SLOUGH RD	SNOHOMISH	WA	98290-5897
WEBSTER TORI	21334 CALHOUN RD	MONROE	WA	98272
WILKINS DALE R	119 RIVMONT DR E	MONROE	WA	98272
WILKINSON MICHAEL & DEB	104 W RIVMONT DR	MONROE	WA	98272
WILTSE ARLENE	116 W RIVMONT DR	MONROE	WA	98272
WILTSE JAMES A	4517 STATE ROUTE 92	LAKE STEVENS	WA	98258
WRIGHT ALICE A	21733 CALHOUN RD	MONROE	WA	98272-8752
YINGLING RALPH	23719 150TH ST SE	MONROE	WA	98272
ZEIGER RENEE M	21322 CALHOUN RD	MONROE	WA	98272-8737
ZYLSTRA MARVIN	21313 CALHOUN RD	MONROE	WA	98272-8737
ARMY CORPS OF ENGINEERS	PO BOX C-3775	SEATTLE	WA	98124
ANNA GROENVELD	29524 FERN BLUFF RD	MONROE	WA	98272
BRAD BEETCHENOW	22127 YEAGER RD	MONROE	WA	98272
SCOTT & VICKI FURRER	23811 STATE ROUTE 2	MONROE	WA	98272
WIARD & JEAN GROENEVELD	29126 FERN BLUFF RD	MONROE	WA	98272
JERRY & STACY LABISH	16603 275TH AVE SE	MONROE	WA	98272
TOM, KATHY & KORRI MARIE TREVES	24032 153RD PL SE	MONROE	WA	98272

AFFIDAVIT OF EMAILING
NOTICE OF FINAL EIS – East Monroe

STATE OF WASHINGTON)

North of the Skykomish River along the North side of SR2, Monroe, Washington
Project location

COUNTY OF SNOHOMISH)

CPA2011-01 – East Monroe Economic Development Group Comprehensive Plan Amendment
File Number and Project Name

I, **Jessica Johnson**, being first duly sworn on oath deposes and says that on the **27th Day of September, 2013,** I emailed a **Notice of Final EIS, Monroe, WA**. Attached is the list of agencies, names and addresses to whom this information was emailed.

Signed

Subscribed and sworn to me this 2ND day October, 2013

NOTARY SEAL

VICKI L. THAYER
COMMISSION EXPIRES
NOTARY
PUBLIC
5-09-16
STATE OF WASHINGTON

NOTARY PUBLIC in and for the State of Washington, residing at:

Lake Stevens

Printed Name: Vicki L. Thayer

My commission expires: May 9, 2016

Distribution List

- City of Monroe
  - Elected Officials
    - Mayor
      - Robert G. Zimmerman
    - City Council
      - Ed Davis
      - Jason Gamble
      - Jim Kamp
      - Kevin Hanford
      - Kurt Goering
      - Patsy Cudaback
      - Tom Williams
    - Planning Commission
      - Bill Kristiansen
      - Bridgette Tuttle
      - Dave Demarest
      - Dian Duerksen
      - Jeff Sherwood
      - Steve Jensen
      - Wayne Rodland
  - City Administrator
  - Deputy City Clerk
  - Economic Development Manager
  - Finance Director
  - Operations & Maintenance Manager
  - Parks & Recreation Director
  - Planning & Permitting Manager
  - Police Chief

- Other Agencies
  - Local
    - French Slough Flood Control District
    - Snohomish County Fire Protection District #3
    - Snohomish County Parks & Recreation
    - Snohomish County Planning & Development Services
    - Snohomish County Traffic Operations
    - Snohomish Health District
    - Sno-Isle Library District (Monroe Branch)
    - Valley General Hospital
  - State
    - Department of Archeology & Historic Preservation
    - Department of Commerce
    - Department of Ecology & SEPA Register
    - Department of Fish & Wildlife
    - Department of Natural Resources
    - Department of Transportation
    - Parks & Recreation Commission
    - Puget Sound Clean Air Agency

Tribal

Tulalip Tribes

Federal

Federal Emergency Management Agency, Region X
National Marine Fisheries Service - NOAA
U.S. Army Corps of Engineers
U.S. Environmental Protection Agency, Region X

Utilities

Comcast
Frontier Communications
Puget Sound Energy
Republic Services
Snohomish County PUD #1
Waste Management

Media

City of Monroe Website
Monroe Monitor

Schools

Monroe School District #3
Snohomish School District

Other Groups

Heritage Baptist Fellowship
Burlington Northern Santa Fe Railroad
Fallgatter Law Group
Futurewise & Pilchuck Audubon Society
Mead Gilman & Associates Professional Land Surveying
ESA Adolfson
Remington Heights Homeowners Association
PACE Engineers, Inc.

Individuals (see attached)

Updated 09/25/2013 Kim S.

Kim Shaw

From: Kim Shaw
Sent: Friday, September 27, 2013 10:29 AM
To: 'megan.mcintyre@bnsf.com'; 'Casey_brown@cable.comcast.com'; 'gretchen.kaehler@dahp.wa.gov'; 'joshuafreed@mac.com'; 'mmuscari@esassoc.com'; 'josie@fallgatterlawgroup.com'; 'science.kilner@fema.dhs.gov'; 'Neilwheeler@comcast.net'; 'steven.crosby@ftr.com'; 'Kristin@futurewise.org'; 'pastor.minnick@comcast.net'; 'ed@meadgilman.com'; Ralph Yingling; 'kate.hawe@noaa.gov'; 'webmaster@pilchuckaudubon.org'; 'craigk@pscleanair.org'; 'david.matulich@pse.com'; 'board@remingtonheightsmonroe.com'; 'jprichard@republicservices.com'; 'sharon.swan@snoco.org'; 'ehquestions@shd.snohomish.wa.gov'; Mike Fitzgerald eMail; 'spwccs@co.snohomish.wa.us'; 'crenderlein@snopud.com'; 'debra.werdal@co.snohomish.wa.us'; 'TOM.LAUFMANN@SNO.WEDNET.EDU'; Betsy Lewis; 'kfinley@tulaliptribes-nsn.gov'; 'epa-seattle@epa.gov'; 'susanb@paceengrs.com'; 'Collette@valleygeneral.com'; 'reganc@wsdot.wa.gov'; 'ike.nwankwo@commerce.wa.gov'; 'paan461@ecy.wa.gov'; 'sepaunit@ecy.wa.gov'; 'SEPADESK@DFW.WA.GOV'; 'sepacenter@dnr.wa.gov'; 'RFREEDMAN@WM.COM'; 'pazooki@wsdot.wa.gov'; 'Eileen.lefebvre@providence.org'; 'marksoltman@doh.wa.gov'; 'eip@parks.wa.gov'; 'BenenaS@wsdot.wa.gov'; 'classicphotosbycheryl@live.com'; Steve Van Slyke; Ed Davis; Jason Gamble; Jim Kamp; Kevin Hanford; Kurt Goering; Patsy Cudaback; Tom Williams; Bill Kristiansen; 'btuttle@monroewa.gov'; David Demarest; Dian Duerksen; Jeff Sherwood; Steve Jensen; Wayne Rodland; Gene Brazel; Eadye E. Martinson; Jeff Sax; Dianne Nelson; Brad Feilberg; Mike Farrell; Paul Popelka; Tim Quenzer
Subject: Final Environmental Impact Statement (FEIS) issued by City of Monroe for East Monroe Comprehensive Plan Amendment and Rezone
Attachments: Notice of Availibility.pdf

Dear Interested Person/Agency,

This email is to advise you that a Final Environmental Impact Statement (FEIS) has been issued by the City of Monroe and is now available for public review for the proposed East Monroe Comprehensive Plan Amendment and Rezone. Please find the Notice of Availability for the project attached to this email.

The Draft EIS for this project was issued for public review on August 14, 2013. Sixteen written comments were received on the DEIS during the comment period ending Friday, September 13, 2013. A public hearing to gather public comments on the DEIS was held at City Council Chambers on Thursday, September 5, 2013. The written comments and a transcript of the public hearing are included in the FEIS. The City of Monroe has now issued the FEIS which contains revisions and consideration of comments received on the Draft EIS.

The proposed action is an amendment to the Monroe Comprehensive Plan to change the subject property land use designation from Limited Open Space (LOS) to General Commercial (GC). The subject property is comprised of five parcels of land (42.81 acres) located within the eastern portion of the City of Monroe north of the Skykomish River along the north side of State Route 2. No specific development proposal is under application and this is a non-project action.

Kim Shaw, CPT
Permit Supervisor
PH-360.863.4532
Fax-360.794.4007
www.monroewa.gov

Kim Shaw

From: Kim Shaw
Sent: Friday, September 27, 2013 10:09 AM
To: Betsy Lewis; 'A Smith'
Subject: Notice of Posting of Availability
Attachments: Notice of Availibility.pdf

Betsy,

Please post this notice on 9/27. A hard copy will be delivered tomorrow of the complete Final Environmental Impact Statement.

Thank you,

Kim

Kim Shaw, CPT
Permit Supervisor
PH-360.863.4532
Fax-360.794.4007
www.monroewa.gov

Permit Assistance Center hours (submittal and pick-up) are Monday-Friday from 9:00 - 12:00 and 2:00 - 4:00.

Kim Shaw

From: Kim Shaw
Sent: Friday, September 27, 2013 10:30 AM
To: 'Kathie Savelesky'
Subject: Notice of FEIS availability
Attachments: Notice of FINAL EIS for Monroe Monitor.docx

Kathie,

Please see the attached notice for publication on 10/1.

Thanks,

Kim

Kim Shaw, CPT
Permit Supervisor
PH-360.863.4532
Fax-360.794.4007
www.monroewa.gov

Permit Assistance Center hours (submittal and pick-up) are Monday-Friday from 9:00 - 12:00 and 2:00 - 4:00.

RECEIVED

SEP 30 2013

CITY OF MONROE

AFFIDAVIT OF POSTING ON SITE NOTICE OF AVAILABILITY FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS) FOR THE EAST MONROE COMPREHENSIVE PLAN AMENDMENT AND REZONE

STATE OF WASHINGTON)

COUNTY OF SNOHOMISH)

806 W Main St., Monroe, Washington
Address

(CPA2011-01) & East Monroe Comprehensive Plan Amendment & Rezone
Application File and Name

I, Michael Tuomisto (print name) being first duly sworn on oath, depose and say: That I am a citizen of the United States of America; That I am competent to be witness herein; That on the **27th** day of **September , 2013**, I posted (3) **Notice of Availability of Final Environmental Impact Statement for or the East Monroe Comprehensive Plan Amendment & Rezone, Monroe, Washington** on site; and on the correct date of posting of said notice, to wit:

(1) US2, (2) 21611 US2, (3) 21010 Calhoun Road, Monroe, Washington. (See attached map)
Location of Notice

Michael Tuomisto
Signed

Subscribed and sworn to me this 30th day of September 2013

NOTARY SEAL

VICKI L. THAYER
COMMISSION EXPIRES
NOTARY
PUBLIC
5-09-16
STATE OF WASHINGTON

Vicki L Thayer
NOTARY PUBLIC in and for the State of Washington, residing at:

Printed Name: Vicki Thayer

My commission expires: 5/9/2016

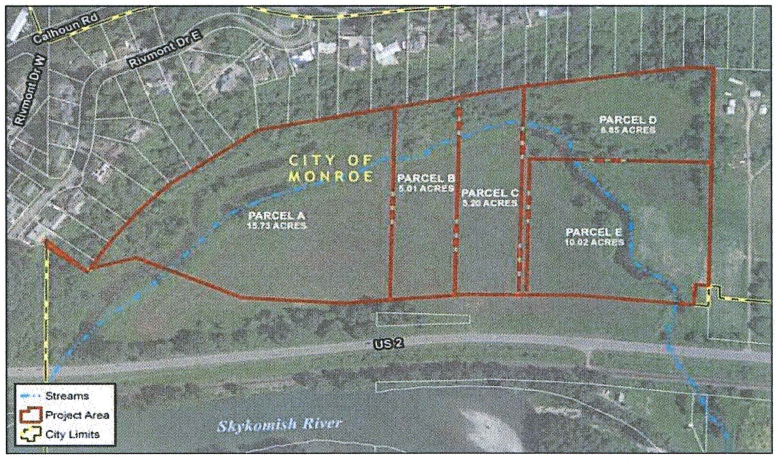
MONROE
WASHINGTON

NOTICE OF AVAILABILITY
FINAL ENVIRONMENTAL IMPACT STATEMENT (FEIS)
FOR THE
EAST MONROE COMPREHENSIVE PLAN AMENDMENT AND REZONE

This notice is to advise you that a Final Environmental Impact Statement (FEIS) has been issued by the City of Monroe and is now available for public review for the proposed East Monroe Comprehensive Plan Amendment and Rezone. The Draft EIS for this project was issued for public review on August 14, 2013. Sixteen written comments were received on the DEIS during the comment period ending Friday, September 13, 2013. A public hearing to gather public comments on the DEIS was held at City Council Chambers on Thursday, September 5, 2013. The written comments and a transcript of the public hearing are included in the FEIS. The City of Monroe has now issued the FEIS which contains revisions and consideration of comments received on the Draft EIS.

The proponent, Heritage Baptist Fellowship, has requested an amendment to the Monroe Comprehensive Plan to change the subject property land use designation from Limited Open Space (LOS) to General Commercial (GC). The subject property is comprised of five parcels of land (42.81 acres) located within the eastern portion of the City of Monroe north of the Skykomish River along the north side of State Route 2 (see the map below).

The City of Monroe is the Lead Agency for the FEIS. The proponent has completed the FEIS under contract with PACE Engineers, Inc. The analysis was undertaken to meet the direction of the State Environmental Policy Act (SEPA). The non-project FEIS evaluates the environmental impacts of three alternatives, which are discussed in detail in the FEIS.



No specific development proposal is under application and this is a non-project action. Any future development application for a project action must demonstrate that the development complies with Monroe Municipal Code (MMC) requirements. The applicant will be responsible for demonstrating compliance with the standards in the MMC, and all other local, state, and federal regulations at the time of application for development.

<u>Final EIS Date of Issuance</u>
September 27, 2013

Next Actions

Following publication of the FEIS, the City of Monroe Planning Commission will hold a public hearing on the Comprehensive Plan amendments on October 28th, 2013. The Planning Commission will then forward a recommendation on the amendments to the City Council in November. Final action on the amendments is scheduled for December 17, 2013. Please note that all dates listed are subject to change.

Appeal

Any agency or person may appeal the adequacy of a Final Environmental Impact Statement (FEIS), within 15 working days of issuance by filing an appeal in conformance with MMC 21.60.010. The appeal shall be filed on forms provided by the SEPA responsible official and must be filed in original form. The appeal shall set forth the specific reason, rationale, and/or basis for the appeal. Payment of the appeal fee, as specified in the city's current Fee Resolution, shall occur at the time the appeal is filed. Appeal of the FEIS may be filed no later than **Friday, October 18, 2013 at 5:00 pm.**

Availability of the Final EIS and Appendices

The complete East Monroe Comprehensive Plan Amendment and Rezone Final Environmental Impact Statement (FEIS) and Appendices can be downloaded from the project website:

www.monroewa.gov/eastmonroe

Copies of these documents are also available for public review at the following locations:

Monroe City Hall	Monroe Library
806 West Main Street	1070 Village Way
Monroe, WA 98272	Monroe, WA 98272

Copies on CD-ROM are also available for purchase for $5 from the City of Monroe at 806 West Main Street, Monroe, WA 98272. Printed copies can be acquired for the cost of reproduction by the City at $50.00 per copy.

If you have special accommodation needs, please contact the City of Monroe at (360)-794-7400.

Melissa Sartorius, SEPA Responsible Official
Senior Planner
City of Monroe

THE MONROE MONITOR & Valley News

RIM PUBLICATIONS

Publishers of

MONROE MONITOR & VALLEY NEWS

125 E. Main, Ste. 202 Monroe, WA 98272

(P) 360.794.7116 (F) 360.794.6202

RECEIVED
AUG 22 2013
BY

AFFIDAVIT OF PUBLICATION

State of Washington, Snohomish County

I, Scott Freshman, under penalty of perjury, do hereby declare:

I am a representative of the Monroe Monitor & Valley News (the 'Newspaper') whose regular job duties include the authorization to execute Affidavits of Publication on behalf of the Newspaper;

The Newspaper was adjudicated to be qualified to publish legal notices in the above county by Court Order;

On the below dates, the Newspaper published a legal notice, a copy of which is attached hereto in relation to the file known as:

City of Monroe
Notice of Public Hearing: E. Monroe Plan.

On the below dates, the Newspaper circulated copies, including the attached notice, in the regular course of business throughout the above County;

Insertion Dates: 08/20/13

Scott Freshman

Subscribed and sworn to me this day Aug. 20, 2013

Notary Public:

Kathryn Savelesky
NOTARY PUBLIC
MY APPOINTMENT EXPIRES 07/31/2016
STATE OF WASHINGTON

CITY OF MONROE
NOTICE OF PUBLIC HEARING

NOTICE is hereby given that a Draft Environmental Impact Statement (DEIS) for the proposed East Monroe Comprehensive Plan Amendment and Subsequent Rezone has been issued AUGUST 14, 2013.

A PUBLIC HEARING will commence September 5, 2013 at 7:00 pm at Monroe City Hall, 806 West Main Street, Monroe, WA 98272. The public hearing will be held to allow participants to offer oral comments on the DEIS.

PROJECT DESCRIPTION: The proponent, Heritage Baptist Fellowship, has requested an amendment to the Monroe Comprehensive Plan to change the subject property land use designation from Limited Open Space (LOS) to General Commercial (GC). The subject property is comprised of five parcels of land (42.81 acres) located within the eastern portion of the City of Monroe north of the Skykomish River along the north side of State Route 2. No specific development proposal is under application and this is a non-project action. Any future development application for a project action must demonstrate that the development complies with Monroe Municipal Code (MMC) requirements. The applicant will be responsible for demonstrating compliance with the standards in the MMC, and all other local, state, and federal regulations at the time of application for development.

Mailed to Agencies & Parties of Record: August 14, 2013
Published: August 20, 2013
Posted: August 14, 2013

CITY OF MONROE
RECEIVED
AUG 22 2013
COMMUNITY DEVELOPMENT

EXHIBIT# M6

AFFIDAVIT OF MAILING
NOTICE OF APPEAL & PUBLIC HEARING
EAST MONROE

STATE OF WASHINGTON) **North Side of Skykomish River along the North side of SR2**
Address

COUNTY OF SNOHOMISH) **13-APHE 0001– East Monroe Economic Development Group Comprehensive Plan Amendment**
Application Name and File

I, Kim Shaw, being first duly sworn on oath depose and say that on the **21st day of October, 2013**, made application with Click 2 Mail to mail on **September 22nd, 2013**, a copy with prepaid postage of the **Notice of Appeal & Public Hearing for the Final EIS- East Monroe, Monroe, WA.** Attached is a list of names and addresses to whom this information was mailed and confirmation of the order.

Kim Shaw
Signed

Subscribed and sworn to me this 21st day October, 2013

NOTARY SEAL

VICKI L. THAYER
COMMISSION EXPIRES
NOTARY
PUBLIC
5-09-16
STATE OF WASHINGTON

Vicki L Thayer
NOTARY PUBLIC in and for the State of Washington, residing at:

Lake Stevens

Printed Name: Vicki L. Thayer

My commission expires: May 9, 2016

NAME	ADDRESS	CITY	STATE	ZIP CODE
AL WALLACE	21904 CALHOUN RD.	MONROE	WA	98272
AL-ZAHMEA LEYLA	21033 CALHOUN RD	MONROE	WA	98272-8754
ANDERSON DENNIS E & SHARON R	21826 CALHOUN RD	MONROE	WA	98272-8752
ANDERSON LOWELL & BARBARA	129 E RIVMONT DR	MONROE	WA	98272
ANDERSON RONALD R	22114 SR2	MONROE	WA	98272
ANGEL RICHARD A & SALLEY M	19916 OLD OWEN RD	MONROE	WA	98272
AVERY DENNIS G & KATHLEEN D	21312 CALHOUN RD	MONROE	WA	98272
BAUER RYAN CHARLES	21205 CALHOUN RD	MONROE	WA	98272-8736
BERGER KENNETH A & DEBORAH	105 RIVMONT DR E	MONROE	WA	98272
BLAIR FAMILY	15403 CALHOUN RD	MONROE	WA	98272
BOYLE MARTIN & LINDA	PO BOX 951	MONROE	WA	98272
BRADLEY SHAYNE P & ALISON	21104 CALHOUN RD	MONROE	WA	98272
BROWN DON AND NEVA	21119 CALHOUN RD	MONROE	WA	98272
BROWER DON R	21119 CALHOUN RD	MONROE	WA	98272-8735
BURSLEM NORMAN O & ANITA E	112 E RIVMONT DR	MONROE	WA	98272
C. INMAR	21720 CALHOUN RD	MONROE	WA	98272
CARLIN KEVIN	113 RIVMONT DR W	MONROE	WA	98272
CARNES GENE A	108 E RIVMONT DR	MONROE	WA	98272
CAVASSA PAUL JR & NANCY M	21113 CALHOUN RD	MONROE	WA	98272-8735
CHALMERS JEANNIE	21700 CALHOUN RD	MONROE	WA	98272
CHALMERS KENNETH	21700 CALHOUN RD	MONROE	WA	98272-8752
CLARK CHRISTINE	108 E RIVMONT DR	MONROE	WA	98272
CLEVE MAEL	121 E RIVMONT DR	MONROE	WA	98272
CLIVE ELLARD	21804 CALHOUN RD.	MONROE	WA	98272
COOGAN JAMES & CYNTHIA	106 E RIVMONT DR	MONROE	WA	98272
COLE BRIAN	8425 SMUGGLERS COVE	MUKILTEO	WA	98275
DALY GEORGE & MADA	PO BOX 1104	MONROE	WA	98272
DENISE GULAS	4 ACADEMY WAY	MONROE	WA	98272
DENNIS ANDERSON	21826 CALHOUN RD.	MONROE	WA	98272
DIANE ELLIOTT	15550 174TH AVE SE	MONROE	WA	98272
DINWIDDIE GAIL M	20983 EAST RIVMONT DR	MONROE	WA	98272
DOUG & KAY FISHER	110 E RIVMONT DR	MONROE	WA	98272
DOUG HAMAR	PO BOX 1104	MONROE	WA	98272
DUANE MATTERN	21112 CALHOUN RD	MONROE	WA	98272
DUSTIN WATKINS	102 W RIVMONT DR	MONROE	WA	98272
ELLARD CLIVE	21804 CALHOUN ROAD	MONROE	WA	98272
EHRHORN KARIN & CORY	21130 CALHOUN ROAD	MONROE	WA	98272
FEDERAL NATIONAL MORTGAGE ASSOCIATION	14523 SW MILIKAN WAY STE	BEAVERTON	OR	97005
FELIX NORMAN R	21029 CALHOUN RD	MONROE	WA	98272-8754
FINCH WILLIAM E	106 W RIVMONT DR	MONROE	WA	98272
FISHER KEN	13530 MUIR DR SE	MONROE	WA	98272
FRED WALSER	692 PARK LANE	MONROE	WA	98272
FREEZE CAROLE	116 E RIVMONT DR	MONROE	WA	98272
FREI GEORGE A	15309 CALHOUN ROAD	MONROE	WA	98272
GAST KENNETH M & KAREN L	21330 CALHOUN RD	MONROE	WA	98272
GEE KENNETH R/LINDA S	17922 131ST PL SE	SNOHOMISH	WA	98290
GEE RICHARD D & KIMBERLEY K	109 RIVMONT DR W	MONROE	WA	98272
GIBSON DONNA J	112 W RIVMONT DR	MONROE	WA	98272
GOWDEY HOGES & WILHELMINA TRUSTEES	123 E RIVMONT DR	MONROE	WA	98272
HAGER JAMES R	21314 CALHOUN RD	MONROE	WA	98272
HAMAR DOUGLAS	PO BOX 1104	MONROE	WA	98272
HANSON HAROLD & GERALDINE M	PO BOX 337	MONROE	WA	98272
HASSLINGER GLENN & LOUISE	21016 CALHOUN RD SE	MONROE	WA	98272
HEATH MIKE	25405 138TH ST SE	MONROE	WA	98272
HEICHEL ARON W	21220 CALHOUN RD	MONROE	WA	98272
HEICHEL ELAINE R TTEE	21220 CALHOUN RD	MONROE	WA	98272
HOLBERY JAMES D	6218 105TH AVE NE	KIRKLAND	WA	98033
HOLM DEREK R & CINDY	21121 CALHOUN RD	MONROE	WA	98272-8735
HOLMAN CRAIG H	114 W RIVMONT DR	MONROE	WA	98272
HONS RUTH LILLIAN REVOCABLE LIVING TRUST	21416 CALHOUN RD	MONROE	WA	98272
JEFF SHERWOOD	17493 136TH PL SE	MONROE	WA	98272
JOHNSON MARGARET A	21010 E RIVMONT DR	MONROE	WA	98272
JONES AMANDA J	21021 CALHOUN RD	MONROE	WA	98272
JOSHUA FREED	12900 NE 180TH ST., SUITE 220	BOTHELL	WA	98011
KELT ANDRA SUSAN	106 W RIVMONT DR	MONROE	WA	98272
KIENZIE SHARON J	820 CADY RD UNIT B 203	EVERETT	WA	98203
KIENZLE SHARON J	21130 CALHOUN RD	MONROE	WA	98272-8735
KINNEAR LINDA J	PO BOX 1499	MONROE	WA	98272
KOEPPEN KENNETH O	109 W RIVMONT DR	MONROE	WA	98272

KRAFT JAMES E & JANET M	119 RIVMONT DR E	MONROE	WA	98272
KREUTZ ROBERT & SANDRA	7908 UPPER RIDGE DR	EVERETT	WA	98203
KRISTIANSEN BJARNE & JANET	21210 CALHOUN RD	MONROE	WA	98272-8736
LABUGUEN PHIL & GAYLE	110 W RIVMONT DR	MONROE	WA	98272
LANGE DONALD V	107 RIVMONT DR W	MONROE	WA	98272
LARRY & BARBARA BARKER	22010 CALHOUN RD	MONROE	WA	98272
LARSEN RON W & SUSAN M	15020 NE 144TH ST	REDMOND	WA	98052
LASHBROOK JOHN	114 E RIVMONT DRIVE	MONROE	WA	98272
LINDA KINNEAR	111 E RIVMONT DR	MONROE	WA	98272
LITTLE JERRY D	PO BOX 814	POMEROY	WA	99347
MAGANA JOSE	124 E RIVMONT DR	MONROE	WA	98272
MAGELSEN JAMES & COLLEEN	PO BOX 400	MONROE	WA	98272
MAGELSEN JAMES A	109 RIVMONT DR	MONROE	WA	98272
MARGARET OHLSEN	PO BOX 775	MONROE	WA	98272
MARTIN ROBERT M	103 E RIVMONT DR	MONROE	WA	98272
MATTERN DUANE & LILA	PO BOX 214	MONROE	WA	98272
MCCAMMON CHAD	21624 CALHOUN RD	MONROE	WA	98272-8738
MCCANN TOM P & VANLOM JUSTIN B	PO BOX 1480	MONROE	WA	98272
MCCOLLUM MICHAEL J & LINDY S	21728 CALHOUN RD	MONROE	WA	98272-8752
MCCORMICK BRIAN M	21325 CALHOUN RD	MONROE	WA	98272-8737
MILLS JENNIFER	21231 CALHOUN RD	MONROE	WA	98272
MONAHAN BARRY/MOBERG LINDA/DEYARMON RICH	21020 CALHOUN RD	MONROE	WA	98272-8729
MONROE I O O F CEMETERY	610 S LEWIS ST	MONROE	WA	98272
MULHOLLAND HAROLD	112 E RIVMONT DR	MONROE	WA	98272
MULLEN VICKIE	10312 210TH ST SE	MONROE	WA	98272
MURDOCK ARTHUR K	20930 RIVMONT DR E	MONROE	WA	98272
NATIONSTAR MORTGAGE LLC	350 HIGHLAND DR	LEWISVILLE	TX	75067
NICOLE ANDERSON	109 RIVMONT DR E	MONROE	WA	98272
NORDBY R SCOTT	19507 FALES RD	SNOHOMISH	WA	98290
RESIDENT	106 E RIVMONT DR	MONROE	WA	98272
RESIDENT	108 E RIVMONT DR	MONROE	WA	98272
RESIDENT	109 E RIVMONT DR	MONROE	WA	98272
RESIDENT	111 E RIVMONT DR	MONROE	WA	98272
RESIDENT	117 RIVMONT DR E	MONROE	WA	98272
RESIDENT	121 E RIVMONT DR	MONROE	WA	98272
RESIDENT	122 W RIVMONT DR	MONROE	WA	98272
RESIDENT	125 E RIVMONT DR	MONROE	WA	98272-8751
RESIDENT	126 W RIVMONT DR	MONROE	WA	98272
RESIDENT	127 W RIVMONT DR	MONROE	WA	98272
RESIDENT	20983 RIVMONT DR E	MONROE	WA	98272
RESIDENT	21010 CALHOUN RD	MONROE	WA	98272-8754
RESIDENT	21016 CALHOUN RD SE	MONROE	WA	98272
RESIDENT	21122 CALHOUN RD	MONROE	WA	98272-8735
RESIDENT	21207 CALHOUN RD	MONROE	WA	98272-8736
RESIDENT	21405 CALHOUN RD	MONROE	WA	98272-8757
RESIDENT	21410 SR 2	MONROE	WA	98272
RESIDENT	21416 CALHOUN RD	MONROE	WA	98272-8757
RESIDENT	21424 CALHOUN RD	MONROE	WA	98272
RESIDENT	21500 CALHOUN RD	MONROE	WA	98272-8756
RESIDENT	21509 SR 2	MONROE	WA	98272
RESIDENT	21600 OLD OWEN RD	MONROE	WA	98272
RESIDENT	21608 CALHOUN RD	MONROE	WA	98272-8738
RESIDENT	21611 SR 2	MONROE	WA	98272
RESIDENT	21616 CALHOUN RD	MONROE	WA	98272-8738
RESIDENT	21709 CALHOUN RD	MONROE	WA	98272-8752
RESIDENT	21712 CALHOUN RD	MONROE	WA	98272-8752
RESIDENT	21808 CALHOUN RD	MONROE	WA	98272-8752
RESIDENT	21817 CALHOUN RD	MONROE	WA	98272-8752
RESIDENT	22210 SR 2	MONROE	WA	98272
OHLDE LEE E & SONIA D	15015 210TH AVE SE	MONROE	WA	98272-9704
OHLSEN HAROLD N & MARGARET	PO BOX 775	MONROE	WA	98272
OLSON DOUGLAS	128 W RIVMONT DR	MONROE	WA	98272
O'ROARTY BENJAMIN C & CASEY W	21021 CALHOUN RD	MONROE	WA	98272-8754

RESIDENT	100 W RIVMONT DR	MONROE	WA	98272
RESIDENT	116 W RIVMONT DR	MONROE	WA	98272
RESIDENT	125 E RIVMONT DR	MONROE	WA	98272
RESIDENT	127 E RIVMONT DR	MONROE	WA	98272
RESIDENT	15309 CALHOUN RD.	MONROE	WA	98272
RESIDENT	20930 RIVMONT DR E	MONROE	WA	98272
RESIDENT	21010 RIVMONT DR	MONROE	WA	98272
RESIDENT	21322 CALHOUN RD	MONROE	WA	98272
RESIDENT	21712 CALHOUN RD	MONROE	WA	98272
RESIDENT	22028 CALHOUN RD	MONROE	WA	98272
RESIDENT	21916 CALHOUN RD	MONROE	WA	98272
RESIDENT	21706 CALHOUN RD	MONROE	WA	98272
RESIDENT	21231 CALHOUN RD	MONROE	WA	98272
PALMIERO FRED J & CAROL A	PO BOX 717	SUMNER	WA	98309
PALO NORTH LLC	4501 126TH AVE CT E	EDGEWOOD	WA	98372
PARKER WILLIAM J	21231 CALHOUN RD	MONROE	WA	98272-8749
PARRY JOHN THOMAS	118 E RIVMONT DR	MONROE	WA	98272
PETTERSSON RAGNAR	17624 15TH AVE SE STE 112A	MILL CREEK	WA	98012
PHILLIPS LUISE	7231 E BROADWAY RD UNIT 228	MESA	AZ	85208
QUALEY RICHARD N	3 SUNNYSIDE BLVD	LAKE STEVENS	WA	98258
QUALEY RICHARD N	3 SUNNYSIDE BLVD	EVERETT	WA	98205
RAKOW JOSH	15207 229TH DR SE	MONROE	WA	98272
RALPH YINGLING	23719 150TH ST SE	MONROE	WA	98272
RICHARD ANGEL	21500 CALHOUN RD	MONROE	WA	98272
ROBERT SALTZGIVER	21000 RIVMONTE DR E	MONROE	WA	98272
ROBERTS JAN	21818 CALHOUN RD	MONROE	WA	98272-8752
ROBINSON HENRY J & ANN	21213 CALHOUN RD	MONROE	WA	98272
ROGERS JEFFREY W & JANET	127 RIVMONT DR E	MONROE	WA	98272
RON MCCAMMON	700 150TH RD NE	SNOHOMISH	WA	98290
ROSENCRANS KAREN & RONALD	105 W RIVMONT DR	MONROE	WA	98272
RUTH RICHARD M & JILL	21104 CALHOUN RD	MONROE	WA	98272-8735
RYAN CHARLES BAUER	21205 CALHOUN RD	MONROE	WA	98272
RYDER MARK	17443 160TH ST	MONROE	WA	98272
SALTZGIVER ROBERT B	21000 E RIVMONT DR	MONROE	WA	98272
SANDVIG DANIEL L	21727 CALHOUN ROAD	MONROE	WA	98272
SCARBORO KIRK & BEVERLY	103 W RIVMONT DR	MONROE	WA	98272
SCHLILATY ROBERT K	2345 SQUAK MT LOOP SW	ISSAQUAH	WA	98027
SETZER DONALD	PO BOX 1147	MONROE	WA	98272
SHARON KIENZLE	21130 CALHOUN RD	MONROE	WA	98272
STAGGS WADE & GAIL	116 E RIVMONT DR	MONROE	WA	98272
STRUBS CHARLES R & SUSAN	21810 CALHOUN ROAD	MONROE	WA	98272
SUSAN STRUB	21810 CALHOUN RD.	MONROE	WA	98272
THEIMER HELMUT & KAREN	PO BOX 1073	TWISP	WA	98856
TOM MCCANN & JUSTIN VANLOM	PO Box 1480	Monroe	WA	98272
TOM PERRY	20128 OLD OWEN RD	MONROE	WA	98272
TOMLIN RACHEL B	21029 CALHOUN RD	MONROE	WA	98272-8754
TONGG RORY P & KATHRYN R	PO BOX 1262	MONROE	WA	98272
USHLER AARON GUY	21720 CALHOUN RD	MONROE	WA	98272
VANDER HOUWEN KEITH J	17323 TROMBLEY RD	SNOHOMISH	WA	98290-6329
VICKIE MULLEN	10312 210TH ST SE	MONROE	WA	98272
WALLACE ALFRED A	21904 CALHOUN RD	MONROE	WA	98272-8739
WILLMORE GRAHAM	7104 FOSTER SLOUGH RD	SNOHOMISH	WA	98290-5897
WEBSTER TORI	21334 CALHOUN RD	MONROE	WA	98272
WILKINS DALE R	119 RIVMONT DR E	MONROE	WA	98272
WILKINSON MICHAEL & DEB	104 W RIVMONT DR	MONROE	WA	98272
WILTSE ARLENE	116 W RIVMONT DR	MONROE	WA	98272
WILTSE JAMES A	4517 STATE ROUTE 92	LAKE STEVENS	WA	98258
WRIGHT ALICE A	21733 CALHOUN RD	MONROE	WA	98272-8752
YINGLING RALPH	23719 150TH ST SE	MONROE	WA	98272
ZEIGER RENEE M	21322 CALHOUN RD	MONROE	WA	98272-8737
ZYLSTRA MARVIN	21313 CALHOUN RD	MONROE	WA	98272-8737
ARMY CORPS OF ENGINEERS	PO BOX C-3775	SEATTLE	WA	98124
ANNA GROENVELD	29524 FERN BLUFF RD	MONROE	WA	98272
BRAD BEETCHENOW	22127 YEAGER RD	MONROE	WA	98272
SCOTT & VICKI FURRER	23811 STATE ROUTE 2	MONROE	WA	98272
WIARD & JEAN GROENEVELD	29126 FERN BLUFF RD	MONROE	WA	98272
JERRY & STACY LABISH	16603 275TH AVE SE	MONROE	WA	98272
TOM, KATHY & KORRI MARIE TREVES	24032 153RD PL SE	MONROE	WA	98272

City of Monroe
806 West Main Street, Monroe, WA 98272
Phone (360) 794-7400 Fax (360) 794-4007
www.monroewa.gov

NOTICE OF APPEAL AND PUBLIC HEARING

NOTICE is hereby given that on October 18, 2013 an application was received by the City of Monroe to **appeal** the State Environmental Policy Act (SEPA) Final Environmental Impact Statement (FEIS) for the East Monroe Comprehensive Plan Amendment and Rezone. The FEIS was issued on September 27, 2013 by the City of Monroe SEPA Responsible Official.

File#:	13-APHE-0001
Applicant:	Lowell Anderson / Jeff Rogers
Name of Project:	East Monroe Comprehensive Plan Amendment FEIS and Rezone
Tax Parcel ID:	27070600102500, 27070500206100, 27070500206200, 27070500206300, 27070500206400

The City of Monroe Hearing Examiner shall consider this application and any oral testimony at an open record **PUBLIC HEARING** scheduled to be held:

Date:	**Thursday, November 7, 2013**
Time:	**10:00 a.m.**
Location:	**Monroe City Hall / Council Chambers** **806 W Main St, Monroe Washington**

PUBLIC COMMENT PROCEDURE:

Interested person(s) may provide oral public testimony and evidence regarding the appeal in accordance with standards and procedures set forth in the Hearing Examiner Rules of Procedure and the Monroe Municipal Code. For additional information regarding this appeal, please contact the SEPA Responsible Official Melissa Sartorius at (360) 863-4608 or email at msartorius@monroewa.gov. The relevant ocuments will be available for review at City Hall during regular business hours, Monday through Friday, 8:00 a.m. to 5:00 p.m. in accordance with the timeframes established by the Hearing Examiner Rules of Procedure.

Accommodations for people with disabilities will be provided upon request. Please call City Hall at (360) 794-7400 and allow one-week advance notice.

Mailed / Posted / Published: October 22, 2013

AFFIDAVIT OF EMAILING
NOTICE OF APEAL & PUBLIC HEARING
EAST MONROE

STATE OF WASHINGTON)

North of the Skykomish River along the North side of SR2, Monroe, Washington
Project location

COUNTY OF SNOHOMISH)

CPA2011-01 – East Monroe Economic Development Group Comprehensive Plan Amendment
File Number and Project Name

I, **Kim Shaw**, being first duly sworn on oath deposes and says that on the **21st Day of October, 2013,** I emailed a **Notice of Appeal and Public Hearing against the Final EIS, Monroe, WA**. Attached is the list of agencies, names and addresses to whom this information was emailed.

Kim Shaw
Signed

Subscribed and sworn to me this 21st day October, 2013

NOTARY SEAL

VICKI L. THAYER
COMMISSION EXPIRES
NOTARY
PUBLIC
5-09-16
STATE OF WASHINGTON

Vicki L Thayer
NOTARY PUBLIC in and for the State of Washington, residing at:

Lake Stevens

Printed Name: Vicki L. Thayer

My commission expires: May 9, 2016

Kim Shaw

From:	Kim Shaw
Sent:	Monday, October 21, 2013 5:03 PM
To:	Robert Zimmerman; Ed Davis; Jason Gamble; Jim Kamp; Kevin Hanford; Kurt Goering; Patsy Cudaback; Tom Williams; Bill Kristiansen; 'btuttle@monroewa.gov'; Dian Duerksen; David Demarest; Jeff Sherwood; Steve Jensen; Gene Brazel; Eadye E. Martinson; Elizabeth Smoot; Jeff Sax; Dianne Nelson; Brad Feilberg; Mike Farrell; Paul Popelka; Tim Quenzer; Melissa Sartorius
Subject:	Appeal of the SEPA Final Environmental Impact Statement (FEIS) for East Monroe Comp. Plan amendment & Rezone

Dear Interested Person/Agency,

NOTICE is hereby given that on October 18, 2013 an application was received by the City of Monroe to **appeal** the State Environmental Policy Act (SEPA) Final Environmental Impact Statement (FEIS) for the East Monroe Comprehensive Plan Amendment and Rezone. The FEIS was issued on September 27, 2013 by the City of Monroe SEPA Responsible Official.

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Date:	**Thursday, November 7, 2013**
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Location:	**Monroe City Hall / Council Chambers @ 806 W Main St, Monroe Washington**

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Kim Shaw, CPT
Permit Supervisor
PH-360.863.4532
Fax-360.794.4007
www.monroewa.gov

Distribution List

- City of Monroe
  - Elected Officials
    - Mayor
      - Robert G. Zimmerman
    - City Council
      - Ed Davis
      - Jason Gamble
      - Jim Kamp
      - Kevin Hanford
      - Kurt Goering
      - Patsy Cudaback
      - Tom Williams
    - Planning Commission
      - Bill Kristiansen
      - Bridgette Tuttle
      - Dave Demarest
      - Dian Duerksen
      - Jeff Sherwood
      - Steve Jensen
      - Wayne Rodland
  - City Administrator
  - Deputy City Clerk
  - Economic Development Manager
  - Finance Director
  - Operations & Maintenance Manager
  - Parks & Recreation Director
  - Planning & Permitting Manager
  - Police Chief

- Other Agencies
  - Local
    - French Slough Flood Control District
    - Snohomish County Fire Protection District #3
    - Snohomish County Parks & Recreation
    - Snohomish County Planning & Development Services
    - Snohomish County Traffic Operations
    - Snohomish Health District
    - Sno-Isle Library District (Monroe Branch)
    - Valley General Hospital
  - State
    - Department of Archeology & Historic Preservation
    - Department of Commerce
    - Department of Ecology & SEPA Register
    - Department of Fish & Wildlife
    - Department of Natural Resources
    - Department of Transportation
    - Parks & Recreation Commission
    - Puget Sound Clean Air Agency

Tribal

Tulalip Tribes

Federal

Federal Emergency Management Agency, Region X
National Marine Fisheries Service - NOAA
U.S. Army Corps of Engineers
U.S. Environmental Protection Agency, Region X

Utilities

Comcast
Frontier Communications
Puget Sound Energy
Republic Services
Snohomish County PUD #1
Waste Management

Media

City of Monroe Website
Monroe Monitor

Schools

Monroe School District #3
Snohomish School District

Other Groups

Heritage Baptist Fellowship
Burlington Northern Santa Fe Railroad
Fallgatter Law Group
Futurewise & Pilchuck Audubon Society
Mead Gilman & Associates Professional Land Surveying
ESA Adolfson
Remington Heights Homeowners Association
PACE Engineers, Inc.

Individuals (see attached)

Updated 09/25/2013 Kim S.

Kim Shaw

From: Kim Shaw
Sent: Monday, October 21, 2013 4:59 PM
To: 'megan.mcintyre@bnsf.com'; 'Casey_brown@cable.comcast.com'; 'gretchen.kaehler@dahp.wa.gov'; 'joshuafreed@mac.com'; 'mmuscari@esassoc.com'; 'josie@fallgatterlawgroup.com'; 'science.kilner@fema.dhs.gov'; 'Neilwheeler@comcast.net'; 'steven.crosby@ftr.com'; 'Kristin@futurewise.org'; 'pastor.minnick@comcast.net'; 'ed@meadgilman.com'; Ralph Yingling; 'kate.hawe@noaa.gov'; 'webmaster@pilchuckaudubon.org'; 'craigk@pscleanair.org'; 'david.matulich@pse.com'; 'board@remingtonheightsmonroe.com'; 'jprichard@republicservices.com'; 'sharon.swan@snoco.org'; 'ehquestions@shd.snohomish.wa.gov'; Mike Fitzgerald eMail; 'spwccs@co.snohomish.wa.us'; 'crenderlein@snopud.com'; 'debra.werdal@co.snohomish.wa.us'; 'TOM.LAUFMANN@SNO.WEDNET.EDU'; Betsy Lewis; 'kfinley@tulaliptribes-nsn.gov'; 'sepa-seattle@epa.gov'; 'susanb@paceengrs.com'; 'Collette@valleygeneral.com'; 'reganc@wsdot.wa.gov'; 'ike.nwankwo@commerce.wa.gov'; 'paan461@ecy.wa.gov'; 'sepaunit@ecy.wa.gov'; 'SEPADESK@DFW.WA.GOV'; 'sepacenter@dnr.wa.gov'; 'RFREEDMAN@WM.COM'; 'pazooki@wsdot.wa.gov'; 'Eileen.lefebvre@providence.org'; 'marksoltman@doh.wa.gov'; 'eip@parks.wa.gov'; 'BenenaS@wsdot.wa.gov'; 'classicphotosbycheryl@live.com'; 'STEVEV@PLCLEANAIR.ORG'; 'Megan Hawkins'; 'susanb@paceengrs.com'
Subject: Appeal of the SEPA Final Environmental Impact Statement)FEIS) for East Monroe Comp. Plan amendment & Rezone

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Kim Shaw

From: Microsoft Outlook
To: 'RFREEDMAN@WM.COM'
Sent: Monday, October 21, 2013 4:59 PM
Subject: Undeliverable: Appeal of the SEPA Final Environmental Impact Statement)FEIS) for East Monroe Comp. Plan amendment & Rezone

Postini rejected your message to the following e-mail addresses:

'RFREEDMAN@WM.COM' (RFREEDMAN@WM.COM) <mailto:RFREEDMAN@WM.COM>

Postini gave this error:
User Unknown

The e-mail address you entered couldn't be found. Please check the recipient's e-mail address and try to resend the message. If the problem continues, please contact your helpdesk.

Diagnostic information for administrators:

Generating server: VMDC1.ci.monroe.wa.us

RFREEDMAN@WM.COM
Postini #550 5.1.1 User Unknown ##

Original message headers:

Received: from VMDC1.ci.monroe.wa.us ([::1]) by VMDC1.ci.monroe.wa.us ([::1])
with mapi id 14.01.0438.000; Mon, 21 Oct 2013 16:59:21 -0700
From: Kim Shaw <kshaw@ci.monroe.wa.us>
To: "'megan.mcintyre@bnsf.com'" <megan.mcintyre@bnsf.com>,
"'Casey_brown@cable.comcast.com'" <Casey_brown@cable.comcast.com>,

Kim Shaw

From: Kim Shaw
Sent: Tuesday, October 22, 2013 11:37 AM
To: Steve Van Slyke; 'epa-seattle@epa.gov'; 'PazookR@wsdot.wa.gov'; 'collette@valleygeneral.org'; 'john_warrick@cable.comcast.com'
Subject: Appeal of the SEPA Final Environmental Impact Statement)FEIS) for East Monroe Comp. Plan amendment & Rezone

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Kim Shaw, CPT
Permit Supervisor
PH-360.863.4532
Fax-360.794.4007
www.monroewa.gov

Permit Assistance Center hours (submittal and pick-up) are Monday-Friday from 9:00 - 12:00 and 2:00 - 4:00.

Kim Shaw

From: Kate Hawe - NOAA Affiliate [kate.hawe@noaa.gov]
Sent: Monday, October 21, 2013 5:00 PM
To: Kim Shaw
Subject: Government Shut Down Re: Appeal of the SEPA Final Environmental Impact Statement) FEIS) for East Monroe Comp. Plan amendment & Rezone

Hello - Due to the government shut down, I am not working during the furlough period. I will respond to your email or voice mail when I return to work. Thanks for your patience. Kate

SEPA MAILING LIST FOR 13-APHE-0001 E MONROE APPEAL & PUBLIC HEARING_10212013

Last updated on: 10/21/2013

Location: Q:\Planning\Comprehensive Plan Amendments\2011 Comp Plan\CPA2011-01 East Monroe\2013_Amendment\Appeal\Noticing

NAME	Organization/Agency	ADDRESS 2	CITY	STATE	ZIP	EMAIL ADDRESS	PHONE NUMBER	MOBILE	REVIEWER / PROPONENT / INTERESTED PARTY
ENVIRONMENTAL REVIEWERS									
MEGAN MCINTYRE	BURLINGTON NORTHERN SANTA FE RAILROAD	2454 OCCIDENTAL AVENUE SOUTH, STE 1-A	SEATTLE	WA	98134	megan.mcintyre@bnsf.com			
CASEY BROWN	COMCAST	19916 OLD OWEN ROAD	MONROE	WA	98272	Casey_brown@cable.comcast.com		(877) 824-2288	
ENVIRONMENTAL REVIEWER	DEPARTMENT OF ARCHEOLOGY & HISTORIC PRESERVATION	P.O. BOX 48343	OLYMPIA	WA	98504-8343	gretchen.kaehler@dahp.wa.gov	(360) 586-3065		
JOSHUA FREED	EAST MONROE ECONOMIC DEVELOPMENT GROUP	18404 102nd Ave NE	BOTHELL	WA	98011	joshuafreed@mac.com			
MICHAEL MUSCARI	BSA ADOLPSON	5309 SHILSHOLE AVE NW, STE 200	SEATTLE	WA	98107	mmuscari@esassoc.com			
JOCELYNNE R. FALLGATTER	FALLGATTER LAW GROUP	19291 TROUT FARM RD	SULTAN	WA	98294	josie@fallgatterlawgroup.com			
ENVIRONMENTAL REVIEWER	FEDERAL EMERGENCEY MANAGEMENT AGENCY, REGION 10	130 228TH STREET, SOUTHWEST	BOTHELL	WA	98021-8627	science.kilner@fema.dhs.gov	(425) 487-4600	(800) 621-3362	
NEIL WHEELER, GENERAL MANAGER	FRENCH SLOUGH FLOOD CONROL DISTRICT	P.O. BOX 553	SNOHOMISH	WA	98291-0553	Nailwheeler@comcast.net			
STEVEN CROSBY	FRONTIER COMMUNICATIONS	1800 41ST STREET	EVERETT	WA	98203	steven.crosby@ftr.com	425-261-5500	425-327-4870	
KRISTIN KELLY	FUTUREWISE/PILCHUCK AUDOBON SOCIETY	1429 AVE D, #532	SNOHOMISH	WA	98290	Kristin@futurewise.org			
THOMAS MINNICK	HERITAGE BAPTIST FELLOWSHIP	PO BOX 1090	MONROE	WA	98272	pastor.minnick@comcast.net			
ED ANDERSON	MEAD GILMAN & ASSOC., PROFESSIONAL LAND SURVEYORS	PO BOX 289	WOODINVILLE	WA	98072	ed@meadgilman.com			
RALPH YINGLING, FACILITIES DIRECTOR	MONROE SCHOOL DISTRICT #3	200 E. FREMONT	MONROE	WA	98272	yinglingr@monroe.wednet.edu	360-804-2529		
ENVIRONMENTAL REVIEWER	NATIONAL MARINE FISHERIES SERVICE	7600 SAND POINT WAY NORTHEAST	SEATTLE	WA	98115	kate.hawe@noaa.gov	206-526-6150		
ENVIRONMENTAL REVIEWER	PILCHUCK AUDUBON SOCIETY	2829 Rockefeller Ave	Everett	wa	98201	webmaster@pilchuckaudubon.org			
JUDITH WHITE CROW, EXECUTIVE ASSISTANT	PUGET SOUND CLEAN AIR AGENCY	1904 THIRD AVENUE, SUITE 105	SEATTLE	WA	98101	craigk@pscleanair.org	(800) 552-3565		
DAVID MATULICH, MUNICIPAL LIAISON MANAGER, COMMUNITY & BUSINESS SERVICES	PUGET SOUND ENERGY	P.O. BOX 97034 BOT-1G	BELLEVUE	WA	98009-9734	david.matulich@pse.com	425.424.6442	425.214.3020	
PRESIDENT	REMINGTON HEIGHTS HOME OWNERS ASSOCIATION	P.O. BOX 765	MONROE	WA	98272	board@remingtonheightsmonroe.com			
JANET PRICHARD	REPUBLIC SERVICES					jprichard@republicservices.com		425-221-0766	
SHARON SWAN	SNOHOMISH COUNTY PARKS AND RECREATION DEPARTMENT	6705 PUGET PARK DRIVE	SNOHOMISH	WA	98296	sharon.swan@snoco.org	425-388-6645		
ENVIRONMENTAL REVIEWER	SNOHOMISH HEALTH DISTRICT, ENVIRONMENTAL HEALTH	3020 RUCKER AVENUE, STE 306	EVERETT	WA	98201	ehquestions@shd.snohomish.wa.gov	425-339-5250	425-339-5200	
FIRE MARSHAL	SNOHOMISH COUNTY FIRE PROTECTION DISTRICT 3	163 VILLAGE COURT	MONROE	WA	98272	mfitzgerald@monroefire.org		(425) 754-8726	
CANDICE SOINE	SNOHOMISH COUNTY PDS, ENVIRONMENTAL REVIEWER	3000 ROCKEFELLER AVENUE, MS-604	EVERETT	WA	98201	spwccs@co.snohomish.wa.us	425-388-3311		
CHRISTOPHER ENDERLEIN	SNOHOMISH COUNTY PUD #1	P.O. BOX 1107	EVERETT	WA	98206-1100	cenderlain@snopud.com	(425) 783-5556	(425) 210-7284	
DEBORAH WERDAL	SNOHOMISH COUNTY TRAFFIC MITIGATION, TRAFFIC OPERATIONS, SNOHOMISH COUNTY DEPARTMENT OF PUBLIC WORKS	3000 ROCKEFELLER, M/S 607	EVERETT	WA	98201	debra.werdal@co.snohomish.wa.us	(425) 388-6420		
ENVIRONMENTAL REVIEWER	SNOHOMISH SCHOOL DISTRICT	1601 AVENUE D	SNOHOMISH	WA	98290-1799	Tom.Laufmann@sno.wednet.edu			
BETSY LEWIS, MANAGING LIBRARIAN	SNO-ISLE LIBRARY DISTRICT, MONROE LIBRARY	1070 VILLAGE WAY	MONROE	WA	98272-2035	blewis@sno-isle.org	877-766-4753		

KELLEY FINLEY, FISHERIES BIOLOGIST	TULALIP TRIBE, DEPARTMENT OF NATURAL RESOURCES	6406 MARINE DRIVE	TULALIP	WA	98271	kfinley@tulaliptribes-nsn.gov	(360) 716-4604		
MICHAEL LAMPRECHT	US ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT, REGULATORY BRANCH	PO BOX C - 3775	SEATTLE	WA	98124-3755	SENT BY MAIL			
ENVIRONMENTAL REVIEWER	US ENVIRONMENTAL PROTECTION AGENCY, REGION 10	1200 SIXTH AVENUE, SUITE 900	SEATTLE	WA	98101	epa-seattle@epa.gov	1-800-424-4372	206-553-1200	
SUSAN BOYD	V.P. PACE ENGINEERS, INC.	11255 KIRKLAND WAY STE 300	KIRKLAND	WA	98033	susanb@paceengrs.com			
COLLETTE REAMS	VALLEY GENERAL HOSPITAL DISTRICT	14701 - 179TH AVE SE	MONROE	WA	98272	Collette@valleygeneral.org	(360) 794-7497, (360) 794-1489		
CHRIS REGAN, NEPA/SEPA COMPLIANCE MANAGER	WA STATE DEPT OF TRANSPORTATION	PO BOX 47300	OLYMPIA	WA	98504	reganc@wsdot.wa.gov			
REVIEW TEAM	WASHINGTON STATE DEPARTMENT OF COMMERCE, GROWTH MANAGEMENT SERVICES	P.O. BOX 42525	OLYMPIA	WA	98504-8350	ike.nwankwo@commerce.wa.gov	360-725-3056		
PAUL S. ANDERSON, PWS	WASHINGTON STATE DEPARTMENT OF ECOLOGY	3190 160TH AVENUE SE	BELLEVUE	WA	98008	paan461@ecy.wa.gov	425-649-7148		
ENVIRONMENTAL REVIEWER	WASHINGTON STATE DEPARTMENT OF ECOLOGY, ENVIRONMENTAL REVIEW	PO BOX 47703	OLYMPIA	WA	98504-7703	sepaunit@ecy.wa.gov	(360) 407-6922		
ENVIRONMENTAL REVIEWER	WASHINGTON STATE DEPARTMENT OF FISH & WILDLIFE, REGION 4	16018 MILL CREEK BOULEVARD	MILL CREEK	WA	98012-1296	sepadesk@dfw.wa.gov	(425) 775-1311		
ENVIRONMENTAL REVIEWER	WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES, SEPA CENTER	P.O. BOX 47000	OLYMPIA	WA	98504-7000	sepacenter@dnr.wa.gov	360-902-1739		
ROBIN FREEDMAN	WASTE MANAGEMENT					RFREEDMAN@WM.COM			
RAMIN PAZOOKI	WSDOT/NW REGION	PO BOX 330310	SEATTLE	WA	98133	pazookir@wsdot.wa.gov			
EILEEN LEFEBVRE						Eileen.lefebvre@providence.org			
MARK SOLTMAN	DEPARTMENT OF HEALTH					marksoltman@doh.wa.gov			
ENVIRONMENTAL REVIEWER	PARKS & RECREATION COMMISSION					elp@parks.wa.gov			
STEVE M. BENENATI	WSDOT					BeneniS@wsdot.wa.gov	206-440-4915		
CHERYL ROBINSON						classicphotosbycheryl@live.com			
STEVE VAN SLYKE	COMPLIANCE MGR., PUGET SOUND CLEAN AIR AGENCY					Stevev@pscleanair.org			
JOHN WARRICK	COMCAST Engineering and Construction.					john_warrick@cable.comcast.com			

Updated 10/21/2013 Rm S.

AFFIDAVIT OF POSTING
APPEAL & PUBLIC HEARING NOTICE

STATE OF WASHINGTON)

13-APHE-0001 – Appeal for SEPA Final Environmental Impact Statement (FEIS) for the East Monroe Comprehensive Plan Amendment and Rezone.
File Name & Number

COUNTY OF SNOHOMISH)

East Monroe Economic Development Group
Applicant

I, Walter Broughton (print name) being first duly sworn on oath, depose and say: That I am a citizen of the United States of America; That I am competent to be witness herein; That on the 22nd day of October, 2013, and at least fifteen days prior to the hearing of the above named proposed application, I posted three signs for the **Notice of Appeal & Public Hearing for the East Monroe Final Environmental Statement** on or near the property concerned, in a conspicuous place; and the correct date of posting of said notice, to wit:

Walter Broughton
Signed

Hwy. 2 (2) / Calhoun Rd.
Location of notice posting

Subscribed and sworn to me this 22ND day of October, 2013

NOTARY SEAL

VICKI L. THAYER
COMMISSION EXPIRES
NOTARY
PUBLIC
5-09-16
STATE OF WASHINGTON

NOTARY PUBLIC in and for the State of Washington, residing at:

Snohomish County

Printed Name: Vicki L Thayer

My commission expires: May 9, 2016

City of Monroe
806 West Main Street, Monroe, WA 98272
Phone (360) 794-7400 Fax (360) 794-4007
www.monroewa.gov

NOTICE OF APPEAL AND PUBLIC HEARING

NOTICE is hereby given that on October 18, 2013 an application was received by the City of Monroe to appeal the State Environmental Policy Act (SEPA) Final Environmental Impact Statement (FEIS) for the East Monroe Comprehensive Plan Amendment and Rezone. The FEIS was issued on September 27, 2013 by the City of Monroe SEPA Responsible Official.

File#:	13-APHE-0001
Applicant:	Lowell Anderson / Jeff Rogers
Name of Project:	East Monroe Comprehensive Plan Amendment FEIS and Rezone
Tax Parcel ID:	27070600102500, 27070500206100, 27070500206200, 27070500206300, 27070500206400

The City of Monroe Hearing Examiner shall consider this application and any oral testimony at an open record **PUBLIC HEARING** scheduled to be held:

Date:	**Thursday, November 7, 2013**
Time:	**10:00 a.m.**
Location:	Monroe City Hall / Council Chambers 806 W Main St, Monroe Washington

PUBLIC COMMENT PROCEDURE:

Any interested person(s) may provide public testimony regarding the proposed appeal. Written comments must be received in original form prior to the public hearing. For additional information regarding this appeal, please contact the SEPA Responsible Official Melissa Sartorius at (360) 863-4608 or email at msartorius@monroewa.gov. The above documents are available for review at City Hall during regular business hours, Monday through Friday, 8:00 a.m. to 5:00 p.m.

Accommodations for people with disabilities will be provided upon request. Please call City Hall at (360) 794-7400 and allow one-week advance notice.

Mailed / Posted / Published: October 22, 2013

DETERMINATION OF SIGNIFICANCE AND REQUEST FOR COMMENTS ON SCOPE OF ENVIRONMENTAL IMPACT STATEMENT

Description of proposal: The proposed action is a change in Comprehensive Land Use designation of certain properties from Limited Open Space to General Commercial.

Proponent: East Monroe Economic Development Group, LLC
18404 102 Ave. NE
Bothell, WA 98011

Location of proposal: The proposed action involves six parcels totaling approximately 68 acres located at the east end of Monroe on the north side of US 2. The Snohomish County Assessor's Office Parcel Numbers are:

270706-001-025-00, 270705-002-061-00, 270705-002-062-00, 270705-002-063-00, 270705-002-064-00, and 270705-002-033-00.

The portions of these parcels within the shoreline boundary are not subject to this proposed action and will remained designated as Limited Open Space.

Lead agency: City of Monroe

EIS Required: The lead agency has determined that this proposal is likely to have a significant adverse impact on the environment. An Environmental Impact Statement (EIS) is required under RCW 43.21C.030(2)(c) and will be prepared. An environmental checklist and other materials indicating likely environmental impacts can be reviewed at the City of Monroe Zoning and Land Use Office located at 806 W. Main St., Monroe, Washington. Background materials are also available online at:
http://emergencymonroe.info/features.aspx?region=1438&CityContentID=39824&cexpand=2,10 .

The lead agency has identified the following areas for discussion in the Environmental Impact Statement:

- Alternatives
  - No Action
  - Limited redesignation: Only those areas not within a critical area, buffer, or located within a Shorelines Area are redesignated from Limited Open Space to General Commercial
  - Full redesignation: Redesignation of all property not located in a Shorelines Area to General Commercial
- Environmental Elements
  - Earth
  - Water, ground
  - Noise
  - Aesthetics
  - Transportation
  - Water, surface
  - Animals
  - Land and shoreline use
  - Light and glare
  - Public Services

EXHIBIT# N-7

- Utilities

Scoping Comments: Agencies, affected tribes, and members of the public are invited to comment on the scope of the EIS. You may comment in writing on alternatives, mitigation measures, probable significant adverse impacts, and licenses or other approvals that may be required. Comments are due by 5:00 p.m., Friday, August 19, 2011 and may be submitted to:

East Monroe Scoping
806 W. Main St.
Monroe, WA 98272

Appeal: Appeals of this Determination of Significance are due no later than 5:00 p.m., Thursday, August 11, 2011. Appeals must be filed on forms provided by the SEPA administrator and must be filed in original form and set forth the specific reason, rationale, and/or basis for the appeal. Payment of the appeal fee, as specified in the city's fee resolution, shall occur at the time the appeal is filed.

Responsible Official: Brad Feilberg, P.E.
Public Works Director
360-863-4540

Brad Feilberg
July 21, 2011

CITY OF MONROE
Community Development Department
806 West Main Street
Monroe, WA 98272
Phone: (360) 794-7400
Fax: (360) 794-4007

ORIGINAL

Citizen-Initiated Comprehensive Plan Amendment Application

OFFICE USE ONLY

Date Received: 7/23/2010 Application Number: CPA-2010-01

Received By: Kim S. Complete Application Date: ___

Fee Paid (date/time): 7/23/2010 - 3:40 p.m. Zoning of Site: LDS

Zoning of Adjacent Property: (North) R4 (South) ___

(East) ___ (West) RS

Comp Plan Designation: ___ Comp Plan Adjacent Property: (North) R2-5

(South) ___ (East) ___ (West) SRU

REQUIRED MATERIALS FOR A COMPLETE APPLICATION ARE:

1 Original plus 9 copies of the completed application (Pages 1, 2, & 3) ✓

Appendices (See Page 4)

- Appendix I – Describe proposal; one (1) original plus 9 copies. ✓
- Appendix II – Answer Parts A & B; one (1) original plus 9 copies. ✓
- Appendix III – Environmental (SEPA) checklist with supporting reports as required, one (1) original plus 9 copies, if applicable. ✓
- Appendix IV – Legal description/proof of ownership. Provide a current title report; one (1) copy dated within 30 days of application, if applicable. ✓

1 copy of Vicinity and Site Plan Maps (*Only required for site specific proposals*) ✓

Fees – Refer to the latest fees resolution to determine cost of application. ✓

OFFICE USE ONLY

Planning Application Fee:	$ 275.00	Publication Fee:	$ 100.00
Fire Plan Check Fee:	$ —	Mailing Fee:	$ 3.00
SEPA Fee:	$ 550.00	Technology Fee:	$ 41.25
		TOTAL FEES:	$ 1,002.25

EXHIBIT# M-8

Citizen Initiated - Comprehensive Plan Amendment Application

Type of Application (*Check all that apply.*)

Change of goals, policies & implementation measures
Change to future land use map
Change of Urban Growth Boundary (in conjunction with request to Snohomish County).
X Change to an element of the Comprehensive Plan *(Transportation, Parks, Land Use, etc.)*
Technical Corrections *(Terminology, References, etc.)*

1. Application Information

A. Name of Applicant: East Monroe Economic Development Group LLC
Signature:
Home Address: 18404 102nd Ave NE
City and Zip Code: Bothell, WA 98011
Email address: joshuafreed@mac.com Phone: 206.714.1721
Mailing Address *(if different)*:
City and Zip Code:

B. Name of Owner *(If different)*: Heritage Baptist Fellowship
Signature: Thomas Minnick
Home Address, City and Zip Code: 16651 Currie Rd SE; Monroe WA 98272
(Phone #) 360.794.9665
Mailing Address *(if different)*: *PO Box 1090*
City and Zip Code: Monroe, WA 98272

C. Name of Owner *(If different)*: Robert Kreutz
Signature: Robert Kreutz
Home Address, City and Zip Code: 7908 Upper Ridge Rd; Everett WA 98203
(Phone #) 425.355.7139
Mailing Address *(if different)*:
City and Zip Code:

NOTE: A PROPERTY OWNER is any person, corporation or financial institution that has ownership of all, a portion of, or percentage of, a property shown on the title certificate for said property. If additional property ownership is involved, attach additional names, addresses and signatures to this page.

Citizen Initiated - Comprehensive Plan Amendment Application

2. Location of Property *(If applicable)*

A. Section 5 Township 27N Range 7E

3. Legal Description(s) - Property Information *(If applicable)*

A. Tax Account Number(s): Baphst 27070600102500; 27070500206100; 27070500206200; 27070500206300; 27070500206400; 27070500203300; 27070500203301; & 27020500203303. Kreutz

B. Size of **entire** site (acres/square feet): 67.93 Acres (2,959,030.8 sq ft)

C. Comprehensive Plan Designation: Limited Open Space

D. Current Use of Property: Agricultural; Vacant Land; SFR

E. Describe physical characteristics: The property is generally flat with some rolling appearance. Steep slopes are found only on north side of slough which cannot be developed.

F. Sensitive Areas (wetlands, steep slopes, etc.): See attached Wetlands Report for certain several of tax parcels. Remaining tax parcels sensitive areas on not suspected.

Applications will be accepted Monday through Friday
9:00 am – 12:00 pm & 2:00 pm – 4:00 pm

Citizen-Initiated - Comprehensive Plan Amendment Application

COMPLETE THE FOLLOWING APPENDICES AND PROVIDE THE NUMBER OF COPIES INDICATED ON THE CHECKLIST (Page 1).

APPENDIX I

Provide a type written description of the proposal to including any relevant background material.

APPENDIX II

Part A

The Planning Commission will recommend to the City Council whether the proposed amendment should be considered for further review based on the following criteria provided by you.

1. Reference the element(s) of the Comprehensive Plan that is proposed for this amendment and explain how this amendment is consistent with the overall goals and intent of the Comprehensive Plan.
2. Propose amendment language, when applicable;
3. Provide an explanation of why the amendment is being proposed;
4. Provide a description and/or map of the property affected by the proposal.
5. Accurately identify any significant impacts this amendment will have on the public health, safety, or welfare.
6. Explain how this amendment is in compliance with the Growth Management Act and other State and Federal laws.

Part B

In addition to the above mandatory requirements, any proposed amendment must meet the following criteria unless compelling reasons justify its adoption without meeting them:

1. Address the needs or changing circumstances of the City as a whole or resolve inconsistencies between the Monroe Comprehensive Plan and other city plans or ordinances.
2. Environmental impacts have been disclosed and/or measures have been included that reduce possible adverse impacts.
3. Consistency with the land uses and growth projections that were the basis of the comprehensive plan and/or subsequent updates to growth allocations.
4. Compatibility with neighboring land uses and surrounding neighborhoods, if applicable.
5. Consistency with other plan elements and the overall intent of the Comprehensive Plan.

APPENDIX III

Provide a completed and signed Environmental Checklist.

APPENDIX IV

Provide one (1) current Title Certificate and a legal description of the property. A current title certificate is defined as one dated within thirty (30) days of this application.

Citizen-Initiated - Comprehensive Plan Amendment Application (Continued)

Review and Action for Selected Amendments

1. Review of Selected Amendments.

   A. Written Analysis. For each proposed amendment that the Council approves for consideration, the Lead Department, as determined by the Mayor, will prepare a written analysis for the Planning Commission. The analysis will be accompanied by a recommendation that the proposed amendment be approved, denied, or approved with modifications.

      1) If a request to amend the Comprehensive Plan Land Use Map is approved for consideration during the review cycle, staff may require additional information to be submitted including, but not limited to, an environmental review, traffic study, and utilities analysis.

   B. Planning Commission Review. Subsequent to completion of the analysis prepared by the Lead Department and the SEPA Review, the Planning Commission shall conduct one or more public hearings. The Planning Commission shall also solicit comments regarding the proposed amendment from the public and government agencies in any other manner it determines necessary and appropriate to the nature of the proposed amendment and consistent with RCW 36.70A.140.

   Any compelling reasons relied upon to justify adopting an amendment without meeting the above criteria (Appendix I-IV) must be specified in the ordinance adopting the amendment. When an amendment to the Comprehensive Plan also requires a subsequent rezone or amendment to the development regulations, the Planning Commission may consider both concurrently and make a single recommendation to the City Council for consideration with final approval of the Plan.

2. Council Public Hearing and Notice.

   The City Council will review the recommendation of the Planning Commission and may hold a public hearing for the purpose of receiving public comment regarding the merits of proposed amendment(s) that have been recommended by the Planning Commission. Notice of the hearing will be given in the same manner as notice of other City Council hearings pursuant to Title 21 MMC. Written comments may be given by anyone to the City Council regarding proposed plan amendments prior to the end of the public hearing(s).

3. Council Action.

   Upon receipt of a recommendation from the Planning Commission, the City Council shall adopt, adopt as modified, deny, or remand the application(s) to the Planning Commission for further consideration.

Citizen-Initiated - Comprehensive Plan Amendment Application (Continued)

Review and Action for Selected Amendments

4. Map Revisions.

   If the City Council approves a change to the Comprehensive Plan Land Use Map and/or Official Zoning Map, the City Council shall adopt an ordinance that amends the official comprehensive plan and/or zoning map, if approved, and authorize the Mayor to sign the revised map(s).

5. Revocation.

   The comprehensive plan amendment may be reversed by the City Council outside of the regular amendment period, upon finding of any of the following:

   A. The approval was obtained by fraud or other intentional or misleading representation;

   B. The amendment is being implemented contrary to the intended purpose of the amendment or other provisions of the comprehensive plan and City ordinances; or

   C. The amendment is being implemented in a manner that is detrimental to the public health or safety.

6. Appeals.

   State law governs the appeal process of a City Council decision on a comprehensive plan amendment(s).

7. Transmitted to State.

   The City DCD will transmit a copy of each proposed amendment of the Plan to the State of Washington Department of Commerce at least sixty (60) days prior to the expected date of final Council action on proposed amendments. The City DCD will then transmit a copy of all adopted amendments to the Department of Commerce within ten (10) days after the adoption by the Council.

Appendix I

We represent owners of 8 parcels of land totaling 67.93 acres, located at the east end of Monroe, on the north side of State Route 2.

This change in land use designation is requested in order to bring commercial economic development to the east end of Monroe. These parcels front State Route 2 and are in a perfect location for commercial development.

The land is presently designated Limited Open Space (5 acre minimum). This designation is not appropriate to the parcels for the following reasons:

- The LOS designation was intended for land with cannot be developed and, therefore, must be left in an open space designation. These parcels are largely flat, usable land which can and should be developed.

- LOS is, for all practical purposes, a rural designation (5 acre minimum) which is inconsistent with its urban setting.

We have interest in developing this property commercially which will bring valuable economic development to the City of Monroe. The land use designation change is essential in order to move forward with development.

We are requesting a change from Limited open space to general commercial (GC).

APPENDIX II

Part A

1. This element of the Comprehensive Plan that is affected by this proposal is the land use map. The application is to change the land use designation on the included parcels.

   The proposal is consistent with the overall goals and intent of the Comprehensive Plan. Please see the Vision Statement on page ES-5 of the Plan. It states that part of Monroe's *"...transition into a city of regional significance within southeastern Snohomish County includes the development of a new commercial center to provide shopping, commercial services, and business facilities to serve the surrounding market areas."* (ES-5)

   Our proposal to change the land use designation of this property from LOS to Commercial will allow this property to be used for the best and most reasonable purposes – commercial development.

2. N/A

3. This change in land use designation is requested in order to bring commercial economic development to the east end of Monroe. These parcels front State Route 2 and are in a perfect location for commercial development.

4. The subject properties are located at the east end of Monroe, on the North side of Highway 2. See attached vicinity maps.

5. This is a request for a change in land use designation only. No specific construction is proposed at this time. So, the proposal will have no significant impacts on the public health, safety, or welfare.

6. This proposal to modify the Comprehensive Plan designation for these properties would bring the land use into conformity with the GMA provisions directing greater density and higher use of those properties located within the Urban Growth Area of incorporated cities. The present designation creates (basically) rural land in an urban setting. This is contrary to the goals of the GMA, and therefore, should be changed. Any future development of the area will be done in compliance with City, State, and Federal laws.

APPENDIX II (continued)

Part B

1. The city needs additional economic development. These parcels are in an excellent location for such development. A change to the land use designation will allow this much-needed development to move forward.

2. The SEPA checklist has been completed and is included in this application

3. This proposal is consistent with the vision and purpose of the Comprehensive Plan as addressed in this APPENDIX, Part A, #1.

4. The subject properties are front Highway 2 and really have no neighbors that would be adversely affected by the change in land use designation. The nearest neighbors are up on the bluff and far enough away as to be relatively unaffected by a different use of the properties.

5. See question 3 above.

CITY OF MONROE

Community Development Department
806 West Main Street
Monroe, WA 98272
Phone: (360) 794-7400
Fax: (360) 794-4007

CITY OF MONROE RECEIVED
APR 10 2012
COMMUNITY DEVELOPMENT

Rezone Application Requirements

OFFICE USE ONLY

Date Received: April 10, 2012 Application Number: RZ 2012-02

Received By: Kim S. Complete Application Date: _____

Fee Paid (date/time): $1868.50 - 4/10/12 Zoning of Site: LOS - Limited Open Space

Zoning of Adjacent Property: (North) UR 9000 (South) County Property

27070600102500 (East) County Property (West) PS - Public Open Space

Comp Plan Designation: LOS - Limited Open Space Comp Plan Adjacent Property: (North) R3-5 Dwellings per acre.

(South) County Property (East) County Property (West) SRU - Special Regional Use

REQUIRED MATERIALS FOR A COMPLETE APPLICATION ARE:

- ☐ 1 original plus ~~0~~ 5 copies of the Combined Permit Application.
- ☐ ~~0~~ 5 copies of all maps (Vicinity and Site Plan Maps).
- ☐ Provide 1 original plus ~~0~~ 5 copies of explanation for the criteria listed on Page 3:
- ☑ 1 copy of the title report dated within 30 days of submittal.
- ☐ 1 original and ~~0~~ 5 copies of an Environmental Checklist, if applicable.
- ☑ Fees – Refer to the latest fees resolution to determine cost of application.

Applications accepted Monday through Friday

9:00 am – 12:00 pm & 2:00 pm – 4:00 pm

OFFICE USE ONLY

Planning Application Fee:	$ 1650.00	Publication Fee:	$ 100.00
Fire Plan Check Fee:	$ —	Mailing Fee:	$ 36.00
SEPA Fee:	$	Technology Fee:	$ 82.50
		TOTAL FEES:	$ 1,868.50

CITY OF MONROE
RECEIVED
APR 10 2012
COMMUNITY DEVELOPMENT

City of MONROE

FOR OFFICE USE ONLY
PLAN. FILE #
Bldg. File #
Eng. File #:

MONROE FIRE DEPARTMENT
163 Village Court • Monroe, WA 98272
Phone: (360) 794-7666 • Fax: (360) 794-0959

COMMUNITY DEVELOPMENT / ENGINEERING
806 West Main Street • Monroe, WA 98272
Phone: (360) 794-7400 • Fax: (360) 794-4007

CITY OF MONROE – Combined Permit Application

Permit Submittal Hours Monday through Friday:

Building, Fire & Land Use permits: 9:00 am – 12:00 pm & 2:00 pm – 4:00 pm
Engineering permits: 8:00 am – 5:00 pm

Building

- ☐ Building (new construction)
- ☐ Commercial T/I
- ☐ Demolition
- ☐ Garage/Carport
- ☐ Mechanical
- ☐ Plumbing
- ☐ Residential Remodel
- ☐ Sign
- ☐ Other _____

Engineering

- ☐ Engineering Review
- ☐ Fencing
- ☐ Grading
- ☐ Retaining wall
- ☐ Rockery
- ☐ Right-of-Way Disturbance
- ☐ Special Flood Hazard Area
- ☐ Utility Service

Fire

- ☐ Fire Alarm
- ☐ Fire Sprinkler
- ☐ High Piled Storage
- ☐ Hood Suppression
- ☐ Spray Booth
- ☐ Tents & Canopies
- ☐ Other _____

Land Use

- ☐ Accessory Dwelling Unit
- ☐ Boundary Line Adjustment /Lot Consolidation
- ☐ Conditional/Special Use
- ☐ Land Clearing/Forest Practices
- ☐ Planned Residential Development
- ☐ Shoreline Permit
- ☐ Short Plat
- ☐ Subdivision/Plat
- ☐ Variance
- ☒ Other Re zone

*Please note that all required Electrical Permits will be issued by the Dept. of Labor & Industries.

THIS APPLICATION WILL NOT BE ACCEPTED WITHOUT COMPLETED SUBMITTAL REQUIREMENTS

Site Address or Property Location: See Attached
Size of site (acre/square feet): 67.93 acres
Assessor's Tax Parcel Number (14 digits): See Attached - 27070600102500

Applicant: East Monroe Economic Development Group L.L.C. Phone # (206) 714-1721
*Signature: [signature] Printed Name: Joshua Freed
Mailing Address: 18404 - 102nd Ave NE Fax # ( )
City Bothell State WA Zip 98011 E-mail joshua@element-residential.com

Property Owner: Heritage Baptist Fellowship Phone # (425) 308-2441
**Signature: Thomas Minnick Printed Name: Thomas Minnick
Mailing Address: P.O. Box 1090 Fax # ( )
City Monroe State WA Zip 98272 E-mail t.minnick@comcast.net

ATTACH A SEPARATE SHEET FOR ADDITIONAL PROPERTY OWNERS/ADDITIONAL ADDRESSES

*Applicant: By your signature above, you hereby certify that the information submitted is true and correct and that you are authorized by the property owner(s) to act on their behalf.

**Property Owner(s): By your signature above, you hereby certify that you have authorized the above Applicant to make application on your behalf for this application.

Updated May 2009 – Please verify accuracy of this information/form prior to submitting.

EXHIBIT# M-9

Additional Information

Location of Property:

Section 5 Township 27N Range 7E

Legal Description – Property Information

Tax Account Numbers:

27070600102500; 27070500206100; 27070500206200; 27070500206300; 27070500206400; 27070500206100; 27070500203300; 27070500203301; 27020500203303

Additional Property Owners/Additional Addresses

Name of Owner: Robert Kreutz

Signature: Robert Kreutz

Home Address, City, and Zip Code: 7908 Upper Ridge Rd. Everett, WA 98203

(Phone#) : 425.355.7139

EAST MONROE RZ 2012-02

Rezone Application Criteria for Approval

TO BE COMPLETED BY THE APPLICANT

When reviewing an application for a REZONE, the following factors are considered:

1. This proposed zoning change shall be in keeping with the goals and policies of the Comprehensive Plan. (Explain how it meets the goals/policies.)

This rezone proposal is consistent with the overall goals and intent of the city's Comprehensive Plan. Please see the Vision Statement on page ES-5 of the Plan. It states that part of Monroe's *"...transition into a city of regional significance within southeastern Snohomish County includes the development of a new commercial center to provide shopping, commercial services, and business facilities to serve the surrounding market areas."* (ES-5) This rezone is consistent with that goal.

2. This proposed zoning change shall be in keeping with the purposes of the Zoning Code and the existing land uses of surrounding properties. (Explain how it is in keeping with Zoning Code and existing land uses.)

The zoning designation of any property must be consistent with its land use classification in the Comprehensive Plan. This Rezone Application is intended to make the zoning consistent with changes to the Comprehensive Plan—per the new "element" changes and our Comprehensive Plan Amendment Application. Almost all Highway 2 property (with direct highway frontage) is used for commercial purposes. This rezone would bring this property into conformity with those other comparable properties.

3. This proposed rezone reflects changes in economic patterns, social customs, policy changes and other factors that affect the character of the area. (Explain how it reflects these changes.)

The city of Monroe has clearly stated their commitment to bring new economic vitality to this area. This rezone would assist in the city's renewed efforts to encourage economic development to Monroe. These parcels front State Route 2 and are in an excellent and desirable location for commercial development.

4. This proposal will be assessed as to its impact on safety, welfare, public health, property values and other factors. Include a comparison of such factors under the current zoning designation and under the proposed rezone.

The GMA is designed to consider all these factors when making land use decisions. This proposed rezone would bring the subject properties into conformity with the GMA provisions directing greater density and higher use of those properties within the Urban Growth Areas of incorporated cities. The present zoning of these parcels creates (basically) rural land in and urban setting. This is contrary to the goals and requirements of the GMA and should be changed. Commercial development of these properties would have no negative impact on the safety, welfare, or public health of the citizens of Monroe. In fact, with the completion of required traffic mitigation, that section of Highway 2 would actually be safer to travel.

ORIGINAL

BEFORE the HEARING EXAMINER for the CITY of MONROE

DECISION

FILE NUMBER:	AP2012-01
APPELLANT:	Lowell Anderson *et al.* C/o Lowell Anderson 129 E Rivmont Drive Monroe, WA 98272
RESPONDENT:	Brad Feilberg City of Monroe SEPA Responsible Official 806 W Main Street Monroe, WA 98272
ACTION SPONSOR:	East Monroe Economic Development Group, LLC C/o Joshua Freed 12900 NE 180th Street, Suite 220 Bothell, WA 98011
TYPE OF CASE:	State Environmental Policy Act (SEPA) Appeal: The Final Phased Environmental Impact Statement issued for the East Monroe Comprehensive Plan Amendment and associated rezone is alleged to be inadequate
EXAMINER DECISION:	GRANT appeal: The Final Phased Environmental Impact Statement is inadequate as a matter of law
ISSUED/MAILED:	July 24, 2012

INTRODUCTION [1]

Lowell Anderson *et al.* (Anderson *et al.*) filed an appeal on May 10, 2012, from the State Environmental Policy Act (SEPA) Final Phased Environmental Impact Statement (FPEIS) issued by the City of Monroe (City) SEPA Responsible Official for the East Monroe Comprehensive Plan Amendment and associated rezone. (Exhibits E3 and E4 [2])

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1 Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

2 Exhibit citations are provided for the reader's benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner's Decision is based upon all documents in the record.

EXHIBIT# M-10

The subject property consists "of approximately 50 acres of land located north of US 2 near the eastern city limits of the City of Monroe." (Exhibit E2, p. 3)

The Monroe Hearing Examiner (Examiner) convened a prehearing conference on June 6, 2012. The Appellant, Respondent, and Proponent were sent notices of the conference. (Exhibits E8, E9, E11, and E12) The Appellant and the Respondent attended. The prehearing conference is memorialized in Exhibit E13.

The Examiner held an open record hearing on July 19, 2012. The City gave notice of the hearing as required by the Monroe Municipal Code (MMC). (Exhibits E14A and E14B)

Pursuant to Hearing Examiner Rule of Procedure (RoP) 224(c), the Examiner entered the following exhibits into the hearing record at the outset of the hearing:

Exhibit E1:	Determination of Significance and Request for Comments on Scope of Environmental Impact Statement, issued July 21, 2011
Exhibit E2:	FPEIS for the East Monroe Amendment, issued April 23, 2012, with Appendices A – C.12
Exhibit E3:	Appeal/Reconsideration Form, filed May 10, 2012
Exhibit E4:	Appeal letter, filed by Anderson May 10, 2012, with Attachments LA-1 – LA–27
Exhibit E5:	Letter, Appeal Supplement, filed May 22, 2012
Exhibit E6:	Motion to Dismiss, filed May 22, 2012
Exhibit E7:	Memorandum in Support of Motion to Dismiss, filed May 22, 2012
Exhibit E8:	Letter, Examiner to Parties, mailed May 24, 2012
Exhibit E9:	Notice of Prehearing Conference, issued May 24, 2012
Exhibit E10:	Letter, Anderson to Examiner, filed May 24, 2012; copy of Exhibit E5 attached
Exhibit E11:	Letter, Examiner to Parties, re-mailed May 30, 2012
Exhibit E12:	Re-Mailed Notice of Prehearing Conference, issued May 24, 2012; re-mailed May 30, 2012
Exhibit E13:	Consolidated Order Acknowledging Withdrawal of Motion and Order Memorializing a Prehearing Conference, issued June 7, 2012

During the hearing the Examiner accepted and entered additional exhibits as follows:

Exhibit E14A:	Affidavit of Publication – Notice of Application and Public Hearing
Exhibit E14B:	Affidavit of Mailing - Notice of Application and Public Hearing to property owners within a 500 foot radius and parties of record

Exhibit E15:	Letter from Futurewise to Hearing Examiner, received July 12, 2012 (dated June 12, 2012), with attachments [3]
Exhibit E15.1:	Letter from Futurewise to Mayor Zimmerman, dated June 10, 2012 [4]
Exhibit E15.2:	US 2 Safety Coalition, 2007 Legislative Agenda with supporting documents
Exhibit E15.3:	Letter to Joshua Freed from City of Monroe, dated September 20,2010
Exhibit E15.4:	Letter from WSDOT to Hiller West, dated March 3, 2004
Exhibit E15.5:	Letter from DOE to Brad Feilberg, dated August 19, 2011
Exhibit E15.6:	Letter from WSDOT to Brad Feilberg, dated August 18, 2011
Exhibit E15.7:	Letter from DOE to Joan Cook re: SEPA comments, dated March 13, 2012
Exhibit E15.8:	Letter from DOE to Mayor Zimmerman, dated June 10, 2010
Exhibit E15.9:	Planning Commissioner meeting coversheet re: CPA2011-01
Exhibit E15.10:	Letter to Robert & Sandra Kruetz from Kate Galloway, Senior Planner, dated May 18, 2008
Exhibit E15.11:	Monroe City Council coversheet re: CPA2006-C budget amendment
Exhibit E15.12:	Memo to Mayor Walser and City Council from Kate Galloway, dated March 22, 2006
Exhibit E15.13:	U.S. 2 – Fix It Now!, US2 Safety Coalition report
Exhibit E15.14:	US 2 Traffic Safety Corridor - Collision Data, last updated 4/23/08

Respondent City did not pre-file any exhibits. Pursuant to RoP 224(i), during the hearing the Examiner accepted and entered the following exhibit from Respondent City:

Exhibit M1:	Brad Feilberg's hearing statement

Pursuant to RoP 224(e), Appellant Anderson *et al.* pre-filed Exhibits A1 – A11. Respondent City objected to entry of Exhibit A10. After hearing brief argument on the objection, the Examiner overruled the objection and entered pre-filed Exhibits A1 – A11 into the hearing record:

Exhibit A1:	Monroe Municipal Code Chapter (MMC) 14.01 – Flood Hazard Regulations
Exhibit A2:	Map of Snohomish County Flood History
Exhibit A3:	Annual Peak River Stages @ Snohomish Gage
Exhibit A4:	FEMA Flood Profiles
Exhibit A5:	Email from WSDOT with drawings
Exhibit A6:	Wallace Properties market advertisement for property

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3 According to the first full paragraph on page 2 of this letter, the City Council acted on the proposed comprehensive plan amendment "two days ago." Testimony during the hearing indicated that the City Council's action occurred on July 10th. Therefore, the Examiner believes that the month in the date on this letter is a scrivener's error: It most likely was written in "July," not "June."

4 According to Exhibit E15, this letter was submitted to the City "Two days ago." (Exhibit E15, p. 1, ¶4) Therefore, the same scrivener's error likely occurred with the date on this letter.

Exhibit A7:	Copy of MMC 14.01.150 Floodways
Exhibit A8:	Wetland Resources Inc., project site description
Exhibit A9:	Letter to Mayor Zimmerman from Tualco Grange president, dated August 11, 2010
Exhibit A10:	Memorandum from Mitch Ruth to Hearing Examiner, dated July 5, 2012
Exhibit A11:	Appellants' Brief in Support of Appeal

Pursuant to RoP 224(i), during the hearing the Examiner accepted and entered the following exhibits from Appellant Anderson *et al.*:

Exhibit A12:	Power Point hearing presentation (CD submitted)
Exhibit A13:	Lowell Anderson's hearing statement

The City has the record copy of the exhibits.

The action taken herein and the requirements, limitations and/or conditions recommended for imposition by this recommendation are, to the best of the Examiner's knowledge or belief, only such as are lawful and within the authority of the Examiner to take and recommend pursuant to applicable law and policy.

FINDINGS OF FACT

1. The subject property consists of a portion of five parcels and the entirety of a sixth parcel on the north side of US 2 near the eastern City limits. The six parcels are identified within the FPEIS as Lots A - F. The six parcels together encompass approximately 68 acres. (Exhibit E2, p. 4, Table 1) During the comprehensive plan amendment docketing process, the "City Council removed the portions of Lots A – E that fall within the shoreline jurisdiction boundary resulting in a project area of 50.36 acres". (Exhibit E2, p. 3) The approximate 50 acres will hereinafter be referred to as the "Project Area." [5]

   Lots A – E contain 42.81 acres and are owned by the Heritage Baptist Fellowship (Heritage Baptist); Lot F contains 25.30 acres and is owned by Robert and Sandra Kreutz. (Exhibits E2 {Table 1, p. 4} and E4LA-15) Lots B – E were created by short subdivision in or around 2004. (Exhibits E4LA-18 and E4LA-19) The East Monroe Economic Development Group, LLC (EMEDG) does not own any of the Project Area. (Testimony)

[5] Table 1 in Exhibit E2 (p. 4) contains area figures, presented at two decimal places, for the gross area, area in the Preferred Alternative, and area within a Reduced Scope Alternative for each lot. The total for the Preferred Alternative is 50.23 acres. The difference between that figure and the 50.36 acres as stated elsewhere within the FPEIS is not explained in the record but is so small as to be *de minimis*.

2. Heritage Baptist sought a comprehensive plan amendment for its property in 2004. That request was not placed on the 2005 docket but eventually became part of a slightly larger sub-area plan docketed by the City Council in 2006. (Exhibits E15.9 and E15.12) The City Council opted not to proceed with analysis of that request due to budget considerations. (Exhibit E15.10)

3. In the summer of 2010, EMEDG filed an application with the City seeking a comprehensive plan amendment and rezone [6] to change the designation and zoning of Lots A - F from Limited Open Space (LOS) to General Commercial (GC). The City Council placed a reduced scale version of the request (the Project Area) on the City's comprehensive plan amendment docket in the Fall of 2010. The Respondent issued a SEPA Determination of Significance (DS) for the docketed action in July, 2011. Subsequent thereto, the Respondent decided to proceed with phased environmental review. A Draft Phased EIS was issued in February, 2012, and the FPEIS which is the subject of this appeal was issued on April 23, 2012. (Exhibits E2 {pp. 3 & 4}, E7 {p. 2}, and M1 and testimony) Anderson *et al.* filed their appeal on May 10, 2012. (Exhibits E3 and E4) Anderson *et al.* filed an appeal supplement on May 22, 2012. (Exhibit E5)

4. On July 10, 2012, the City Council adopted an ordinance to amend the comprehensive plan land use designation from LOS to GC along with related textual plan changes for the docketed Project Area. Action on the accompanying rezone was delayed for reasons not stated during the Examiner's hearing. (Exhibit E15 {p. 2} and testimony)

5. A steep (> 40%), approximately 100 – 120 foot high south aspect slope borders Lots A – F to the west and north, extending onto the northern edges of Lots A – D. In addition to containing the toe of the abutting steep slope, Lots A – F exhibit three distinct topographies: A lower pasture, a slough corridor, and an upper terrace. The majority of Lots A - F is relatively flat. An oxbow slough, once a channel of the nearby Skykomish River, arcs through the site passing through Lots A – E. The slough passes beneath abutting US 2 in a large culvert at each end of the oxbow. The lower pasture covers most of Lots A – E. The upper terrace is limited to a portion of Lot D (and perhaps also the northern portion of Lot F; no topographic information is available in the record for Lot F). (Exhibits A8, E2 {pp. 7 and 18}, E4LA-16, and E4LA-20)

   Lots A – F are covered by one or more critical areas regulated under Chapter 20.05 MMC: Wetlands, flood-prone lands, steep slopes, and the slough. (Exhibits E4LA-16 and E4LA-17 and testimony) The portion of the oxbow slough within Lots A – C is within the mapped jurisdictional area of the Shoreline Management Act (SMA); the remainder of the oxbow slough is not. (Testimony) The

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[6] The rezone is described throughout the record as "a concomitant rezone." (See, for example, Exhibit E2, p. 3) Feilberg testified that he used the word "concomitant" to express the thought that a rezone from LOS to GC accompanied the comprehensive plan amendment. The term "concomitant rezone agreement" is often used in the land use regulatory system to refer to a rezone accompanied by a binding, contractual agreement of some sort. Feilberg did not use the word "concomitant" in that sense; a binding, contractual agreement is not part of the proposal. (Testimony)

Department of Ecology (DOE) believes that some of the wetlands outside of the SMA-mapped area on the Lots may be "associated" wetlands, also under SMA jurisdiction. (Exhibit E4LA-2, p. 2)

6. The 2004 short subdivision resulted in the imposition of an extensive Native Growth Protection Area (NGPA) across Lots B – E, basically following the oxbow slough and associated wetlands. (Exhibit E4LA-19) The NGPA areas must "remain undisturbed in perpetuity." (Exhibit E4LA-18, Note 1) Since that short subdivision did not involve either Lot A or Lot F, there are presently (according to the record in this appeal) no NGPAs applicable to either of those lots.

   Since the Project Area excludes that portion of the lots within the mapped SMA jurisdiction, the NGPA areas on Lots B and C lie outside of the Project Area while the NGPA areas on Lots D and E lie within the Project Area.

7. Lots A – F are zoned LOS. (Exhibit E4LA-14) The Project Area has historically been primarily used for agriculture. (Exhibit E2, p. 19) Crops have been recently grown on the lots. (Exhibit E15.1, p. 6) Lot F contains both agricultural land and five single-family residences. (Exhibit E2, p. 19)

   The adjoining steep bluff is wooded. (Exhibit E2, p. 6, Figure 3)

   The area on the ridge at the top of the bluff is zoned R3-5 and fully developed with single-family residences. (Exhibits E2 {p.6, Figure 3} and E4LA-14)

   The Project Area is about three-quarters of a mile east of the commercial area of Monroe, separated from that area by the intervening ridge. (Exhibit A6)

8. The DS identified three alternatives and 11 elements of the environment to be addressed in the EIS. The three alternatives were: No action; Limited redesignation (deleting everything subject to SMA jurisdiction or subject to critical areas regulations); and Full redesignation (deleting only the SMA jurisdictional area). (Exhibit E1)

   The elements of the environment listed in the DS which needed to be covered in the EIS were: Earth; Water, surface; Water, ground; Animals; Noise; Land and shoreline use; Aesthetics; Light and glare; Transportation; Public services; and Utilities. (Exhibit E1)

   The DS was not appealed. (Testimony)

9. The 30-page FPEIS contains a section addressing alternatives and sections addressing each of the eleven environmental elements listed in the DS. (Exhibit E2) The basic philosophy underlying the FPEIS is stated first in the FPEIS's cover letter and then repeated in the Summary:

> This action in and of itself does not have any environmental impacts. However, as this action is the first in an anticipated series of related actions this proposed action is being reviewed with a phased environmental impact statement. Future development within the project area will be required to supplement or amend this phased environmental impact statement when more specific development actions are proposed.

(Exhibit E2, unpaginated cover letter and p. 1, respectively)

The FPEIS's Fact Sheet states "The City expects that additional environmental review will be required at such time when specific proposals are made for development. No dates are known or committed at this time." (Exhibit E2, p. ii)

The statement that the action will not itself result in any impacts is repeated in every section of the FPEIS. (Exhibit E2, pp. 1, 2, 4, 10, 12, 15, 17, 18, 24, 25, 26, 27, 28, and 29)

The "Mitigating Measures" section for each environmental element addressed in the FPEIS contains the following statement:

> All development not allowed in the current land use designation and zoning classification will not be allowed to be categorically exempt and will have to undergo further environmental review.

(Exhibit E2, pp. 11, 13, 15, 17, 18, 24, 25, 26, 27, and 29)

10. The FPEIS states that the purpose of the proposed action, "[a]ccording to the project proponent, … is to allow for the commercial development of the subject property in order to bring valuable economic development to the City of Monroe." (Exhibit E2, p. 5) The Respondent testified that any alternative must result in the Project Area being zoned GC.

The FPEIS identifies two alternatives to the redesignation of the 50 acre Project Area. The No Action Alternative would leave the Project Area designated and zoned LOS. The Reduced Scope Alternative would reduce from 50 to 23 the number of acres to be redesignated from LOS to GC by eliminating those portions of Lots A – F "located in a native growth protection area, wetland, stream, or critical area buffer". (Exhibit E2, p. 5; see Table 1 on p. 4)

The FPEIS summarily dismisses the Reduced Scope Alternative "[s]ince the environmental impacts of this alternative are not materially different from the impacts of the proposed action". (Exhibit E2, p. 5)

11. The "Earth" section acknowledges "a history of landslides occurring on the slope in the recent past". It states that the slope is a regulated landslide hazard area, and "is also potentially unstable because of rapid stream incision or stream bank erosion associated with the slough located near the base of the slope." (Exhibit E2, p. 10, both quotes) Other evidence and testimony support those statements. (Exhibit E2C.3 {p. 2} and E2C.8 {p. 3} and testimony) The FPEIS states that future development "could increase stream flow adjacent to the northerly ridge." (Exhibit E2, p. 10) No analysis of the impact of such increased flow is contained within the FPEIS.

12. The "Water, Ground" section notes that the Project Area lacks both municipal water and sewer service. It states that future commercial development might withdraw ground water and utilize on-site sewage disposal or might extend municipal services to the Project Area. (Exhibit E2, pp. 12 and 13) No analysis of either option is contained within the FPEIS.

13. The "Water, Surface" section acknowledges the existence of wetlands in the Project Area. The FPEIS identifies a conflict in the classification of the wetlands, but does not resolve that conflict. (Exhibit E2, p. 13) DOE's comment on the Draft EIS states that the wetland classification is incorrect. (Exhibit E2C.4) The FPEIS responded that "as this is a phased EIS the fact that wetlands and other critical areas exist on the property is sufficient at this time. When a specific development proposal is received further environmental review, including compliance with critical area regulations, will be required." (*Ibid.*)

    The Project Area is subject to frequent flood inundation. (Exhibits A13 and E4LA20 – LA27 and testimony)

    The FPEIS states that the Project Area is subject to a Federal Emergency Management Agency (FEMA) National Flood Insurance Rate Map (FIRM) dated from September, 1999, which rates the area as "Shaded X" meaning it is within the "500-year" flood plain, or within a portion of the 100-year flood plain which would be inundated to a depth of less than one foot, or is an area protected by levees from the 100-year flood. (Exhibit E2, p. 14)

    Section 14.01.050 MMC states that the applicable FEMA flood study "with accompanying" FIRMs is dated September 2005 "and any revisions thereto." (Exhibit A1) The 2005 FIRM is not in the record. One of the appellants asserted in a comment on the Draft EIS that the 2005 FIRM places the property in flood Zone AE with a base flood elevation of 66 – 68 feet across the Project Area. (Exhibit E2C.8, p. 2) A "Preliminary" FIRM dating from 2007 places the property in flood Zone AE with a base flood elevation of 66 – 68 feet across the Project Area. (Exhibit E4LA-27) If the base flood elevation is 66 – 68 feet, the entire lower pasture area, the majority of the Project Area, would be inundated by five to eight feet of water on average during a 100-year flood event. (Exhibit E4LA-20) The FPEIS states that adoption of the 2007 FIRM "has been delayed due to concerns of whether non-certified levees can be used to remove floodplain areas from a special flood hazard area."

(Exhibit E2, p. 14) Anderson *et al.* assert that the conflicts delaying adoption of the newer FIRM have nothing to do with the Project Area. (Exhibit E4LA-4, p. 2)

The FPEIS states that future filling of the site could adversely affect the wetlands and displace flood waters. (Exhibit E2, p. 15) No analysis of those impacts is contained within the FPEIS, nor does the FPEIS analyze the effect of floodwater displacement on stability of the adjacent slope or downstream properties in the Skykomish River valley.

14. The "Noise" section notes that "additional noise [may be generated] during construction activities." (Exhibit E2, p. 18) It also states that "a slight increase in background noise during operation" is expected. (Exhibit E2, p. 19) The FPEIS does not attempt to quantify these noise levels. The "slight increase" statement is based upon the Respondent's experience with existing commercial uses within the City. (Testimony)

The "Mitigating Measures" section states that noise levels are regulated by MMC 18.10.270 and Chapter 173-60 WAC. (Exhibit E2, p. 18) The FPEIS contains no discussion of the standards established by those regulations.

15. The "Land & Shoreline Use" section lists the differences in permitted and conditional uses in the LOS and GC zones. (Exhibit E2, pp. 20 – 23, Table 2) The LOS zone allows mostly rural, school, single-family residential, and certain Essential Public Facility (EPF) uses. The GC zone allows school, health, industrial, retail commercial, service, and basically the same EPF uses. The GC zone allows more dense development with no minimum lot size. (Exhibit E2, p. 23, Table 3) Some uses allowed in the LOS zone but not in the GC zone could not occur on the Project Area as a practical reality: For example, the site is too small and bordered by too high a bluff for an airport; there are no minerals on the property to excavate.

DOE commented on the Draft EIS that the wetland on Lots D – F "is an associated wetland within shoreline jurisdiction." (Exhibit E2C.4, p. 2) DOE referenced WAC 173-22-030 in support of that statement. (*Ibid.*, Footnote 1) Subsection 173-22-030(1) WAC defines "associated wetland" as "those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act". Section 173-22-055 WAC provides the mechanism to resolve conflicts between adopted designations and real-world conditions:

> In the event that any of the shoreland designations shown on the maps adopted in WAC 173-22-060 or a shoreline master program approved under WAC 173-22-050, conflict with the criteria set forth in this chapter the criteria shall control. The boundary of the designated shoreland areas shall be governed by the criteria set forth in WAC 173-22-040 except that the local government must amend the local master program to reflect the new designation within three years of the discovery of the discrepancy.

One of the shoreland designation criteria applicable to rivers is "[t]hose wetlands which are in proximity to and either influence or are influenced by the stream. This influence includes but is not limited to one or more of the following: Periodic inundation; location within a flood plain; or hydraulic continuity". [WAC 173-22-040(3)(c)]

The FPEIS responded to DOE's comment by stating that shoreline jurisdiction areas as designated in the DOE-approved Monroe Shoreline Master Program have been excluded from the Project Area. (Exhibit E2C.4, p. 2)

The FPEIS states that redesignation and changing the zoning to GC would result in "Possible changes in the character of land use." (Exhibit E2, p. 24)

16. The "Transportation" section states that US 2 carries 19,000 vehicles "in both directions" and that the five single-family residences on Lot F "generate an estimated 47 trip ends per day". (Exhibit E2, p. 25) The FPEIS also states that "[t]his section of US 2 also has a significant history of motor vehicle collisions." (*Ibid.*)

The FPEIS states that four additional single-family residences and a 600 seat church could be built on the site under current zoning. The FPEIS estimates that such development would add 45 p.m. peak hour trips and "up to 935 trips on Sunday" to US 2. (Exhibit E2, p. 27) The FPEIS estimates that "a 150,000 square foot discount club" would represent the high end of site development under GC zoning and would generate 6,270 average daily trip ends with 8,000 trip ends on an average Saturday. (Exhibit E2, p. 26) Respondent testified that such a store probably represented the maximum development for the entire Project Area after consideration of NGPA restrictions and parking requirements. It is unclear whether that testimony applied to the entire Project Area or just to the Heritage Baptist property: None of Kreutz's 25 acre Lot F is encumbered by NGPAs.

The Project Area is essentially at the east end of the Washington State Department of Transportation's (WSDOT) planned US 2 Monroe Bypass. WSDOT plans to terminate the east end of the Bypass with a roundabout. (Exhibits E15.2 and E15.13) "WSDOT purchased the access rights to the Heritage Baptist Fellowship parcels in 1971". (Exhibit E4LA-7, p. 1) WSDOT will allow only a temporary access to those parcels pending construction of the Monroe Bypass. (*Ibid.*)

The FPEIS lists as mitigation measures seven requirements taken from three WSDOT comment letters regarding access limitations affecting the Project Area. (Exhibit E2, pp. 26 and 27) Items 1, 2, and 4 – 6 are from an August 2011 WSDOT letter responding to issuance of the DS; item 3 is from a March 2004 letter regarding the Heritage Baptist short subdivision; and item 7 is from a March 2012 Draft EIS comment letter. (See Exhibit E2C.10, August 2011 letter; Exhibit E4LA-7; and Exhibit E2C.10, March 2012 letter, respectively.) The listed mitigation measures mention the access restriction and essentially state that a single access point to the Project Area will be required, that the

access point will most likely have to be a roundabout, and that the spacing between the Bypass's terminal roundabout and the site's access roundabout must be at least one-quarter mile. (Exhibit E2, pp. 26 and 27)

The FPEIS does not include the requirement in WSDOT's March 2004 letter that "the City of Monroe shall be responsible for the construction of the FR 14 Line frontage road" if it allows "greater density beyond the 4-lot short plat". (Exhibit E4LA-7, p. 1)

Other than the numbers provided in the first paragraph of this Finding of Fact, the FPEIS does not quantify traffic facts regarding US 2. (Exhibit E2, pp. 25 – 27) The FPEIS states only that future development under the GC zone "may increase the number of cars entering and exiting US 2 from the Project Area." (Exhibit E2, p. 26)

Detailed US 2 collision data was provided by Futurewise/Pilchuck Audubon Society (Futurewise) in its hearing submittal. (Exhibits E15.1 and E15.14) The latter exhibit includes detailed accident information by highway mile post. The average daily traffic volume on US 2 through the City was over 40,000 vehicles in 2007. (Exhibit E15.13, US 2 Route Development Plan, Monroe Bypass Phase I) The average daily traffic volume on US 2 in 2006 between Monroe and Gold Bar was 15,500 vehicles. (Exhibit E15.14, unpaginated page 22)

The City does not known exactly where the WSDOT roundabout at the east end of the Bypass would be located, so it cannot say where on the Project Area's frontage a site access roundabout could be located. (Testimony)

The Comprehensive Plan contains the City's adopted concurrency standards for arterial roadways. [MMC 20.06.030(K)(6)] Level of Service standards for state routes are set by the state; US 2 is a state highway. [Comprehensive Plan, p. TR-3] US 2 is classified as a Principal Arterial. [Comprehensive Plan, Figure TR-1] It is also "identified as a Highway of Statewide Significance". [Comprehensive Plan, p. TR-10] The adopted Level of Service for "state highway segments" is "D." [Comprehensive Plan, p. TR-27, Policy TP9] Since the Level of Service on area state highways exceeded the established standard when the Transportation Element was amended in 1998, the Comprehensive Plan included an agreement between WSDOT and the City regarding mitigation requirements where a lower Level of Service exists or would be created by a new development. [Comprehensive Plan, pp. TR-31 and TR-32] The FPEIS does not mention the Level of Service standard and contains no discussion or analysis of US 2 Level of Service conditions.

17. Anderson *et al.* and Futurewise contend that the City has avoided any meaningful analysis of environmental impacts associated with the comprehensive plan amendment and rezone from LOS to GC. They contend that the changes will "open the door to a wide-range of development possibilities and uses for the subject property which would have a profound and irrevocable impact." (Exhibit E4LA-1, p. 1) They responded to the Draft EIS with a petition asking the City to prepare a "full" EIS

now rather than a phased EIS. (Exhibit E2C.7) They contend that the plan and zone changes "commit the City of Monroe to" greatly expanded uses in the Project Area. (Exhibit E5, p. 1) They assert that the City is merely postponing meaningful environmental evaluation. (Exhibit E5, p. 2) They argue that the City "is trying to bypass the intent of SEPA in order to allow commercial development to go forward." (Exhibit E15, p. 2) Finally, they contend that the City has misused both the phased SEPA review process and the nonproject EIS guidelines. (Exhibit E15 *et al.* and testimony)

18. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

LEGAL FRAMEWORK [7]

The Examiner is legally required to decide this case within the framework created by the following principles:

Authority
The Examiner has authority "[to] hear all appeals of State Environmental Policy Act threshold determinations/EIS adequacy". [MMC 21.20.050(I)] The Examiner conducts an open record hearing on the appeal and issues a decision which is final subject to the right of reconsideration and appeal to Superior Court. [MMC 20.04.210, 21.50.080, and 21.50.120]

Review Criteria
SEPA is generally described as having two separate aspects: The procedural and the substantive. A challenge to the adequacy of an FEIS involves the procedural aspect of SEPA. Conditioning a project under authority of SEPA involves the substantive aspect of SEPA.

The procedural aspect of SEPA requires that a determination be made as to whether a project would result in "a probable significant, adverse environmental impact" and requires that a "detailed statement" be prepared in conjunction with "major actions significantly affecting the quality of the environment". [RCW 43.21C.031 and RCW 43.21C.030(c), respectively] The process of determining whether a project would result in such an impact is referred to as the "threshold determination" process. The person making the determination is called the "responsible official".

A. The State has adopted rules under the authority of Chapter 43.21C RCW with which all local SEPA regulations and procedures must be consistent. Monroe has adopted its own set of SEPA procedures [Chapter 20.04 MMC] which incorporate a number of the state rules by reference.

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7 Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

B. The "detailed statement" required by SEPA is commonly referred to as an EIS and is required to "be prepared on ... major actions having a probable significant, adverse environmental impact." [RCW 43.21C.031]

C. The State rules define "probable" as something which is "likely or reasonably likely to occur" as opposed to events "that merely have a possibility of occurring, but are remote or speculative." [WAC 197-11-782] The term "significant" "as used in SEPA means a reasonable likelihood of more than a moderate adverse impact on environmental quality." [WAC 197-11-794, both definitions adopted by reference at MMC 20.04.220]

D. The threshold determination process results in either a Determination of Significance (DS) or a Determination of Nonsignificance (DNS). [WAC 197-11-340 and -360, adopted by reference at MMC 20.04.080] A DS is issued when the responsible official concludes that the proposal will have a probable, significant adverse impact on the environment.

E. After issuance of a DS, an EIS is prepared to "provide impartial discussion of significant environmental impacts and [to] inform decision makers and the public of reasonable alternatives, including mitigation measures, that would avoid or minimize adverse impacts or enhance environmental quality." [WAC 197-11-400(2), adopted by reference at MMC 20.04.130]

F. The Final EIS "shall accompany proposals through existing agency review processes ... so that agency officials use [it] in making decisions." [WAC 197-11-655(2), adopted by reference at MMC 20.04.190]

Vested Rights
The vested rights doctrine has no direct bearing on the adequacy of an FEIS.

Standard of Review
Appellate courts have established the standard of review for a challenge to the adequacy of an FEIS.

> We review an EIS's "adequacy"--i.e., the legal sufficiency of the environmental data in the EIS--de novo. *King County v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 138 Wn.2d 161, 183, 979 P.2d 374 (1999); *Klickitat Cnty. Citizens Against Imported Waste v. Klickitat County*, 122 Wn.2d 619, 633, 860 P.2d 390, 866 P.2d 1256 (1993). We assess the EIS's adequacy under "the rule of reason." *Citizens Alliance to Protect Our Wetlands v. City of Auburn*, 126 Wn.2d 356, 361, 894 P.2d 1300 (1995). An EIS is adequate under the rule of reason when it presents decision makers with a " 'reasonably thorough discussion of the significant aspects of the probable environmental consequences.' " *Residents Opposed to Kittitas Turbines v. State Energy Facility Site Evaluation Council*, 165 Wn.2d 275, 311, 197 P.3d 1153 (2008) (internal quotation marks omitted) (quoting *Klickitat Cnty. Citizens Against Imported Waste*, 122 Wn.2d at 633). We accord substantial weight to an agency's

determination of EIS adequacy. *See* RCW 43.21C.090; *accord King County*, 138 Wn.2d at 183.

[*Brinnon Grp. v. Jefferson County*, 159 Wn. App. 446, 480, 245 P.3d 789 (2011); footnote omitted]

The appellant has the burden of proof. Both state rule [WAC 197-11-680(3)(a)(viii)] and municipal code [MMC 20.04.210(C)] "provide that procedural determinations made by the responsible official shall be entitled to substantial weight" during any appeal proceeding. [8]

Scope of Consideration
The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

CONCLUSIONS OF LAW

1. The question before the Examiner in this appeal is whether the FPEIS for the East Monroe Comprehensive Plan Amendment and associated rezone is inadequate as a matter of law. The question before the Examiner is not whether the Comprehensive Plan Amendment and associated rezone are good, bad, or indifferent policy actions. The latter question is a legislative issue within (at the local level) the City Council's purview. As the State Supreme Court has said, "We do not rule on the wisdom of the proposed development but rather on whether the FEIS gave the city council sufficient information to make a reasoned decision." [*Citizens Alliance v. City of Auburn*, 126 Wn.2d 356, 362, 894 P.2d 1300 (1995)]

2. The FPEIS for the East Monroe Comprehensive Plan Amendment and associated rezone is inadequate as a matter of law under the rule of reason standard. Basically, the FPEIS provides no analysis of environmental impact; all impact analysis is put off until specific development proposals are put forth in the future. The FPEIS does not give "the city council sufficient information to make a reasoned decision" as it contains no analysis and considers no alternatives to changing the comprehensive plan designation from LOS to GC. The FPEIS does not contain the required "reasonably thorough discussion of the significant aspects of the probable environmental consequences." [*Klickitat Cnty. Citizens Against Imported Waste*, 122 Wn.2d at 633]

3. SEPA requires that the City evaluate

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[8] An argument could be made that the "substantial weight" to be accorded the responsible official's "procedural determinations" does not apply to FEIS adequacy as an EIS is not a "procedural determination:" DSs, DNSs, and MDNSs are "procedural determinations;" an EIS is a "detailed statement," not a "procedural determination." The Examiner declines to pursue that argument as its resolution would make no difference to the outcome of this appeal.

> direct and indirect impacts caused by a proposal. ... For example, adoption of a zoning ordinance will encourage or tend to cause particular types of projects or extension of sewer lines would tend to encourage development in previously unsewered areas.

[WAC 197-11-060(4)(d), adopted by reference at MMC 20.04.020] An EIS must consider direct, indirect, and cumulative impacts. [WAC 197-11-060(4)(e) and WAC 197-11-792, adopted by reference at MMC 20.04.020 and .220, respectively] The FPEIS ignores indirect impacts and cumulative impacts.

4. Chapter 197-11 WAC divides actions into two categories: Project and nonproject. Amendment of a comprehensive plan and adoption of zoning for the area involved in such an amendment is a nonproject action. [See WAC 197-11-774, adopted by reference at MMC 20.04.220.] The EIS requirements for a nonproject action are different from those for a project action. Sections 197-11-402, -406, -408, -410, -420, -425, -430, -435, -440, -448, and -460 WAC apply to both project and nonproject EISs. (All cited sections adopted by reference at MMC 20.04.130.)

   Section 197-11-442 WAC (also adopted by reference at MMC 20.04.130) provides additional guidance for nonproject EISs. A nonproject EIS

   > shall discuss impacts and alternatives in the level of detail appropriate to the scope of the nonproject proposal and to the level of planning for the proposal. Alternatives should be emphasized. ... Alternatives including the proposed action should be analyzed at a roughly comparable level of detail, sufficient to evaluate their comparative merits ....

   [WAC 197-11-442(2)]

   > The EIS's discussion of alternatives for a comprehensive plan, community plan, or other areawide zoning or for shoreline or land use plans shall be limited to a general discussion of the impacts of alternate proposals for policies contained in such plans, for land use or shoreline designations, and for implementation measures. The lead agency is not required under SEPA to examine all conceivable policies, designations, or implementation measures but should cover a range of such topics. The EIS content may be limited to a discussion of alternatives which have been formally proposed or which are, while not formally proposed, reasonably related to the proposed action.

   [WAC 197-11-442(4)] This requirement is significantly different from that applicable to a project EIS where alternatives are limited to "actions that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation." [WAC 197-11-440(5)]

5. The FPEIS fails to consider any meaningful alternatives to redesignation of the Project Area from LOS to GC. "The range of alternatives considered in an EIS must be sufficient to permit a reasoned choice." [*SWAP v. Okanogan Cty.*, 66 Wn. App. 439, 444, 832 P.2d 503 (1992); citations omitted] This is a City policy action, not a proposed private development. That EMEDG requested that the City consider the comprehensive plan and zoning amendment does not change the proposal into a private project. For the FPEIS to be adequate, the City must consider alternative designations for the Project Area and/or alternative locations within the City for additional GC development. [*Citizens Alliance* at 365] The notion that rezone of the Project Area to GC is the goal and, therefore, no other alternatives would achieve that goal, simply does not apply in a nonproject, policy action such as that here.

   Further, the so-called Reduced Scope Alternative is no alternative at all. The areas within Lots A – F that would be removed from the proposal under this alternative are only those areas that would be significantly restricted from development under the City's critical areas regulations, no matter what they are zoned: They wouldn't be any more or any less developed under the Preferred Alternative. The two alternatives offer exactly the same vision for future development of Lots A – F.

6. "A nonproject proposal may be approved based on an EIS assessing its broad impacts." [WAC 197-11-443(2), adopted by reference at MMC 20.04.130] Here, the FPEIS simply fails to assess any impacts, broad or otherwise. It states over and over that the redesignation in and of itself generates no impacts. It systematically puts off to the future any consideration of impacts. It fails to recognize that changing the designation and zoning from LOS to GC will inevitably lead to a significant increase in the intensity and type of development that can occur in the Project Area. Changing the designation and zoning does generate impacts simply by making a much wider range of intensive uses allowable in the Project Area. To be adequate, the FPEIS must provide an analysis of the "broad impacts" associated with that change. The FPEIS does not.

7. Phased SEPA review is allowed in certain circumstances. [WAC 197-11-060(5), adopted by reference at MMC 20.04.020] "Phased review is appropriate when: (i) The sequence is from a nonproject document to a document of narrower scope such as a site specific analysis". [WAC 197-11-060(5)(c)]

   > Phased review is not appropriate when: … (ii) It would merely divide a larger system into exempted fragments or avoid discussion of cumulative impacts; or (iii) It would segment and avoid present consideration of proposals and their impacts that are required to be evaluated in a single environmental document under WAC 197-11-060(3)(b) or 197-11-305(1); however, the level of detail and type of environmental review may vary with the nature and timing of proposals and their component parts.

In theory, phased review could be appropriate here: Broad analysis of impacts associated with the redesignation would be followed in due course by more detailed analysis of the impacts associated with specific development proposals for portions of the Project Area, whatever they might be. But that would still not remove the obligation to provide broad impact analysis in this FPEIS. As previously stated, such analysis is completely lacking in this FPEIS.

8. A further problem here is that the process likely has avoided any consideration of cumulative impacts. The oft-repeated statement in the FPEIS that "All development not allowed in the current land use designation and zoning classification … will have to undergo further environmental review" (See Exhibit E2, p. 11 *et al.*) offers no certainty that cumulative impacts will ever be analyzed under SEPA. Cumulative impacts must be evaluated in an EIS; cumulative impacts are not analyzed in a threshold determination leading to a DNS or a Mitigated DNS. [WAC 197-11-060(4)(e), -330(2), and -330(3)] The threshold determination for small developments within the Project Area may legitimately result in issuance of DNSs. [9] Nothing in this FPEIS can change the content of the SEPA regulations.

9. In the context of an EIS, the reality of flooding is more important than which regulatory requirements may apply. The Responsible Official has an obligation to use the best available science to identify the extent to which the Project Area is subject to flood inundation, regardless of what FIRM is legally applicable. The best available evidence is that the majority of the developable portion of the Project Area is subject to up to about eight feet of flood inundation during the 100-year flood event; the best available science is that US 2 does not function as a levee to protect the Project Area from flood inundation (it is punctured by two, three-foot-plus culverts associated with the oxbow slough). GC development of the site will in all likelihood require much more fill than would continuation of the LOS designation (notwithstanding that Heritage Baptist apparently may have at one time considered constructing a church somewhere on Lots A – E). Commercial developments that would logically locate along an arterial highway are usually land extensive and would want to maximize use of the available, non-NGPA-restricted portions of the site. That would require fill – lots of fill. The FPEIS is inadequate as a matter of law for failing to include any analysis of the impact of extensive filling of the Project Area.

10. The Land & Shoreline Use section of the FPEIS is inadequate as a matter of law for failing to include any consideration of alternative land use designations for the Project Area.

11. It is likely, given the evidence in the record, that the portion of Lots A – F subject to SMA jurisdiction is greater than the area excluded when the Project Area was chosen. In other words,

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9 The City's suggestion in testimony that preparation of a critical areas study under Chapter 20.05 MMC would be the functional equivalent of additional SEPA review is not persuasive. The range of elements of the environment that are required to be evaluated under SEPA is vastly broader than the range of considerations under Chapter 20.05 MMC.

some unknown portion of the Project Area is apparently also subject to SMA regulation pursuant to WAC 173-22-055. The FPEIS is inadequate as a matter of law for not resolving this issue.

12. The Transportation section of the FPEIS is inadequate as a matter of law for failing to provide any analysis of traffic impacts associated with the proposed redesignation. The Transportation section is remarkable for its near complete absence of data regarding traffic conditions, probable generation rates under reasonable GC scenarios, and impacts. The FPEIS fails to even mention the Level of Service standards contained in the adopted comprehensive plan, let alone discuss how the redesignation to GC would affect compliance with the established Level of Service. The FPEIS provides the decision maker with no insight into the likely traffic impacts of the proposed redesignation.

    The "Mitigating Measures" in the FPEIS are merely a compilation of most of WSDOT's requirements for development along this segment of US 2 – the access rights to most of which WSDOT has previously purchased. The FPEIS fails to even depict or describe the location and alignment of the "FR 14 Line" frontage road, which seems to be a key element of WSDOT's requirements. The trip generation example for a single "discount club" store seems to be misleading: All 25 acres of Parcel F are included within the Project Area and none of those acres are presently encumbered by NGPAs. It is unreasonable to believe (without convincing evidence of which there is none in the record) that the non-NGPA portion of Lots A – E and the entirety of Lot F could be developed with one and only one store.

13. Suffice it to say, the sections of the FPEIS not discussed in detail within this Decision are as profoundly lacking in environmental analysis as are the sections discussed herein. However, since Anderson *et al.* did not focus on them, they will not be addressed further here.

14. Futurewise's hearing submittal quotes from and provides a link to DOE's on-line SEPA Handbook. (Exhibit E15, p. 3) Portions of the Handbook are particularly apropos.

    SEPA Handbook Section 4 describes the nonproject review concept as follows:

    > Nonproject review allows agencies to consider the "big picture" by conducting comprehensive analysis, addressing cumulative impacts, possible alternatives, and mitigation measures. This has become increasingly important in recent years for several reasons:
    >
    > Provides the basis for future project decisions: Environmental analysis at the nonproject stage forms the basis for later project review, providing greater predictability.
    >
    > Expedites project analysis and decisions: The more detailed and complete the

> environmental analysis during the nonproject stage, the less review needed during project review. Project review is able to focus on only those environmental issues not adequately addressed during the nonproject stage.

Nonproject review does not defer all environmental review to some future date. SEPA Handbook Section 4.1 states:

> If the nonproject action is a comprehensive plan or similar proposal that will govern future project development, the probable impacts need to be considered of the future development that would be allowed. For example, environmental analysis of a zone designation should analyze the likely impacts of the development allowed within that zone. The more specific the analysis at this point, the less environmental review needed when a project permit application is submitted.

The FPEIS does not meet the above expectations. It defers all environmental analysis to the future rather than addressing the "big picture" before the decision to change the land use designation and zoning is made. Thus, the FPEIS is inadequate as a matter of law.

15. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

DECISION

Based upon the preceding Findings of Fact, Conclusions of Law, and the testimony and evidence submitted at the open record hearing, the Examiner **GRANTS** the Anderson *et al.* appeal under File Number AP2012-01: The FPEIS for the East Monroe Comprehensive Plan Amendment is inadequate as a matter of law.

Decision effective July 23, 2012.

John E. Galt
Hearing Examiner

Mailed/Issued: July 24, 2012

HEARING PARTICIPANTS [10]

Jeff Rogers
Douglas Hamar
Bob Martin
Brad Feilberg
Thomas Minnick

Lowell Anderson
Chad McCammon
Keith Vander Houwen
Bret Olson

NOTICE OF RIGHT OF RECONSIDERATION

This Decision is subject to the right of reconsideration pursuant to MMC 21.50.080. Reconsideration may be requested by the applicant, a party of record, or the City. Reconsideration requests must be filed in writing with the Public Works Department, Planning & Permitting Division, not later than 5:00 p.m., local time, on the tenth calendar day after the issuance of this Decision. Any reconsideration request shall specify the error of law, fact, or procedural error which forms the basis of the request. Any reconsideration request shall also specify the relief requested. See MMC 21.50.080 for additional information and requirements regarding reconsideration.

NOTICE of RIGHT of APPEAL

This Decision becomes final as of the eleventh calendar day after issuance unless reconsideration is timely requested. If reconsideration is timely requested, the Examiner's order granting or denying reconsideration becomes the Examiner's final decision. Judicial review may be sought pursuant to the provisions of Chapter 43.21C RCW, WAC 197-11-680, and MMC 20.04.210 and 21.60.030.

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation."

[10] The official Parties of Record register is maintained by the City's Hearing Clerk.

BEFORE THE HEARING EXAMINER for the
CITY of MONROE

ORDER GRANTING RECONSIDERATION IN PART

FILE NUMBER:	AP2012-01
APPELLANT:	Lowell Anderson *et al.* C/o Lowell Anderson 129 E Rivmont Drive Monroe, WA 98272
RESPONDENT:	Brad Feilberg City of Monroe SEPA Responsible Official 806 W Main Street Monroe, WA 98272
ACTION SPONSOR:	East Monroe Economic Development Group, LLC C/o Joshua Freed 12900 NE 180th Street, Suite 220 Bothell, WA 98011
TYPE OF CASE:	State Environmental Policy Act (SEPA) Appeal: The Final Phased Environmental Impact Statement issued for the East Monroe Comprehensive Plan Amendment and associated rezone is alleged to be inadequate

WHEREAS, the City of Monroe Hearing Examiner (Examiner) issued a Decision in the above-entitled matter on July 24, 2012; and

WHEREAS, on August 3, 2012, Brad Feilberg, City of Monroe SEPA Responsible Official (Responsible Official), and the East Monroe Economic Development Group, LLC (EMEDG) filed timely Requests for Reconsideration (the Requests). [1]

A. Responsible Official's Request:

1. Standard of Review. The Responsible Official objects to the suggestion in Footnote 8 that the "substantial weight" standard "does not apply to FEIS adequacy."

   Examiner response: The Examiner would first note that contrary to the Responsible Official's assertion that "The Examiner reasoned that the EIS" was not entitled to "substantial weight," Footnote 8 is *dicta* which merely suggests that "An argument

[1] The Responsible Official corrected a minor typographical error in a case citation by way of an August 6, 2012, filing. The correction was not substantive. The Examiner has evaluated the corrected version of the Responsible Official's Request.

EXHIBIT# M-11

could be made ...". (Emphasis added in both quotes) Footnote 8 contains only a hypothesis, not a reasoned analysis.

Footnote 8's hypothesis was based upon the language in the WAC and MMC sections cited in the sentence to which the footnote is attached. The Responsible Official points out in his Request that state law expressly includes EIS challenges in the matters for which "substantial weight" is to be accorded:

> In any action involving an attack on a determination by a governmental agency relative to the requirement or the absence of the requirement, or the adequacy of a "detailed statement", the decision of the governmental agency shall be accorded substantial weight.

[RCW 43.21C.090, underlining added] The Examiner agrees with the Responsible Official; Footnote 8's hypothesis is contrary to state law. Footnote 8 will be deleted from the Decision.

As noted in Footnote 8, even if the hypothesis were true, it "would make no difference to the outcome of this appeal." Therefore, no further changes to the Decision are necessary as a result of the elimination of Footnote 8.

2. Presumption of City Council Awareness. The Responsible Official asks the Examiner

> to supplement [Conclusion of Law 2] with applicable Growth Board cases and/or judicial precedent defining the difference between the legislative discretion granted to the [City] Council under GMA ... versus relevant SEPA requirements, which are silent on the economics for EIS review."

Examiner response: The requested discussion has no bearing on the adequacy of the subject FPEIS; the Responsible Official asks the Examiner to include a discussion of a wholly separate matter than the adequacy of the FPEIS. The Examiner declines to burden the Decision with such a discussion.

3. Appeal Venue. The "Notice of Right of Appeal" paragraph at the end of the Decision indicates that "Judicial review may be sought pursuant to" certain cited state law, state rule, and City code provisions. The Responsible Official argues that the correct venue for further appeal would "presumably" be the Growth Management Hearings Board (GMHB).

Examiner response: The "Notice of Right of Appeal" paragraph is a classic example of where trying to simplify complex code interrelationships may lead to incorrect information. The Responsible Official's Request correctly quotes RCW 43.21C.075(6)(c): "Judicial review under this chapter shall without exception be of the governmental action together with its accompanying environmental determinations." And, as the Request also states, the venue for review of the City Council's action on the underlying Comprehensive Plan amendment "would presumably be the [GMHB]." (Emphasis added)

The Responsible Official is uncomfortable definitively stating the venue for further appeal. The Examiner lacks jurisdiction to decide the venue for further appeal. Therefore, the Examiner should have, and now will, make the "Notice of Right of Appeal" paragraph far more generic.

B. EMEDG's Request: EMEDG asks the Examiner to

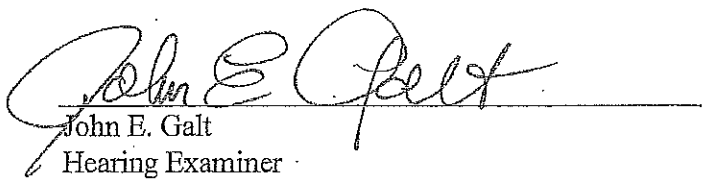
> reverse entirely or, in the alternative, modify his decision to find that the FPEIS is appropriate and legally sufficient provided that the City of Monroe condition future development on additional specific environmental review including, but not limited to, a development agreement pursuant to RCW 36.70B.170 (formerly referred to as concomitant or contract re-zones agreement) with specific landowners.

Examiner response: EMEDG basically asks the Examiner to change the project about which the FPEIS was written. The Examiner lacks authority to determine the scope or nature of the proposal for which an EIS is prepared. The Examiner, therefore, declines to accept EMEDG's invitation; and

WHEREAS, the Examiner concludes for the reasons set forth above that the Decision as issued on July 24, 2012, should be revised as described in Paragraphs A.1 and A.3, above.

NOW, THEREFORE, the Examiner **GRANTS IN PART** one of the requests for reconsideration and **REVISES** the Decision, a complete copy of which, as revised, is attached.

ORDER issued August 8, 2012.



John E. Galt
Hearing Examiner

BEFORE the HEARING EXAMINER for the CITY of MONROE

DECISION – REVISED AFTER RECONSIDERATION

FILE NUMBER:	AP2012-01
APPELLANT:	Lowell Anderson *et al.* C/o Lowell Anderson 129 E Rivmont Drive Monroe, WA 98272
RESPONDENT:	Brad Feilberg City of Monroe SEPA Responsible Official 806 W Main Street Monroe, WA 98272
ACTION SPONSOR:	East Monroe Economic Development Group, LLC C/o Joshua Freed 12900 NE 180th Street, Suite 220 Bothell, WA 98011
TYPE OF CASE:	State Environmental Policy Act (SEPA) Appeal: The Final Phased Environmental Impact Statement issued for the East Monroe Comprehensive Plan Amendment and associated rezone is alleged to be inadequate
EXAMINER DECISION:	GRANT appeal: The Final Phased Environmental Impact Statement is inadequate as a matter of law
ISSUED/MAILED:	_____

INTRODUCTION [1]

Lowell Anderson *et al.* (Anderson *et al.*) filed an appeal on May 10, 2012, from the State Environmental Policy Act (SEPA) Final Phased Environmental Impact Statement (FPEIS) issued by the City of Monroe (City) SEPA Responsible Official for the East Monroe Comprehensive Plan Amendment and associated rezone. (Exhibits E3 and E4 [2])

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1 Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

2 Exhibit citations are provided for the reader's benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner's Decision is based upon all documents in the record.

EXHIBIT# M-12

The subject property consists "of approximately 50 acres of land located north of US 2 near the eastern city limits of the City of Monroe." (Exhibit E2, p. 3)

The Monroe Hearing Examiner (Examiner) convened a prehearing conference on June 6, 2012. The Appellant, Respondent, and Proponent were sent notices of the conference. (Exhibits E8, E9, E11, and E12) The Appellant and the Respondent attended. The prehearing conference is memorialized in Exhibit E13.

The Examiner held an open record hearing on July 19, 2012. The City gave notice of the hearing as required by the Monroe Municipal Code (MMC). (Exhibits E14A and E14B)

Pursuant to Hearing Examiner Rule of Procedure (RoP) 224(c), the Examiner entered the following exhibits into the hearing record at the outset of the hearing:

Exhibit E1:	Determination of Significance and Request for Comments on Scope of Environmental Impact Statement, issued July 21, 2011
Exhibit E2:	FPEIS for the East Monroe Amendment, issued April 23, 2012, with Appendices A – C.12
Exhibit E3:	Appeal/Reconsideration Form, filed May 10, 2012
Exhibit E4:	Appeal letter, filed by Anderson May 10, 2012, with Attachments LA-1 – LA-27
Exhibit E5:	Letter, Appeal Supplement, filed May 22, 2012
Exhibit E6:	Motion to Dismiss, filed May 22, 2012
Exhibit E7:	Memorandum in Support of Motion to Dismiss, filed May 22, 2012
Exhibit E8:	Letter, Examiner to Parties, mailed May 24, 2012
Exhibit E9:	Notice of Prehearing Conference, issued May 24, 2012
Exhibit E10:	Letter, Anderson to Examiner, filed May 24, 2012; copy of Exhibit E5 attached
Exhibit E11:	Letter, Examiner to Parties, re-mailed May 30, 2012
Exhibit E12:	Re-Mailed Notice of Prehearing Conference, issued May 24, 2012; re-mailed May 30, 2012
Exhibit E13:	Consolidated Order Acknowledging Withdrawal of Motion and Order Memorializing a Prehearing Conference, issued June 7, 2012

During the hearing the Examiner accepted and entered additional exhibits as follows:

Exhibit E14A:	Affidavit of Publication – Notice of Application and Public Hearing
Exhibit E14B:	Affidavit of Mailing - Notice of Application and Public Hearing to property owners within a 500 foot radius and parties of record

Exhibit E15:	Letter from Futurewise to Hearing Examiner, received July 12, 2012 (dated June 12, 2012), with attachments [3]
Exhibit E15.1:	Letter from Futurewise to Mayor Zimmerman, dated June 10, 2012 [4]
Exhibit E15.2:	US 2 Safety Coalition, 2007 Legislative Agenda with supporting documents
Exhibit E15.3:	Letter to Joshua Freed from City of Monroe, dated September 20,2010
Exhibit E15.4:	Letter from WSDOT to Hiller West, dated March 3, 2004
Exhibit E15.5:	Letter from DOE to Brad Feilberg, dated August 19, 2011
Exhibit E15.6:	Letter from WSDOT to Brad Feilberg, dated August 18, 2011
Exhibit E15.7:	Letter from DOE to Joan Cook re: SEPA comments, dated March 13, 2012
Exhibit E15.8:	Letter from DOE to Mayor Zimmerman, dated June 10, 2010
Exhibit E15.9:	Planning Commissioner meeting coversheet re: CPA2011-01
Exhibit E15.10:	Letter to Robert & Sandra Kruetz from Kate Galloway, Senior Planner, dated May 18, 2008
Exhibit E15.11:	Monroe City Council coversheet re: CPA2006-C budget amendment
Exhibit E15.12:	Memo to Mayor Walser and City Council from Kate Galloway, dated March 22, 2006
Exhibit E15.13:	U.S. 2 – Fix It Now!, US2 Safety Coalition report
Exhibit E15.14:	US 2 Traffic Safety Corridor - Collision Data, last updated 4/23/08

Respondent City did not pre-file any exhibits. Pursuant to RoP 224(i), during the hearing the Examiner accepted and entered the following exhibit from Respondent City:

Exhibit M1:	Brad Feilberg's hearing statement

Pursuant to RoP 224(e), Appellant Anderson *et al.* pre-filed Exhibits A1 – A11. Respondent City objected to entry of Exhibit A10. After hearing brief argument on the objection, the Examiner overruled the objection and entered pre-filed Exhibits A1 – A11 into the hearing record:

Exhibit A1:	Monroe Municipal Code Chapter (MMC) 14.01 – Flood Hazard Regulations
Exhibit A2:	Map of Snohomish County Flood History
Exhibit A3:	Annual Peak River Stages @ Snohomish Gage
Exhibit A4:	FEMA Flood Profiles
Exhibit A5:	Email from WSDOT with drawings
Exhibit A6:	Wallace Properties market advertisement for property

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3 According to the first full paragraph on page 2 of this letter, the City Council acted on the proposed comprehensive plan amendment "two days ago." Testimony during the hearing indicated that the City Council's action occurred on July 10th. Therefore, the Examiner believes that the month in the date on this letter is a scrivener's error: It most likely was written in "July," not "June."

4 According to Exhibit E15, this letter was submitted to the City "Two days ago." (Exhibit E15, p. 1, ¶4) Therefore, the same scrivener's error likely occurred with the date on this letter.

Exhibit A7:	Copy of MMC 14.01.150 Floodways
Exhibit A8:	Wetland Resources Inc., project site description
Exhibit A9:	Letter to Mayor Zimmerman from Tualco Grange president, dated August 11, 2010
Exhibit A10:	Memorandum from Mitch Ruth to Hearing Examiner, dated July 5, 2012
Exhibit A11:	Appellants' Brief in Support of Appeal

Pursuant to RoP 224(i), during the hearing the Examiner accepted and entered the following exhibits from Appellant Anderson *et al.*:

Exhibit A12:	Power Point hearing presentation (CD submitted)
Exhibit A13:	Lowell Anderson's hearing statement

The City has the record copy of the exhibits.

The action taken herein and the requirements, limitations and/or conditions recommended for imposition by this recommendation are, to the best of the Examiner's knowledge or belief, only such as are lawful and within the authority of the Examiner to take and recommend pursuant to applicable law and policy.

FINDINGS OF FACT

1. The subject property consists of a portion of five parcels and the entirety of a sixth parcel on the north side of US 2 near the eastern City limits. The six parcels are identified within the FPEIS as Lots A - F. The six parcels together encompass approximately 68 acres. (Exhibit E2, p. 4, Table 1) During the comprehensive plan amendment docketing process, the "City Council removed the portions of Lots A – E that fall within the shoreline jurisdiction boundary resulting in a project area of 50.36 acres". (Exhibit E2, p. 3) The approximate 50 acres will hereinafter be referred to as the "Project Area." [5]

   Lots A – E contain 42.81 acres and are owned by the Heritage Baptist Fellowship (Heritage Baptist); Lot F contains 25.30 acres and is owned by Robert and Sandra Kreutz. (Exhibits E2 {Table 1, p. 4} and E4LA-15) Lots B – E were created by short subdivision in or around 2004. (Exhibits E4LA-18 and E4LA-19) The East Monroe Economic Development Group, LLC (EMEDG) does not own any of the Project Area. (Testimony)

[5] Table 1 in Exhibit E2 (p. 4) contains area figures, presented at two decimal places, for the gross area, area in the Preferred Alternative, and area within a Reduced Scope Alternative for each lot. The total for the Preferred Alternative is 50.23 acres. The difference between that figure and the 50.36 acres as stated elsewhere within the FPEIS is not explained in the record but is so small as to be *de minimis*.

2. Heritage Baptist sought a comprehensive plan amendment for its property in 2004. That request was not placed on the 2005 docket but eventually became part of a slightly larger sub-area plan docketed by the City Council in 2006. (Exhibits E15.9 and E15.12) The City Council opted not to proceed with analysis of that request due to budget considerations. (Exhibit E15.10)

3. In the summer of 2010, EMEDG filed an application with the City seeking a comprehensive plan amendment and rezone [6] to change the designation and zoning of Lots A - F from Limited Open Space (LOS) to General Commercial (GC). The City Council placed a reduced scale version of the request (the Project Area) on the City's comprehensive plan amendment docket in the Fall of 2010. The Respondent issued a SEPA Determination of Significance (DS) for the docketed action in July, 2011. Subsequent thereto, the Respondent decided to proceed with phased environmental review. A Draft Phased EIS was issued in February, 2012, and the FPEIS which is the subject of this appeal was issued on April 23, 2012. (Exhibits E2 {pp. 3 & 4}, E7 {p. 2}, and M1 and testimony) Anderson *et al.* filed their appeal on May 10, 2012. (Exhibits E3 and E4) Anderson *et al.* filed an appeal supplement on May 22, 2012. (Exhibit E5)

4. On July 10, 2012, the City Council adopted an ordinance to amend the comprehensive plan land use designation from LOS to GC along with related textual plan changes for the docketed Project Area. Action on the accompanying rezone was delayed for reasons not stated during the Examiner's hearing. (Exhibit E15 {p. 2} and testimony)

5. A steep (> 40%), approximately 100 – 120 foot high south aspect slope borders Lots A – F to the west and north, extending onto the northern edges of Lots A – D. In addition to containing the toe of the abutting steep slope, Lots A – F exhibit three distinct topographies: A lower pasture, a slough corridor, and an upper terrace. The majority of Lots A - F is relatively flat. An oxbow slough, once a channel of the nearby Skykomish River, arcs through the site passing through Lots A – E. The slough passes beneath abutting US 2 in a large culvert at each end of the oxbow. The lower pasture covers most of Lots A – E. The upper terrace is limited to a portion of Lot D (and perhaps also the northern portion of Lot F; no topographic information is available in the record for Lot F). (Exhibits A8, E2 {pp. 7 and 18}, E4LA-16, and E4LA-20)

   Lots A – F are covered by one or more critical areas regulated under Chapter 20.05 MMC: Wetlands, flood-prone lands, steep slopes, and the slough. (Exhibits E4LA-16 and E4LA-17 and testimony) The portion of the oxbow slough within Lots A – C is within the mapped jurisdictional area of the Shoreline Management Act (SMA); the remainder of the oxbow slough is not. (Testimony) The

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6 The rezone is described throughout the record as "a concomitant rezone." (See, for example, Exhibit E2, p. 3) Feilberg testified that he used the word "concomitant" to express the thought that a rezone from LOS to GC accompanied the comprehensive plan amendment. The term "concomitant rezone agreement" is often used in the land use regulatory system to refer to a rezone accompanied by a binding, contractual agreement of some sort. Feilberg did not use the word "concomitant" in that sense; a binding, contractual agreement is not part of the proposal. (Testimony)

Department of Ecology (DOE) believes that some of the wetlands outside of the SMA-mapped area on the Lots may be "associated" wetlands, also under SMA jurisdiction. (Exhibit E4LA-2, p. 2)

6. The 2004 short subdivision resulted in the imposition of an extensive Native Growth Protection Area (NGPA) across Lots B – E, basically following the oxbow slough and associated wetlands. (Exhibit E4LA-19) The NGPA areas must "remain undisturbed in perpetuity." (Exhibit E4LA-18, Note 1) Since that short subdivision did not involve either Lot A or Lot F, there are presently (according to the record in this appeal) no NGPAs applicable to either of those lots.

   Since the Project Area excludes that portion of the lots within the mapped SMA jurisdiction, the NGPA areas on Lots B and C lie outside of the Project Area while the NGPA areas on Lots D and E lie within the Project Area.

7. Lots A – F are zoned LOS. (Exhibit E4LA-14) The Project Area has historically been primarily used for agriculture. (Exhibit E2, p. 19) Crops have been recently grown on the lots. (Exhibit E15.1, p. 6) Lot F contains both agricultural land and five single-family residences. (Exhibit E2, p. 19)

   The adjoining steep bluff is wooded. (Exhibit E2, p. 6, Figure 3)

   The area on the ridge at the top of the bluff is zoned R3-5 and fully developed with single-family residences. (Exhibits E2 {p.6, Figure 3} and E4LA-14)

   The Project Area is about three-quarters of a mile east of the commercial area of Monroe, separated from that area by the intervening ridge. (Exhibit A6)

8. The DS identified three alternatives and 11 elements of the environment to be addressed in the EIS. The three alternatives were: No action; Limited redesignation (deleting everything subject to SMA jurisdiction or subject to critical areas regulations); and Full redesignation (deleting only the SMA jurisdictional area). (Exhibit E1)

   The elements of the environment listed in the DS which needed to be covered in the EIS were: Earth; Water, surface; Water, ground; Animals; Noise; Land and shoreline use; Aesthetics; Light and glare; Transportation; Public services; and Utilities. (Exhibit E1)

   The DS was not appealed. (Testimony)

9. The 30-page FPEIS contains a section addressing alternatives and sections addressing each of the eleven environmental elements listed in the DS. (Exhibit E2) The basic philosophy underlying the FPEIS is stated first in the FPEIS's cover letter and then repeated in the Summary:

> This action in and of itself does not have any environmental impacts. However, as this action is the first in an anticipated series of related actions this proposed action is being reviewed with a phased environmental impact statement. Future development within the project area will be required to supplement or amend this phased environmental impact statement when more specific development actions are proposed.

(Exhibit E2, unpaginated cover letter and p. 1, respectively)

The FPEIS's Fact Sheet states "The City expects that additional environmental review will be required at such time when specific proposals are made for development. No dates are known or committed at this time." (Exhibit E2, p. ii)

The statement that the action will not itself result in any impacts is repeated in every section of the FPEIS. (Exhibit E2, pp. 1, 2, 4, 10, 12, 15, 17, 18, 24, 25, 26, 27, 28, and 29)

The "Mitigating Measures" section for each environmental element addressed in the FPEIS contains the following statement:

> All development not allowed in the current land use designation and zoning classification will not be allowed to be categorically exempt and will have to undergo further environmental review.

(Exhibit E2, pp. 11, 13, 15, 17, 18, 24, 25, 26, 27, and 29)

10. The FPEIS states that the purpose of the proposed action, "[a]ccording to the project proponent, … is to allow for the commercial development of the subject property in order to bring valuable economic development to the City of Monroe." (Exhibit E2, p. 5) The Respondent testified that any alternative must result in the Project Area being zoned GC.

The FPEIS identifies two alternatives to the redesignation of the 50 acre Project Area. The No Action Alternative would leave the Project Area designated and zoned LOS. The Reduced Scope Alternative would reduce from 50 to 23 the number of acres to be redesignated from LOS to GC by eliminating those portions of Lots A – F "located in a native growth protection area, wetland, stream, or critical area buffer". (Exhibit E2, p. 5; see Table 1 on p. 4)

The FPEIS summarily dismisses the Reduced Scope Alternative "[s]ince the environmental impacts of this alternative are not materially different from the impacts of the proposed action". (Exhibit E2, p. 5)

11. The "Earth" section acknowledges "a history of landslides occurring on the slope in the recent past". It states that the slope is a regulated landslide hazard area, and "is also potentially unstable because of rapid stream incision or stream bank erosion associated with the slough located near the base of the slope." (Exhibit E2, p. 10, both quotes) Other evidence and testimony support those statements. (Exhibit E2C.3 {p. 2} and E2C.8 {p. 3} and testimony) The FPEIS states that future development "could increase stream flow adjacent to the northerly ridge." (Exhibit E2, p. 10) No analysis of the impact of such increased flow is contained within the FPEIS.

12. The "Water, Ground" section notes that the Project Area lacks both municipal water and sewer service. It states that future commercial development might withdraw ground water and utilize on-site sewage disposal or might extend municipal services to the Project Area. (Exhibit E2, pp. 12 and 13) No analysis of either option is contained within the FPEIS.

13. The "Water, Surface" section acknowledges the existence of wetlands in the Project Area. The FPEIS identifies a conflict in the classification of the wetlands, but does not resolve that conflict. (Exhibit E2, p. 13) DOE's comment on the Draft EIS states that the wetland classification is incorrect. (Exhibit E2C.4) The FPEIS responded that "as this is a phased EIS the fact that wetlands and other critical areas exist on the property is sufficient at this time. When a specific development proposal is received further environmental review, including compliance with critical area regulations, will be required." (*Ibid.*)

The Project Area is subject to frequent flood inundation. (Exhibits A13 and E4LA20 – LA27 and testimony)

The FPEIS states that the Project Area is subject to a Federal Emergency Management Agency (FEMA) National Flood Insurance Rate Map (FIRM) dated from September, 1999, which rates the area as "Shaded X" meaning it is within the "500-year" flood plain, or within a portion of the 100-year flood plain which would be inundated to a depth of less than one foot, or is an area protected by levees from the 100-year flood. (Exhibit E2, p. 14)

Section 14.01.050 MMC states that the applicable FEMA flood study "with accompanying" FIRMs is dated September 2005 "and any revisions thereto." (Exhibit A1) The 2005 FIRM is not in the record. One of the appellants asserted in a comment on the Draft EIS that the 2005 FIRM places the property in flood Zone AE with a base flood elevation of 66 – 68 feet across the Project Area. (Exhibit E2C.8, p. 2) A "Preliminary" FIRM dating from 2007 places the property in flood Zone AE with a base flood elevation of 66 – 68 feet across the Project Area. (Exhibit E4LA-27) If the base flood elevation is 66 – 68 feet, the entire lower pasture area, the majority of the Project Area, would be inundated by five to eight feet of water on average during a 100-year flood event. (Exhibit E4LA-20) The FPEIS states that adoption of the 2007 FIRM "has been delayed due to concerns of whether non-certified levees can be used to remove floodplain areas from a special flood hazard area."

(Exhibit E2, p. 14) Anderson *et al.* assert that the conflicts delaying adoption of the newer FIRM have nothing to do with the Project Area. (Exhibit E4LA-4, p. 2)

The FPEIS states that future filling of the site could adversely affect the wetlands and displace flood waters. (Exhibit E2, p. 15) No analysis of those impacts is contained within the FPEIS, nor does the FPEIS analyze the effect of floodwater displacement on stability of the adjacent slope or downstream properties in the Skykomish River valley.

14. The "Noise" section notes that "additional noise [may be generated] during construction activities." (Exhibit E2, p. 18) It also states that "a slight increase in background noise during operation" is expected. (Exhibit E2, p. 19) The FPEIS does not attempt to quantify these noise levels. The "slight increase" statement is based upon the Respondent's experience with existing commercial uses within the City. (Testimony)

The "Mitigating Measures" section states that noise levels are regulated by MMC 18.10.270 and Chapter 173-60 WAC. (Exhibit E2, p. 18) The FPEIS contains no discussion of the standards established by those regulations.

15. The "Land & Shoreline Use" section lists the differences in permitted and conditional uses in the LOS and GC zones. (Exhibit E2, pp. 20 – 23, Table 2) The LOS zone allows mostly rural, school, single-family residential, and certain Essential Public Facility (EPF) uses. The GC zone allows school, health, industrial, retail commercial, service, and basically the same EPF uses. The GC zone allows more dense development with no minimum lot size. (Exhibit E2, p. 23, Table 3) Some uses allowed in the LOS zone but not in the GC zone could not occur on the Project Area as a practical reality: For example, the site is too small and bordered by too high a bluff for an airport; there are no minerals on the property to excavate.

DOE commented on the Draft EIS that the wetland on Lots D – F "is an associated wetland within shoreline jurisdiction." (Exhibit E2C.4, p. 2) DOE referenced WAC 173-22-030 in support of that statement. (*Ibid.*, Footnote 1) Subsection 173-22-030(1) WAC defines "associated wetland" as "those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act". Section 173-22-055 WAC provides the mechanism to resolve conflicts between adopted designations and real-world conditions:

> In the event that any of the shoreland designations shown on the maps adopted in WAC 173-22-060 or a shoreline master program approved under WAC 173-22-050, conflict with the criteria set forth in this chapter the criteria shall control. The boundary of the designated shoreland areas shall be governed by the criteria set forth in WAC 173-22-040 except that the local government must amend the local master program to reflect the new designation within three years of the discovery of the discrepancy.

One of the shoreland designation criteria applicable to rivers is "[t]hose wetlands which are in proximity to and either influence or are influenced by the stream. This influence includes but is not limited to one or more of the following: Periodic inundation; location within a flood plain; or hydraulic continuity". [WAC 173-22-040(3)(c)]

The FPEIS responded to DOE's comment by stating that shoreline jurisdiction areas as designated in the DOE-approved Monroe Shoreline Master Program have been excluded from the Project Area. (Exhibit E2C.4, p. 2)

The FPEIS states that redesignation and changing the zoning to GC would result in "Possible changes in the character of land use." (Exhibit E2, p. 24)

16. The "Transportation" section states that US 2 carries 19,000 vehicles "in both directions" and that the five single-family residences on Lot F "generate an estimated 47 trip ends per day". (Exhibit E2, p. 25) The FPEIS also states that "[t]his section of US 2 also has a significant history of motor vehicle collisions." (*Ibid.*)

The FPEIS states that four additional single-family residences and a 600 seat church could be built on the site under current zoning. The FPEIS estimates that such development would add 45 p.m. peak hour trips and "up to 935 trips on Sunday" to US 2. (Exhibit E2, p. 27) The FPEIS estimates that "a 150,000 square foot discount club" would represent the high end of site development under GC zoning and would generate 6,270 average daily trip ends with 8,000 trip ends on an average Saturday. (Exhibit E2, p. 26) Respondent testified that such a store probably represented the maximum development for the entire Project Area after consideration of NGPA restrictions and parking requirements. It is unclear whether that testimony applied to the entire Project Area or just to the Heritage Baptist property: None of Kreutz's 25 acre Lot F is encumbered by NGPAs.

The Project Area is essentially at the east end of the Washington State Department of Transportation's (WSDOT) planned US 2 Monroe Bypass. WSDOT plans to terminate the east end of the Bypass with a roundabout. (Exhibits E15.2 and E15.13) "WSDOT purchased the access rights to the Heritage Baptist Fellowship parcels in 1971". (Exhibit E4LA-7, p. 1) WSDOT will allow only a temporary access to those parcels pending construction of the Monroe Bypass. (*Ibid.*)

The FPEIS lists as mitigation measures seven requirements taken from three WSDOT comment letters regarding access limitations affecting the Project Area. (Exhibit E2, pp. 26 and 27) Items 1, 2, and 4 – 6 are from an August 2011 WSDOT letter responding to issuance of the DS; item 3 is from a March 2004 letter regarding the Heritage Baptist short subdivision; and item 7 is from a March 2012 Draft EIS comment letter. (See Exhibit E2C.10, August 2011 letter; Exhibit E4LA-7; and Exhibit E2C.10, March 2012 letter, respectively.) The listed mitigation measures mention the access restriction and essentially state that a single access point to the Project Area will be required, that the

access point will most likely have to be a roundabout, and that the spacing between the Bypass's terminal roundabout and the site's access roundabout must be at least one-quarter mile. (Exhibit E2, pp. 26 and 27)

The FPEIS does not include the requirement in WSDOT's March 2004 letter that "the City of Monroe shall be responsible for the construction of the FR 14 Line frontage road" if it allows "greater density beyond the 4-lot short plat". (Exhibit E4LA-7, p. 1)

Other than the numbers provided in the first paragraph of this Finding of Fact, the FPEIS does not quantify traffic facts regarding US 2. (Exhibit E2, pp. 25 – 27) The FPEIS states only that future development under the GC zone "may increase the number of cars entering and exiting US 2 from the Project Area." (Exhibit E2, p. 26)

Detailed US 2 collision data was provided by Futurewise/Pilchuck Audubon Society (Futurewise) in its hearing submittal. (Exhibits E15.1 and E15.14) The latter exhibit includes detailed accident information by highway mile post. The average daily traffic volume on US 2 through the City was over 40,000 vehicles in 2007. (Exhibit E15.13, US 2 Route Development Plan, Monroe Bypass Phase I) The average daily traffic volume on US 2 in 2006 between Monroe and Gold Bar was 15,500 vehicles. (Exhibit E15.14, unpaginated page 22)

The City does not known exactly where the WSDOT roundabout at the east end of the Bypass would be located, so it cannot say where on the Project Area's frontage a site access roundabout could be located. (Testimony)

The Comprehensive Plan contains the City's adopted concurrency standards for arterial roadways. [MMC 20.06.030(K)(6)] Level of Service standards for state routes are set by the state; US 2 is a state highway. [Comprehensive Plan, p. TR-3] US 2 is classified as a Principal Arterial. [Comprehensive Plan, Figure TR-1] It is also "identified as a Highway of Statewide Significance". [Comprehensive Plan, p. TR-10] The adopted Level of Service for "state highway segments" is "D." [Comprehensive Plan, p. TR-27, Policy TP9] Since the Level of Service on area state highways exceeded the established standard when the Transportation Element was amended in 1998, the Comprehensive Plan included an agreement between WSDOT and the City regarding mitigation requirements where a lower Level of Service exists or would be created by a new development. [Comprehensive Plan, pp. TR-31 and TR-32] The FPEIS does not mention the Level of Service standard and contains no discussion or analysis of US 2 Level of Service conditions.

17. Anderson *et al.* and Futurewise contend that the City has avoided any meaningful analysis of environmental impacts associated with the comprehensive plan amendment and rezone from LOS to GC. They contend that the changes will "open the door to a wide-range of development possibilities and uses for the subject property which would have a profound and irrevocable impact." (Exhibit E4LA-1, p. 1) They responded to the Draft EIS with a petition asking the City to prepare a "full" EIS

now rather than a phased EIS. (Exhibit E2C.7) They contend that the plan and zone changes "commit the City of Monroe to" greatly expanded uses in the Project Area. (Exhibit E5, p. 1) They assert that the City is merely postponing meaningful environmental evaluation. (Exhibit E5, p. 2) They argue that the City "is trying to bypass the intent of SEPA in order to allow commercial development to go forward." (Exhibit E15, p. 2) Finally, they contend that the City has misused both the phased SEPA review process and the nonproject EIS guidelines. (Exhibit E15 *et al.* and testimony)

18. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

LEGAL FRAMEWORK [7]

The Examiner is legally required to decide this case within the framework created by the following principles:

Authority
The Examiner has authority "[to] hear all appeals of State Environmental Policy Act threshold determinations/EIS adequacy". [MMC 21.20.050(I)] The Examiner conducts an open record hearing on the appeal and issues a decision which is final subject to the right of reconsideration and appeal to Superior Court. [MMC 20.04.210, 21.50.080, and 21.50.120]

Review Criteria
SEPA is generally described as having two separate aspects: The procedural and the substantive. A challenge to the adequacy of an FEIS involves the procedural aspect of SEPA. Conditioning a project under authority of SEPA involves the substantive aspect of SEPA.

The procedural aspect of SEPA requires that a determination be made as to whether a project would result in "a probable significant, adverse environmental impact" and requires that a "detailed statement" be prepared in conjunction with "major actions significantly affecting the quality of the environment". [RCW 43.21C.031 and RCW 43.21C.030(c), respectively] The process of determining whether a project would result in such an impact is referred to as the "threshold determination" process. The person making the determination is called the "responsible official".

A. The State has adopted rules under the authority of Chapter 43.21C RCW with which all local SEPA regulations and procedures must be consistent. Monroe has adopted its own set of SEPA procedures [Chapter 20.04 MMC] which incorporate a number of the state rules by reference.

[7] Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

B. The "detailed statement" required by SEPA is commonly referred to as an EIS and is required to "be prepared on ... major actions having a probable significant, adverse environmental impact." [RCW 43.21C.031]

C. The State rules define "probable" as something which is "likely or reasonably likely to occur" as opposed to events "that merely have a possibility of occurring, but are remote or speculative." [WAC 197-11-782] The term "significant" "as used in SEPA means a reasonable likelihood of more than a moderate adverse impact on environmental quality." [WAC 197-11-794, both definitions adopted by reference at MMC 20.04.220]

D. The threshold determination process results in either a Determination of Significance (DS) or a Determination of Nonsignificance (DNS). [WAC 197-11-340 and -360, adopted by reference at MMC 20.04.080] A DS is issued when the responsible official concludes that the proposal will have a probable, significant adverse impact on the environment.

E. After issuance of a DS, an EIS is prepared to "provide impartial discussion of significant environmental impacts and [to] inform decision makers and the public of reasonable alternatives, including mitigation measures, that would avoid or minimize adverse impacts or enhance environmental quality." [WAC 197-11-400(2), adopted by reference at MMC 20.04.130]

F. The Final EIS "shall accompany proposals through existing agency review processes ... so that agency officials use [it] in making decisions." [WAC 197-11-655(2), adopted by reference at MMC 20.04.190]

Vested Rights

The vested rights doctrine has no direct bearing on the adequacy of an FEIS.

Standard of Review

Appellate courts have established the standard of review for a challenge to the adequacy of an FEIS.

> We review an EIS's "adequacy"--i.e., the legal sufficiency of the environmental data in the EIS--de novo. *King County v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 138 Wn.2d 161, 183, 979 P.2d 374 (1999); *Klickitat Cnty. Citizens Against Imported Waste v. Klickitat County*, 122 Wn.2d 619, 633, 860 P.2d 390, 866 P.2d 1256 (1993). We assess the EIS's adequacy under "the rule of reason." *Citizens Alliance to Protect Our Wetlands v. City of Auburn*, 126 Wn.2d 356, 361, 894 P.2d 1300 (1995). An EIS is adequate under the rule of reason when it presents decision makers with a " 'reasonably thorough discussion of the significant aspects of the probable environmental consequences.' " *Residents Opposed to Kittitas Turbines v. State Energy Facility Site Evaluation Council*, 165 Wn.2d 275, 311, 197 P.3d 1153 (2008) (internal quotation marks omitted) (quoting *Klickitat Cnty. Citizens Against Imported Waste*, 122 Wn.2d at 633). We accord substantial weight to an agency's

> determination of EIS adequacy. *See* RCW 43.21C.090; *accord King County*, 138 Wn.2d at 183.

[*Brinnon Grp. v. Jefferson County*, 159 Wn. App. 446, 480, 245 P.3d 789 (2011); footnote omitted]

The appellant has the burden of proof. Both state rule [WAC 197-11-680(3)(a)(viii)] and municipal code [MMC 20.04.210(C)] "provide that procedural determinations made by the responsible official shall be entitled to substantial weight" during any appeal proceeding.

Scope of Consideration
The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

CONCLUSIONS OF LAW

1. The question before the Examiner in this appeal is whether the FPEIS for the East Monroe Comprehensive Plan Amendment and associated rezone is inadequate as a matter of law. The question before the Examiner is not whether the Comprehensive Plan Amendment and associated rezone are good, bad, or indifferent policy actions. The latter question is a legislative issue within (at the local level) the City Council's purview. As the State Supreme Court has said, "We do not rule on the wisdom of the proposed development but rather on whether the FEIS gave the city council sufficient information to make a reasoned decision." [*Citizens Alliance v. City of Auburn*, 126 Wn.2d 356, 362, 894 P.2d 1300 (1995)]

2. The FPEIS for the East Monroe Comprehensive Plan Amendment and associated rezone is inadequate as a matter of law under the rule of reason standard. Basically, the FPEIS provides no analysis of environmental impact; all impact analysis is put off until specific development proposals are put forth in the future. The FPEIS does not give "the city council sufficient information to make a reasoned decision" as it contains no analysis and considers no alternatives to changing the comprehensive plan designation from LOS to GC. The FPEIS does not contain the required "reasonably thorough discussion of the significant aspects of the probable environmental consequences." [*Klickitat Cnty. Citizens Against Imported Waste*, 122 Wn.2d at 633]

3. SEPA requires that the City evaluate

> direct and indirect impacts caused by a proposal. ... For example, adoption of a zoning ordinance will encourage or tend to cause particular types of projects or extension of sewer lines would tend to encourage development in previously unsewered areas.

[WAC 197-11-060(4)(d), adopted by reference at MMC 20.04.020] An EIS must consider direct, indirect, and cumulative impacts. [WAC 197-11-060(4)(e) and WAC 197-11-792, adopted by reference at MMC 20.04.020 and .220, respectively] The FPEIS ignores indirect impacts and cumulative impacts.

4. Chapter 197-11 WAC divides actions into two categories: Project and nonproject. Amendment of a comprehensive plan and adoption of zoning for the area involved in such an amendment is a nonproject action. [See WAC 197-11-774, adopted by reference at MMC 20.04.220.] The EIS requirements for a nonproject action are different from those for a project action. Sections 197-11-402, -406, -408, -410, -420, -425, -430, -435, -440, -448, and -460 WAC apply to both project and nonproject EISs. (All cited sections adopted by reference at MMC 20.04.130.)

Section 197-11-442 WAC (also adopted by reference at MMC 20.04.130) provides additional guidance for nonproject EISs. A nonproject EIS

> shall discuss impacts and alternatives in the level of detail appropriate to the scope of the nonproject proposal and to the level of planning for the proposal. Alternatives should be emphasized. ... Alternatives including the proposed action should be analyzed at a roughly comparable level of detail, sufficient to evaluate their comparative merits ....

[WAC 197-11-442(2)]

> The EIS's discussion of alternatives for a comprehensive plan, community plan, or other areawide zoning or for shoreline or land use plans shall be limited to a general discussion of the impacts of alternate proposals for policies contained in such plans, for land use or shoreline designations, and for implementation measures. The lead agency is not required under SEPA to examine all conceivable policies, designations, or implementation measures but should cover a range of such topics. The EIS content may be limited to a discussion of alternatives which have been formally proposed or which are, while not formally proposed, reasonably related to the proposed action.

[WAC 197-11-442(4)] This requirement is significantly different from that applicable to a project EIS where alternatives are limited to "actions that could feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation." [WAC 197-11-440(5)]

5. The FPEIS fails to consider any meaningful alternatives to redesignation of the Project Area from LOS to GC. "The range of alternatives considered in an EIS must be sufficient to permit a reasoned choice." [*SWAP v. Okanogan Cty.*, 66 Wn. App. 439, 444, 832 P.2d 503 (1992); citations omitted] This is a City policy action, not a proposed private development. That EMEDG requested that the

City consider the comprehensive plan and zoning amendment does not change the proposal into a private project. For the FPEIS to be adequate, the City must consider alternative designations for the Project Area and/or alternative locations within the City for additional GC development. [*Citizens Alliance* at 365] The notion that rezone of the Project Area to GC is the goal and, therefore, no other alternatives would achieve that goal, simply does not apply in a nonproject, policy action such as that here.

Further, the so-called Reduced Scope Alternative is no alternative at all. The areas within Lots A – F that would be removed from the proposal under this alternative are only those areas that would be significantly restricted from development under the City's critical areas regulations, no matter what they are zoned: They wouldn't be any more or any less developed under the Preferred Alternative. The two alternatives offer exactly the same vision for future development of Lots A – F.

6. "A nonproject proposal may be approved based on an EIS assessing its broad impacts." [WAC 197-11-443(2), adopted by reference at MMC 20.04.130] Here, the FPEIS simply fails to assess any impacts, broad or otherwise. It states over and over that the redesignation in and of itself generates no impacts. It systematically puts off to the future any consideration of impacts. It fails to recognize that changing the designation and zoning from LOS to GC will inevitably lead to a significant increase in the intensity and type of development that can occur in the Project Area. Changing the designation and zoning does generate impacts simply by making a much wider range of intensive uses allowable in the Project Area. To be adequate, the FPEIS must provide an analysis of the "broad impacts" associated with that change. The FPEIS does not.

7. Phased SEPA review is allowed in certain circumstances. [WAC 197-11-060(5), adopted by reference at MMC 20.04.020] "Phased review is appropriate when: (i) The sequence is from a nonproject document to a document of narrower scope such as a site specific analysis". [WAC 197-11-060(5)(c)]

> Phased review is not appropriate when: … (ii) It would merely divide a larger system into exempted fragments or avoid discussion of cumulative impacts; or (iii) It would segment and avoid present consideration of proposals and their impacts that are required to be evaluated in a single environmental document under WAC 197-11-060(3)(b) or 197-11-305(1); however, the level of detail and type of environmental review may vary with the nature and timing of proposals and their component parts.

In theory, phased review could be appropriate here: Broad analysis of impacts associated with the redesignation would be followed in due course by more detailed analysis of the impacts associated with specific development proposals for portions of the Project Area, whatever they might be. But that would still not remove the obligation to provide broad impact analysis in this FPEIS. As previously stated, such analysis is completely lacking in this FPEIS.

8. A further problem here is that the process likely has avoided any consideration of cumulative impacts. The oft-repeated statement in the FPEIS that "All development not allowed in the current land use designation and zoning classification … will have to undergo further environmental review" (See Exhibit E2, p. 11 *et al.*) offers no certainty that cumulative impacts will ever be analyzed under SEPA. Cumulative impacts must be evaluated in an EIS; cumulative impacts are not analyzed in a threshold determination leading to a DNS or a Mitigated DNS. [WAC 197-11-060(4)(e), -330(2), and -330(3)] The threshold determination for small developments within the Project Area may legitimately result in issuance of DNSs. [8] Nothing in this FPEIS can change the content of the SEPA regulations.

9. In the context of an EIS, the reality of flooding is more important than which regulatory requirements may apply. The Responsible Official has an obligation to use the best available science to identify the extent to which the Project Area is subject to flood inundation, regardless of what FIRM is legally applicable. The best available evidence is that the majority of the developable portion of the Project Area is subject to up to about eight feet of flood inundation during the 100-year flood event; the best available science is that US 2 does not function as a levee to protect the Project Area from flood inundation (it is punctured by two, three-foot-plus culverts associated with the oxbow slough). GC development of the site will in all likelihood require much more fill than would continuation of the LOS designation (notwithstanding that Heritage Baptist apparently may have at one time considered constructing a church somewhere on Lots A – E). Commercial developments that would logically locate along an arterial highway are usually land extensive and would want to maximize use of the available, non-NGPA-restricted portions of the site. That would require fill – lots of fill. The FPEIS is inadequate as a matter of law for failing to include any analysis of the impact of extensive filling of the Project Area.

10. The Land & Shoreline Use section of the FPEIS is inadequate as a matter of law for failing to include any consideration of alternative land use designations for the Project Area.

11. It is likely, given the evidence in the record, that the portion of Lots A – F subject to SMA jurisdiction is greater than the area excluded when the Project Area was chosen. In other words, some unknown portion of the Project Area is apparently also subject to SMA regulation pursuant to WAC 173-22-055. The FPEIS is inadequate as a matter of law for not resolving this issue.

12. The Transportation section of the FPEIS is inadequate as a matter of law for failing to provide any analysis of traffic impacts associated with the proposed redesignation. The Transportation section is remarkable for its near complete absence of data regarding traffic conditions, probable generation rates under reasonable GC scenarios, and impacts. The FPEIS fails to even mention the Level of

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[8] The City's suggestion in testimony that preparation of a critical areas study under Chapter 20.05 MMC would be the functional equivalent of additional SEPA review is not persuasive. The range of elements of the environment that are required to be evaluated under SEPA is vastly broader than the range of considerations under Chapter 20.05 MMC.

Service standards contained in the adopted comprehensive plan, let alone discuss how the redesignation to GC would affect compliance with the established Level of Service. The FPEIS provides the decision maker with no insight into the likely traffic impacts of the proposed redesignation.

The "Mitigating Measures" in the FPEIS are merely a compilation of most of WSDOT's requirements for development along this segment of US 2 – the access rights to most of which WSDOT has previously purchased. The FPEIS fails to even depict or describe the location and alignment of the "FR 14 Line" frontage road, which seems to be a key element of WSDOT's requirements. The trip generation example for a single "discount club" store seems to be misleading: All 25 acres of Parcel F are included within the Project Area and none of those acres are presently encumbered by NGPAs. It is unreasonable to believe (without convincing evidence of which there is none in the record) that the non-NGPA portion of Lots A – E and the entirety of Lot F could be developed with one and only one store.

13. Suffice it to say, the sections of the FPEIS not discussed in detail within this Decision are as profoundly lacking in environmental analysis as are the sections discussed herein. However, since Anderson *et al.* did not focus on them, they will not be addressed further here.

14. Futurewise's hearing submittal quotes from and provides a link to DOE's on-line SEPA Handbook. (Exhibit E15, p. 3) Portions of the Handbook are particularly apropos.

SEPA Handbook Section 4 describes the nonproject review concept as follows:

> Nonproject review allows agencies to consider the "big picture" by conducting comprehensive analysis, addressing cumulative impacts, possible alternatives, and mitigation measures. This has become increasingly important in recent years for several reasons:
>
> Provides the basis for future project decisions: Environmental analysis at the nonproject stage forms the basis for later project review, providing greater predictability.
>
> Expedites project analysis and decisions: The more detailed and complete the environmental analysis during the nonproject stage, the less review needed during project review. Project review is able to focus on only those environmental issues not adequately addressed during the nonproject stage.

Nonproject review does not defer all environmental review to some future date. SEPA Handbook Section 4.1 states:

> If the nonproject action is a comprehensive plan or similar proposal that will govern future project development, the probable impacts need to be considered of the future development that would be allowed. For example, environmental analysis of a zone designation should analyze the likely impacts of the development allowed within that zone. The more specific the analysis at this point, the less environmental review needed when a project permit application is submitted.

The FPEIS does not meet the above expectations. It defers all environmental analysis to the future rather than addressing the "big picture" before the decision to change the land use designation and zoning is made. Thus, the FPEIS is inadequate as a matter of law.

15. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

DECISION

Based upon the preceding Findings of Fact, Conclusions of Law, and the testimony and evidence submitted at the open record hearing, the Examiner **GRANTS** the Anderson *et al.* appeal under File Number AP2012-01: The FPEIS for the East Monroe Comprehensive Plan Amendment is inadequate as a matter of law.

Revised Decision effective August 8, 2012.

John E. Galt
Hearing Examiner

Mailed/Issued: _____

HEARING PARTICIPANTS [9]

Jeff Rogers
Douglas Hamar
Bob Martin
Brad Feilberg
Thomas Minnick

Lowell Anderson
Chad McCammon
Keith Vander Houwen
Bret Olson

NOTICE of RIGHT of APPEAL

This Revised Decision, together with the Examiner's companion Order Granting Reconsideration in Part, is the Examiner's final decision. Further review may be sought pursuant to the provisions of applicable state law and local ordinance, including without limitation Chapter 43.21C RCW, WAC 197-11-680, and MMC 20.04.210 and 21.60.030.

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation."

[9] The official Parties of Record register is maintained by the City's Hearing Clerk.

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
CENTRAL PUGET SOUND REGION
STATE OF WASHINGTON

LOWELL ANDERSON, JEFFREY RODGERS, DOUGLAS HAMAR, CHAD MCCAMMON AND BOB MARTIN, Petitioners, v. CITY OF MONROE, Respondent.	**CASE No. 12-3-0007** *(Anderson)* **ORDER ON DISPOSITIVE MOTION**

This matter came before the Board on the City of Monroe's motion to dismiss the Petition for Review (PFR) for mootness.[1] The Board finds the challenged ordinance has been repealed by the City and the appeal is accordingly moot. The petition is dismissed.

PROCEDURAL BACKGROUND AND STATEMENT OF FACTS

On July 10, 2012, the City of Monroe adopted Ordinance No. 018-2012 which amended its comprehensive plan to reclassify approximately 50 acres in the East Monroe area from Limited Open Space to General Commercial. At the time, an appeal of the Final Phased Environmental Impact Statement (FSEIS) for the reclassification was pending before the City's Hearing Examiner. The Examiner held a hearing July 19, 2012, and issued a decision determining: "The FSEIS . . . defers all environmental analysis to the future rather than addressing the 'big picture' before the decision to change the land use designation and zoning is made. Thus, the FSEIS is inadequate as a matter of law."[2] The Hearing Examiner's decision was not appealed.

[1] Respondent City of Monroe's Motion to Dismiss (Nov. 6, 2012).
[2] Hearing Examiner's Decision – Revised After Reconsideration, August 8, 2012, p.19

EXHIBIT# M-13

Growth Management Hearings Board
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On September 4, 2012, the City Council adopted Ordinance No. 019/2012 which repealed Ordinance No. 018/2012. At the same meeting, the City Council re-docketed the East Monroe area for comprehensive plan review in 2013 and terminated its contract with the Hearing Examiner.[3]

On September 17, 2012, Petitioners, who live in homes on the bluff above the East Monroe area,[4] filed an appeal of Ordinance No. 018/2012 with the Growth Management Hearings Board. The PFR asserted the repeal of the ordinance did not render the case moot.[5]

Following a prehearing conference and the issuance of a Prehearing Order setting the schedule for filing motions and briefs, the City of Monroe timely filed its dispositive motion asserting the challenge to the repealed ordinance should be dismissed as moot.[6] Petitioners' responsive brief was filed November 29, 2012, and the City replied on December 3, having not yet received the Petitioner's Response.[7] On December 5, 2012, the City filed a Motion to Strike Petitioners' Response for failure to file and serve in accordance with the case schedule.

BOARD DISCUSSION AND ANALYSIS

Motion to Supplement the Record

Because of the Board's decision on the City's dispositive motion, the motion to supplement the record is not addressed.

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[3] PFR at 5-6.

[4] PFR at 9. According to the Hearings Examiner's Findings of Fact, the East Monroe area contains an oxbow slough of the Skykomish River. The area is subject to floods and inundation which creates a risk of undercutting the toe of the bluff. The bluff is high (100-200 feet) and steep (>40%) with a history of landslides.

[5] PFR at 10-11.

[6] Petitioners also filed a motion to supplement the record (Nov. 7, 2012), to which the City responded with objections (Nov. 27, 2012).

[7] Response to City of Monroe's Motion to Dismiss (Nov. 29, 2012); Respondent City of Monroe's Reply (Dec. 3, 2012)

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Motion to Strike

The Board strikes Petitioner's Response to City of Monroe's Motion to Dismiss as untimely filed. The Prehearing Order set a November 27 deadline for response to dispositive motions. Petitioners' Response was signed November 28 – a day late – and received by the Board, according to its electronic records, at 5:10 p.m. on that date. WAC 242-03-240(1) provides that documents received electronically in the Board's office after 5:00 p.m. will be stamped received on the following day.[8] Accordingly, Petitioners' Response, due November 27, was filed November 29.

WAC 242-03-240(2) requires electronic service on other parties: "Service is accomplished when the document is transmitted electronically … by the required date." The City's Motion to Strike states the Response was not served on the City electronically but by U.S. mail and was not received by the City's attorney until December 4, a day after the deadline for the City's reply. The City's Reply (timely filed on December 3) asks the Board to grant the motion to dismiss because "Petitioners Lowell Anderson, et al. did not file a response to the City's motion and have thus effectively conceded the City's request." The City subsequently received Petitioners' Response and filed the motion to strike.

The Board **grants** the motion to strike Petitioners' Response.[9] The Board considers the City's dispositive motion without reference to Petitioners' November 29, 2012 Response. In deciding the City's dispositive motion, the Board relies on the facts and authorities in the PFR, the City's Motion and Reply, and the Board's own research.

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[8]WAC 242-03-240(1) "…Any transmission not completed before 5:00 p.m. will be stamped received on the following business day. The date and time indicated by the board's . . . receiving computer will be presumptive evidence of the date and time of receipt of transmission . . . ."

[9] The Board empathizes with the pressures on sole practitioners working often without staff or the backup of fellow attorneys. We expect attorneys to extend professional courtesy and allow flexibility when the other party calls and requests accommodation in tight circumstances. Here there was apparently no request.

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Motion to Dismiss

The City advances two arguments in support of dismissal for mootness. First, the City asserts that any governmental action taken in violation of SEPA is void and "a legal nullity from inception."[10] Under the Monroe Municipal Code MMC 20.04.2000(B)(3), an unappealed hearing examiner's decision on EIS adequacy is a final decision. Ordinance 018/2012, having been adopted under a legally deficient EIS, is accordingly void, the City states, and any challenge to it is therefore moot.

Second, the City asserts the challenge is moot because "Ordinance 018/2012 has been repealed and there is nothing left for the parties to litigate."[11]

Petitioners in their PFR assert this matter falls under the exception for mootness for "matters of continuing and substantial interest," allowed in *Orwick v. Seattle.*[12] Petitioners state the case involves substantial public participation challenges, and that the "issues are likely to recur in the future," given the City's pattern of behavior and apparent commitment to the project.[13]

The Board starts from the premise that it is a tribunal of limited jurisdiction, authorized by statute to hear challenges to the adoption and amendment of comprehensive plans and development regulations. RCW 36.70A.280(1)(a). The relief the Board is authorized to provide is a finding of non-compliance and a determination of invalidity. RCW 36.70A.300; .302. Washington courts have held that "[a] case is moot if a court can no longer provide

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[10] Motion at 5, citing *Barrie v. Kitsap County*, 93. Wn.2d 843, 861, 613 P.2d 1148 (1980); *Juanita Bay Valley Community Ass'n v. City of Kirkland*, 9 Wn. App. 59, 73, 510 P.2d 1140(1973); *Lassila v. Wenatchee*, 89 Wn.2d 804, 817, 576 P.2d 54 (1978); *Eastlake Community Council v. Roanoke Assocs., Inc.*, 82 Wn.2d 475, 497-98, 513 P.2d 36 (1973).

[11] Motion at 7-8, citing *Kent Cares, et al. v. City of Kent*, CPSGMHB No. 02-3-0019, Order on Motions (March 14, 2003), at 8; *McVittie, et al. v. Snohomish County*, CPSGMHB No.99-3-0016c, Final Decision and Order (Feb. 9, 2000), at 14; *Gawenka, et al. v. Bremerton*, CPSGMHB No. 00-3-0011, Order on Dispositive Motion (Oct. 10, 2000), at 3.

[12] 103 Wn.2d 249, 253, 692 P.2d 793 (1984).

[13] PFR at 10-11, citing *McVittie.*

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effective relief."[14] Mootness is directed at jurisdiction, and as such may be raised at any time.[15] In *Harbor Lands, LP*,[16] the Court of Appeals determined the case was moot because the City of Blaine had rescinded the challenged land use decision prior to entry of the Superior Court's judgment.

Applying the Court's reasoning, repeal of an ordinance renders an appeal to the Board moot "because there is no currently effective legislative action to challenge."[17] As the Western Board explained in *ARD v. Mason County*,[18] when the county rescinds the challenged ordinances, "jurisdiction to continue the case is lost. Where there are no DRs for which a finding of compliance or noncompliance could be made, a board must dismiss the case." In *Hazen v. Yakima County*, [19] the Eastern Board pointed out when a challenged provision has been amended or repealed, "the amendment/repeal provides the relief requested by petitioner," and the matter is moot. The Central Board in *Giba, et al v. City of Burien*[20] stated: "With the repeal of Section 2, the Board **no longer has subject matter jurisdiction**. The Board also notes that by the repeal of Section 2 the **City itself has provided the relief** requested by Petitioners."(emphasis added)

The Board notes that the City of Monroe has put the East Monroe area on its 2013 comprehensive plan amendment docket and begun the phased EIS process. The PFR alleges a pattern of SEPA and public process violations by the City in support of the East

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[14] *Orwick*, 103 Wn. 2d at 249.
[15] *Citizens for Financially Responsible Gov't v. City of Spokane,* 99 Wn.2d 339, 350 (1983).
[16] *Harbor Lands, LP v. City of Blaine*, 146 Wn. App. 589, 595 (2008).
[17] *Gawenka,* at 3. Other cases where Petitioners' challenges were dismissed as moot when challenged provisions had been repealed or replaced include *Ellis Island v. San Juan County*, WWGMHB No. 97-2-0006, Final Decision and Order (June 19, 1997); *Martin v. Whatcom County*, WWGMHB No. 11-2-0002, Final Decision and Order (July 22, 2011), at 18-19; *Covington Golf v. City of Covington*, CPSGMHB No. 05-3-0049, Order of Dismissal (Feb. 7, 2008), at 2 (Board dismissed *sua sponte* on evidence of repeal of challenged provision).
[18] WWGMHB No. 01-2-0017, Order on Motions (Oct. 12, 2001).
[19] EWGMHB No. 08-1-0008c, Final Decision and Order (Apr. 5, 2010), at 13-14.
[20] CPSGMHB No. 06-3-0008, Order of Dismissal (Apr. 17, 2006), at 3 (emphasis added).

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Monroe development. Petitioners fear procedural game-playing by the City and urge that "they should not be left to take their chances" on a future appeal of the City's eventual action.[21] The PFR suggests the City's "continuing action" brings this case within the narrow exception to the mootness doctrine for "matters of continuing and substantial interest."[22]

The Board disagrees. The Board assumes good faith on the part of public officials[23] and will not prejudge the City's process. The City planning process and SEPA procedures will provide opportunities for Petitioners to get their facts into the new record and eventually appeal the City's action, if it again appears to them to violate SEPA or the GMA. A Board ruling at this juncture on the repealed ordinance, for the purpose of guiding the City's consideration of future proposals, would constitute an advisory opinion, which is prohibited by RCW 36.70A.290(1).

In conclusion, the Board finds Ordinance 018/2012 has been repealed by the City of Monroe. The challenged City action is no longer operative and the Board can no longer provide relief. The Board concludes the Petition for Review is moot and must be dismissed.

ORDER

Based on Ordinance 019/2012, the Petition for Review, the City's Motion to Dismiss, the law and cases cited above, and having deliberated on the matter, the Board ORDERS:

- The City's adoption of Ordinance No. 019/2012 renders the Petition for Review of Ordinance No. 018/2012 **moot.**

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[21] PFR at 10.

[22] Citing *Orwick* and *McVittie*. The Board notes another exception is when a 6-month moratorium adopted under RCW 36.70A.390 expires and is replaced by a subsequent moratorium. *DOC v. Lakewood*, CPSGMHB No. 05-3-0043c, Final Decision and Order (Jan. 31, 2006); *Camwest v. City of Sammamish*, CPSGMHB No. 05-3-0027, Final Decision and Order (Aug. 4, 2005).

[23] *Petso II v. City of Edmonds,* CPSGMHB No. 09-3-0005, Final Decision and Order (Aug. 17, 2009), at 32; *Central Puget Sound Regional Transit Agency v. City of Tukwila*, CPSGMHB No. 99-3-0003, Final Decision and Order (Sep. 15, 1999), at 7; *Pilchuck v. Snohomish County*, CPSGMHB No. 95-3-0047, Final Decision and Order (Dec. 6, 1995), at 38.

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East Monroe Chronology

Summary

1970 – Area annexed into City of Monroe, zoned RS-9600 (residential)
1987 - Two east parcels annexed into the City of Monroe, zoned agricultural
1994 - All parcels rezoned to Limited Open Space (LOS)
2004 - Submittal from applicant to change 48 acres from LOS to General Commercial (GC)
- Planning Commission recommended denial of docketing the application; proposal considered to be inconsistent with the goals and objectives of the Comprehensive Plan; concerns about impacts to the Capital Facilities Plan and levels of service

2004- Heritage Church Boundary Line Adjustment and Short Plat designating Native Growth Protection Areas (NGPAs) on site. Filed with Snohomish County Auditor on May 3, 2004.
2005 - Council did not approve docketing the proposal; in lieu of docketing for 2005, Council voted to consider preparing a Sub-Area Plan as part of the 2006 docket
2006 - Council denied Sub-Area Plan due to lack of funding
2010 - Applicant submitted expanded area of 68 acres to change from LOS to GC
- Planning Commission recommended denial of docketing the application
- Council voted approval of proposal for the 2011 docket less 18 acres within the shoreline jurisdiction

2012 - Council adopted ordinance amending Comprehensive Plan and Rezoning from LOS to GC
- Phased EIS ruled inadequate by Hearing Examiner
- Council voided ordinance amending Comprehensive Plan and Rezoning from LOS to GC

2013 - Applicant initiated preparation of full Environmental Impact Statement

Planning Commission (PC)

2010

September 13 – Introduction of 2011 Comprehensive Plan Docket. East Monroe Development Group

September 27 – 2011 Comprehensive Plan Docket

October 25 – Public Hearing on the 2011 Comprehensive Plan Docket

2011

January 10 - Introduction to 2011 Comprehensive Plan Docket

November 28 - Introduction to East Monroe Economic Development Group Application for Comprehensive Plan Amendment

2012

February 27 – Workshop East Monroe Development Group Comprehensive Plan Amendment & Rezone

March 12 – Public Hearing East Monroe Comprehensive Plan Amendment & Rezone

EXHIBIT# H-14

April 9 – Review East Monroe Development Group Comprehensive Plan Amendment & Rezone

April 23 – Public Hearing East Monroe Comprehensive Plan Amendment & Rezone/ PC Recommendations

May 14 – Introduction East Monroe Rezone

June 11 – Public Hearing East Monroe Rezone

2013

August 26 – Introduction of East Monroe DEIS

September 9 – Review of East Monroe DEIS

September 30 - Introduction of East Monroe FEIS

October 14 – Review 2013 East Monroe Comprehensive Plan Amendments/ East Monroe

October 21 – Review 2013 East Monroe Comprehensive Plan Amendments/ East Monroe

October 28 – Review 2013 East Monroe Comprehensive Plan Amendments/ East Monroe

November 18 – Public Hearing on 2013 Comprehensive Plan Amendments/ East Monroe

November 25 – PC Recommendation on 2013 Comprehensive Plan Amendments/ East Monroe

City Council (CC)

2010

November 9 –Adopt 2011 Comprehensive Plan Docket including East Monroe

2012

April 24 – Review Comprehensive Plan Amendments/East Monroe

May 1 – Comprehensive Plan Amendments/East Monroe/1st Reading

June 19 – Public Hearing 2012 Comprehensive Plan Amendments/ East Monroe

July 10 – Adopt Comprehensive Plan Amendments/ East Monroe/2nd & Final Reading

September 4 –Repeal Ordinance adopting Comprehensive Plan Amendments/ East Monroe

2013

October 15 –Introduction East Monroe Comprehensive Plan Amendment/Final Environmental Impact Statement

October 22 – Review East Monroe Comprehensive Plan Amendment and Rezone

December 3 - Review 2013 Comprehensive Plan Amendments/East Monroe

Public Comment Periods/Public Notice (separate from CC and PC notices)

2011

July 21 – Determination of Significance and Request for Comments on Scope of EIS. 30 day comment period closing August 19, 2011

2012

February 29 - Notice of Availability of Draft Phased EIS. 30 day comment period closing March 30, 2012

April 23 - Notice of Availability of Final Phased EIS. 15 working day appeal period

July 3 - Notice of Appeal and Public Hearing at City Hall

2013

August 14 – September 13, Notice of Availability of Draft EIS. 30 day Public Comment Period on Draft EIS. Publication in the SEPA Registrar

September 5 – Public Hearing on Draft EIS

September 27 – Issuance of Final EIS with Notice of Availability. Publication in the SEPA Registrar. 15 working day appeal period on Final EIS begins

October 22 - Notice of Appeal and Public Hearing at City Hall

October 18 – 15 working day appeal period on FEIS ends

November 7 –SEPA Appeal Hearing before Hearing Examiner

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
Northwest Regional Office 3190 160th SE Bellevue, Washington 98008-5452 (425) 649-7000

October 10, 2013

Scott Brainard
Wetland Resources, Inc.
9505 19th Ave SE, Suite 106
Everett, WA 98208

Dear Mr. Brainard:

RE: Verification of East Monroe Wetland Delineation Boundary

Thank you for taking time to meet with me on September 30, 2013, for verification of the wetland boundaries on the East Monroe Rezone site. The 43-acre project site is located in the City of Monroe near the eastern city limits on the north side of US Highway 2. Wetland Resources, Inc. (WRI) delineated wetlands on the site this past June, summarizing their findings in a critical areas study dated July 18, 2013.

I concur with the WRI wetland delineation as flagged in the field and as shown on Sheets 1 through 4 in the delineation summary. Consistent with federal policy, the Washington Department of Ecology (Ecology) considers this delineation verification to be valid for a period of five years from the date of this letter unless new information warrants revisions to the verification. You should be aware that the wetlands on this site may also be regulated by the U.S. Army Corps of Engineers (Corps) and that Corps staff may choose to conduct a separate boundary verification relative to federal regulation.

Wetlands are regulated as waters of the state by Ecology under authority of the state Water Pollution Control Act (RCW 90.48). Should development activities on the East Monroe Rezone property result in the discharge of pollutants to wetlands or other state waters (i.e., mechanized clearing, excavating, grading or filling), written authorization is required from Ecology and the Corps prior to commencing those activities. Development activities that only affect the wetland buffers outside of shoreline jurisdiction may be regulated by the City of Monroe.

If you have any questions about my findings, please give me a call at (425) 649-7148 or send an email to paan461@ecy.wa.gov.

EXHIBIT# M-15

Sincerely,

Paul Anderson, PWS
Wetland Specialist
Shorelands and Environmental Assistance Program

PSA: ca

cc: Erik Stockdale, Ecology Shorelands & Environmental Assistance Program
Matthew Bennett, U.S. Army Corps of Engineers
Paul Popelka, City of Monroe

City of Monroe

MONROE
WASHINGTON

Floodplains & Shoreline Boundary

BOUNDARIES

- Urban Growth Area
- Monroe City Limits
- Shoreline Boundary

Flood Zones

- 100 Yr. Zone A and AE (1999)
- 100 Yr., Zone AE (2005)
- 500 Yr., Shaded Zone X (1999)
- Shaded Zone X (2005) - areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 sq mi; and areas protected by levees from 1% annual chance flood.

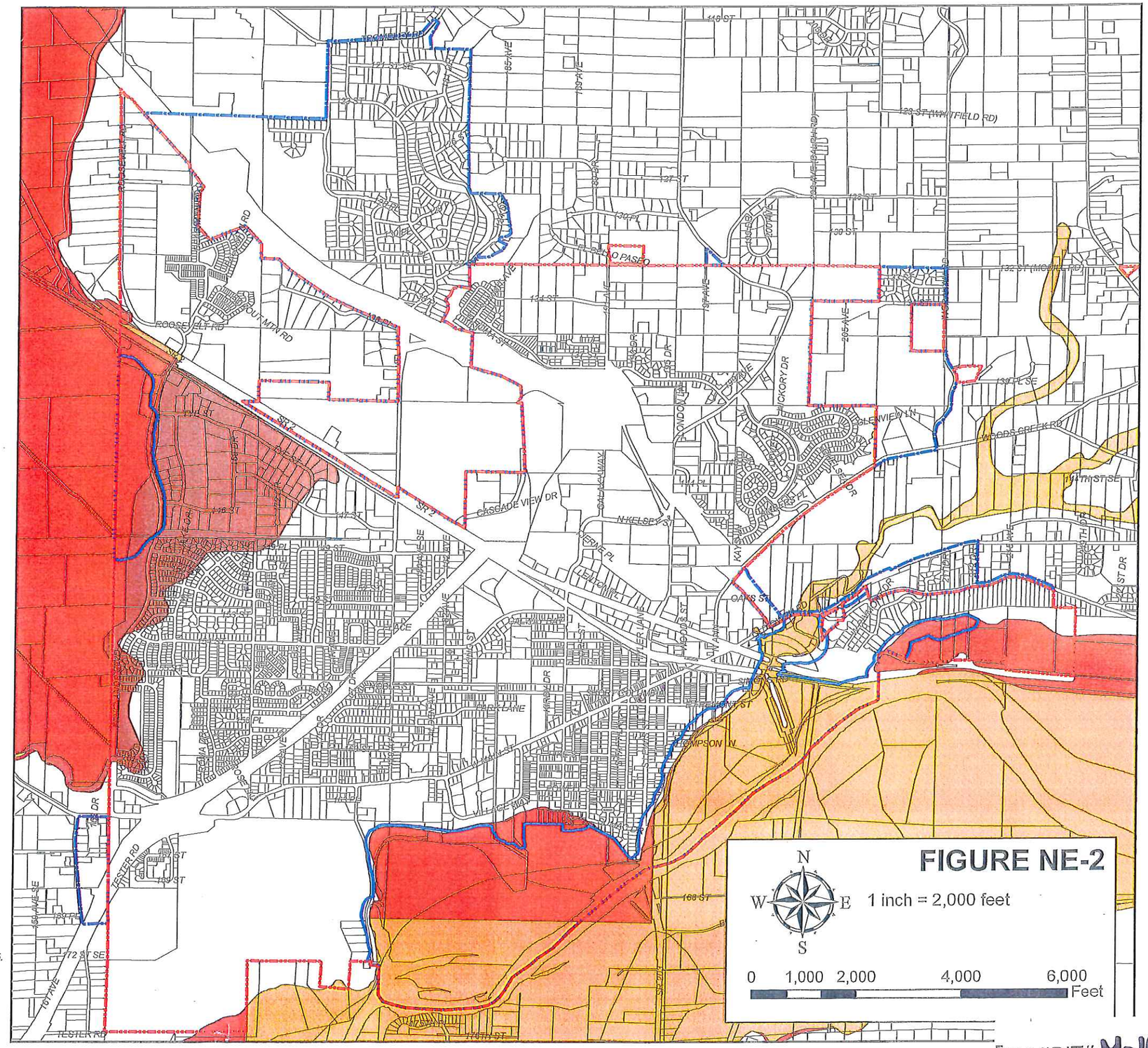
Notes:
1)The City of Monroe adopted the 2005 FIRM maps for Panel 1357 of 1575 and the1999 FIRM maps for Panel 1377 of 1575 resulting
in the mapping illustrated herein.

2) The locations decpicted are approximate boundaries for critical areas within the city limits. This maps provides only approximate boundaries of known features and is not a substitute for more detailed maps and/or studies to identify the exact locations of known features or additional critical area features not illustrated on the map.
3) The points where streams change classification are approximate and subject to confirmation and refinement.
4) Classifications are subject to refinement based upon on additional or updated fish use and seasonality of water flow information.

Map data shown is the property of the sources listed below. Inaccuracies may exist, and the City of Monroe implies no warranties or guarantees regarding any aspect of data depiction. This map is not an actual survey of individually noted critical areas. Streams have been categorized using the water typing system defined in Monroe Municipal Code Chapter 20.05 (equivalent to WAC 222-16-031). Wetlands were classified using the Washington Department of Ecology's Washington State Wetland Rating system for Western Washington. Wetland size, shape and location are approximate based on a reconnaissance level evaluation. The City of Monroe and the Urban Growth Area may contain additional critical areas not identified on this map. Therefore this map is to be used for reference purposes only.

Source: FEMA's DFIRM Database, Snohomish County, Washington and Unincorporated Areas, 2005.

Project: Floodplain and Shoreline 11x17
Location: Y:\GIS\Departments\CD\Comprehensive Plan\Comp Plan 2013\For_Commerce
Revised: 10-08-13
Author: M. Sartorius



EXHIBIT# M-16