

Portland Street and Eighth Avenue South. The site is located in the west half of Section 29, Township 24 North, Range 4 East, King County, Washington. Since no commercial, industrial, or residential uses have occupied the proposed public shoreline access site, a street address has not been established for the location.

Project Description

The proposal includes construction of approximately 17,000 square feet of public shoreline access improvements on the west shoreline of the Duwamish Waterway, near river mile 3.3, in the South Park community. The proposed public shoreline access site is adjacent to and east of the South Portland Street/Eighth Avenue South intersection. The proposed public use/open space site is publicly-owned, with approximately 13,000 square feet, including approximately 345 feet of Duwamish Waterway shoreline, in port ownership and approximately 4,000 square feet east of the South Portland Street/Eighth Avenue South intersection controlled by the City of Seattle.

Public shoreline access improvements proposed for the site include: (1) sign panels: identifying and interpreting the area as a public shoreline park; (2) grading and excavation: replacing existing eroded, rubble-filled bank line area with a re-shaped gradual slope extending land-ward from the existing toe-of-slope; (3) landscaping: emphasizing use of native riparian trees and shrubs for the purpose of shoreline stabilization and for enhancement of shoreline and aquatic area habitat value; (4) site construction: including lighting, tables and seating, street curb and entry improvements (including sidewalk, curb-cut ramps, load-unload pull-out, and cross-walk), and a site activities area; and, (5) shoreline pathway: including unimpeded access to tables, seating and activity area, as well as a route to a hand-carried boat launch.

Plans for the public shoreline access improvements are based on conceptual design information included in the 1985 Comprehensive Public Access Plan for the Duwamish Waterway, jointly approved by the City of Seattle and the port, listed the following site improvements: (1) site location signs, identifying the area as a shoreline park; (2) landscaping, including native grasses, ground cover, and irrigation; (3) picnicking, including two tables; and (4) shoreline path, asphalt path protected with bollards, connecting the South Portland Street/Eighth Avenue South intersection with South Riverside Drive. The need to stabilize the existing eroded and rubble-strewn bank line was also identified in the 1985 plan.

The proposed public shoreline access improvements include the design concepts listed in the 1985 plan, with three important design updates and revisions derived from discussions with citizens, City of Seattle staff, and the port's experience with public shoreline access site planning and construction at three recently completed public use areas in the Duwamish Waterway.

First, all public use improvements at the site must acknowledge the need for the safety of visitors to the site. Proposed site plans emphasize un-impeded line of sight throughout the site, including entering the site from adjacent street locations and at shoreline activity and pathway areas. Lighting has also been added to the site plans in the interest of public safety.

Second, physical improvements at the site include up to 1,200 square feet, near the South Portland Street/Eighth Avenue South entrance, arranged as an activities area. This focus point, located between street right-of-way and the shoreline, will include a concrete perimeter incorporating seating and pathway areas. The area will be arranged as a shoreline viewpoint as

well serving as area for site interpretation, informal play and un-structured neighborhood/user activities. Surfaces at the activity focus site and forming site pathways will be a combination of cast in place concrete and compacted crushed rock. Approximately 180 linear feet of barrier-free pathway is proposed.

The third and most substantial change in the present plans, compared with the 1985 plan, relates to bank line stabilization. The 1985 plan noted the need for adding riprap at the site in order to control bank erosion. Present plans include removal of existing rubble and debris throughout the project shoreline and re-shaping the land-ward margin of the existing abrupt eroding bank line, establishing a gradual slope shoreline suitable for placement of native trees and shrubs.

Between approximately plus eight feet MLLW and MHHW 45 c.y. of rubble riprap and concrete debris and twenty five existing derelict creosote piling will be removed. Up to ten c.y. of clean sand will be placed as a sand cap in locations where creosote piling are extracted and up to 15 large woody debris installations are included in the project. The large woody debris will be installed at the new toe-of-slope, aiding to stabilize the bank line during establishment of riparian plants and providing additional shoreline environment complexity.

Between MHHW and top of bank 550 c.y. of fill and debris will be removed and this area will be reshaped with a gradual slope and the appropriate native vegetation including trees and shrubs will be planted to stabilize the slope.

Landward of MHHW will receive up to 225 c.y. of top soil and mulch. Exposed soil will be protected with woven plant material, consisting of approximately 2,700 s.f. of coir erosion control fabric. Soil, mulch, and coir materials at the re-shaped bank line will be held in position with approximately 950 native willows plant stakes. Additional native vegetation will included approximately 20 large replacement trees, approximately 900 native shrubs and approximately 3,500 native ground cover plants. Approximately 650 linear feet of irrigation system will be installed at the site to ensure success of the native plantings.

The north margin of the site will include an elevated berm approximately 150 feet in length, fifteen feet wide at the base and up to four feet in height. The replacement shoreline and berm will receive dense plantings of native trees and shrubs. The entire site will be served by irrigation as required for establishing and sustaining all native planting areas.

Please refer to plan and section view drawings, illustrating the proposed public shoreline access improvements available from the Public Resource Center (<http://www.seattle.gov/dpd/prc/>) located at 700 Fifth Ave, Suite 2000.

Public Comment

Notice of application was given on April 20, 2006. The public comment period closed on May 19, 2006. DPD received approximately sixty (60) comments on the proposal; more than fifty (50) comments in favor of the proposal and less the ten (10) opposed to the proposal. The items noted below are excerpts from those comments²:

²The written comments can be found in the Land Use Application file, available for the Public Resource Center (<http://www.seattle.gov/dpd/prc/>) located at 700 Fifth Ave, Suite 2000.

- “We love walking near the water and would love to see the park on 8th improved.”
- “...South Park is lacking in public spaces, and I believe that the Port’s proposal will make South Park a safer and more livable place.”
- “...I strongly support any effort to A) make the Duwamish Riverfront accessible to the public, B) improve/restore the banks of the River as habitat, C) make our community stronger and safer, and D) return this bit of public owned land back into the public domain....”
- “I can also see a pressing need for additional green and other community space in the neighborhood. South Park has seen a significant increase in housing density in recent years as new homes were built and larger parcels have been subdivided. The available public space has not yet caught up with this increasing density. This project represents a rare opportunity to reduce this deficit. I and my neighbors in South Park urge your support for this project.
- “This park will turn a public nuisance area into a public asset.” “Approval of this project will not only benefit all the people who live and work here, but will continue to show the City’s recognition of South Park as a real and respected Seattle neighborhood.”
- “The development of the property ... would only put citizen’s safety at risk, with cargo container movement, truck traffic, welding and construction occurring in the area on an on-going basis. Vandalism and crime in an increasing concern in the neighborhood and another park will only invite transient types, homeless people and drug users in the area after dark....” “...the proposed improvements will cost the Port in excess of \$300,000 initially and \$10-15,000 a year in [annual maintenance]. This does not make economic sense. This money should be used to improve a different existing site or be used to provide access in an area that is not in an industrial park which would be better used by the general public.”
- “This community already enjoys a very large park right in their midst (Duwamish Waterway Park) with [river access, a place for their children to play, a kayak/boat launching area and an area picnic] that is underutilized. The idea that barely two blocks away there is a necessity for all of those same amenities ... seem wasteful.”
- “We are aware of concerns regarding access from this proposed park site into the industrial area. This is a difficult balancing issue between public access to the Waterway and safety issues relative to industrial activity. We do not think this issue should be the reason for blocking the project, but we would certainly support discussions for mitigation of the possible consequences.”

The Land Use Application file with the comments noted above are available from the Public Resource Center (<http://www.seattle.gov/dpd/prc/>) located at 700 Fifth Ave, Suite 2000.

ANALYSIS—COMPLIANCE WITH the ECA ORDINANCE

Environmentally Critical Areas Ordinance

The site includes the following environmentally critical areas: Fish and Wildlife shoreline habitat. This habitat is defined as the area within 100-ft of the shoreline and the entire project is within this area. Per Section 25.09.040 F, public projects which promote a public objective (such as providing access to a creek or wetland) and are “located and designed to minimize

environmental disturbance to the greatest extent possible” may be exempted from the requirements of the ordinance. However, exemptions may only be approved when projects are undertaken pursuant to best management practices to avoid impacts the environmentally critical area. This project as proposed and conditions meets the requirements of SMC 253.09.040 F.

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.

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 proposed improvements would not adversely impact the state-wide interest of protecting the resources and ecology of the shoreline, and the improvements would provide for increased public access and recreational opportunities as identified through the 1985 Comprehensive Public Access Plan for the Duwamish Waterway. The subject application is consistent with the procedures outlined in RCW 90.58.

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 is to primarily act in a supportive and review capacity, with primary emphasis on ensuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60, that also incorporates the provisions of Chapter 173-27, WAC. Title 23 of the Municipal Code is also referred to as the Land Use and Zoning Code. 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 which have also been set forth in the Land Use Code.

In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the relevant criteria set forth in the Land Use Code. The Shoreline Goals and Policies, part of the Seattle Comprehensive Plan, and the purpose and locational criteria for each shoreline environment must be considered. A proposal must be consistent with the general development standards of section 23.60.152, the specific standards of the shoreline environment and underlying zoning designation, any applicable special approval criteria, and the development standards for specific uses.

The proposed development actions occur on land classified as a waterfront lot (SMC 23.60.924) and located within an Urban Industrial (UI) shoreline environment. The proposed improvements are associated with the creation of a public park and as such are a permitted use in the UI shoreline environment and the underlying IG-1 zone.

As discussed below, the City's Shoreline policies encourage public access and increased opportunities for the public to enjoy water-dependent recreation. The proposal to establish a public park is consistent with the objectives for the Duwamish Waterway. Thus, this proposal is consistent with the policies and procedures of the RCW Chapter 90.58.

Shoreline Policies

All discretionary decisions in the shoreline district require consideration of the Shoreline Goals and Policies, which are part of the Seattle Comprehensive Plan's Land Use Element, and consideration of the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220. The policies support and encourage improved public access along shorelines. Policy LU 236 promotes "public enjoyment of the shorelines through public access standards by requiring improvements that are safe, well designed and offer adequate access to the water." Policy LU 258 reads: "Allow for increased opportunity for the public to enjoy water-dependent recreation including boating, fishing, swimming, diving and enjoyment of views."

An area objective for this portion of the Duwamish Waterway is to increase public access and recreational opportunities as identified through the Duwamish Public Access Plan³, while at the same time to protect migratory fish routes (please refer to Area Objectives for Shorelines of Statewide Significance, Policy LU 269 1d – bullet items four and one). The purpose of the Urban Industrial (UI) environment as set forth in Section 23.60.220C.11a, is to provide public access mainly on public lands or in conformance with an area-wide Public Access Plan, such as the 1985 Comprehensive Public Access Plan for the Duwamish Waterway.

This project establishes a park that will provide a public park using natural beach protection that increases public access and recreation opportunities along the shoreline of the Duwamish Waterway; a use supported by both the purpose of the UI shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan. The creation of the public park will increase and enhanced public safety.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environments. 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 for the specific use or activity. All shoreline development and uses are subject to the following:

- A. The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as ... fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.

³ Refer to the 1985 Comprehensive Public Access Plan for the Duwamish Waterway.

- B. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.
- C. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, vessel repair facilities, marine service stations and any use regularly servicing vessels....
- D. The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
- E. All shoreline developments and uses shall 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. Control measures may include, but are not limited to, dikes, catchbasins or settling ponds, interceptor drains and planted buffers.
- F. All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.
- G. All shoreline developments and uses shall control erosion during project construction and operation.
- H. All shoreline developments and uses shall 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.
- I. 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.
- J. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.
- K. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.
- L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.

- M. 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.
- N. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.
- O. Navigation channels shall be kept free of hazardous or obstructing development or uses.
- P. No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.

As proposed and as conditioned below, the project complies with the above shoreline development standards. As conditioned, the short term construction related activities should have minimal effects on migratory fish routes and do not warrant further conditioning. Approximately three hundred forty five linear feet of shoreline will be restored with a more natural slope and native vegetation. This will meet the general development standards H and I. As a condition of the project this restored area shall be required to be maintained for the life of the project.

The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. In conjunction with this effort DPD developed a Director's Rule, 2000-16, to apply best management practices (BMPs) to prevent erosion and sedimentation from leaving construction sites or where construction will impact receiving waters. Due to the extent of the proposed work associated with the creation of the public park using natural beach protection, the potential exists for impacts to the Duwamish during construction. Therefore, approval of the substantial development permit will be conditioned to require application of construction best management practices (BMPs). Completion of the attachment to the Director's Rule and adherence to the measures outlined in the attachment shall constitute compliance with BMP measures.

SMC 23.60.870 – Development standards for the UI Environment

The proposal conforms to all of the development standards for the UI environment.

Conclusion

SMC Section 23.60.064 E provides authority for 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).

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.

Thus, as conditioned below, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The proposed shoreline substantial development permit for this public park using natural beach protection is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

ANALYSIS - SEPA (for conditions only)

The applicant submitted an environmental checklist dated January 3, 2006 and threshold determination for this project dated February 2, 2006. The information in the checklist, construction plans, 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.

Construction activities could result in the following adverse impacts: The following temporary or construction-related impacts are expected: temporary soil erosion; temporary increased water turbidity levels, decreased air quality due to increased dust and other suspended air particulates during excavation, filling and transport of materials to and from the site as well as due to vehicle exhaust from operation of construction equipment; increased noise and vibration from construction operations and equipment and slightly increased traffic and parking demand from construction personnel traveling to and from the work site.

All of these impacts are expected to be minor and of short duration. Several construction-related impacts are mitigated by existing City codes and ordinances (such as the Stormwater, Grading and Drainage Control code and Street Use ordinance, and mitigating measures described above pursuant to the Shoreline Master Program) applicable to the project. Since the proposal site is located in an industrial area, noise impacts would be sufficiently mitigated by the Noise Ordinance and no other measures or conditions are warranted.

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. 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 shoreline environment, it is necessary to condition the project to require that prior to commencing construction a spill prevention control and countermeasures plan shall be developed and all necessary equipment be stocked on the site.

Port documents indicate minor to negligible impacts related to traffic generated by construction workers and transport of materials associated with the project. The proposal is served by S Portland St and 8th Ave S, which the Seattle Department of Transportation (SDoT) classifies as streets. Construction vehicle access to the proposal will be via S Portland St and 8th Ave S. Adequate capacity is available on these streets to accommodate the anticipated minimal increase in vehicular traffic associated with the proposal and no further mitigation pursuant to SEPA for this short term impact is warranted.

The construction plans will be reviewed for stability and soils considerations by DPD's Geotechnical Engineer and the Building Plans Examiner, who will also require any additional soils-related information, recommendations, declarations, covenants, and bonds as necessary in accordance with Director's Rule 3-94 prior to issuance of the Master Use Permit. Assuming successful implementation of stabilization measures approved by DPD's geotechnical review, the project will not significantly increase the risk of land instability and no mitigation is warranted.

CONDITIONS – SHORELINE

Prior to Issuance of the Building Permit

1. Submit a completed drainage control plan that complies with SMC 22.802.020 B2d and Director's Rule 16-00, (Category 2) BMPs for Construction Erosion and Sedimentation Control Plans. Adherence to the measures outlined in the attachment shall mitigate erosion and sedimentation impacts to the Duwamish Waterway.

During Construction

2. The owner(s) and/or responsible party(ies) shall implement best management practices to prevent debris from entering the water during demolition/construction and to remove debris promptly if it does enter the water. Materials and construction methods shall be used which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction.
 - a. An oil/debris containment boom shall be employed during all demolition and construction activities. The boom shall serve to collect any floating debris, which may result during demolition/construction. Oil absorbent materials must be employed if floating oil sheen is observed. The boom should remain in place until all oily material and floating debris have been collected and sheens dissipate. Used absorbent materials should be disposed of in an appropriate upland facility.
 - b. The appropriate equipment and material for hazardous material cleanup shall be kept at the site.
3. All demolition/construction waste materials, including grading/sediment materials must be disposed of in a landfill which meets the liner and leachate standards of the Minimum Functional Standards, Chapter 173-304 WAC.
4. Catchbasins should be protected during demolition/construction operations to prevent any deleterious material from entering the water.

For the Life of the Project

5. Vegetation monitoring is required by the applicant to ensure eighty (80) percent or greater survival of the vegetation planted at this project site after five (5) years from the time of planting.

CONDITIONS – SEPA

Prior to Construction

6. A spill prevention control and countermeasures plan shall be developed

During Construction

7. The spill prevention control and countermeasures plan shall be followed.

Signature: (signature on file)
Colin R. Vasquez, Senior Land Use Planner
Department of Planning and Development

Date: November 16, 2006