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AGENDA COVER MEMO

DATE: November 22, 2004 Board Meeting Date
TO: BOARD OF COUNTY COMMISSIONERS
FROM : KENT HOWE, PLANNING DIRECTOR
LAND MANAGEMENT DIVISION

AGENDA ITEM TITLE: In the Matter of Recommending Applicable Substantive County Land Use Criteria to the Oregon Energy Facility Siting Council for the Proposed West Cascade Energy Facility near Coburg.

I. MOTION:

No motion necessary. This hearing is an opportunity for public input. Following the public hearing, staff will schedule deliberations with the Board on December 8, 2004, and prepare a final list of substantive county land use criteria applicable to the West Cascade Energy Facility near Coburg.

II. ISSUE OR PROBLEM

The Department of Energy extended the time to December 15, 2004, for the Board to provide the Energy Facility Siting Council (EFSC) with the local land use ordinances and criteria that the EFSC should apply to the proposed West Cascade Energy Facility near Coburg. As the appointed Special Advisory Group (SAG), the Lane County Board of Commissioners expressed a desire to involve affected citizens in developing the list of applicable substantive criteria. The Board has until December 15, 2004 to hear from affected citizens and provide the EFSC with the applicable county substantive land use criteria they should apply to the proposed West Cascade Energy Facility Site Certificate application.

III. DISCUSSION

A. BACKGROUND

The proposed West Cascade Energy Facility is located approximately 2 miles north of the City of Coburg in the Exclusive Farm Use Zone (E-40/RCP) of the Lane County Rural Comprehensive Plan. The primary applicable substantive land use criteria for the proposed use are governed by the Exclusive Farm Use Zone regulations found in Lane Code (LC) 16.212(4)(j-j). Other provisions identified preliminarily are LC 16.212(3)(i) or (v), (4)(f), (4)(o)(vii), (10)(c) and (d), 16.244(7)(a), 16.253, 16.255 and 16.400. Please refer to your packet materials for the meetings on July 28 and October 27, 2004 for additional background and analysis of applicable substantive land use criteria.

B. ANALYSIS

The following draft applicable county substantive land use criteria for review of a proposed energy facility located primarily in an Exclusive Farm Use zone were previously identified by staff.

a. Lane Code 16.212(4)(j-i). Criteria for commercial utility facility in the EFU zone.

The main facility is located on land zoned for Exclusive Farm Use and will require a Special Use Permit. Because the land is considered High Value Farmland and the proposal is for a commercial utility facility that exceeds 12 acres, an exception pursuant to OAR Chapter 660, Division 4 is required and must be adopted as part of the Lane County Rural Comprehensive Plan pursuant to LC 16.400.

b. Lane Code 16.212(4)(f). Criteria for transmission lines and towers through EFU zone.

The two transmission lines through EFU zoned land will need Special Use Permit approval under this provision.

c. Lane Code 16.244(7)(a). Criteria for structures within flood hazard zone.

The proposed housing for the existing pump intake structure is within the FEMA regulated 100 year flood hazard area. A Flood hazard Special Use permit will be required.

d. Lane Code 16.255. Criteria for Temporary Use Permit.

The temporary "laydown area" east of the proposed plant will require approval of a Temporary Use permit.

e. Lane Code 16.212(10)(c) and (d); 16.253. Criteria applicable to riparian areas.

Changes to structures located in the riparian area may require review and approval under these provisions, depending on the nature of the changes. The current proposal may not require any review or approval under these provisions but they are included in case modifications to the proposed facilities are made that would require review or approval under these provisions.

f. Lane Code 16.212(3)(i), (v) or (4)(o)(vii). Criteria for placement of utility lines in right-of-way or on adjacent property with consent of owners.

Two options for transmitting water to the facility are described in the application and either one may require review and approval under one or more of these provisions.

The applicant has prepared a draft letter representing a possible response to the EFSC from the Lane County SAG with substantive land use criteria. That letter was included in a letter sent to Governor Kulongoski. Following the public hearing, staff will schedule deliberations with the Board on December 8, 2004 and prepare a final list of substantive county land use criteria to forward on for the EFSC consideration in review of the pending Site Certificate application made on behalf of West Cascade Energy, LLC.

C. ALTERNATIVE/OPTIONS

1. Create a comprehensive listing of the substantive county land use standards based on input to the Board and forward to EFSC.
2. Take no action and let the EFSC determine the applicable substantive criteria and apply the statutory provisions when a SAG does not recommend applicable substantive criteria.

RECOMMENDATION

Alternative 1.