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MITIGATED DETERMINATION OF NONSIGNIFICANCE

SEPA/Case Number: 21-87

Description of Proposal: Construction of a 188-unit, five building, apartment complex with associated site improvements including, an office and amenity building, open space and surface parking. The submittal includes an application for Class IV forest practices for tree removal from the site to facilitate development. The site is 8.5 acres and is zoned Community Office

Proponent: Caleb Perkins for RJ Development

Location of Proposal: The property is located on the southwest corner of 31st Avenue Northeast and Willamette Drive northeast; section 1, township 18, range 1W. The parcel number is 11801240300

Lead Agency: City of Lacey Community Development Department

Threshold Determination: As provided by RCW 43.21C.240 and WAC 197-11-158, the lead agency has determined that, with the mitigation described in the conditions below, the requirements for environmental analysis, protection, and mitigation measures have been adequately addressed in the applicable development regulations and comprehensive plan adopted under Chapter 36.70A RCW and in other local, state, or federal laws or rules. Therefore, this proposal is not likely to have a significant adverse impact upon the environment, an Environmental Impact Statement is not required under RCW 43.21C.030(2)(C), and the City of Lacey will not require additional mitigation measures under SEPA, other than those described below. This decision was made after review of an Environmental Checklist and other information on file with the City. This information is available to the public upon request.

There is no comment period for this DNS.

This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for 14 days. Comments must be submitted by

The comment period, pursuant to WAC 197-11-355, was combined with the Notice of Application comment period, using the Optional DNS Process. The comment period closed on January 26, 2022.

Environmental Conditions:

1. Prior to site disturbing work the soils on site shall be sampled and analyzed for arsenic and lead. The soil sampling results shall be sent to the Department of Ecology (ECY) for review.

2. If lead or arsenic are found at concentrations above the Model Toxics Control Act (MTCA) cleanup levels (WAC 173-340) the owners, potential buyers, construction workers and others shall be notified of their occurrence. The applicant shall also contact the Environmental Report Tracking System Coordinator at the Ecology Southwest Regional Office at (360)407-6300. The MTCA cleanup level for arsenic is 20 ppm and lead is 250 ppm.
3. If lead, arsenic and/or other contaminants are found at concentrations above MTCA cleanup levels, prior to grading permit issuance the applicant shall:
 - a) Enter into the Voluntary Cleanup Program with Ecology prior to issuance of any site development or disturbance permits;
 - b) Obtain an opinion letter from Ecology stating that the proposed soil remediation will likely result in no further action under MTCA;
 - c) Provide the City with written verification from Ecology that development permits are consistent with the cleanup action plan developed under the requirements of the Voluntary Cleanup Program.
4. If soils are found to be contaminated with arsenic, lead or other contaminants, extra precautions shall be taken to avoid escaping dust, soil erosion, and water pollution during grading and site construction. Site design shall include protective measures to isolate or remove contaminated soils from public spaces, yards, and children's play areas.
5. Contaminated soils generated during site construction shall be managed and disposed of in accordance with state and local regulations, including the Solid Waste Handling Standards regulation (WAC 173-350). For information about soil disposal contact the local health department in the jurisdiction where soils will be placed.
6. Prior to ground disturbing activity, a professional archeological survey of the site shall be completed and shall be submitted to the Washington State Department of Archeology and Historic Preservation (DAHP), the Nisqually Indian Tribe, the Squaxin Island Tribe and the City of Lacey. If the survey uncovers any archeological resources, a permit must be obtained from the DAHP prior to any ground disturbing activity that removes or alters Native American human remains or archeological resources.
7. Traffic Mitigation Fees to offset impacts to Thurston County roads in the total amount of \$67,306, shall be paid to the City of Lacey prior to building permit issuance. The City of Lacey will remit to Thurston County the collected mitigation fees.
8. All mitigation measures volunteered by the developer and described within each element of the submitted environmental checklist shall be implemented into the design and/or development of the proposed development.

Findings of Fact:

1. The Washington State Department of Ecology (Ecology) submitted comments dated January 26, 2022, that identified the subject property on its Tacoma Asarco Smelter Plume map as being likely contaminated with heavy metals due to the air emissions originating from the former Asarco smelter in Tacoma. Additionally, adjacent properties have identified contaminants originating from the Asarco Smelter.

2. Soil contamination from the former Asarco smelter poses a risk to human health and the environment. Construction workers, landscapers, gardeners, and others who work in the soils are at risk.
3. Based on information from the Ecology's ongoing Tacoma Smelter Plume Toxics Cleanup Program there is potential for soils contaminated with lead and/or arsenic to be located on the subject site. The potential identified probable significant adverse impacts to site development workers and future residents will be mitigated with soil sampling, analysis and a cleanup plan if contamination is found.
4. Thurston County Public Works Department provided comments dated November 8, 2021 identifying eight (8) County road projects that will be impacted by traffic generated by this proposal.
 1. One (1) pm peak hour trip will impact County Road Project No. 61335a 15th Avenue (Olympia City Limits - Draham) with a proportionate per trip cost of \$2000;
 2. One (1) pm peak hour trip will impact County Road Project No. 61335b Draham Street Northeast (15th Avenue – Carpenter) with a proportionate per trip cost of \$750;
 3. Four (4) pm peak hour trips will impact County Road Project No. 61364 Johnson Point Road/Hawks Prairie Road Intersection with a proportionate per trip cost of \$143 per trip per trip;
 4. 21 pm peak hour trips will impact County Road Project No. 61338 Meridian Road (Martin Way – City limits) with a proportionate per trip cost of \$500 per trip;
 5. Four (4) pm peak hour trip will impact County Road Project No. 61475 Kinnwood Rd (Pacific - Mart) with a proportionate per trip cost of \$2,648 per trip;
 6. One (1) pm peak hour trips will impact County Road Project No. 61318 Yelm Highway and Meridian Road Intersection Improvements with a proportionate per trip cost of \$715;
 7. Three (3) p.m. peak hour trips will impact County Road Project No. 61478 Marvin Road (Pacific Avenue/SR510 to Mullen) with a proportionate per trip cost of \$7,000.00;
 8. Two (2) pm peak house trips will impact County Road Project No. 61484 Steilacoom Road (Pacific Avenue to Dutterow Rd) with a proportionate per trip cost of \$7,059 per trip;
 9. One (1) p.m. peak hour trips will impact County Road Project No. 61479 Mullen Road (City limits to Marvin Road) with a proportionate per trip cost of \$7,059.00.
5. Based on the review of the application materials and comments received from Thurston County, it is determined that the identified probable significant adverse impact to the Thurston County road system will be mitigated with the payment of traffic mitigation fees to Thurston County prior to building permit issuance for each building.
6. In the comment letter dated January 31, 2022, the Thurston County Public Works Department indicated that certain intersections in the Marvin Road corridor are at or near capacity with no reserve capacity available for purchase according to a 2016 white paper.

Specifically, the white paper indicates that certain intersections along Marvin Road would fall below adopted levels of service by 2020 and adopted a program for the purchase of reserve capacity after which the County would be responsible for upgrading the roadway to increase capacity by 2026. The projects identified in the 2016 white paper are included in the County's adopted Six Year Transportation Improvement Program (County Road Project Number 51478).

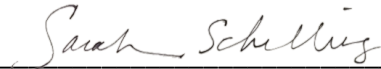
7. As of the date of the County comment letter regarding this project (January 31, 2022) all of the reserve trips had been purchased. As such, the terms and conditions of the 2016 white paper having been fulfilled, and with the Marvin Road corridor project being partially funded through mitigation fees and identified in the County's Six Year Transportation Improvement Program, Lacey will be able to make a finding of transportation concurrency as part of the underlying land use decision for the project and no further analysis or conditions under SEPA are required.
8. The Nisqually Indian Tribe submitted comments dated January 18, 2022 requesting a professional archeological survey of the project area be conducted prior to any ground disturbing activities.
9. Under LMC 14.24.160 "Substantive Authority" of the City of Lacey Environmental Policy, the City of Lacey has the authority and responsibility to mitigate impacts to elements of the environment and may apply any mitigation conditions necessary to properly mitigate identified adverse environmental impacts associated with license or permit applications. This would include requiring archeological surveys and inadvertent discovery plans to ensure that important historic, cultural, and natural aspects of our national heritage are preserved.
10. Based on the comments from the Nisqually Tribe, the Responsible Official has determined that there is potential for important archeological resources to be found on site that could be disturbed by site development activity. This potential identified probable significant adverse impact will be mitigated by an archeological survey prior to site development and by preparation of an Inadvertent Discovery Plan.
11. No other probable significant adverse impacts were identified through the review of the environmental checklist and application materials that would not be addressed and/or governed by the provisions of the Lacey Municipal code.

Assigned Staff Person: Sarah Schelling, Senior Planner

Responsible Official: Rick Walk, AICP, Director of Community & Economic Development

Address: 420 College Street SE, Lacey, WA 98503

Phone: (360) 491-5642 **Fax:** (360) 438-2669

Date: March 3, 2022 **Signature:**  _____

Appeal Deadline: 5:00 p.m. on March 17, 2022

NOTE: Pursuant to RCW 43.21.C.075 and Lacey City Code 14.24.170(A), a project denial based upon environmental information, and a conditioned or mitigated Determination of Nonsignificance (DNS) may be appealed by any agency or aggrieved person. Appeals are filed either with the Community Development Department when there is also an underlying governmental action or with the City Council if there is no underlying governmental action. Appeals to the City Council must be filed within fourteen (14) days of the issuance of the written decision (refer to the Lacey City Code for time periods on appeals filed with the Community Development Department).

cc: Department of Ecology
Reviewing Agencies