



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

D. M. Sugimura, Director

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

Application Number: 3007034/2307611
Applicant Name: King County (Terry Smith)
Address of Proposal: 8953 Fauntleroy Way SW

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit for the future expansion of an existing public facility (Barton Pump Station). The project includes the future construction of a 1,481 square foot underground building containing a generator room and installation of a 1,500 gallon underground diesel fuel storage tank. The Determination of Non-Significance was prepared by King County.

The following approvals are required:

Shoreline Substantial Development Permit to allow an expansion of a public facility in the Urban Residential and Conservancy Recreation environments - Seattle Municipal Code (SMC) 23.60.020.

SEPA – to approve, condition pursuant to Section 25.05 SMC

SEPA DETERMINATION: Exempt DNS EIS

* DNS with conditions

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

*King County has acted as the lead agency and issued its SEPA threshold determination on September 28, 2006.

BACKGROUND DATA

Site Description

The site is located just north of the Fauntleroy Ferry dock in West Seattle in a Single Family 5000 zone (SF 5000) and the Conservancy Recreation (CR) Urban Residential (UR) shoreline environments. The environmentally critical areas mapping shows the site located within a riparian corridor, liquefaction area, flood prone area, and the 100 foot shoreline habitat buffer. The site is located within the street right-of-way at the intersection of Fauntleroy Way SW and SW Barton Street. The site is flat and an existing pump station is located below grade.

Area Development

Development in the vicinity consists primarily of single family residences. A moderate volume of traffic travels along Fauntleroy Way SW carrying vehicles to the ferry dock and the neighboring residences.

Description of Proposal

King County proposes to expand the existing Barton Pump Station. The project includes the future construction of a 1,481 square foot underground building containing a generator room and installation of a 1,500 gallon underground diesel fuel storage tank. A Determination of Non-Significance was prepared by King County Wastewater Treatment Division.

Public Comment

One comment letter was received during the public comment period which ended February 4, 2005. A public meeting was held on February 24, 2005 to discuss community concerns about both the Barton and Murray Pump Stations. Revised plans have been submitted in response to community concerns.

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.

A. The policies and procedures of Chapter 90.58 RCW;

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 contemplates 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.

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 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 proposed new addition and installation of a back-up emergency generator and underground diesel fuel storage tank will further the public interests of protecting the shorelines, and will not interfere with the public's use of the water. The emergency back-up generator will be used to prevent overflows in the event of a power outage. The subject application is consistent with the procedures outlined in RCW 90.58.

B. The regulations of this Chapter; and

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program". In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SMC 23.60.004 which are found in the Seattle Comprehensive Plan, and meets the criteria and development standards for the shoreline environment in which the site is located; any applicable special approval criteria; general development standards; and the development standards for specific uses.

Shoreline Environment: Development Standards

The subject property is classified as a waterfront lot (SMC 23.60.924) and is located within the Urban Residential (UR) and Conservancy Recreation (CR) shoreline environments as designated by the Seattle Shoreline Master Program. The proposal is subject to the Shoreline Policies of SMC 23.60.004 since the subject property is located within a shoreline environment. The proposed addition and installation of an emergency back-up generator accessory to an existing sewer facility requires a Shoreline Substantial Development Permit, pursuant to SSMP 23.60.020. It is part of a public facility permitted in the UR and CR shoreline environments SMC 23.60.840, and must meet the standards for the UR environment (SMC 23.60.570) and the CR environment (SMC 23.60.870).

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and location criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district.

The goals for shoreline use include long-term over short-term benefits, the integration and location of compatible uses within segments of the shoreline, and the location of all non-water dependent uses upland to optimize shoreline use and access. The goals also include providing for the optimum amount of public access – both physical and visual – to the shorelines of Seattle and the preservation and enhancement of views of the shoreline and water from upland areas where appropriate.

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 must: 1) minimize and control any increases in surface water runoff so that receiving water quality and shore properties are not adversely affected; 2) 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; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety.

The City's Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. In conjunction with this effort a Director's Rule, 6-93, was developed 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 location of the proposed work, the potential exists for negative impacts to the Puget Sound during construction. To avoid this, the applicant should take measures to prevent contamination of land or water and use materials and construction methods which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction, and prevent any construction debris from entering the water. 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).

The proposal, as conditioned below, would not adversely affect the quality and quantity of surface and ground water on and adjacent to the site on a long-term basis. No planned discharge of solid wastes would occur. Spillage of petroleum or diesel products must be avoided and contained should it occur. No intentional release of oil, chemicals, or other hazardous materials shall occur. Permeable surfaces would not be affected. Erosion would not result from the development. No impacts to fish and wildlife would occur. Natural shoreline processes would not be adversely affected. No long-term adverse impacts to surrounding land and water uses would occur. No vegetation will be cleared with this proposal. No hazard to public safety or health is posed by this development. Navigation channels would not be affected. The proposal would not affect existing shoreline stabilization and no submerged public right-of-way or view corridors would be significantly affected. There exists; however, the potential for surface water runoff to be adversely affected by fuel tank fueling and truck seepage. In order to reduce accidental fuel out fall into Puget Sound the applicant shall provide maximum source control of stored fuel and during fueling.

These conditions, which are based on the criteria of SSMP 23.60.152, ensure that the project conforms to the goals and regulations of the Seattle Shoreline Master Program. The public interest suffers no substantial detrimental effect from the proposal.

SMC 23.60.330 – Shoreline Environments

The purpose of the Urban Residential (UR) environment as set forth in SMC 23.60 220C6 is to protect residential areas. The purpose of the Conservancy (CR) environment as set forth in SMC 23.60.220C3 is to: “Protect areas for environmentally related purposes, such as public and private parks, aquaculture areas, residential piers, underwater recreational sites, fishing grounds, and migratory fish routes. While the natural environment is not maintained in a pure state, the activities to be carried on provided minimal adverse impact. The intent of the CR environment is to use the natural ecological system for production of food, for recreation, and to provide access by the public for recreational use of the shorelines. Maximum effort to preserve, enhance or restore the existing natural ecological, biological, or hydrological conditions shall be made in designing, developing, operating and maintaining recreational facilities.”

This proposal will prevent overflows in the event of a power outage. The addition and installation of an emergency back-up generator accessory to an existing sewer facility would replace generators that are old and not dependable. New code requirements prevent the replacement generator from being located inside the existing structure.

SMC 23.60.550 and 23.60.370 – Pubic Facilities in the UR and CR Environments

The UR and CR environments permit as a principal or accessory use minor expansions of public facilities, water-dependent or water-related. The Single Family 5000 (SF 5000) zone cross-references to the SSMP 23.60 uses and also refers to 23.80 Essential Public Facilities submittal requirements and review criteria.

The proposed project is accessory to a principal use and meets requirements as described in the SF 5000 zone and in the UR and CR environments.

SMC 23.60.570 and 23.60.390 – Development Standards for the Urban Residential and Conservancy Recreation Environment s

This proposal would not expand or extend pre-existing conditions. No additional massing or height is proposed to the existing underground structure. No additional views of the shoreline would be blocked.

In summary, as designed, the proposal is supported by both the purpose of the UR and CR shoreline environments and the policies set forth in the Comprehensive Plan. The principal use would remain consistent with the underlying zoning and in character with surrounding development, and conforms to the general development standards and the requirements of the underlying SF 5000 zone.

C. The provisions of Chapter 173-27 WAC

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.

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).

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

ANALYSIS-SEPA

Environmental impacts of the proposal have been analyzed in the environmental documents prepared by King County. The applicants submitted an environmental checklist dated February 19, 2004 and updated September 27, 2006, and a threshold determination for this project dated

February 25, 2004 and updated September 28, 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 SEPA conditioning.

The proposal site is located in an environmentally critical area due to the location within 100 feet of the shoreline. Therefore, the application is not exempt from SEPA review. However, SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City's Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations. This review includes identifying additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and other applicable environmental laws.

Environmental review resulting in a Threshold determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated April 1, 2004. The information in the checklist, pertinent public comment, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The Department of Planning and Development has analyzed the environmental checklist submitted by the project applicant; and reviewed the project plans and any additional information in the file. As indicated in this analysis, this action will result in adverse impacts to the environment. However, due to their temporary nature and limited effects, the impacts are not expected to be significant.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and 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. Short-term adverse impacts are anticipated from the proposal. No adverse long-term impacts on the environmentally critical areas are anticipated.

Short-term Impacts

The following temporary or construction-related impacts to the environmentally critical area are expected: 1) temporary soil erosion; and 2) increased vibration from construction operations and equipment. These impacts are not considered significant because they are temporary and/or minor in scope (SMC 25.05.794). Codes and development regulations applicable to this proposed project will provide sufficient mitigation and no further conditioning or mitigation is warranted pursuant to applicable SEPA policies.

CONDITIONS – SEPA AND SHORELINE SUBSTANTIAL DEVELOPMENT

Prior to Construction

The owner(s) and/or responsible party(s) shall:

1. 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 condition 2.

Conditions of Approval during Construction

The following condition(s) to be enforced during construction shall be posted at the site in a location 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 shall be printed legibly on placards available from the Department of Planning and Development (DPD), shall be laminated with clear plastic or other weatherproofing material, and shall remain in place for the duration of the construction.

2. In addition to compliance with the applicable provisions of Section 23.60.152 of the Seattle Shoreline Master Program, the owner(s) and/or responsible party(s) shall exercise care to prevent debris from entering the water during construction and to remove debris promptly if it does enter the water. The applicants shall implement best management practices approved and/or required by the State Department of Ecology (DOE) and the DPD construction inspector to minimize the amount of erosion caused by construction and operations at the site. Materials and construction methods shall be used which prevent toxic materials, debris, waste material, concrete slurry, petrochemicals, and other pollutants from entering surface water during and after construction. All debris and other waste shall be disposed of in such a way as to prevent entry into Puget Sound.

Signature: _____ (signature on file) Date: May 21, 2007
Malli Anderson, Land Use Planner
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Land Use Services