



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

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

Application Numbers: 3004360

Applicant Name: Jose Carrasquero for Seattle Department of Transportation (SDOT)

Addresses of Proposal: 6001 38th Avenue NW

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development application to allow a one mile extension to the Burke Gilman Trail in an environmentally critical area. The proposed trail will begin on the east side of Seaview Avenue NW at NW 60th Street and end at the entrance to Golden Gardens Park at Seaview Avenue NW and Seaview Place NW. The determination of non-significance was prepared by the Seattle Department of Transportation.

The following approvals are required:

Shoreline Substantial Development Permit - to allow a city facility (public park) in an Urban Stable Environment. (Seattle Municipal Code 23.60.600J)

SEPA - Conditioning pursuant to Seattle's SEPA policies. Chapter 25.05.600, Seattle Municipal Code. (Environmental documents prepared by SDOT)

SEPA DETERMINATION: Exempt DNS* MDNS EIS

 DNS with conditions

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

*Determination of Nonsignificance (DNS) issued by Seattle Department of Transportation on September 27, 2006.

BACKGROUND DATA

Site Description

The southern portion of the project site is located in a Commercial 1 zone with a 40 foot height limit (C1 40') and an Urban Stable (US) shoreline environment from NW 60th Street to NW 67th Street. The northern portion of the project site is located in a Single Family 9600 (SF 9600) zone and a US shoreline environment from NW 67th Street to Golden Gardens Park. The project site is a segment of the Burke Gilman Trail, which originates at NW 65th Street and continues along the east side of Seaview Avenue NW and west of the Burlington Northern Santa Fe (BNSF) right-of-way to the Golden Gardens Park entrance. Five ditches are located within the Burke Gilman Trail extension.

Area Description

Land uses in the vicinity include single family residences and maritime businesses on the upland lots, condominium buildings, restaurants, the Shilshole Marina, and the parking lots associated with these uses along the shorelines. There is a steep bluff to the east of the project site which leads to single family residences in the Ballard neighborhood. The BNSF railroad trains pass along the railroad tracks on a regular schedule.

The shoreline has been altered in this area consisting primarily of rock riprap and concrete bulkheads, with one or two small sand pocket beaches. The Shilshole Bay Marina is situated along approximately two-thirds of the shoreline, and consists of numerous piers and docks inside a large breakwall. Other areas of the shoreline adjacent to the southern section of the project are also covered by wooden docks.

Proposal Description

The Seattle Department of Transportation proposes to construct the western terminus segment of the Burke Gilman multi-use pedestrian and bicycle trail between NW 60th Street and the entrance to Golden Gardens Park, a distance of approximately one mile. The trail will run parallel to the Ballard Terminal Railway Company (BTR) railroad tracks, from NW 60th Street to approximately NW 65th Street where it will be shared by bicycles, pedestrians, and Burlington Northern Santa Fe Railroad track maintenance vehicles (950 feet). From there, the trail will head west, crossing the Ballard Terminal Railway railroad tracks, and proceed in a northwesterly direction on a downward slope until it reaches the existing curb grade of Seaview Avenue NW near NW 67th Street. The trail will run parallel to the Seaview Avenue NW curb line at existing grade and will end across the street from the Golden Gardens Park entrance at Seaview Place NW.

The typical widths of the trail will be a twelve foot wide asphalt surface with two foot wide gravel shoulders. In the Seaview Avenue NW section the typical trail width will be an eleven foot wide asphalt surface, with a five foot wide landscape strip, between the Seaview Avenue NW curb line and the edge of the trail pavement, in lieu of a two foot wide gravel shoulder. Most likely a new pedestrian signal will be installed in the intersection of NW 60th Street and Seaview Avenue NW to improve pedestrian and bicyclist's safety at this location. A six foot high retaining wall will be located on the east side of the trail.

Public Comments

No comments were received during the comment period for this project ended on October 13, 2006.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

SMC Section 23.60.030 provides criteria for review of shoreline substantial development permits. Specifically, the section states that a substantial development permit shall be issued only when the proposed development 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.*

Chapter 90.58 of the Revised Code of Washington (RCW) codifies the State's policies with respect to managing shorelines and fostering reasonable and appropriate shoreline uses. Specifically, the Act contemplates protection against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life. The Act further provides definitions and concepts and delegates responsibility for implementation to specific state and local governmental entities. Local governments are given primary responsibility for initiating and administering the regulatory program of the Act. The State Department of Ecology (DOE), on the other hand, is given responsibility for insuring compliance among local governments with the policy of the State and provisions of the Act. Pursuant to the requirements of the Act, the City of Seattle has adopted a local shoreline master program that has been approved by the DOE. The City of Seattle Shoreline Master Program (SSMP) is codified in SMC Chapter 23.60.

In evaluating applications for shoreline substantial development permits, the Director must determine that a proposed use meets the criteria set forth in SSMP 23.60.030. Specifically, development standards of the shoreline environment and underlying zone must be considered and a determination must be made whether any special permit requirements or conditions are necessary to preserve or enhance the shoreline area. In order to obtain a shoreline substantial development permit, an applicant must demonstrate that the proposal is consistent with the shoreline policies established in SSMP Section 23.60.004. Additionally, the applicant must further demonstrate that the proposal meets the criteria and development standards for the specific shoreline environment in which the site is located, any applicable special approval criteria, general shoreline master program development standards, and the development standards for specific uses.

Shoreline Policies (RCW 90.58 and SSMP 23.60.004)

Policies governing approval of development in shoreline districts are set out in the Land Use Element of the Seattle Comprehensive Plan and SSMP Section 23.60.004. Seattle's Comprehensive Plan Shoreline Goals and Policies encourage improved public access along shorelines. Policy LU236 promotes creation of "public enjoyment of the shorelines through public access standards by requiring improvements that are safe, well designed..." This project is a segment of a trail system that provides public access to the shorelines of Seattle by linking recreation facilities and shorelines including Puget Sound, the Ship Canal, Lake Union and Lake Washington.

Policy LUG46 promotes the development of a transportation network that “supports and enhances use of and access to the shorelines.” The project is part of the City’s transportation network that will be used by pedestrians, runners, bicyclists, dog-walkers, and in-line skaters. The project will extend the existing Burke Gilman Trail, thereby increasing recreational opportunities with the addition of approximately 5,820 feet of multi-use trail along Shilshole Bay.

Development Standards for Specific Uses (SSMP Subchapter XV)

Permitted uses in the US environment are contained in SSMP Subchapter XV, Part 1. SMC 23.60.600J provides that the proposed use is permitted outright on an upland lot in the US environment as an open space use.

Development standards for specific uses are contained in SSMP Subchapter XV, Part 2. The proposal conforms to all shoreline master plan development standards for the US environment. The maximum height in the US environment is 30 feet (SMC 23.60.632A).

Development Standards for All Environments (23.60.152 SMC)

These general standards apply to all uses in the shoreline environment. They require the design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses must in part:

- 1) Minimize any increase 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 to 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.

Short-term Impacts

The following temporary or construction-related impacts are expected: construction material and equipment pose some potential danger of erosion and stormwater contamination. The contamination and erosion could lead to both water quality and aquatic habitat damage. In order to be prepared to provide a fast and effective response to spills or other actions which cause new contaminants to be introduced into the aquatic environment, it is necessary to condition the project to require that prior to commencing construction an emergency containment plan and procedures be developed and all necessary equipment be stocked on the site.

Additionally, SDOT, the project proponent, is requiring the contractor to follow the 2003 edition of Seattle Standard Plans and Standard Specifications for Road, Bridge and Municipal Construction, which requires measures to be taken that prevent damage to the environment and the BMPs described in the Regional Road Maintenance Endangered Species Act (ESA) Program Guidelines.

Procedures for Administration of the Shoreline Management Act (WAC 173-27)

Pursuant to the language and intent of RCW 90.58, WAC 173-27 establishes basic rules for the permit system to be adopted by local government. It provides the framework for permits to be administered by local governments including time requirements for permits, revisions to permits, notice of application, formats for permits, and provisions for review by the State DOE. Because DOE has approved the Seattle Shoreline Master Program, consistency with the criteria and procedures prescribed by SMC Chapter 23.60 is also considered consistency with the WAC 173-27 and RCW 90.58.

Summary

The proposed development will be consistent with the policies and procedures of RCW 90.58, WAC 173-27, and Chapter 23.60 SMC also known as the Seattle Shoreline Master Program (SSMP). As conditioned, the development will have no adverse effect on the shoreline, the near shore environment, and the waters of Puget Sound.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposed action is **CONDITIONALLY GRANTED**. Shoreline Substantial Development conditions are listed below.

CONDITIONS – SHORELINE

Project Conditions

1. Prior to commencing construction an emergency containment plan and procedures shall be developed and include the requirement that all necessary equipment for toxic spill clean-up be stocked on the site. A sufficient number of personnel that will be present during construction shall be trained in the proper implementation of this plan.
2. Prior to commencement of work the owner(s) and/or responsible party(s) shall notify in writing all contractors and sub-contractors of the general requirements of the Seattle Shoreline Master Program (SSMP 23.60.152), including the requirements set forth in conditions of the MUP.

Construction Conditions

The following condition(s) 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. The placards will be issued along with the Master Use 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. No debris, construction material, and/or toxic material shall directly or indirectly enter Puget Sound during the proposed construction work.
4. Appropriate best management practices (BMPs) shall be employed to prevent debris, construction material and/or toxic material from entering Puget Sound directly or via the stormwater during the proposed work. BMPs shall include the installation of a silt fence to contain any sediment laden runoff from the site.
5. Two hundred and thirty trees more or less shall be planted in the project area.
6. Native vegetation exclusively shall be planted in the wetland buffer. Native plants shall be used to the maximum extent in the remainder of the project.

For the Life of the Project

7. The area of the site that is vegetated shall be monitored and maintained. Any non-native vegetation in the wetland buffer shall be removed and this area shall be planted with native vegetation.
8. For a period of five years any plants that have been planted that do not survive shall be replanted with a similar species.

ANALYSIS – STATE ENVIRONMENTAL POLICY ACT (SEPA)

The initial disclosure of the potential impacts from this project was made in the environmental checklist and threshold determination (dated September 14, 2006) submitted by SDOT. The information in the checklist, plans, supplemental information submitted by the applicant, and the experience of the Department with the review of similar projects, form the basis for this analysis and decision.

SMC 25.05.660 allows for conditioning of a project to “mitigate the environmental impact” based upon “mitigation measures...related to specific, adverse environmental impacts clearly identified in an environmental document on the proposal”. In addition, the City may also rely on the analysis and mitigation program from other federal, state or local agencies if the City finds that said analysis and mitigation provides “adequate analysis of and mitigation for the specific adverse environmental impacts of the project action..., the City as lead agency shall not impose additional mitigation...”

The SEPA Overview Policy (SMC 25.05.665) establishes the relationship between codes, policies, and environmental review. Specific policies for specific elements 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 certain limitations/circumstances (SMC 25.05.665 D 1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is presented below.

Short - Term Impacts

The following temporary or construction-related impacts are expected:

- decreased air quality due to suspended particulates from construction activities and hydrocarbon emissions from construction vehicles and equipment;
- increased dust caused by construction activities; potential soil erosion and potential disturbance to subsurface soils during grading, excavation, and general site work;
- increased traffic and demand for parking from construction equipment and personnel;
- conflicts with normal pedestrian and vehicular movement adjacent to the site;
- increased noise; and
- consumption of renewable and non-renewable resources.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: Stormwater, Grading and Drainage Control Code (grading, site excavation and soil erosion); 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). The Environmental Critical Areas (ECA) ordinance and Director's Rules (DR) 33-2006 and 3-94 regulate development and construction techniques in designated ECAs. Compliance with these applicable codes and ordinances will reduce or eliminate most of the short-term impacts to the environment. Other impacts may not be adequately mitigated by existing ordinances, as discussed below.

Air Quality

Puget Sound Clean Air Agency (PSCAA) regulations require control of fugitive dust to protect air quality. Compliance with PSCAA regulations will mitigate the potential adverse short term impacts to air associated with new construction. As discussed in the Shoreline analysis above, Best Management Practices (BMPs) to address air quality issues during construction are incorporated into the project and will be required as conditions of approval of the Shoreline Permit. Therefore no further mitigation pursuant to SEPA policies in SMC 25.05.675A is warranted.

Construction Impacts

SMC 25.05.675B provides policies for the limitation of construction related impacts. In addition, there are several City codes that will provide authority to evaluate and address impacts of the project, including the City's ECA ordinance, the Stormwater, Grading and Drainage Control Code and the City's Shoreline Code. The Stormwater, Grading and Drainage Control

Code provides extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are used. As discussed above, Best Management Practices (BMPs) to address construction impacts are incorporated into the project and will be required as conditions of approval of the Shoreline Permit. Therefore, no further mitigation pursuant to SEPA policies in SMC 25.05.675B is warranted.

Noise

Temporary construction-related noise will be generated during construction of this project. According to the SEPA checklist submitted by the applicant, noise levels are expected to remain within the levels allowed under the City of Seattle's Noise Ordinance (SMC 25.08). It is expected that construction noise will be limited to the period between 7:00 am and 10:00 pm on weekdays, with a possible exception of some night work which may be required for utility adjustments (e.g. relocation of power poles and water lines). This work is not expected to be long in duration, of high-impact or significantly higher than ambient noise levels in the vicinity of the project corridor. Therefore, no further conditioning is necessary pursuant to SEPA Construction Impacts Policy (SMC 25.05.675 B).

Archeological/Historic/Cultural Resources

Because a portion of the proposal site is located with the identified U.S. Government Meander Line, the potential exists for discovery of previously unknown archeological significant resources. DR 2-98 provides clarification of the SEPA Historic Preservation Policy for potential archeologically significant sites (SMC 25.05.675H) and requirements for archeological assessments. A cultural resources assessment was submitted with this application indicating that no cultural materials were identified during pedestrian survey or sub-surface investigation. However, in the event such resources are found during construction, the proposal will be conditioned pursuant to DR 2-98 and as noted at the end of this report.

Earth

A geotechnical report including recommendations for construction was submitted with this application and was reviewed by the Department's geotechnical engineer. An Environmentally Critical Areas Exemption (ECA) was also approved by the Department's geotechnical engineer pursuant to SMC 25.09.040E and F. A drainage review memorandum and a ditch analysis were submitted indicating that five ditches were identified within the Burke-Gilman Trail extension project area. Seeps discharging from the vegetated hillside located upgradient and to the east are the water sources for all five ditches. The seeps supply water to several wetlands adjacent to the railroad tracks and Seaview Avenue NW. Following construction, impacted ditches will be replaced by conveying the exiting flow in pipes or replacing ditches outside of the footprint of the proposed trail extension. No further mitigation will be required.

Long-term Impacts

Long-term or use-related impacts from the proposal are expected to be minimal. The purpose of the project is to construct a segment of The Ship Canal Trail, a multipurpose recreational trail which is not open to motorized vehicles; therefore the completed project will not generate additional vehicular trips beyond the existing volumes.

