

March 5, 2008

TO:

Clatsop County Board of Commissioners

FROM:

Mitch Rohse, AICP, for Clatsop County Community Development Department

SUBJECT:

Staff Comments on March 2008 “Redline” Draft Findings from Bradwood Landing

I have reviewed the documents submitted by Bradwood Landing in response to our February 27 memo. I also have talked with Michelle Rudd (applicant’s legal counsel) by phone and email several times in the past few days, and she answered several questions I had. The applicant replied promptly to our inquiries and in response has submitted for county approval various amendments in a “redline” amended version of the draft findings received on Monday, March 3, 2008.

For the majority of issues staff raised in our February 27 memo, Bradwood Landing proposes to amend the draft findings exactly as staff suggested. In several cases, Bradwood Landing suggests wording different from that proposed by staff, but I am satisfied that the alternative wording achieves the desired result.

In our February 27 memo, staff outlined six “general issues” about the draft findings:

1. Qualitative judgments that go beyond the county’s conclusions;
2. Findings regarding two-tank and three-tank development scenarios;
3. Proposed findings on preliminary state agency comments on DEIS;
4. Mitigation plan;
5. Land use compatibility statements (LUCS);
6. Exhibit 2 to Attachment 6 (excerpts from DEIS);

I conclude that the revisions proposed by the applicant in the “redline” version of the findings satisfy our concerns regarding items 1 – 4 above. The board should discuss certain issues pertaining to items 5 (LUCS) and 6 (Exhibit 2). I believe those issues can be resolved during today’s meeting.

Regarding the “redline” findings, Michelle Rudd calls the board’s attention to two sentences that Bradwood Landing proposes to add to page 97 (at the end of the

first partial paragraph on the page): **“Applicant has committed to the County that it will not appeal the conditions of approval set forth in Table 2 of these findings to FERC. (See November 14, 2007 letter from William S. Garrett to Board of Commissioners.)”** I agree that these two sentences should be added.

I recommend to the board that it modify the redline version of Bradwood Landing’s draft findings of February 2008 as listed below. (Note that the page numbers refer to the more recent redline version of the findings: that numbering is slightly different from the numbering in the findings Bradwood Landing originally submitted last week.)

1. On page 18, in the next-to-last line of the largest paragraph on the page, in the phrase “for the Project indicating compliance,” replace the word “compliance” with “compatibility.”
2. On page 18, in the second line of the partial paragraph at the bottom of the page, in the phrase “Project is consistent with the applicable land use provisions . . . ,” change the word “consistent” to “compatible.”
3. On page 81, accept changes proposed by the applicant to Condition 2, so that it reads thus:
“The applicant shall widen the travel lane on Rulyville Road so that two vehicles can pass **or shall use some method of traffic control (e.g. a flagger) to direct traffic on Rulyville road during the morning and evening peak times for peak travel.**”
4. On page 98, in the paragraph numbered “3,” insert the word “adopt” between the words “and” and “appropriate.”
5. On page 133, the board should note the last two sentences of the largest paragraph. They describe how the county will review the mitigation plan using a Type 2a review procedure. This type of review is a quasi-judicial proceeding with a public hearing. The LWDUO’s provisions for such a review are quoted at the end of this memo.
6. On page 250, in the last complete paragraph at the bottom of the page, change the first sentence to, “Further, more detailed information has subsequently been submitted by applicant in the form of an erosion control plan which, with the condition of approval requiring submittal and review of an erosion control plan, we find would establish compliance with the applicable standards, is feasible, and is reasonably likely to occur.”
7. On page 285, in the fourth and third lines from the bottom, change the phrase “Project is in compliance . . .” to “Project is compatible . . .”
8. On page 285, change the last sentence to read, “No discretionary judgment has been exercised by staff in making this determination.”

9. On page 301, last sentence on the page, discuss whether this modification satisfies possible board concerns about Exhibit 2. (The sentence proposed by Bradwood Landing reads, “For ~~purposes~~ **sole purpose** of this amendment, the County accepts the ~~conclusions concerning~~ cumulative effects **report** set forth in ~~that dEIS and attached in~~ Exhibit 2.”)
10. On page 315 of the redline draft, a sentence in Exhibit 2 (an excerpt from the DEIS) says, “The Bradwood Landing Project expects to employ up to 750 workers during the peak construction months.” Staff noted in our February 27 memo that this number seems to conflict with other information in the record indicating that the peak work force during construction would be 526 workers. Bradwood Landing replies to that concern with these words:

“The dEIS referenced up to 750 workers. This is not inconsistent with the terminal narrative stating that there will be a peak estimated workforce of 526. The draft EIS considers not only the terminal workers, but also considers elements such as workers on the 30+-mile pipeline (only 6 miles of which is within Clatsop County.”)

If the board chooses to keep Exhibit 2 in the findings, I recommend that this footnote be added to page 315 (linked to the sentence about a peak work force of 750):

“Note that this estimate from the dEIS considers not only the terminal workers but also workers on the 30+-mile pipeline (only 6 miles of which is within Clatsop County). This estimate therefore is not inconsistent with the finding that there will be a peak estimated work force of 526 workers for construction of the LNG marine terminal at Bradwood.”

Respectfully submitted by:



Mitch Rohse, AICP

Section 2.025. Type IIa Procedure.

(1) Type IIa land use actions involve development or uses which require the exercise of discretion and judgment when applying the development criteria contained in this Code, the Comprehensive Plan or the applicable Community Plan. Impacts may be significant and the development issues complex. Extensive conditions of approval may be imposed to mitigate impacts or ensure compliance with this Code and the Comprehensive Plan. Under the Type IIa procedure, an application for a land use action shall be processed by the Hearings Officer after holding a public hearing. The Hearings Officer shall determine whether or not the proposed development meets the required development standards.

(2) Those actions identified in this Code as a conditional use under the Type IIa procedure are Type IIa actions.

(3) Once an application is determined by the Community Development Director to be complete, it is scheduled for public hearing pursuant to Section 2.105 before the Hearings Officer.

(4) The Director shall provide notice (published and mailed) of intent to hold a public hearing and issue a decision on a land use application pursuant to Section 2.110 and Section 2.125.

(5) The Hearings Officer shall review any information that has been made a part of the official record and make a finding for each of the points in dispute. The Hearings Officer shall make a decision on the application by approving, conditionally approving, or denying the application.

(6) A decision by the Hearings Officer may be appealed by a party of record to the Board of Commissioners in accordance with Section 2.230.
