



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: 3004980 and 3004981

Applicant Name: Seattle Department of Parks and Recreation (DOPAR)

Addresses of Proposal: 845 Terry Ave N. and 920 Westlake Ave. N.

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow a 188 linear feet pedestrian bridge across Waterway #3 (South Lake Union) for Seattle Parks Department. Related Project #3004981 at 920 Westlake Avenue North is also included in this review. Determination of Non-Significance has been prepared by Seattle Parks and Recreation.

The following approvals are required:

Shoreline Substantial Development Application to allow development in the CW, CM and US Shoreline Environments.

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

SEPA DETERMINATION: [] Exempt [] DNS [X] MDNS* [] EIS

[] DNS with conditions

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

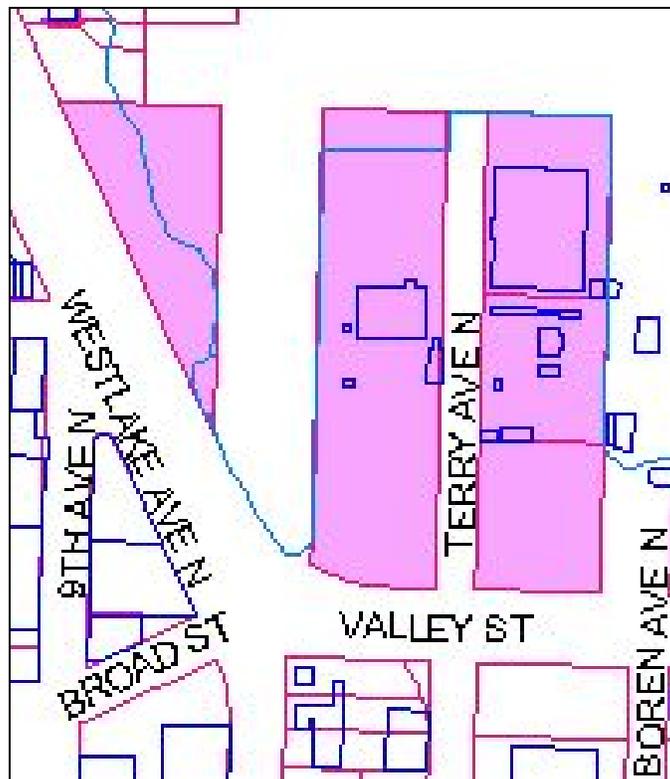
*Mitigated Determination of Non-significance (MDNS) issued by Seattle Department of Parks and Recreation on August 30, 2005. A revised SEPA Checklist was prepared on October 11, 2005.

BACKGROUND DATA

Site and Vicinity Description

The project site is located along the southern shore of Lake Union at Waterway No. 3. The pedestrian bridge is proposed to span Waterway No. 3 approximately 300 feet north of the southern edge of the Waterway. The proposed bridge will provide a pedestrian connection between two areas of an existing park lying east and west of Waterway No. 3. The eastern and western access points to the bridge are located within separate tax parcels with separate addresses. As a result, two site addresses and two DPD project numbers are used in describing the site and proposal. These are: 845 Terry Avenue North (DPD Project No. 3004980) for the eastern parcel, and 920 Westlake Avenue North (DPD No. 3004981) for the western parcel. The site is located within a C2-40' zone (Commercial Two with a structure height limit of 40 feet) and US, CW and CM (Urban Stable, Conservancy Waterway and Conservancy Management) Shoreline Environments.

The project site is part of a larger, 12-acre site which was recently established as a public park under DPD Project Nos. 3003318, 3003264, 3003268 and 3003269 and includes Waterway Nos. 3 and 4. The larger site is currently developed with the Center for Wooden Boats and the former U.S. Naval Armory Building, which was recently converted to a community center use under the permits cited above. Other uses in the vicinity include marinas, restaurants, offices and retail uses. There are no water-dependent industrial or manufacturing uses in the immediate vicinity.



**Project site and vicinity map for South Lake
Union Park**

Proposal Description

The Seattle Department of Parks and Recreation (DOPAR) proposes to locate a pedestrian bridge over Waterway No. 3 in the recently established South Lake Union Park. The prefabricated pedestrian bridge will be installed across Waterway No. 3, connecting eastern and western areas of the park. The bridge will be constructed of painted steel, and will measure approximately 210 feet long (including access ramps) by eight feet wide. The bridge will be a suspended truss bridge extending from abutments constructed on the east and west shores of Waterway No. 3. According to the revised Joint Aquatic Resource Permits Application (JARPA) dated March 24, 2006, both abutments will be located on dry land above ordinary high water (OHW) in response to comments from the U.S. Fish and Wildlife Service. For structural reasons, both abutments have been designed using concrete and steel rather than light-transmitting materials. In response to comments from the National Marine Fisheries Service (NOAA-NMFS), the wooden decking originally proposed has been replaced with metal, light-passable grating. To further reduce shading, the bridge deck will be located at least five feet above the water. This height above the water will also allow for continued use of Waterway No. 3 by small craft such as canoes and kayaks.

The SEPA checklist prepared by the Parks Department (originally prepared in August 2005 and revised by Memorandum in October 2005) includes a broad scope of work beyond that which is included in this project application. The broader scope of work described by the Parks Department, (which includes construction of a Northwest Coast Indian Canoe Center, Longhouse and Carving Shed, and potential demolition of several small structures), is not included in this review. Additional review and permits, which may include additional SEPA review and Shoreline permits, will be required for work not included in this review.

Public Comments

The official comment period for this project ended on June 16, 2006. No public comments were received.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposal is located within the following Shoreline Environments as designated by the Seattle Shoreline Master Program (SSMP): Urban Stable (US), Conservancy Management (CM), and Conservancy Waterway (CW). The Shoreline Master Program, Chapter 23.60 of the Seattle Municipal Code, regulates use and development in the City's shoreline districts to implement the policy and provisions of the Shoreline Management Act of 1971 and the Shoreline Goals and Policies.

The SSMP requires that a shoreline permit be obtained prior to the undertaking of any substantial development within a shoreline environment. SMC Section 23.60.030 includes criteria for evaluating a shoreline permit. 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

The State of Washington Shoreline policies (RCW Chapter 90.58) provide for the control of pollution and prevention of damage to the natural environment, and to protect the resources and ecology of the shoreline over the long term. 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. The Shoreline Management Act of 1971 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 insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, 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. 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.

The City of Seattle Shoreline policies incorporate these goals by reference and include area objectives pursuant to these goals. These policies contemplate protecting 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 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.

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 construct a pedestrian bridge to connect two areas of a public park is consistent with the objectives for Lake Union. Thus, this proposal is consistent with the policies and procedures of the RCW Chapter 90.58.

B. THE REGULATIONS OF CHAPTER 23.60

The regulations of Section 23.60.064 SSMP require that the proposed use: 1) conform to all applicable development standards of both the shoreline environment and underlying zoning; 2) be permitted in the shoreline environment and the underlying zoning district and 3) satisfy the criteria of shoreline variance, conditional use, and/or special use permits as may be required.

The proposed pedestrian bridge is permitted outright in the underlying commercial zone and on waterfront lots in the US environment (per SMC 23.60.600). Bridges are permitted as a Special Use on waterfront lots in the CM environment (per SMC 23.60.424).

Pedestrian bridges that provide public access along or across a waterway and connect parts of a public park are permitted outright in the CW environment (per SMC 23.60.482). Ordinance No. 122072, which amended the SSMP to allow pedestrian bridges in these circumstances, was adopted by the City of Seattle in April 2006 and received DOE concurrence in December 2006. DPD Director's Rule No. 34-2006 was adopted in December 2006 to provide additional information regarding pedestrian bridges in the CW environment.

SSMP 23.60.004 - Shoreline Policies

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 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 237 reads (in part): "Provide linkages between shoreline public facilities via trails, paths, etc, to connect with terminal boating and other recreational facilities." 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."

More specifically, with regard to Lake Union, Policy LU 242 recognizes the importance of waterways in Lake Union for providing public access from dry land to the water. Adopted area objectives for Lake Union in Policy LU 269 include providing a "maximum amount of public access in locations that do not conflict with water-dependent manufacturing uses" and "restore and enhance the Lake's natural environment."

This proposed pedestrian bridge will connect two areas of a park, enhancing pedestrian public access to the water, and is therefore consistent with adopted Comprehensive Plan policies.

Shoreline Development Standards

The proposed pedestrian bridge and abutments are located in the US, CM and CW Shoreline Environments. Pursuant to the Seattle Shoreline Master Plan, the proposed action is subject to:

1. the general development standards (SSMP 23.60.152);
2. the development standards for uses in the US, CM and CW environments (SSMP 23.60.600, SMC 23.60.420 and SMC 23.60.482).

1. SSMP 23.60.152 - General Development Standards for all Shoreline Environments

General standards for all uses and development in all shoreline environments are established in SMC Section 23.60.152. Generally, these standards require that all shoreline activity be designed, constructed, and operated in an environmentally sound manner consistent with the

Shoreline Master Program and with best management practices for the specific use or activity, in order to have minimal impact on the shoreline environment. The following general development standards are relevant to the proposed project:

- 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 paving and berming of drum storage areas, fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- B. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.
- 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.

The Department of Parks and Recreation issued a Mitigated Determination of Non-significance for this (and other projects) in September 2005. A list of mitigation measures is provided as "Exhibit A" on pages one through three of that document. The mitigation measures listed in Exhibit A include the use of construction best management practices (BMPs). Specific BMPs described include: erosion control measures and monitoring of the groundwater table and settlement outside of excavation during dewatering of soils. The mitigation measures listed in Exhibit A are listed will be required as conditions of approval of this permit.

Additional BMPs, beyond those listed in the DOPAR MDNS, should be employed to decrease the probability of debris or other deleterious material from entering the water during the proposed work and to decrease the water quality impacts of the work. A silt fence shall be deployed around the abutment work. The silt fence will serve two purposes: One, to contain turbidity in the nearshore area and two, to contain any debris that enters the water. At a minimum any floating debris that enters the water during construction shall be collected once per day. This material shall be contained on site, secured, and then disposed of at the appropriate upland facility. If heavy debris or deleterious material enters the water and sinks, the location of the material shall be recorded in a log that is kept through the duration of the project. When construction is completed, this material/debris shall be removed by a diver and disposed of at the appropriate upland facility.

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 an emergency containment plan and procedures be developed and all necessary equipment be stocked on the site.

Construction activity will be restricted to timing limitations set forth in the Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife.

Additionally, native vegetation is proposed to be planted along the shoreline to meet 23.60.152 H and I of the general development standards, which included the requirement to protect fish and wildlife habitat conservation areas and to minimize interference with natural shoreline processes. This vegetation shall consist of native vegetation exclusively consisting of trees, shrubs and groundcover.

2. SSMP 23.60.600, 23.60.420 and 23.60.482 - Development Standards in the US, CM and CW Environments

Permitted uses in the Urban Stable (US), Conservancy Management (CM) and Conservancy Waterway (CW) environments are contained in SSMP Subchapter XV, Part 1, in sections SMC 23.60.600, 23.60.420, and 23.60.482, respectively. The proposed pedestrian bridge is permitted outright on waterfront lots US environment per SMC 23.60.600. Pedestrian bridges that provide public access along or across a waterway when they connect parts of a public park are permitted outright in the CW environment per SMC 23.60.482. Bridges are permitted as a Special Use in the CM environment per SMC 23.60.424. All Special Uses are subject to the criteria at SMC 23.60.032. Please see the Special Uses Analysis discussion, below.

Development Standards in the US Environment

Development standards in the US environment regulate structure height, maximum size limits (not applicable to the proposed use), lot coverage, view corridors, public access, and location of specific uses (also not applicable). The eastern bridge abutment, piers and a portion of the access ramp will be located in the US environment. At this location, the structure will be about five to ten feet in height. Although bridges may exceed the height limit in the US environment, the proposed structure is well within the 30-foot height limit. The portion of the bridge located within the US environment falls well below the lot coverage maximum requirement (50 percent of the lot). Regarding the required view corridor, the portion of the bridge located within the US environment falls far below the requirement for view corridors (35 percent of lot width). The proposal improves public access to the shoreline, and exceeds the standards for regulated public access provided at SMC 23.60.160.

Therefore, this project is consistent with the development standards of the US Shoreline Environment.

Development Standards in the CM Environment

Development standards in the CM environment regulate critical habitat protection, height, lot coverage, view corridors, and regulated public access. The western bridge abutment, piers and a portion of the access ramp will be in the CM environment. The bridge abutment and piers will be located above OHW, to minimize disturbance to the shoreline environment. In addition, the access ramp and bridge deck surface will be metal grating to allow light penetration and minimize shading. At this location, the structure will be about five to ten feet in height. Although bridges may exceed the height limit in the CM environment, the proposed structure is well within the 30-foot height limit. The portion of the bridge located within the CM environment falls well below the lot coverage maximum requirement (35 percent of the lot). Regarding the required view corridor, the portion of the bridge located within the CM environment falls far below the requirement for view corridors (35 percent of lot width). The proposal improves public access to the shoreline, and exceeds the standards for regulated public access provided at SMC 23.60.160.

Therefore, this project is consistent with the development standards of the CM Shoreline Environment.

Bridges are permitted as a Special Use in the CM environment. Please see the Special Uses Analysis discussion, below.

Development Standards in the CW Environment

Development standards in the CW environment regulate temporary structures, height, lot coverage, view corridors, and public access. As discussed above, SSMP Section 23.60.482 was recently amended to allow pedestrian bridges that provide public access along or across a waterway and connect parts of a public park. DPD Director's Rule No. 34-2006 was subsequently adopted to provide additional clarification of the code intent regarding pedestrian bridges in the CW environment.

DR 34-2006 provides:

- A. Bridge location. Pedestrian bridges must connect dry land that existed on or before April 20, 2006.
- B. Access to Waterway Shorelines. All parcels abutting the shoreline of a waterway that is shoreward of a pedestrian bridge shall be held in public ownership.
- C. Navigation. Development of a pedestrian bridge in the Conservancy Waterway shall not substantially alter navigability of the subject waterway.
- D. Bridge Height. Structural supports for pedestrian bridges in the CW environment may exceed the 15-foot height limit provided that:
 1. The deck of the bridge is at or below the 15-foot height limit.
 2. The support structures not obstruct the view of the shoreline of a substantial number of residences on areas adjoining the subject shorelines.
 3. The width of any support structure which is over height shall not exceed 50% of the width of the waterway.
 4. Exceptions to the height limit for support structures shall not be greater than 3-feet over the 15-foot height limit (18 feet).

The proposed pedestrian bridge meets all of the requirements of DR 34-2006. The proposal improves public access to the shoreline, and exceeds the standards for regulated public access provided at SMC 23.60.160. Therefore, this project is consistent with the development standards of the CW Shoreline Environment.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

Chapter 173-27 WAC sets forth permit requirements for development in shoreline environments, and gives the authority for administering the permit system to local governments. The State acts in a review capacity. The Seattle Municipal Code Section 23.60 (Shoreline Development) and the RCW 90.58 incorporates the policies of the WAC by reference. These policies have been addressed in the foregoing analysis and have fulfilled the intent of WAC 173-27.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposed shoreline substantial development permit for pedestrian bridge is **CONDITIONALLY GRANTED.**

Shoreline Substantial Development conditions are listed below.

ANALYSIS – SHORELINE SPECIAL USE

The following aspects of the proposal require Special Use approval: Bridge in a Conservancy Management (CM) Shoreline Environment, per SMC 23.60.424.

SMC 23.60.032 Criteria for special use approvals

Uses which are identified as requiring special use approval in a particular environment may be approved, approved with conditions or denied by the Director. The Director may approve or conditionally approve a special use only if the applicant can demonstrate all of the following:

- A. That the proposed use will be consistent with the policies of RCW 90.58.020 and the Shoreline Policies;
- B. That the proposed use will not interfere with the normal public use of public shorelines;
- C. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area;
- D. That the proposed use will cause no unreasonably adverse effects to the shoreline environment in which it is to be located; and
- E. That the public interest suffers no substantial detrimental effect.

Compliance with the special use criteria in the Conservancy Management environment is discussed below.

Conservancy Management Environment

Bridges are permitted as a Special Use in the CM environment per SMC 23.60.424. As discussed above, only the western bridge abutment, piers and access ramp are located within the CM environment. Seattle Municipal Code Section 23.60 (Shoreline Development) and the RCW 90.58 incorporates the policies of the WAC by reference. These policies have been addressed in the foregoing analysis and have fulfilled the intent of WAC 173-27. The proposed bridge will enhance public use of the shoreline and adjacent park and is designed to be compatible with these uses. The piers and abutment will be placed above OHW to minimize any impacts to the shoreline environment. Best management practices will be used during construction. Any disturbed areas along the shoreline will be replanted with native vegetation appropriate to the shoreline environment. The pedestrian bridge is intended to enhance public access to the shoreline, therefore the public interest suffers no substantial detrimental effect.

The proposed pedestrian bridge meets the criteria for Special Use approval in the CM environment.

CONCLUSION - SHORELINE SPECIAL USE

The proposed Shoreline Special Use for a pedestrian bridge in the CM environment, meets the special use criteria and can be approved with the Shoreline Substantial development permit.

ANALYSIS – STATE ENVIRONMENTAL POLICY ACT (SEPA)

Environmental impacts of the proposal have been analyzed in environmental documents prepared by Seattle Department of Parks and Recreation (“DOPAR”) including a SEPA Environmental Checklist dated August 30, 2005, a Mitigated Determination of Non-Significance dated September 2, 2005 and a DOPAR Memorandum dated October 11, 2005.

Seattle Municipal Code (SMC) Section 25.05.660 provides that proposals can be conditioned or denied in order to mitigate environmental impacts. All conditions must be related to impacts identified in the environmental documents, based on adopted policies, be reasonable and capable of being accomplished. This proposal is reviewed under that substantive SEPA authority.

Disclosure of the potential impacts from this project was made in the environmental documents listed above. This information and supplemental information provided by the applicant (plans, written descriptions of the project) a field visit and the experience of this agency with review of similar projects form the basis for this analysis and conditioning.

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 such limitations or circumstances (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term impacts are anticipated from the proposal and are discussed below.

Short-term 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.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Seattle Noise Ordinance (construction noise); and State Air Quality Codes administered by the Puget Sound Clean Air Agency (air quality). In addition Federal and State regulations and permitting authority (Section 10 Permit, 404 Permit from the Army Corps and HPA permit from Washington Department of Fish and Wildlife) are effective to control short-term impacts on water quality. Compliance with these codes and/or ordinances will lessen the environmental impacts of the proposed project.

The applicant's SEPA Checklist discloses that the proposed construction work will take place in the waters of Lake Union and in the near shore environment. With the proposed work taking place in and near water, there exists the potential for debris and other deleterious material to enter the water during this proposed work. A list of mitigation measures is provided as "Exhibit A" on pages one through three of the DOPAR MDNS. The mitigation measures listed include the use of construction best management practices (BMPs) such as erosion control measures and monitoring of the groundwater table and settlement outside of excavation during dewatering of soils. The mitigation measures included in Exhibit A are listed below, and will be required as non-appealable conditions of approval of this permit. In particular, DOPAR's condition No. 6 is specific to the construction of the proposed pedestrian bridge and will be required as a condition of approval of the project. That condition reads:

"The foundations for Waterway #3 pedestrian bridges are pilings and can be driven with impact hammers to reduce vibrations. Vibration and settlement monitoring shall be performed during construction to evaluate effects on adjacent structures and slopes."

Additional BMPs, beyond those listed in the DOPAR MDNS, should be employed to decrease the probability of debris or other deleterious material from entering the water during the proposed work and to decrease the water quality impacts of the work. A silt fence shall be deployed around the abutment and pier work. The silt fence will serve two purposes: One, to contain turbidity in the nearshore area and two, to contain any debris that enters the water. At a minimum any floating debris that enters the water during construction shall be collected once per day. This material shall be contained on site, secured, and then disposed of at the appropriate upland facility. If heavy debris or deleterious material enters the water and sinks, the location of the material shall be recorded in a log that is kept through the duration of the project. When construction is completed, this material/debris shall be removed by a diver and disposed of at the appropriate upland facility.

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 an emergency containment plan and procedures be developed and all necessary equipment be stocked on the site.

Construction activity will be restricted to timing limitations set forth in the Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife.

No further SEPA conditioning of potential short-term impacts appears to be warranted.

Long Term Impacts

Long-term or use related impacts are also anticipated from the proposal and include: increased human activity in the near-shore and shoreline environment for recreation; increased traffic on surrounding streets; increased light in the near-shore aquatic environment; and increased noise from human activities. These long-term impacts are not considered significant because they are minor in scope. Notwithstanding the determination of non-significance, the following elements of the environment merit more detailed discussion.

Plants and Animals

Chinook salmon, a species listed as threatened under the Endangered Species Act (ESA) in March 1999, are known to inhabit Lake Union including the proposed project area. Lake Union is also designated critical habitat for Chinook salmon under ESA (2004 or 2005). Under the City of Seattle's Environmental Policies and Procedures 25.05.675 N (2) it states in part: *A high priority shall also be given to meeting the needs of state and federal threatened, endangered, and sensitive species of both plants and animals.*

This project is proposed to occur in the nearshore environment and in waters of Lake Union, which is designated critical habitat of Chinook salmon. The project site serves as a migration corridor as well as rearing area for juvenile Chinook salmon from the Cedar River and other water bodies in Water Resource Inventory Area 8.

The introduction of night time light into the near-shore aquatic environment may have impacts of unknown magnitude upon fish migrating through the site. Depending upon the location and intensity of light introduced that impact may be negative or positive in varying amounts. For this reason, the introduction of any artificial light sources should be strictly controlled and its resulting impacts studied. Low-level lighting is proposed at several locations on the bridge trusses, along the guard rail, and the bridge approaches. The number of light fixtures and is not specified on the plans, but it appears that there may be seventy (70) or more light fixtures on the bridge. Artificial lighting that reaches the aquatic habitat has been shown to increase predation on salmonid species during the night (from dusk to dawn). To mitigate this impact, lights placed on the bridge and related structures must be designed so that the artificial light that reaches the aquatic environment is of a type that does not alter the in-water light conditions for salmonid species. This can be achieved through the design and shielding of the light or through the type of light that is used (red light).

Conditioning will be imposed to design the illumination pattern of all artificial lighting initially installed on the bridge and associated structures to minimize to the greatest reasonable extent spill over onto surrounding water surfaces.

As provided by SMC 25.05.350 C, and 25.05.675 N 2 c, the lead agency may specify mitigation measures on a proposal that would allow the lead agency to issue a Determination of Non-Significance (DNS). These mitigation measures can be in the form of clarification of the proposal, changes to the proposal, or the project may be conditioned to include the mitigation measures. The Department of Parks and Recreation, as the lead agency, has included mitigation measures in the project and therefore issued an MDNS on this project.

The Department of Parks and Recreation is also proposing to plant native vegetation along the shoreline to enhance the shoreline habitat. This native vegetation shall consist of native vegetation exclusively consisting of trees, shrubs and groundcover. These mitigation measures and conditions are intended to minimize impacts on juvenile salmon habitat or improve the aquatic habitat at the site.

Other Impacts

Several adopted Codes and Ordinances and other Agencies will appropriately mitigate the other use-related adverse impacts created by the proposal. Specifically, these are the Puget Sound Air Pollution Control Agency (increased airborne emissions); and the Seattle Energy Code (long-term energy consumption).

The other impacts not noted here as mitigated by codes, ordinances, or conditions (increased ambient noise; increased pedestrian traffic; increased demand on public services and utilities) are not sufficiently adverse to warrant further mitigation by conditions.

CONDITIONS – NON-APPEALABLE FOR COMPLIANCE WITH DOPAR MDNS

The following are the identified mitigation measures from Exhibit A of the DOPAR MDNS:

1. Geotechnical Measures - An experienced geotechnical engineer has provided appropriate design recommendations considering the subsurface conditions for the project. The project was designed based on the site conditions, available subsurface information, and design procedures approved by the City of Seattle. An experienced geotechnical engineer shall observe the construction of the project and provide recommendations to minimize the earth resources impacts.
2. Erosion and Sediment Transport - Drainage features for the proposal must be designed to contain the anticipated surface runoff from the site features over the long term. Construction BMPs, such as construction staging barrier berms, truck wheel-wash basins, filter fabric fences, temporary sediment detention basins and use of slope coverings to contain sediment, and other erosion control measures suitable to the site conditions must be included as part of the project design. Temporary erosion and sediment control plans must be prepared for approval in accordance with BMPs.

3. Construction trucks - Loads should be covered during transport to reduce dust during hauling.
4. Excavations and Dewatering - Conventional equipment including excavators and backhoes will likely be used to perform the excavations. Proper shoring or sloping of the excavation should be performed to mitigate potential sloughing of soils and lateral movement or settlement of nearby roadway, structures, and utilities. Where excavations might extend below the groundwater table, erosion and instability of excavation sides might result. The contractor shall control the entry of water into excavations. Dewatering of soils within and below excavations should be performed to control inflow, remove water from excavations, and reduce hydraulic forces on shoring. Proper maintenance of the pumping wells shall be performed to assure that they are working as designed. Monitoring of the groundwater table and settlement outside of the excavation shall be performed to confirm that the dewatering system is working as designed.
5. Removal of Existing Structures – (Not applicable to this project).
6. Bridge Foundations - The foundations for Waterway #3 pedestrian bridges are pilings and can be driven with impact hammers to reduce vibrations. Vibration and settlement monitoring shall be performed during construction to evaluate effects on adjacent structures and slopes.
7. Air Quality - Mitigation measures for reducing the potential for air quality impacts during construction shall include measures for reducing both exhaust emissions and fugitive dust. The Washington Associated General Contractors brochure Guide to Handling Fugitive Dust from Construction Projects and the PSCAA suggest a number of methods for controlling dust and reducing the potential exposure of people to emissions from diesel equipment. The City of Seattle Standard Specifications for construction activities also include specific requirements intended to protect air quality from construction-related emissions. The City of Seattle Standard Specifications requires compliance with the PSCAA regulations pertaining to emissions of fugitive dust and odors, requires unused equipment to be shut down, and prohibits burning. The following is a list of mitigation measures that should be implemented as appropriate to reduce potential impacts at onsite and off-site locations during construction and to ensure compliance with the requirements of the City specifications.
 - Use only equipment and trucks that are maintained in optimal operational condition;
 - Require all off road equipment to be retrofit with emission reduction equipment (i.e., require participation in Puget Sound region Diesel Solutions by project sponsors and contractors);
 - Use bio diesel or other lower-emission fuels for vehicles and equipment;
 - Use car pooling or other trip reduction strategies for construction workers;

- Stage construction to minimize overall transportation system congestion and delays to reduce regional emissions of pollutants during construction;
 - Implement construction curbs on hot days when region is at risk for exceeding the ozone NAAQS, and work at night instead;
 - Locate construction equipment away from sensitive receptors such as fresh air intakes to buildings, air conditioners, and sensitive populations;
 - Locate construction staging zones where diesel emissions won't be noticeable to the public or near sensitive populations such as the elderly and the young;
 - Spray exposed soil with water or other suppressant to reduce emissions of PM10 and deposition of particulate matter;
 - Pave or use gravel on staging areas and roads that will be exposed for long periods;
 - Cover all trucks transporting materials, wetting materials in trucks, or providing adequate freeboard (space from the top of the material to the top of the truck bed), to reduce PM10 emissions and deposition during transport;
 - Provide wheel washers to remove particulate matter that will otherwise be carried off site by vehicles to decrease deposition of particulate matter on area roadways;
 - Remove particulate matter deposited on paved, public roads, sidewalks, and bicycle and pedestrian paths to reduce mud and dust; sweep and wash streets continuously to reduce emissions;
 - Cover dirt, gravel, and debris piles as needed to reduce dust and wind blown debris; and,
 - Route and schedule construction trucks to reduce delays to traffic during peak travel times to reduce air quality impacts caused by a reduction in traffic speeds.
8. Environmental Health/Contaminants - A Sampling Analysis Plan (SAP) shall be implemented to determine whether contaminated soil and/or groundwater are present in proposed areas of excavation. Where contaminants are identified during the SAP, certain elements of the project may be discarded to avoid encountering hazardous materials. Where avoidance of contamination is not feasible, the volume of contaminated soil and/or groundwater encountered will be minimized to the extent possible. All contaminated soil and groundwater will be disposed of following local, state, and federal regulations. In addition, a spill prevention, control, and countermeasure plan, erosion and sedimentation control plan, and plans for handling and disposal of known and unanticipated contamination will be implemented. These plans will present procedures, including best management practices, which will be employed for construction of the project. The presence and quantities of ACBM and LBP occurring in and on the six structures to be demolished will be verified prior to demolition. (NOTE: This permit does not include the demolition of any structures).
9. Noise - All contractors must adhere to city of Seattle noise ordinance regulations as well as comply with requirements of the City of Seattle Standard Specifications. Other means of noise control include placing stationary

equipment as far as possible away from sensitive receiving locations while maintaining the effective use of such equipment. Where this is infeasible, or where noise impacts are still likely to be significant, portable noise barriers shall be placed around the equipment with the opening directed away from the sensitive receiving property. In addition, where feasible, equipment operators shall drive forward rather than backward to minimize this noise. Finally, operators shall lift rather than drag materials wherever feasible.

10. Recreation - The project team shall use City of Seattle Department of Parks and Recreation standards for notifying the public of any temporary inconvenience or closures of park areas during construction. The location of alternate recreation opportunities shall also be provided.
11. Historic & Cultural Resources - A professional archaeologist shall monitor any excavation activities in the project area that may extend into undisturbed native soils with the exception of driving piles. Pile driving does not allow an archaeologist to examine subsurface deposits for archaeological resources. If the project changes to include repair elements that could contribute to the significance of the Armory building, a Determination of Effect shall be developed through consultation with the City of Seattle and the OAHP. In this case, the Landmarks Preservation Board will require complete documentation of the Armory building prior to consultation.

CONDITIONS – SEPA and SHORELINE

SEPA and Shoreline - 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 building 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.

1. Low-level lights that do not alter the in-water light conditions shall be installed on the bridge and bridge structure.
2. The foundations for Waterway #3 pedestrian bridges are pilings and shall be driven with impact hammers to reduce vibrations. Vibration and settlement monitoring shall be performed during construction to evaluate effects on adjacent structures and slopes.

3. Prior to commencement of work the owner(s) and/or responsible party(ies) 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.
4. Prior to commencing construction, an emergency containment plan and procedures shall be developed and all necessary equipment shall be stocked on the site.
5. Construction activity will be restricted to timing limitations set forth in the Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife.
6. Best Management Practices shall be employed during the bridge installation to meet applicable State of Washington water quality standards.
7. A silt fence shall be deployed around the abutment work to contain turbidity in the nearshore area and to contain any debris that enters the water. The silt fence should remain in place until for the duration of the proposed work.
8. Any floating debris that enters the water during construction shall be collected once per day, contained on site, secured, and then disposed of at the appropriate upland facility.
9. If heavy debris or deleterious material enters the water and sinks, the location of the material shall be recorded in a log that is kept through the duration of construction. When construction is completed, this material/debris shall be removed by a diver and disposed of at the appropriate upland facility.

SEPA and Shoreline – Life of the Project

10. 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.
11. The lighting shall be maintained so that impacts to the aquatic environment are mitigated as described and conditioned in this decision.

Signature: (signature on file)
Molly Hurley, Senior Land Use Planner
Department of Planning and Development

Date: December 28, 2006