

March 16, 2008

TO:

Clatsop County Board of Commissioners

FROM:

Mitch Rohse, AICP, for Clatsop County Community Development Dept.

SUBJECT:

Revised Draft Findings Submitted by Bradwood Landing on March 13

In response to comments from the board of commissioners and staff, Bradwood Landing revised its proposed findings. As we requested, the revised findings document was submitted to the county on March 13, 2008. The 330-page document is titled:

**“DRAFT FINDINGS OF APPROVAL OF
CORE ELEMENTS OF THE CONSOLIDATED APPLICATION
FROM BRADWOOD LANDING, LLC,
FOR PERMITS AND DEVELOPMENT APPROVALS TO DEVELOP AN
LNG MARINE TERMINAL, PIPELINE, AND RELATED FACILITIES AT
BRADWOOD, CLATSOP COUNTY, OREGON**

**ADOPTED BY
CLATSOP COUNTY BOARD OF COMMISSIONERS
March 2008”**

On the same date (March 13), Bradwood Landing also submitted a six-page “supplemental safety condition.” We review that supplement in a separate memo. Our comments here deal with the larger findings document, excluding that portion of it related to conditions of approval pertaining to public safety. The board of commissioners will consider both the findings document and the supplemental safety condition at its meeting of March 20, 2008. On that date, it may adopt one or both, perhaps with modifications.

1. How the Draft Findings Have Been Modified

This most recent draft of the findings document is similar to the two that preceded it. In this third draft, Bradwood Landing made substantive changes in passages about Land Use Compatibility Statements (LUCS) – see pages 19 and 291 – and to Attachment 6, “Text of Comprehensive Plan Amendment” (pages 304-326). The applicant also made lesser changes throughout the document to adjust numbering, to correct typographical errors, and to clarify wording. The most significant changes are those to Attachment 6.

The staff requested and promptly received from applicant a “redline” version of the modified findings. We used that to track changes made to the draft findings document since the board considered it on March 5. We found no changes other than those made in response to county concerns or those necessary to improve formatting, pagination, and syntax.

2. Applicant’s Changes to Attachment 6

The draft findings considered by the board at its March 5, 2008, meeting contained 15 pages of material quoted from the Bradwood draft EIS in “Attachment 6, Exhibit 2.” The staff and several board members were concerned that this material presented conclusions about certain matters, such as the Palomar pipeline, on which the board had expressed no opinion. We also stated concerns about certain qualitative judgments in Exhibit 2 that went beyond conclusions expressed by the board. We therefore recommended that the applicant delete Exhibit 2 and re-write Attachment 6 so as to limit the findings and thus more accurately reflect conclusions reached by the board of commissioners. The applicant did both.

The revised Attachment 6 now focuses on compliance with Statewide Planning Goal 16, *Estuarine Resources*, and especially with the issue of cumulative effects on estuarine resources. **Staff believes that the revisions made by the applicant to this attachment adequately respond to the concerns raised by board members and by staff.**

The revised findings now present no conclusions about the Palomar pipeline (except to note at pages 287-288 that any proposal for such a pipeline would be considered separately, not as part of the present Bradwood application). They note that any qualitative judgments about the development or dredging at Bradwood bringing “net benefits” to the estuary are statements made by the applicant, not conclusions reached by the board of commissioners.¹ And they limit the scope of the analysis to matters and geographic areas within Clatsop County and estuarine areas that adjoin it.

3. Changes Recommended by Staff

Staff encountered five places in the findings where typographical errors or wording problems could cause some confusion. We therefore recommend the following changes:

¹ One exception to that occurs on page 280, where a finding on compliance with Statewide Planning Goal 16, *Estuarine Resources*, declares that applicant’s mitigation measures “will provide a net benefit to estuarine resources.” **Staff recommends that the words “applicant states” be inserted before the word “will.”** This change should make it clear that (a) *the applicant* asserts that a net benefit will occur, and (b) the county has drawn no conclusion whether a net benefit may occur.

On page 1, the last sentence of the second paragraph says, "On December 13, 2007, the Board deliberated and voted to approve the consolidated application as set forth in these Findings and the supporting documentation in the record." Minutes of that board meeting (attached to this memo on page 4) clearly state that the board's action was a "tentative" and "conditional" approval, contingent on the board's acceptance of adequate findings. We therefore recommend that the sentence be changed to read, "On December 13, 2007, the Board deliberated and voted to **tentatively** approve the consolidated application as set forth in these Findings and the supporting documentation in the record, **contingent on preparation of suitable findings and approval of the board.**"

On page 280, for reasons explained in footnote 1 of this memo above, add the words "applicant states" to this sentence: "The proposed amendments are consistent with Goal 16 because they do not affect any Goal 16 resources other than those at the Project site and because unavoidable adverse effects on estuarine resources that may result from the proposed dredging and filling will be addressed through compensatory mitigation and other actions that **applicant states** will provide a net benefit to estuarine resources."

On page 318, in the last line of the paragraph in the center of the page, change the word "next" to "nest." (The sentence is about bald eagle nests and roosts.)

On page 322, in the middle of the page, change the word "duration" to "deviation" and the word "collection" to "collector." The sentence would read thus: "Further, a variance will be required as a condition of approval for any ~~duration~~ **deviation** from Table 1 ~~collection~~ **collector** road standards."

On page 325, the last sentence of the first paragraph may not be entirely accurate. We believe the board determined only that the application would comply with statewide planning goals on housing and on public services. We do not understand the board to have concluded that there would be "no significant impacts" on housing or public services. **We therefore recommend that the sentence be changed thus:** "The County also found ~~in its determination of consistency with Goals 10 and 11 that there would not be significant impacts on housing or public services under conditional development~~ **that impacts on housing and public services from development and operation of the LNG marine terminal at Bradwood would be consistent with Goals 10 and 11.**"

4. Conclusion

We conclude that, except for Condition 1 (on page 187) regarding public safety,² the findings proposed by Bradwood Landing in the revised draft received on March

² We address conditions of approval related to public safety in a separate memo, *Conditions of Approval Related to Public Safety and Cost Sharing for Emergency Services at Bradwood*, March 17, 2008.

13, 2008, are, with the five changes proposed above by staff, adequate. That is, they fully and accurately describe the evidence used, reasoning employed, and conclusions reached by the Clatsop County Board of Commissioners to tentatively approve on December 13, 2007, the consolidated application for county land use approvals and permits related to development of an LNG marine terminal, natural gas pipeline, and related facilities at Bradwood.

Respectfully submitted by:



Mitch Rohse, AICP

Excerpt from Minutes of the Board Meeting of December 13, 2007

Chair Lee called for a motion; *Samuelson made and Hazen seconded a motion to make a tentative consolidated approval of the application of applicant Bradwood inclusive are all of the conditions presented today contingent on preparation of findings and approval of the Board.*

Patrick asked that the decision not be made today and said he would vote no due to four reasons: Public Safety, there is no agreement between the Fire Department and NorthernStar; second the comprehensive plan needs to be addressed and the application does not comply with state Goal 16 and he does not agree with the development standards. Lee asked if the approval of the agreements with the Fire Departments one of the Board's conditions? Patrick said he would not agree to approve the application until there are agreements in place with the Fire Departments.

Roberts said this is a tentative approval and it is not final until everything is completed. Roberts said they couldn't move ahead with the project. Roberts said she agrees with Commissioner Patrick regarding the amendment to the comprehensive plan about scale and size saying it will cause problems for the Board down the road however she is supporting the motion.

Chair Lee called for a roll call vote. *Motion was conditional approved 4-1 with Patrick voting nay.*
