



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3007537
Applicant Name: Al Elliot (Spearman Engineering) for Lafarge Corporation
Address of Proposal: 5400 West Marginal SW

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to allow 1,000 linear feet of 4-foot (4') and 6-foot (6') chain link security fencing topped with 1 inch (1") of barb wire in an Environmentally Critical Area (ECA).

The following approval is required:

Shoreline Substantial Development Permit – To allow the construction of 1,000 feet of 4-foot (4') and six-foot (6') chain link security fencing topped with 1 inch (1") of barbed wire within the Urban Industrial Shoreline Environment – (SMC 23.60.840)

SEPA Environmental Determination – Seattle Municipal Code (SMC) Chapter 25.05

SEPA DETERMINATION: Exempt DNS MDNS EIS

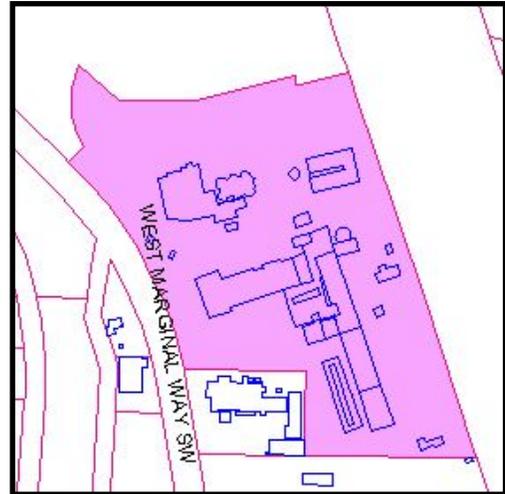
DNS with conditions

DNS involving non-exempt grading or demolition or involving another agency with jurisdiction

BACKGROUND DATA

Site Description

The proposal site is located in a General Industrial 1 zone with an 85 foot height limit (IG1 U/85) on the Duwamish Waterway just south of Kellogg Island. The site is currently developed with a water-related cement manufacturing facility, which consists of approximately ten structures including an office, scale house, pack house, compressor building, precipitator building, mill, material storage buildings and silos used for manufacturing purposes. The site fronts on the Duwamish Waterway to the north and east and is located in the Urban Industrial (UI) shoreline environment. The site is mapped as containing Liquefaction-prone, Steep Slope and Shoreline Habitat Environmentally Critical Areas (ECAs); however, the portion of the site where the proposal will occur does not contain slopes over 40 percent.



Zoning and development in the vicinity is industrial. As noted, the Duwamish Waterway is located to the north and east of the site. Another large industrial manufacturing facility is located to the south and similar uses are located to the east across the Duwamish Waterway.

Proposal

The purpose of this project is to meet requirements of Title 3 CFR 105.415 as administered by the U.S. Department of Homeland Security/U.S. Coast Guard. This law specifies security requirements for port facilities. Under this law, Lafarge Corporation has been notified by the Coast Guard that they must control vehicle and personnel access to their pier. They are currently doing so through the use of security guards and propose to change to the use of security fencing. Construction of this security fencing is the subject of this application.

The project, as previously noted, involves constructing approximately 1,000 feet of 4-foot (4') and 6-foot (6') high chain link fencing topped with 1 inch (1") of barbed wire. The primary construction activity would be the cutting of fence post holes in existing concrete slabs or walls and grouting the posts into the holes. The fencing and gates would be erected on these posts. Accordingly, Best Management Practices (BMPs) and regulations would be followed in the concrete cutting.

Public Comment

The comment period for the proposed project ended on August 22, 2007, and no comments were received.

ANALYSIS – SEPA

The proposal site is located in a designated Environmentally Critical Area (ECA), thus the application is not exempt from SEPA review; however, SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City of Seattle’s Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) Evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations. This review includes identifying additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and other applicable environmental laws.

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05). The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated July 20, 2007 and reviewed by the assigned Land Use Planner. The information in the checklist, pertinent public comments, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The Department of Planning and Development (DPD) has analyzed the environmental checklist submitted by the project applicant and reviewed the project plans and any additional information in the file. As indicated in this analysis, this action will result in adverse impacts to the environment; however, due to their temporary nature and limited effects, the impacts are not expected to be significant.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced, may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, “*Where City regulations have been adopted to address and environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*” subject to some limitations. Short-term adverse impacts are anticipated from the proposal. No adverse long-term impacts on the environmentally critical area are anticipated.

Short-term Impacts

The following temporary or construction-related impacts may occur: (1) temporary soil erosion due to site work; (2) disturbance of birds (gulls, crows and songbirds) currently frequenting the proposed site; (3) decreased air quality due to increased dust and suspended particulates during site work and transport of materials to and from the site; (4) increased noise and vibration from construction operations and equipment; (5) increased traffic and parking demand from construction personnel; and (6) tracking of mud onto adjacent streets by construction vehicles. Although not significant, these impacts are adverse, and in some cases, mitigation is warranted.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically, these are: Critical Areas Ordinance (soil stability and water quality) Stormwater, Grading and Drainage Control Code (grading, site excavation and control of soil

erosion through use of best management practices); Street Use Ordinance (watering streets to suppress dust, removal of debris, and obstruction of the pedestrian right-of-way); and the Noise Ordinance (construction noise). Compliance with these applicable codes and ordinances will reduce or eliminate short-term impacts to the environment and, with the exception of construction related noise impacts, they will be sufficient without conditioning pursuant to SEPA policies.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS – SEPA

Prior to Issuance of a Construction Permit

1. Applicant shall notify in writing all contractors and sub-contractors that the proposal is subject to the following conditions:
 - a. All work shall protect surface and ground water on and adjacent to the lot and reflect agencies' requirements.
 - b. Best Management Practices (BMPs) shall be employed. Include on the plans a written description of the BMPs to be used during the proposed work. All deleterious material entering the water during the proposed work this material shall be removed immediately and disposed of appropriately. Any sinking debris entering the water shall be entered in a log and retrieved by a diver after construction.

During Construction

The following conditions to be enforced during construction shall be posted at the site in a location on or near the property line that is visible and accessible to the public and to construction personnel from adjoining street right-of-way(s). The conditions will be affixed to placards prepared by DPD, to be issued along with the building permit set of plans. The placards shall remain posted on-site for the duration of the construction.

2. If resources of potential archaeological significance are encountered during construction, the owner and/or responsible parties shall stop work immediately and notify DPD (Mike Reid, 206-386-4646) and the Washington State Archaeologist at the Office of Archaeology and Historic Preservation. Robert Whitlam, 360-586-3080, or the current person in the position. The procedures outlined in Appendix A of Director's Rule 2-98 for Assessment and/or protection of potentially significant archeological resources shall be followed. The applicant(s) and/or responsible party(ies) shall abide by all regulations pertaining to discovery and excavation of archaeological resources, including but not limited to Chapters 27.34, 27.53, 27.44 RCW and Chapter 25.48 WAC, as applicable.
3. All involved parties shall follow Best Management Practices (BMPs).
4. If there is evidence of leakage of hazardous materials to the water, the use of such equipment shall be suspended until leaking is repaired.

For the Life of the Project

5. BMPs shall be followed.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Substantial Development Permit Required

The proposal is located within an Urban Industrial (UI) Shoreline Environment as designated by the Seattle Shoreline Master Program (SSMP). This program, Section 23.60.020 of the Seattle Municipal Code, regulates use and development in the City's shoreline districts, to implement the policy and provisions of the Shoreline Management Act of 1971, and the Shoreline Goals and Policies.

The SSMP requires that a shoreline permit be obtained prior to the undertaking of any substantial development within a shoreline environment. SMC Section 23.60.030 includes criteria for evaluating a shoreline permit. A substantial development permit shall be issued only when the development proposed is consistent with:

- A. The policies and procedures of Chapter 90.58 RCW;
- B. The regulations of this Chapter; and
- C. The provisions of Chapter 173-27 WAC.

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the SSMP and the Shoreline Management Act.

A. THE POLICIES AND PROCEDURES OF CHAPTER 90.58.RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse effects

to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology (DOE) is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60, which also incorporates the provisions of Chapter 173.27 WAC. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The proposal to establish use and construct an accessory warehouse at an existing manufacturing facility is consistent with the policies and procedures of Chapter 90.58 RCW and the provisions of Chapter 173-27 WAC in terms of encouraging a use allowed and anticipated for in the Urban Industrial (UI) shoreline environment.

B. THE REGULATIONS OF CHAPTER 23.60

The regulations of Section 23.60.064 SSMP require that the proposed use(s): 1) conform to all applicable development standards of both the shoreline environment and underlying zoning; 2) be permitted in the shoreline environment and the underlying zoning district and 3) satisfy the criteria of shoreline variance, conditional use, and/or special use permits as may be required.

SSMP 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies, which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220, must be considered in making all discretionary decisions in the shoreline district.

The goals for shoreline use include long-term over short-term benefits and the integration and location of compatible uses within segments of the shoreline. Objectives for the Duwamish area include preserving the statewide interest by encouraging industrial and port uses where such uses are already concentrated while protecting migratory fish routes. The proposed construction of an accessory warehouse for an existing water-related industry would be consistent with these goals and objectives.

The proposal site is located in an area designated as Urban Industrial, the purpose of which is to provide for efficient use of industrial shorelines by major cargo facilities and other water-dependent and water-related industrial uses. Views in this shoreline environment shall be secondary to industrial development and public access shall be provided mainly on public lands or in conformance with an area-wide Public Access Plan. Locational criteria for UI

environments include areas where the underlying zoning is industrial, areas with large amounts of level dry land in large parcels suitable for industrial use, areas with good rail and truck access, areas adjacent to or part of major industrial centers which provide support services for water-dependent and other industry, and areas where predominant uses are manufacturing warehousing, major port cargo facilities or other similar uses.

Development Standards

The proposal to establish use and construct a chain-link security fence at an existing manufacturing facility is permitted outright in SMC 23.60.840 governing the UI shoreline environment. The proposed action is therefore subject to:

1. *the general development standards for all shoreline environments (SSMP 23.60.152);*
2. *the development standards for uses in the UI environment (SSMP 23.60.870); and,*
3. *the development standards for General Industrial 1 zone (SMC 23.50).*

1. General Development Standards for all Shoreline Environments (SSMP 23.60.152)

These general standards apply to all uses in the shoreline environments. They require that all shoreline activity be designed, constructed, and operated in an environmentally sound manner consistent with the Shoreline Master Program and with best management practices for the specific use or activity, in order to have minimal impact on the shoreline.

General development standards (SSMP 23.60.152) state that Best Management Practices (BMPs) shall be followed for any development in the shoreline environment. These measures are required to prevent contamination of land or water. The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. Therefore, approval of the substantial development permit will be conditioned to require application of construction BMPs.

The proposed project's design is consistent with the requirements of this section. To ensure that these standards are conformed to, the proponent will be required to notify contractors and subcontractors of these requirements.

2. Development Standards for UI Shoreline Environment (SSMP 23.60.870)

The development standards set forth in the Urban Industrial Shoreline Environment relate to height, lot coverage, view corridors, setbacks, water-related use location and public access. These development standards and the proposed project's compliance with them are summarized below:

Development Standards for the UI Environment

	Code Provision	Required	Existing	Proposed
Height	23.60.872	35 feet max height	N/A	4' and 6', with additional 1' of barbed wire
Lot Coverage	23.60.874	100% allowed	N/A	N/A
View Corridors	23.60.876	35% of the width of the lot	Requirement waived per SMC 23.60.162 C	
Setbacks	23.60.878	60 foot setback from edge of water	N/A	Areas within 60 feet of shoreline
Water-related Uses	23.60.880	Efficient design and location	N/A	Use permitted
Public Access	23.60.882	None required	N/A	Regulated

The proposed fencing is approximately 4 feet (4') and 6 feet (6') high, topped with an additional 1 foot (1') and will be located to the west of an existing packhouse/warehouse in the northwest corner of the site. The majority of the proposed fence will be constructed more than 60 feet from the edge of the water, with an approximately 50-foot portion of the fence proposed to exist within 60 feet of the shoreline. The subject property is home to Lafarge North American Cements, identified in SMC 23.60.944 as a "water-related" use. SMC 23.60.880 details that specific design constraints shall not be required if the nature and needs of the water-related use ensures efficient and continued use of the lot's waterborne transportation facilities. This provision is upheld with the proposed fence installation and, accordingly, the setback requirements of 23.60.878 shall not apply to this application.

The fence in its entirety will be situated on an existing impervious area. View corridor requirements, pursuant to SMC 23.60.162 C, will be maintained given the scope of the proposed work. The proposed project is consistent with the development standards for manufacturing uses in the UI shoreline environment; therefore, the proposed project is consistent with the standards for the UI shoreline environment.

3. Development Standards for General Industrial 1 zone (SMC 23.50 – Subchapter III)

The development standards in SMC 23.50 – Subchapter III, relate to major phased development, street landscaping, view corridors, structure height and setbacks, venting and floor area ratio. Each of these provisions has either been met or is not affected by the proposal.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

Chapter 173-27 WAC sets forth permit requirements for development in shoreline environments and gives the authority for administering the permit system to local governments. The State acts in a review capacity. The Seattle Municipal Code Section 23.60 (Shoreline Development) and the RCW 90.58 incorporates the policies of the WAC by reference. These policies have been addressed in the foregoing analysis and have fulfilled the intent of WAC 173-27.

Summary

In conclusion, the proposed construction will be consistent with the provisions set forth by 90.58 RCW, 173-27 WAC, and Chapter 23.60 SMC, also known as the Seattle Shoreline Master Program (SSMP).

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposed action is **CONDITIONALLY GRANTED**

CONDITIONS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The owner(s) and/or responsible party(-ies) shall:

Prior to Issuance of a Construction Permit

1. The site plan submitted for the purposes of this review incorrectly identifies the northernmost portion of the fence extending past the existing shoreline and into the Duwamish Waterway. Prior to approval and issuance of the Shoreline Substantial Development Permit, please revise the site plan accordingly to correctly identify the location of the proposed security fencing.
2. Notify in writing all contractors and sub-contractors of the general requirements of the Shoreline Master Program (SSMP 23.60.152), including the requirements set forth by Conditions #3 through 7 below.

Conditions of Approval During Construction

The following conditions to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. Please note that these conditions of approval must also be included on the approved building permit set of plans. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

3. Appropriate best management practices BMPs shall be employed to prevent deleterious material from entering the aquatic environment during the proposed fence installation.
4. If floating debris enters the water during the proposed work this debris should be removed immediately and stored until it can be disposed of at an appropriate upland facility.

5. If heavy (sinking) debris enters the water during the proposed work the location of this debris should be documented in a log that is kept at site for the duration of the project. When the proposed work is completed a diver should retrieve the sunken debris and this material should be disposed of at an appropriate upland facility.
6. Appropriate best management practices (BMPs) shall be employed to minimize any erosion at the shoreline caused by construction material storage and staging and the proposed construction work.
7. The appropriate equipment and material for hazardous material clean up should be kept at the site during construction.

Signature: _____ (signature on file) Date: November 1, 2007

Mike Reid, Land Use Planner
Department of Planning and Development

MR:lc

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