



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: 3003301
Applicant Name: Al Elliott for Alaska Marine Lines
Address of Proposal: 5600 West Marginal Way South

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to change 58,535 sq. ft. of major vessel repair to expand existing water dependent cargo terminal (Alaska Marine Lines). Project includes filling and paving of an existing 1.34 acre graving dock with 41,150 cubic yards of clean structural fill.

The following approvals are required:

Shoreline Substantial Development Permit - to allow an expansion of an existing water-dependent cargo facility in an Urban Industrial (UI) shoreline environment. (Section 23.60.840, Seattle Municipal Code)

SEPA - Environmental Determination - (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 and Vicinity Description

The subject site is located at 5600 West Marginal Way Southwest on the west bank of the Duwamish Waterway approximately one and one-quarter miles south of the south end of Harbor Island. The site

is zoned Industrial General-1 with an 85 ft. height limit (IG1-U85'). The shoreline portion of the site is within the Urban Industrial (UI) shoreline environment.

The site is approximately 510 feet in length at the shoreline and primarily consists of a barge loading and unloading wharf and the entry gates to the existing graving dock. The surrounding uses include other industrial activities and warehouse and service buildings.

Proposal Description

The applicant proposes to fill and pave an approximately 1.34 acre major vessel repair graving dock to expand the existing Alaska Marine Lines inter-modal transportation terminal. The existing movable entry gate will be structurally strengthened to support the filling of the concrete graving dock basin with approximate 41,150 cubic yards of clean structural fill. The filled basin will have a stormwater system installed, covered with asphalt pavement, and pole lighting will be installed. All work will occur landward of the existing gates.

Fill material will either be brought to the site by barge, off-loaded by conveyor to on-site trucks, and then hauled less than a couple of hundred feet to the basin, or brought to the site by trucks along West Marginal Way Southwest.

Other associated approvals and permits associated with this proposal are:

- U.S. Army Corp of Engineers 404 and Section 10 Permits
- Washington Department of Fish and Wildlife (WDFW) Hydraulic Project Approval (HPA), and
- Washington Department of Ecology 401 Water Quality Certification

Public and Agency Comments

No comments were received during the public comment period, which ended on December 2, 2005.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: “*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 Seattle Shoreline Master Program 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 seeks to protect 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 generally 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 200-foot Shoreline zone extends into the approximately 960 foot deep site and 420 foot long graving dock, therefore most of the site and more than one-half of the graving dock are outside of the UI Shoreline Environment. The filling activity will occur roughly between the tidal datum elevations of -2 to + 18 feet. This area is currently comprised of a concrete floor surface with steel sheet pile walls. All fill and other work will occur landward of the current graving dock gate location. The end product of the proposed filling and paving will be an area of intermodal truck and container storage surface similar to that existing on the remainder of the Alaska Marine Line site. Based on the surrounding existing conditions and proposed work, the subject application is consistent with the procedures outlined in RCW 90.58.

B. The Regulations of Chapter 23.60.

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program". In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SMC 23.60.004 which are found in the Seattle Comprehensive Plan, and meets the criteria and development standards for the shoreline environment in which the site is located, any applicable special approval criteria, general development standards, and the development standards for specific uses.

SMC 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 location 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, the integration and location of compatible uses within segments of the shoreline, and the location of all non-water dependent uses upland to optimize shoreline use and access. The goals also include providing for the optimum amount

of public access – both physical and visual – to the shorelines of Seattle and the preservation and enhancement of views of the shoreline and water from upland areas where appropriate and required.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environment. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with Best Management Practices (BMP's) for the specific use or activity. All shoreline development and uses must in part:

- 1) Minimize any increases in surface runoff and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected;
- 2) Utilize permeable surfacing where practicable to minimize surface water accumulation and runoff;
- 3) Control erosion during project construction and operation;
- 4) Be located, designed, constructed, and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas, including but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes;
- 5) All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion;
- 6) All shoreline development and uses shall be designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area;
- 7) All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization landfills, levees, dikes, groins, jetties, or substantial site regrades.

The proposed development as reviewed will be consistent with these development standards.

SMC 23.60.220 – Shoreline Environments

The purpose of the Urban Industrial (UI) environment as set forth in SMC 23.60.220.C.11 is to provide for efficient use of the industrial shorelines by major cargo facilities and other water-dependent

and water-related industrial uses. The proposal would convert the proposal area from one water dependent use to another in keeping with this shoreline environment's purpose.

SMC 23.60.840 – Uses Permitted Outright in the UI Environment

The Urban Industrial environment permits water-dependent cargo terminals as a principal use. The proposed conversion of a marine sales and service – major vessel repair facility to an expansion of an existing cargo terminal meets the requirements as described in the UI environment.

SMC23.60.870, Development Standards for UI Environments

All development must conform to the development standards in the UI shoreline environment, as well as the underlying Industrial zone (IG 1 U 85). All pertinent standards, such as height and lot coverage have been met.

C. The Provisions of Chapter 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the State's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Conclusion

SMC Section 23.60.064E provides authority for approval, denial, or conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter 23.60, and with RCW 90.58.020 (State policy and legislative findings). Thus, as proposed and analyzed above, this development is consistent with the criteria for a shoreline substantial development permit and may be approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development Permit is **GRANTED**.

CONDITIONS - SHORELINE

None.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the SEPA environmental checklist dated October 3, 2005. The information in the SEPA checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision. The potential environmental impacts identified in the SEPA checklist are discussed below where mitigation under Seattle's SEPA Ordinance is warranted.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, 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 an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-Term Impacts

The following temporary or construction-related impacts are expected: construction material and equipment pose some potential danger of water and near shore contamination and shoreline erosion. The contamination and erosion could lead to both water quality and aquatic habitat damage.

To be prepared to provide a fast and effective response to spills or other actions which cause the introduction of new contaminants into the shoreline environment, the project is **Conditioned** to require an emergency containment plan and procedures be developed prior to commencing construction and that all necessary equipment to activate this plan be stocked on the site. Additionally, best management practices (BMPs) shall be developed in order to ensure that no toxic or hazardous material enters the water during the proposed work.

Hazardous and toxic materials that are present within the graving dock at the time the graving dock is filled could lead to contamination of groundwater and tidal water that interacts with the Duwamish River. The filling of the graving dock will not eliminate the connection between this site and the Duwamish River so any hazardous or toxic material will be able to enter the Duwamish if it is not removed from the site prior to filling. Therefore the project is **Conditioned** to require that all hazardous and toxic material to be removed from the graving dock prior to filling. Any toxic material must be disposed of at an appropriate upland facility.

Long-Term Impacts

The shoreline environment is important to many species including Chinook salmon, a species listed as threatened under the Endangered Species Act (ESA) in March 1999. Chinook are known to inhabit the Duwamish River including the proposed project area.

Both long-term beneficial and detrimental impacts are anticipated from the proposal. The beneficial impacts include the elimination of pollutants that are introduced into the environment as a result of the use of the graving dock. During repair activities hazardous and toxic material can be released into the environment even when Best Management Practices (BMPs) are used. Therefore the elimination of this use has the potential to decrease hazardous and toxic material from entering the Duwamish River.

The proposed project's has two identified detrimental impact. One is the loss of the occasional river "side channel" habitat formed when the graving dock gates are open and the creation of a permanent vertical bulkhead for the resultant shoreline edge. The newly created paved dry-land with its vertical shoreline edge will provide minimal shoreline habitat. Additionally, this impervious surface in the shoreline environment decreases the shoreline habitat for both aquatic and terrestrial animals.

The second identified detrimental impact on the aquatic environment could be from improperly treated stormwater entering the Duwamish River.

To mitigate the above impacts and meet the shoreline general development standards which include the requirement to locate, design, construct and manage the use and development to minimize interference with or adversely impact beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion, and to minimize adverse impacts to surrounding land and water uses the proposal is **Conditioned** as follows:

- The southeast corner of the site, at the shoreline, shall be cleared of non-native vegetation and debris that is present. This area shall be planted with native vegetation that overhangs the shoreline.
- The stormwater from this site shall be treated to remove toxic and hazardous material before it is released off site.

The above mitigation and conditions for the short term and long term impacts are intended to minimize impacts on the shoreline environment, which in turn will minimize impacts on juvenile salmon habitat. Collectively they are believed to help improve the riparian area of the site by planting native trees and shrubs along the shoreline which will increase the allocthonous input of insects and detritus to the Duwamish River providing food for juvenile salmonids and nutrients for other aquatic organisms.

The proposed use, as **Conditioned**, is consistent with these general standards for development within the shoreline area, thereby minimizing any adverse impact to the shoreline environment, to water quality, to the natural shoreline processes, and the surrounding land and water uses.

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 requirements 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 impacts 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

Conditions of Approval

The following conditions 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. The conditions will be affixed to placard(s) prepared by DPD. The placard(s) will be issued along with the Master Use Permit set of plans. The placard(s) shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the project work and until the work is given final approval.

Prior to Issuance of Master Use Permit

1. A vegetation planting, maintenance and monitoring plan shall be prepared for the southeast corner of the site and submitted to DPD Fisheries Biologist Maggie Glowacki and the land use planner for approval. This plan shall include the planting of native trees and shrubs that will overhang the bank. Maintenance and monitoring shall include the replacement of vegetation that does not survive to ensure 90% survival after a period of five years from when the vegetation is planted.
2. A stormwater management plan shall be submitted that includes the appropriate water treatment to remove toxic and hazardous substances from the water prior to its release.

Prior to Issuance of Building Permit

3. The approved vegetation planting, maintenance and monitoring plan shall be included in the building plan set.

4. The stormwater management plan shall be included in the building plan set

Prior to Final Building Permit Approval

5. The approved vegetation planting plan shall be implemented.

For the Life of the Project

6. The vegetation planted in the site's southeast corner shall be monitored and maintained according to the maintenance and monitoring plan.

Signature: (signature on file) Date: March 16, 2006

Art Pederson
Land Use Planner