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Subject: Determination of Non-significance (DNS)
File Name: CCC 40.560.010
File Number: CPZ2005-00079 – Amendment to the CCC 40.560.010
Date Published: April 15, 2005
14-day comment period ends on May 2, 2005

This is a formal and timely filed comment on behalf of the Friends of the Clark County board as it pertains to the above referenced Determination of Non-significance (DNS) issued by the lead agency, Clark County.

Proposed amendments to “repeal” county code and revise adopted criteria and text adopted in 2004, will significantly increase the amount and rate of growth in Clark County. This will adversely impact environment, infrastructure, resources, and the quality of life countywide. Potential significant adverse impacts of proposed amendments were not considered in the environmental analysis/SEPA checklist that was provided by the county in conjunction with the April 2005 proposal. Therefore, **the Determination of Non-Significance (DNS) was issued in error and should be withdrawn by the lead agency.**

County Amendment Proposal

The proposed amendment by the county is to repeal several criteria for determining the need and procedures for amending the urban growth area (UGA) boundaries by:

- Repealing 75% development “trigger” on buildable residential and commercial land,
- Repealing 50% of prime industrial land, and
- Repealing and revising other criteria

Section 40.560.010 (H) is also amended to codify policies 3.2.11 and 3.2.12 adopted by Ordinance 1998-06-20 and later Ordinance 2004-09-02.

County/Lead Agency Determination of Non-significance

The lead agency, Clark County, issued the DNS for the county’s proposal to amend Clark County Code Title 40.560.010. The DNS prepared for and issued by the lead agency states that: “The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment.” County determined that an environmental impact statement (EIS) is not required under RCW 43.21C.030(2). However, comments provided by the county on the SEPA checklist do not address potential significant adverse impacts of proposed county amendments.

A supplemental sheet submitted by the county with the environmental checklist states that *“because the questions on the checklist are very general, it may be helpful to read them in conjunction with the list of the elements of the environment. When answering these questions, be aware of the extent of the proposal, or*

the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented."¹ ("Underlines" were added for emphasis.)

The environmental checklist and supplemental sheet(s) prepared by the county do not incorporate analysis of the extent and types of activities likely to result from the amendment proposal that would result in "greater intensity" (greater amount of growth) and at a "faster rate" (greater rate of growth). Proposed amendments for "repeals" and text revisions of CCC 40.560.010 will increase the amount and rate of growth and remove key indicators for assessment of conformance and compatibility with the GMA, 20-year Comprehensive Plan, county ordinances and matrices, and balanced growth vision/goals. (Pursuant to instructions provided in SEPA rules,² applicants must answer each question accurately and carefully and are urged to consult with experts and government agencies, or hire experts in environmental analysis/checklist preparation.)

If implemented as proposed, county amendments will result in significant adverse impacts on the environment, resources, and quality of life countywide. The State Environmental Policy Act (SEPA)³ requires all governmental agencies to consider the environmental impacts of a proposal prior to making determinations and decisions. Pursuant to SEPA, an environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment.

The Determination of Non-Significance (DNS) was issued without analysis of the extent of the proposal, the types of activities likely to result from the proposal, and "greater intensity" at a "faster rate" than if proposals were not implemented. The said DNS was issued by the county in error, prior to appeals resolutions, and without cumulative impact analysis. The proposal for amendments and associated DNS should be withdrawn by the lead agency.

Consistency with the GMA, UGA, and County Plans, Goals, and Policies

In September 2004, pursuant to the GMA, Clark County Board of Commissioners adopted Ordinance No. 2004-09-02 and Ordinance No. 2004-09-02.A to update the Clark County Comprehensive Plan including:

- New Urban Growth Area (UGA) boundaries
- Revised Comprehensive Plan and zoning designations
- Revised County Comprehensive Plan policies and text,
- Updated countywide Planning Policies
- New capital facilities plans

Implementation of proposed amendments in 2005 will result in "greater intensity" at a "faster rate" of development, associated significant adverse impacts, and may not be in compliance with some of the GMA,⁴ UGA, and County plans, goals, and policies.

GMA

In 1990, State passed Growth Management Act (GMA) to provide strategic vision and long-term planning goals. Legislative findings⁵ indicated that uncoordinated and unplanned growth, lack of common goals expressing the public's interest in the conservation and the wise use of land, are a threat to environment, sustainable economic development, and the health, safety, and high quality of life. Therefore, the GMA encourages adoption of local plans that guide population growth into urban areas and to preserve resources.

The said GMA goals were developed for the purpose of guiding the development of comprehensive plans and development regulations and are described as follows:⁶

¹ Clark County DNS, Description of Proposal, April 1, 2005

² SEPA, Part Eleven, Forms, WAC 197-11-960

³ SEPA, Chapter 43.21C RCW

⁴ RCW 36.70A, et seq.

⁵ RCW 36.70A.010

⁶ RCW 36.70A.020

- Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.
- Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.
- Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.
- Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.
- Open space and recreation. Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.

The GMA intent is to encourage development in areas with adequate levels of services and public facilities, use infill, and redevelop areas located within or close to existing urban areas and services to protect natural resources and open spaces. Urban Growth Areas (UGAs) are tools for determining how much and where to direct growth. At the minimum, **the proposed county amendment is not consistent with the GMA planning goals for environment, urban growth, reduction of sprawl, transportation, public facilities/services, and open space/recreation.**

UGAs

Generally UGAs are located within or adjacent to areas characterized by urban growth trends. Incorporated cities, towns, and communities are de facto UGAs. Those located in the unincorporated areas identify areas that will become part of the cities.

Adopted UGAs also establish long-term limits and boundaries for orderly development, provision of services, and conversion of rural to urban land uses and to control urban sprawl and conserve natural, open space, and financial resources. **Therefore, proposed county amendments are not consistent internally and with intent/goals of UGAs.**

The adopted criteria specify that "*expansion of the UGA shall be accompanied by a demonstration that necessary urban services can and will be provided within ten (10) years time...*" is proposed to change to "*twenty (20) years time with secured funding sources pursuant to 5(a)...*" Introduction to 5 states that "*Lands brought into the UGA through expansion shall carry an urban holding overlay zoning designation unless the following circumstances exist:*" Item 5 a. states that: "*A full range of urban services are immediately available, or planned for within a six (6) year period with funding sources established...*"

The county adopted and now proposes to lift "Urban Holding" zones established because of the failures by state, county, and cities to fully fund capital facilities, services, and transportation needed for urban growth.

County Plans, Goals, and Policies

County comprehensive plans, ordinances, goals and policies are planning tools developed pursuant to the GMA and long-term vision/goals and provide a framework that guides:

- orderly development
- environmental protection
- critical area protection
- natural resource protection and conservation
- prevention of premature conversion of open spaces urban land uses
- orderly development to reduce urban sprawl and prevent leapfrog development
- guidelines to direct most new urban growth to urban areas with adequate services
- utilization of redevelopment and infill to minimize urban sprawl

On April 1, 2005 County amendment proposal to repeal “trigger” percentage on buildable residential/commercial land and to facilitate frequent amendments to UGAs will encourage development proposals that will place premature pressure on adjacent land to continue to expand UGAs prematurely. In **2004**, the UGAs were expanded to include **9,000 acres** of land. The proposed amendment in **2005** will **increase the overall size** of the UGAs.

Increasing overall acreage of land contained within UGAs and repealing “triggers” and criteria will encourage immediate development of and increase demands for adding “least-challenging-to-develop” areas in order to maximize profits (ROI) for developments. This will result in proportionately higher volume of development proposals during the beginning stages of the 20-year period -- when the UGA inventory of “least-challenging-to-develop” land is high. In addition, 2005 proposals for amendments will increase pressure to amend UGAs incrementally and often (e.g., annually). Frequent expansion of UGA boundaries will replenish “desirable” land for development regularly -- thus bypassing infill and redevelopment areas that tend to be in “less desirable” land for development. This will result in urban sprawl, funding deficiencies, ineffective/inefficient services, and significant cumulative impacts, **which is inconsistent with the County plans, goals, and policies.**

Urban Sprawl

Proposed Amendments in 2004 were modified in response to efforts to develop plans to control, manage, and guide reasonable, effective, orderly, and phased growth. However, county’s 2005 proposed amendments will encourage sprawl, “leap frog” development, and premature conversion of rural land, open space, and low-density areas to urban land uses. The urban sprawl will generate increased demands for already over-extended urban services and facilities. The “greater intensity” and a “faster rate” of growth will result in significant adverse impacts on the:

- Environment,
- Limited resources (natural, manmade, and fiscal),
- transportation/circulation,
- air quality, water quantity/quality, schools/education,
- critical areas and wildlife/fish habitats,
- socio-economic environment, community cohesiveness,
- open space/parks/recreation areas,
- capital facilities, public services, and infrastructure,
- overall quality of life

The “greater intensity” and a “faster rate” of growth are not orderly, effective, or efficient for any jurisdiction. Implementation of proposed amendments will result in lower levels of service, higher costs to provide service, and higher taxes for landowners/residents.

Comprehensive plans and zoning codes, growth management and other land-use controls must demonstrate availability of funding for services and facilities currently available, planned, or feasible in the future. The costs of providing adequate roads, transportation services and facilities are not adequately offset by revenue generated through traffic impact fees. Increased amount and rates of growth, urban sprawl, and “leapfrog” development add to the cost of providing transportation infrastructure. The increasingly diminishing funding and revenue sources adversely impact levels of service, environment, resources, economy, communities, and quality of life. In addition, the state road deficit (billions) is not reflected in County Capital Facility plans as the county cannot raise state funds or lower state LOS. However, congestion and cumulative adverse impacts will increase countywide if the proposed amendments are implemented.

Cumulative Impacts

For a **period of 5 years**, key stakeholders participated in local planning efforts to define a vision of their communities and cities. Amendments and criteria were developed after extensive public input to update the 20-year comprehensive plan pursuant to GMA. In September 2004, the updated 20-year Comprehensive Plan was adopted by the Board of Commissioners. The estimated cost for the 5-year effort is **about**

\$3,000,000. However, **several months later**, at the direction of Clark County Board of Commissioners (BOC), the Clark County Community Development proposed an amendment to remove local restrictions/criteria on urban growth area (UGA) boundary changes without analysis.

In the adopted "Plan and Code Amendments"⁷ the county states that: *"in reviewing all prospective comprehensive plan changes, the county shall analyze and assess the following to the extent possible:*

1. *The cumulative impacts of all plan map changes on the overall adopted plan, plan map and relevant implementing measures, and adopted environmental policies;*
2. *The cumulative land use environmental impacts of all applications on the applicable local geographic area and adopted capital facilities plans; and*
3. *Where adverse impacts are identified, the county may require mitigation....."*

The County did not follow its guidelines, analyze proposed amendments and cumulative probable adverse impacts. **As discussed, cumulative significant adverse impacts of "greater intensity" (amount of growth) at a "faster rate" (rate of growth) were not considered or addressed in the April 1, 2005 DNS associated with 2005 proposed county amendments. Therefore, the lead agency should withdraw the DNS and associated amendment proposal; identify proposal-specific and cumulative adverse impacts; conduct threshold analysis; and determine appropriate environmental document to mitigate and/or avoid proposal-specific/cumulative adverse impacts.**

These comments were prepared to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Sincerely,

Milada Allen
On Behalf of the Board of
Friends of Clark County

⁷ CCC 40.560.010, Q, page 468