

## STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

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CITY OF MONROE

Northwest Regional Office 3190 160th SE Bellevue, Washington 98008-5452 (425) 649-7000

September 13, 2013

Melissa Sartorius, Senior Planner City of Monroe 806 West Main Street Everett, WA 98272

Dear Ms. Sartorius:

RE: Ecology SEPA Comments for East Monroe Comprehensive Plan Amendment Draft Environmental Impact Statement

Thank you for notifying the Washington State Department of Ecology (Ecology) that the Draft Environmental Impact Statement (DEIS) for the proposed East Monroe rezone is available for our review and comment. As the Ecology Wetland Specialist responsible for Snohomish County, I wish to have the following comments entered for the record. This proposal involves amending the City of Monroe (City) Comprehensive Plan to rezone approximately 43 acres immediately north of U.S. Highway 2 near the eastern city limits. The five parcels are currently zoned Limited Open Space (LOS) and the DEIS analyzed three alternatives ranging from limited development under the current zoning, the no action alternative, to rezoning the parcels as General Commercial, the proposed action.

While this DEIS is a considerable improvement over the phased EIS issued last year and includes more detail on critical areas, Ecology believes that there are still problems with the analysis not addressed in the current draft. We appreciate the proponent's enthusiasm for the project, but, as a general statement, the DEIS needs to more equitably balance the potential environmental impacts with the economic interests. Because the existing undeveloped site condition is not used as the baseline for alternative comparisons, it gives the impression that the DEIS is not a balanced, objective analysis of the alternatives or potential impacts. To avoid the possible appearance of being pre-decisional and to accurately portray potential impacts, the existing undeveloped condition needs to be used as the baseline for alternative comparisons in the final environmental impact statement (FEIS). There is no discernible difference in the developed footprint in the conceptual drawings for the three proposed alternatives, only in the intensity of development within that footprint. All of the alternatives are a significant change from the existing site conditions and it is unclear how the proposed no action alternative accurately reflects the existing conditions and use of the property.

As described in the DEIS, the intent of the proposal is to balance environmental protection with maximizing the socio-economic value (economic return) of the property, consistent

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with the stated goals of the Growth Management Act (GMA) (RCW 36.70A; DEIS pp. Fact Sheet, 3, 62). While impacts to critical areas have been avoided for the developed footprint in all the alternatives, there are still, nonetheless, permanent impacts to site wetlands (excavation for flood storage) and the slough which are not adequately assessed.

Equating environmental protection with economic development is not entirely consistent with the GMA. Case law has clarified that designation of critical areas and protection of their functions is a GMA requirement that is a higher standard than GMA goals (see *Quadrant Corporation V. State Growth Management Hearings Board*, Washington Supreme Court Case No. 75076-9, 2005; and *Washington State Department of Ecology and Washington State Department of Community, Trade and Economic Development V. City Of Kent*, GMHB Case No. 05-3-0034). Critical areas should be protected and then the other GMA goals should be balanced.

We understand and support the City's desire to promote economic development. This particular site, however, has value as open space and agricultural land and seems ill-suited to more intensive development given the lack of existing services and access in addition to the critical areas on and adjacent to the property. It is unclear how commercial development of the site will provide a net benefit to ecological function, as the DEIS Summary concludes. When the full environmental and public infrastructure costs of developing the site are considered, retaining the existing LOS zoning, rural character and environmental services (e.g., floodplain and habitat) of the site are in fact "the highest and best use for the property" (DEIS, p. 1).

There are three principal concerns with the DEIS: Alternative 1 (no action alternative), the basis for comparing environmental impacts from Alternatives 2 and 3, is not based on the current site conditions and therefore, does not accurately assess the degree of environmental impact from the other alternatives; there is little or no discussion of the impact of converting productive agricultural land to a developed use, nor any proposed mitigation to compensate for that loss of agricultural land; and there is only a cursory discussion of the environmental impacts (and required permitting) to the slough and associated wetlands from excavating along the slough for flood storage.

## No Action Alternative

The no action alternative presented in the DEIS is for prospective development (church, fitness club and day care facility) of the property under the existing LOS zoning. The development footprint for all three DEIS alternatives is virtually the same, with some variation in building configuration within the footprint between alternatives. There is very little discussion of the current conditions (baseline) in the DEIS, which makes an objective evaluation of impacts difficult for any of the alternatives. As written, the DEIS no action alternative is more similar to the other development alternatives than it is to the existing conditions. While the baseline can be the same as the no action alternative, they are not necessarily synonymous. The DEIS no action alternative is a significant departure from the current conditions and therefore, is not the baseline.

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We recommend that a more detailed description be provided of the baseline conditions for analysis and comparison of the potential impacts for each of the alternatives (and affected environment elements), including the no action alternative; particularly since there are currently no services (sewer or water) or access adequate to support more intensive development of the site. Given the potential for significant environmental impacts (e.g., critical areas and traffic on US 2) just from providing utility services and access to these parcels, it is not reasonable to use a future developed condition as the baseline for the no action alternative. The FEIS needs to use the existing condition as the baseline for assessing impacts from all of the proposed alternatives.

## Loss of Agricultural Land

One of the critical elements missing from the DEIS is a discussion about the potential impact to the City and surrounding area from the loss of open space and specifically the permanent loss of over 20 acres of productive agricultural land. There is no proposal or discussion of mitigation to compensate for the loss of agricultural land. The conversion of agricultural land on this site to a developed use directly contradicts the stated agricultural preservation goals and policies of the City's Comprehensive Plan (City of Monroe Comprehensive Plan 2005-2025):

LUP-4.4 - Support agricultural land preservation, particularly in the county's designated river way agricultural lands located generally west of the city limits, east of the city limits along the US-2 highway corridor, and generally south of the city and the Skykomish and Snohomish Rivers.

Loss of productive farmland, particularly in the Snohomish Basin, is a matter of ongoing concern to the farming community and Snohomish County Government. The Sustainable Lands Strategy

<a href="http://www1.co.snohomish.wa.us/County\_Services/Focus">http://www1.co.snohomish.wa.us/County\_Services/Focus</a> on Farming/sustainablelands.

<a href="http://www1.co.snohomish.wa.us/County\_Services/Focus">http://www1.co.snohomish.wa.us/County\_Services/Focus</a> on Agriculture from the permanent conversion of this site (see SEPA checklist guidance for assessing potential impacts to Agricultural Lands:

<a href="http://www.ecy.wa.gov/programs/sea/sepa/enviro\_checklist\_guidance.html">http://www.ecy.wa.gov/programs/sea/sepa/enviro\_checklist\_guidance.html</a>). Also, the FEIS should include proposals to compensate for the loss of open space and productive agricultural land associated with rezone or subsequent development.

## Impacts of Compensatory Flood Storage

The DEIS emphasizes that direct impacts to critical areas from the proposed development alternatives have been avoided and minimized. While true that most of the developed footprint is located outside of shoreline jurisdiction and the City's critical area buffers, the proposed habitat enhancements and excavation for compensatory flood storage have the potential to significantly alter the slough and wetlands. The ordinary high water mark

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(OHWM) determination as well as wetland boundaries and ratings should be verified by Ecology and I would be happy to meet the proponent's representatives for that verification. The project proponents should provide Ecology with a memorandum summarizing the methods and field indicators used to determine the OHWM. That memorandum, and Ecology's OHWM verification, should be added to the FEIS appendices.

Excavation for additional flood storage and or stormwater discharge does not appear to be a compatible use in the Urban Conservancy designation. While existing flood hazard management is an allowed use within Urban Conservancy designation, dredging (i.e., stream or wetland excavation) and filling are prohibited (see SMP Shoreline Modifications section of Shoreline Use and Modification Matrix, p. 26). If these activities could be approved without amending the Shoreline Master Program, which appears unlikely, excavation and placement of flood control or stormwater structures within shoreline jurisdiction on this site would require approval from Ecology (Variance or Conditional Use Permit) as well as the City. Shoreline permitting by Ecology would be in addition to the required Section 401 Water Quality Certification from Ecology for work within wetlands or the slough.

Any ground disturbing activity within the slough or wetlands, including habitat enhancement, will require state and federal approval and excavation within these regulated waters for flood storage will very likely require compensatory mitigation. While there would likely be some ecological lift from planting shrubs and trees in the areas of the site dominated by blackberries and herbaceous vegetation, the DEIS does not include sufficient detail on potential impacts to water quality, hydrology and habitat to fully assess the degree of impact or benefit from the proposed development. Specific concerns that should be assessed in more detail in the FEIS include:

- 1. Potential impacts to water quality from excavation of the compensatory flood storage and alteration of the existing vegetation. Grasses, including reed canarygrass (*Phalaris arundinacea*) are very effective at slowing surface runoff and improving water quality. The elevated development pad will be a source of increased runoff and potential contaminants and sediment. Based on the typical cross section shown on page 29 of the DEIS, there is a strong likelihood that wetlands or channels will develop or expand in the area excavated for flood storage. The loss of herbaceous vegetation and likely shortening of the transit distance for runoff between the development pad and state waters has the potential to adversely impact water quality. Any stormwater released to the slough or wetlands will need to be fully treated before being discharged.
- 2. Potential impacts to wetland and slough hydrology from floodplain excavation and stormwater input. Any alteration of the wetland or slough hydroperiod or water depths will need to be assessed and site development should not alter the natural hydroperiod (see Appendix I-D, Stormwater Management Manual for Western Washington, Volume I, Ecology Publication No. 12-10-030). More details need to be provided on the location of the stormwater treatment system, including the location of detention vaults/ponds and outfalls.

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3. While the planting of shrubs and trees will diversify the existing onsite plant communities, more analysis is needed on the potential that the excavation for flood storage will increase the potential spread of reed canarygrass. This species thrives in areas with increased nutrient input and "flashier" hydrology. It will take at least a few years for the shrub/tree canopy to develop enough to shade out reed canarygrass. Without vigorous (annual) weed control the first few years after planting shrubs and trees, reed canarygrass can oftentimes overtop the desired plantings and shade them out.

It is also difficult to understand how commercial (or institutional) development on the site will improve the habitat values of the site as the DEIS indicates. While there will be some future diversification of the habitat through shrub and tree planting, there will be a significant increase in human activity on the site during and after construction. The proposed habitat enhancement will more likely than not be inadequate to compensate for the increased disturbance from site use in any of the DEIS alternatives.

More analysis is needed on the potential for fish stranding in the excavated flood storage area. Since the slough is fish accessible during high flows, the period when the flood storage area is also inundated, what is the risk that fish will be stranded in the excavated area, unable to return to the slough and Skykomish River once the water recedes<sup>1</sup>?

Due to its location, existing suitability as agricultural land and critical areas on the site the current LOS zoning is appropriate and we recommend that the City not go forward with the proposed rezoning of this property.

We look forward to receiving a copy of the revised EIS for our review and comment. If you have any questions or would like to discuss my comments, please give me a call at (425) 649-7148 or send an email to paan461@ecv.wa.gov.

Sincerely,

Paul S. Anderson, PWS

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Wetland Specialist

Shorelands and Environmental Assistance Program

See (see

http://www.fws.gov/arcata/fisheries/reports/technical/Trinity\_River\_Juvenile\_Fish\_Stranding\_Evaluation\_M ay - June, 2002.pdf)

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PSA: ca

Erik Stockdale and Barbara Nightingale, Ecology cc:

Jamie Bails, Washington Department of Fish and Wildlife Matthew Bennett, U.S. Army Corps of Engineers