



City of Vancouver • P.O. Box 1995 • Vancouver, WA 98668-1995

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Staff Report and Decision

Project Name	NuStar Biofuel Conversion Project PRJ-150882/LUP-54033
Report Date	March 22, 2017
Proposal	<p>Retrofit the existing facilities at 2565 NW Harborside Dr. to receive ethanol via rail or marine vessel. The ethanol would be stored in existing tanks and be transferred to trucks and marine vessels for shipment via the Columbia River or regional highway system.</p> <p>The existing rail tracks and existing plant and inter-plant piping system would be retrofitted to accommodate the storage and transfer of ethanol. In addition, a new Marine Vapor Combustion System (MVCS) for control of emissions from vapor displace during the loading of marine vessels at the Main Terminal is proposed. The MVCS contains one Dock Safety Unit (DSU) and one Marine Vapor Combustion Unit (MVCU).</p> <p>The request includes modifications to the existing Port rail tracks located within the NuStar lease area. This includes a new access platform, piping, pumps, and utility relocations in the Main Terminal tank rail area and modifications will be made in the Main Terminal tank T-1200.</p> <p>Revisions to the unloading facility involve relocation of existing utilities, and construction of a new personnel access platform to accommodate 8 parallel unloading spots for a total simultaneous unloading capacity of 16 railcars.</p> <p>Miscellaneous piping modifications adjacent to T-12001 include the installation of a new shipping pump. New piping will also be extended to the existing inter-terminal piping to manage product movements between the Main Terminal and Annex Terminal, consistent with the business requirements for handling this commodity</p>
Location	2565 NW Harborside Dr. and 5420 NW Fruit Valley Rd. The proposed project will occur within portions of tax lots 152190-000, 502010-000, 502010-002, 151979-000, 591115-010, 502015-000, 502020-001, 502020-000, 502020-003, and 502010-001 located in the SE ¼ of Sections 20, 21, 28 and 29 of Township 2N, Range 1E of the Willamette Meridian. Tax lot 147360-000 is located on NW Fruit Valley Rd. in the S ½ of section 16, Township 2 N, Range 1E of the Willamette Meridian.

Contact Harris Group
1750 NW Naito Parkway Ste. 200
Portland, OR 97209
503-345-8320

Applicant NuStar Terminal Services, Inc.
2565 NW Harborside Dr.
Vancouver, WA 98660
360-694-8591

Property Owner Port of Vancouver, WA
3103 NW Lower River Rd
Vancouver, WA 98660
360-693-3611

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SEPA Determination Final Mitigated Determination of Nonsignificance issued with this staff report

Staff Decision Preliminary site plan approval with conditions. Project conditions and/or required revisions are identified in the conclusion of this report.

APPEAL

A 14-day appeal period is now in effect and will expire at **4 p.m., Wednesday, April 5, 2017.**

No building or construction permits may be issued during this time. The applicant will be notified upon receipt of any appeal of this decision.

Requests to appeal this decision must be made in writing. The letter of appeal shall state the case number designated by the city, the name of the applicant, name and signature of each petitioner, a statement showing that each petitioner is entitled to file the appeal under VMC Chapter 20.210, the specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error. A substantive appeal of the SEPA determination must be filed in conjunction with and within the limitation period applicable to an available administrative appeal of the applicable permit or approval (VMC 20.790.640.D).

A fee of \$1,403.00 must accompany the appeal. However, if the aggrieved party is a recognized neighborhood association, the fee assessed is \$105.00. The association must demonstrate at the time of appeal submittal that the decision to appeal was made pursuant to association bylaws.


Submit the appeal request and fee to Community & Economic Development Department, Permit Center, 415 W 6th Street, or mail to PO Box 1995, Vancouver, WA 98668-1995.

Permit center hours are 8 a.m.–12:30 p.m. and 1:30 p.m.–4 p.m., except Wednesday, when permit center hours begin at 9 a.m.

For questions or additional information, you may contact the case manager by telephone at 360-487-7885, or by e-mail at jon.wagner@cityofvancouver.us.


Report Prepared By
Jon Wagner, Senior Planner/Case Manager

3/22/17
Date


Greg Turner, Manager
Land Use Team

3-22-17
Date

BACKGROUND

Project Summary/Key Issues

The application is for improvements to an existing heavy industrial use to accommodate transshipment of ethanol.

The applicant submitted a similar application for the same site to handle crude oil. Staff issued a SEPA Determination of Significance. The Determination of Significance was appealed to the City’s Hearing Examiner. The determination was upheld and no additional action has taken place on the crude oil proposal since that time.

The applicant, as a mitigation measure, will withdraw the crude oil application, upon approval of the extant application. As the city no longer allows crude oil facilities, this assures the site cannot be converted to crude oil handling as long as the city Land Use & Development Code prohibits it.

General Site Information

Zoning District	IH
Adjacent Zoning Designation	IH
Comprehensive Plan Designation	Industrial
Parcel Size	822,069 square feet
Adjacent Land Uses	Heavy industrial
Access Roads	NW Harborside Drive
Existing Vegetation	None
Existing Structures	Storage tanks, rail line, loading rack, miscellaneous equipment
Topography	< 5% slope
Habitats of Local Importance	No mapping indicators
Fish and Wildlife Habitat Conservation Areas	No mapping indicators
Frequently Flooded Areas	No mapping indicators
Geological Hazard Areas	Liquefaction & ground shaking amplification
Wetlands	No mapping indicators
Shoreline Management Areas	No mapping indicators
Archaeology	Level A – High Probability
Drainage Basin	Columbia Slope
Wellhead Protection	No mapping indicators
Soils	PhB
Park Impact Fee District	District 1
School Impact Fee District	Vancouver
Impacted Schools	None, no residential development proposed
Traffic Impact Fee District	Columbia
Transportation Analysis Zones	26
Sewer District	City of Vancouver
Water District	City of Vancouver
Fire Service	Vancouver Fire Department
Neighborhood Association	Fruit Valley

Procedural History

Activity	Case #	Date
Annexation Ordinance	M-1478	02/04/1974
Pre-application conference	PIR-49967	01/21/2016
Application submitted	LUP-54033	06/01/2016
Application determined fully complete	LUP-54033	06/29/2016
Date of vesting	PIR-49967	01/21/2016
Notice of application and Optional DNS	LUP-54033	07/11/2016
SEPA determination: MDNS	LUP-54033	03/22/2017

APPLICABLE REGULATIONS**Vancouver Municipal Code**

VMC Chapters 11.80 Street Standards; 11.90 Transportation; 11.95 Transportation Concurrency; 14.04 Water and Sewer Use Regulations; 14.16 Water and Sewer Service Connections; 14.24 Erosion Control; 14.25 Stormwater Control; 16.04.160 Water Supply and Fire Hydrants; 16.04.150 Fire Apparatus Access; 16.04.170 through 16.04.210 Fire Protection Systems; 16.04.010 Premises Identification; 20.210 Decision Making Procedures; 20.270 Site Plan Review; 20.440 Industrial Districts; 20.710 Archaeological Resource Protection; 20.740 Critical Areas Protection; 20.770 Tree, Vegetation and Soil Conservation; 20.790 SEPA Regulations; 20.915 Impact Fees; and 20.925 Landscaping.

Public Works Publications

General Requirements & Details for Water Main Construction
 General Requirements & Details for Sewer Main Construction

Other

Manual on Uniform Traffic Control Devices

ANALYSIS**Major Issues**

Staff reviewed the proposal for compliance with applicable regulations, code criteria and standards in order to determine whether all potential impacts will be mitigated by the requirements of the code. Staff's recommendation reflects review of agency and public comments received during the comment period and knowledge gained from a site visit.

Only the major issues, errors in the development proposal and/or justification for any conditions of approval are discussed below. Staff finds that all other aspects of this proposed development comply with the applicable code requirements and require no discussion in this report.

Building code review is not performed during pre-application or site plan review. Filing of building permit application with required fees and review materials is required for a building code review.

FINDINGS

VMC Title 20 Land Use and Development Code

20.210 Decision-Making Procedures

Finding: Under the provisions of 20.270.020 (Applicability), subsection, D.2, new non-residential developments of 12,000 square feet or more of, if existing, an increase in the floor area of a non-residential structure or use by more than 20 percent or 12,000 square feet, whichever is less are required to be processed as a Type II request. The proposed railcar unloading facility, combined with the proposed MVCS will exceed the threshold.

The notice of application indicated a 14-day comment period. Based on the comments received, staff prepared the staff report and issued the decision.

20.270 Site Plan Review

20.270.050 Approval Criteria

To approve a site plan application, the applicant must demonstrate the following:

- A. Compliance with applicable standards – the proposed development shall comply with all applicable design and development standards contained in this Title and other applicable regulations.

Finding: The proposed submittal meets the applicable design and development standards as conditioned in this report.

- B. Adequacy of public facilities. The applicant shall demonstrate availability of adequate public services.

Finding: The applicant has demonstrated the availability of adequate public services to serve the site or has been conditioned to provide the public services to serve the proposed buildings.

The site plan review requirements are met or will be met subject to compliance with the attached conditions of approval.

20.440 Industrial Districts

20.440.030 Uses

Findings: 20.0440.020(C), describes the IH zone as follows:

The IH zoning district provides appropriate locations for intensive industrial uses and is intended for intensive uses associated with shipping and storage. The site is located within the IH zone. The proposed use is classified as warehouse/freight movement. Warehouse/freight movement is described at VMC 20.160.020(D)(5) as “uses involving storage and movement of large quantities of materials or products indoors and/or outdoors associated with significant truck and/or rail traffic. Examples include free-standing warehouses associated with retail furniture or appliance outlets; household moving and general freight storage; cold storage plants/frozen food lockers; weapon and ammunition storage; major wholesale distribution centers; truck, marine and air freight terminals and dispatch centers; bus barns; grain terminals; and stockpiling of sand, gravel, bark dust or other aggregate and landscaping materials.”

Per Table 20.440.030–1, warehouse/freight movement is permitted in the IH zone.

The following is an excerpt from Table 20.440.040-1 relating to the IH zone and comparing those with the applicant's submittal.

Standard	Required	Existing/Proposed
Minimum lot size	None	N/A
Maximum lot coverage	100%	N/A
Minimum lot width	None	N/A
Minimum lot depth	None	N/A
Minimum setbacks adjacent to non-residential districts	Pursuant to buffering and screening standards contained in VMC Tables 20.925.030-1 and 20.925.030-2	No portion of the proposed construction adjoins the exterior boundary of the port.
Maximum height	None	N/A
Minimum landscaping requirement (percentage of total net area)	0%	None

*Tables 20.925.030-1 and 20.925.030-2 indicate the required setback and landscaping requirements for the various zoning districts in relationship to the adjacent zoning. However, it is department policy (Port of Vancouver Setbacks – Policy; Approved 02/14/2014) that these setback and landscaping standards are not appropriate to development within the Port of Vancouver. The boundaries between various parcels are fluid, depending on the need of the Port's tenants.

The landscape standards do not apply to IH-zoned properties within the Port of Vancouver other than along public streets or adjoining non-port owned parcels.

20.710 Archaeological Resource Protection

Findings: This project is located within an area of high probability for discovery of archaeological resources. CH2M HILL has previously performed an archaeological review of the project area; the report is confidential and on file at the City of Vancouver (Case # ARC2006-00062). Based on previous archeological and historic studies that have been completed in the project area there are no known resources of archeological or historic significance that are known to occur on or near the proposed project site boundary. Additional Archaeological review is not required.

In the event that any item of archaeological interest is uncovered during the course of a ground-disturbing action or activity; all ground-disturbing activity shall immediately cease and the applicant shall immediately notify the planning official and DAHP.

20.740 Critical Areas Protection

20.740.130 Geological Hazards Areas

Findings: The only critical area associated with the site is geological hazards relating to liquefaction. The applicant provided a Critical Areas Report prepared by HDR for the same property for a similar application on this site. The report is dated Oct. 31, 2014, and is valid, and a new geotechnical report will not be required.

20.770 Tree, Vegetation and Soil Conservation

Finding: City policy does not require an applicant to include the existing impervious area when calculating the number of tree units required. As the area is covered with impervious surface, a tree plan is not required.

20.790 SEPA Regulations

Finding: Staff issued a Notice of Application and Optional SEPA Determination of Nonsignificance July 11, 2016.

Approximately 55 individuals and organizations responded to the notice. Several responses provided information not addressed in the initial review. Based on those comments, staff requested additional information addressing some of the comments. Included as an exhibit is a chart showing a synopsis of the comments received (SEPA exhibits 14-A, B & C).

Related to Fire Protection

The applicant provided an updated Fire Operations Impact and Gap Analysis Study for review by Vancouver Fire Department (VFD). The Fire Department also commissioned a Fire Operation Impact Study. The study was completed by VFD-approved third party consultants, Industrial Emergency Services and Monaghan Consulting. The study was also peer reviewed by City of Vancouver-approved third party consultants. The objective of the study was to determine what impact the proposed NuStar project would have on the fire department's ability to provide emergency response services and to recommend measures to mitigate any impacts.

Results of the study identified a number of gaps in VFD's emergency response preparedness and firefighting capabilities that are directly linked to the impact and/or risks the proposed project presents. The study recommended various mitigation measures in order to reduce or eliminate the gaps and mitigate the impact on VFD and/or risk to the community. VFD reviewed the study and, in coordination with the applicant, prioritized mitigation measures for implementation. As mitigation for the project's estimated impacts on VFD emergency response services, the applicant has signed a 10 year agreement to pay a fee specifically designed to mitigate VFD increased Hazardous Material Team planning and personnel costs, including for overtime related to coverage and training. A copy of the 10 year agreement is attached as SEPA exhibit 14-I.

Related to Spills to Water

In response to questions relating to possible spills of ethanol into water and associated potential impacts to aquatic life, the applicant performed hypothetical spill scenario modeling and documented modeling results in two separate memos. The memos were prepared by a third party consultant, HDR, Inc. The first memo summarized results of a dilution study which estimated river ethanol concentrations resulting from a hypothetical spill from railcars transporting ethanol to the proposed NuStar Biofuel Facility at the Port of Vancouver, Washington (SEPA exhibit 14-F).

Dilution modeling results indicate that river ethanol concentrations resulting from this hypothetical spill are well below the acute impact threshold for fish of 564 mg/L. The most conservative (critical) scenario result in river ethanol concentrations ranging from 141.5 mg/L, at the spill location, to 0.3 mg/L at a location 300 meters from the spill location (300 meters from shore). Concentrations decrease substantially going farther downstream in the river.

A spill to the ground at the actual Port of Vancouver site would not have the opportunity to make it to the River due to railcar proximity to the river and due to the redundant physical boundaries in place to divert flow to secondary containment.

The second memo summarized results of a dissolve oxygen (DO) modeling analysis to estimate

the change in DO resulting from a hypothetical spill from railcars transporting ethanol to the proposed NuStar Biofuel Facility at the Port of Vancouver, Washington (SEPA exhibit 14-G).

The study incorporated similar modeling assumptions as the dilution study previously developed. Model results indicated that in the critical DO depletion area (20 to 36 miles downstream of the spill location), DO could drop to 3.0-2.8 mg/L for no more than 1.5 hours, which is too short a time to produce an acute or chronic effect to fish species.

Based on results of spill scenario modeling as documented in the above referenced memos, the applicant has demonstrated that river ethanol and DO concentrations resulting from a hypothetical spill are not likely to result in acute or chronic effects to fish species; therefore additional mitigation is not required.

Related to Conversion to Handle Crude Oil

As a mitigation condition of approval, the applicant must withdraw Application LUP-40862 relating to handling and storage of crude oil. Once withdrawn, the site would not be allowed to handle crude oil as it is no longer allowed by the Land Use & Development Code.

20.915 Impact Fees

Finding: No residential uses are proposed. Therefore, park and school impact fees are not required.

The Transportation Division of Public Works has determined no additional trips are anticipated.

20.925 Landscaping

Finding: Landscaping is not required in the IH zone other than that associated with construction of a new parking lot. No new parking is proposed.

VMC Title 11 Streets and Sidewalks

11.70 Transportation – Concurrency

Finding: Transportation has determined no concurrency review is required.

11.80 Transportation – Street & Development Standards

Finding: Transportation has determined no additional street development is required.

VMC Title 14 Water and Sewers

14.04 Water

Finding: City records indicate that the existing building is served by the Port of Vancouver private water system.

The applicant proposes to connect the existing buildings to the private Port of Vancouver water system. The submitted information indicates no proposed connection or alteration to an existing connection to the City of Vancouver public water system. Therefore, water conditions are not applicable for the proposed project.

14.04 Sewer

Finding: The southern site (2799) is currently served by private (Port) sanitary sewers. The site maintains an Industrial Pretreatment permit with the City of Vancouver for wastewater

discharges. The project is not requesting any new connections and public sewer construction is not required.

Sanitary Sewer Conditions

(Ongoing)

Notify the City of Vancouver Pretreatment program (487-7130) of the proposed conversion. Modify the industrial pretreatment permit as required and maintain the permit in good standing for the life of the facility.

The applicant has demonstrated that the standards for public sewer can be met as conditioned.

14.24 Erosion Control

Finding: The proposed project will require over 5,800 cubic yards (CY) of grading (including 5856 CY of cut, 665 CY of fill, and a net excavation quantity of 5191 CY). The existing storm system drains to the Columbia River. The major threat from erosion will be sediment and sediment laden runoff entering the storm system. The applicant has submitted a final erosion control plan that addresses this concern. The plan is ready for approval and no conditions of approval are required at this time.

14.25 Stormwater

Finding: The proposed project will require minor modifications to the existing storm system the overall function of the system will remain the same. The new impervious surfaces will replace existing surfaces and no revisions to the downstream runoff treatment system will be required. The applicant has submitted a final storm plan and a hydrology report. The plan is ready for approval and no conditions of approval are required at this time.

VMC Title 16 Fire

Finding: The fire department has reviewed the proposed project. The fire department required an independent third party expert study and analysis of the project's potential impacts to the Vancouver Fire Department and its ability to provide services.

The third party study was completed and resulted in findings that identified impacts to the fire department. The study further provided recommendations for mitigations of those identified impacts.

The fire department has entered into an agreement with NuStar intended to address the recommended mitigations identified in the study. The fire department is satisfied that the impacts of this project can be mitigated through compliance with all applicable regulations, codes and standards for the project.

DECISION

Approval subject to the conditions below.

CONDITIONS OF APPROVAL

Prior to Final Site Plan Approval

1. Submit a final site plan application along with three (3) full size site plan sets and one reduced 8 ½ x 11 copy. Site plan sets include the following: site plans, grading/tree protection/erosion control plan, lighting plan, and architectural elevations. Applications can be found under Building, Planning and Environment on the city of Vancouver website, www.cityofvancouver.us

During Construction

2. Notify the City of Vancouver Pretreatment program (487-7130) of the proposed conversion. Modify the industrial pretreatment permit as required and maintain the permit in good standing for the life of the facility.
3. In the event that any item of archaeological interest is uncovered during the course of a ground-disturbing action or activity; all ground-disturbing activity shall immediately cease and the applicant shall immediately notify the planning official and DAHP

Prior to Issuance of any Building/Development Permits

4. Provide documents withdrawing current application for crude oil facility on the subject site (LUP-40862).
5. Record and submit copy of recoded Memorandum of Agreement to Perform Voluntary Additional Mitigation
6. Submit plans matching the approved Final Site Plan
7. Pay all applicable permit fees

EXHIBITS

1. Vicinity Map
2. Land Use Preliminary Application, dated May 24, 2016
3. Critical Areas Permit Application
4. Site Plan Review and Critical Areas Permit Narrative, dated May 27, 2016
5. Critical Areas Report, dated Oct. 31, 2014
6. Proposed Site Plan (Reduced Copy)
7. SEPA Checklist dated Jun. 1, 2016
8. Final Hydrology Report Prepared by the Harris Group, Inc. dated Jul. 13, 2016**
9. Geotechnical Investigation Prepared by Professional Service Industries, Inc. dated Aug. 7, 2012**
10. Geotechnical Consultation Memorandum related to the foundation support of the Tank 12001 Improvements Prepared by Professional Service Industries, Inc. dated Aug. 26, 2013**
11. Draft 2013 Remedial Investigation Report (geologic cross-section), NuStar Terminal Service, Inc. Prepared by Ash Creek Associates dated March 15, 2013
12. Notice of Application and Optional SEPA Determination dated Jul. 11, 2016
13. Affidavit of Mailing Notice dated Jul. 11, 2016

- 14. Final SEPA Determination dated March 22, 2017
 - 14-A Comment Matrix Providing a Synopsis of the Comments Received
 - 14-B Comment Letter from Washington Department of Ecology dated July 25, 2016
 - 14-C Comment Letter from Columbia River Keeper, Clark County Natural Resource Council, Friends of the Columbia Gorge, Oregon Physicians for Social Responsibility, Center for Biological Diversity, The Lands Council and Northwest Environmental Defense Center dated July 25, 2016
 - 14-D Including Greenhouse Gas Emissions in SEPA Reviews, Guidance for Ecology
 - 14-E Applicant's Response to Public Comments
 - 14-F Applicant's Response to Comments Regarding Fire-Related Comments
 - 15-G Hypothetical Ethanol Spill Findings Memorandum Prepared by HDR dated Oct. 19, 2016
 - 14-H River Dissolved Oxygen Analysis and Potential Aquatic Impact Effects Memorandum Prepared by HDR dated Feb. 23, 2017
 - 14-I Staff Responses to Comments Received by Environmental Element

**Because of the size of the exhibit, it is not included with this report. The document is available for review at Community & Economic Development Department, 415 W 6th Street. If you would like to review the document, check in at the reception area of the Permit Center between the hours of 8 a.m.–12:30 p.m. and 1:30 p.m.–4 p.m., except Wednesday, when permit center hours begin at 9 a.m.