



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

Diane M. Sugimura, Director

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

Application Number: 3007206
Applicant Name: Matthew Blinstub
Address of Proposal: 121 S River St

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to install a two ton jib boom crane in an environmentally critical area. The crane will be mounted on a new stand alone steel pile on an existing timber dock.

The Seattle Municipal Code (SMC) requires the following approvals:

Shoreline Substantial Development Permit - To allow a jib crane in an Urban Industrial (UI) shoreline environment pursuant to Seattle Municipal Code. (SMC 23.60.020 and 23.60.870)

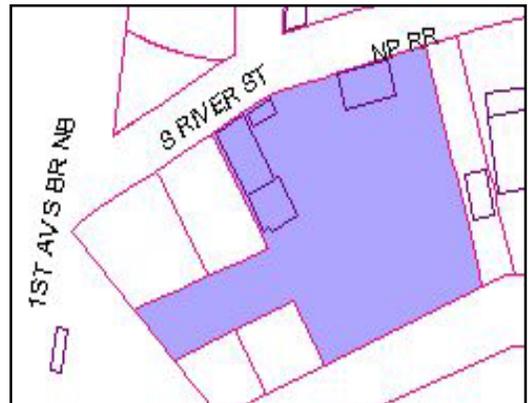
SEPA - Environmental Determination pursuant to SMC 25.05

SEPA DETERMINATION: Exempt DNS MDNS EIS
 DNS with conditions
 DNS involving non-exempt grading or demolition or
 involving another agency with jurisdiction.

BACKGROUND DATA

Site Description

The site proposed for installation of a single, piling mounted fixed crane is adjacent to the east shoreline of the Duwamish Waterway, near rive mile 2.6, southeast of the First Avenue South, Highway 99, bridge corridor. The Muckleshoot Indian Tribe uses approximately 1.3 acres of combined upland are, piling supported docks, and fishing boat moorage area as a base for Treaty fishing operations. The 111 South River Treaty fishing operation site is used for vehicle and truck access, boat and fishing gear storage, ice production, product transfer, fishing business operations, and as a communications center.



The site includes metal and wood frame buildings, used for fishing support activities, material storage, boat and equipment storage, and administrative/office spaces, totaling approximately 10,400 square feet. Existing buildings are between 20 and 25 feet in height. Upland area used for vehicle and truck access and transfer of ice and product includes approximately 0.8 acres. Existing grade elevations in the upland use area are approximately 16-17 feet above MLLW. Vehicles, trucks, and trailer-carried fishing equipment use two gates connected to South River Street and the adjacent arterial street system.

Two principal dock structures are present. The southeast portion of the site includes a creosote piling supported dock with approximately 7,525 square feet of over-water working surface (the dock dimensions are approximately 215 feet long and 35 feet wide). A smaller, concrete piling supported dock, approximately 3,400 square feet, is located at the southwest corner of the site (dock dimension is irregular, total water-ward margin is approximately 115 feet). The two docks are used in support of fishing activities, for loading gear and ice into boats and receiving product to holding/distribution facilities and vehicles on shore. The combined south margin of the two docks includes approximately 230 linear feet of fishing boat moorage floats.

The property is within an Urban Industrial (UI) shoreline environment and is zoned General Industrial 1 with an 85-foot height limit (IG 1 U/85).

Project Description

The proposal is to install a new 2-ton 25 foot radius jib crane mounted to the top of a new stand-alone steel pile on an existing timber dock. The jib crane would be installed at the SW end of the creosote piling supported timber dock at the Muckleshoot Indian Tribe Treaty Fishing Operations Site at 121 S River St. A 5 foot by 10 foot portion of the timber deck structure would be removed to allow installation of the crane support pile. The timber decking in this area would be replaced to surround the crane base. The crane will be placed approximately 5 feet back from the waterside face of the existing timber pier. The proposed jib boom crane consists of pre-manufactured equipment, requiring only installation on the site. The proposed crane is nearly identical to the existing 2-ton 20 foot radius jib boom crane located on the concrete piling supported pier at the SW corner of the site. The present jib boom crane has been in operation for approximately 5 years and a second crane is now required to serve the operation at the site.

Public Comment

Public notice of the Land Use Application was given on May 31, 2007. The public comment period ended on June 29, 2007. The Land Use Application file is available at the Public Resource Center located at 700 Fifth Ave, Suite 2000 (<http://www.seattle.gov/dpd/prc/location.htm>).

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, as conditioned, to Terminal 91 would not adversely impact the state-wide interest of protecting the resources and ecology of the shoreline, and the improvements would provide for the continued operation of a facility that is dependent upon its location in a shoreline of the state. 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 is located within an Urban Industrial (UI) shoreline environment. The proposed improvements are associated with the Treaty fishing operations use and as such are a permitted use in the UI shoreline environment and the underlying General Industrial 1 (IG 1 U/85) zone.

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 encourage and support the retention and expansion of existing water-dependent businesses uses at the Muckleshoot Indian Tribe Treaty Fishing Operations Site. An area

objective for this portion of the Duwamish Waterway is to encourage industrial and port uses in this area, where such uses are already concentrated, while also protecting migratory fish routes (please refer to Land Use Policies LU231 – LU270). The purpose of the Urban Industrial (UI) environment as set forth in Section 23.60.220 C11 is to provide for efficient use of industrial shorelines by major cargo facilities and other water-dependent and water-related industrial uses. Views shall be secondary to industrial development and public access shall be provided mainly on public lands or in conformance with an area-wide Public Access Plan.

The proposed improvements to the Muckleshoot Indian Tribe Treaty Fishing Operations Site would facilitate the continued and enhanced operations of the existing marine retail sales and service uses, as supported by both the purpose of the UI shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan. Installation of the 2-ton 25 foot radius jib crane will enhance user safety and increase operational efficiency.

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.
- 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.

The proposal is subject to a Hydraulics Project Approval (HPA) permit from the Washington State Department of Fisheries and Wildlife.

The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. In conjunction with this effort DCLU 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 removal and installation of the jib boom crane, the potential exists for impacts to the Duwamish Waterway 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 Urban Industrial (UI) Environment

The proposal conforms to all of the development standards for the Urban Industrial (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 Shoreline Substantial Development permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated August 31, 2007 and annotated by the Department. The information in the checklist, supplemental information provided by the applicant, project plans, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

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, 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/circumstances, (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-Term Impacts

The following temporary construction-related impacts are expected on this site: temporary soils erosion; increased noise from construction operations and equipment; increased traffic and parking demand from construction personnel; tracking of mud onto adjacent streets by construction vehicles; conflict with normal pedestrian movement adjacent to the site; and consumption of renewable and nonrenewable resources. Due to the temporary nature and limited scope of these impacts, they are not considered significant. Although not significant, these impacts are adverse, and in some cases, mitigation is warranted.

City codes and/or ordinances apply to this proposal and will provide adequate mitigation for some of the identified impacts. Specifically these are: 1) Grading and Drainage Control Ordinance (storm water runoff, temporary soil erosion, and site excavation) and 2) Street Use Ordinance (tracking of mud onto public streets, and obstruction of rights-of-way during construction).

Construction on this site will create dust, leading to an increase in the level of suspended air particulates, which could be carried by wind out of the construction area. Compliance with the Street Use Ordinance (SMC 15.22.060) will require the contractors to water the site or use other dust palliative, as necessary, to reduce airborne dust. In addition, compliance with the Puget Sound Clean Air Agency regulations will require activities, which produce airborne materials or other pollutant elements to be contained with temporary enclosure. Other potential sources of dust would be soil blowing from uncovered dump trucks and soil carried out of the construction area by vehicle frames and tires; this soil could be deposited on adjacent streets and become airborne.

The Street Use Ordinance also requires the use of tarps to cover the excavation material while in transit, and the clean up of adjacent roadways and sidewalks periodically. Construction traffic and equipment are likely to produce carbon monoxide and other exhaust fumes. It is anticipated that demolition and decommissioning will take two months to complete. The impacts associated with the construction are expected to be minor and of short duration. Compliance with the above applicable codes and ordinances will reduce or eliminate most adverse short-term impacts to the environment.

Long-Term Impacts

Potential long-term or use impacts anticipated by this proposal include: loss of the site for commercial/industrial use(s); increased ambient noise associated with human activity and vehicular movement; minor increase in light and glare from vehicle traffic (headlights); increased parking demand due to a loss of the site for employees and visitors; and increased airborne emissions resulting from additional traffic. These long-term impacts are not considered significant because they are minor in scope.

Other Impacts

Several codes adopted by the City will appropriately mitigate other long-term adverse impacts created by the proposal. Specifically these are: Grading and Drainage Control Ordinance (storm water runoff from additional site coverage by impervious surfaces); Puget Sound Air Pollution Control Agency regulations (increased airborne emissions); and the Seattle Energy Code (long term energy consumption).

DECISION

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2)(C).

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 2000-16, (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 Salmon Bay Waterway.

During Construction

2. The owner(s) and/or responsible party(ies) shall take care to prevent debris from entering the water during 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. Existing timbers, at or below the mudline, must be covered with a plastic, steel or other appropriate cap materials to prevent creosote from entering the environment, and substrate voids should be filled with clean native substrate that is of the same size and type of the existing.
 - b. If an entire fender piling is removed the void in the substrate should be filled with clean native substrate of the same size and type of the existing substrate.
 - c. An oil containment boom should be employed during all timber and piling removal activities. The boom will serve to collect any floating debris, which may result from timber and pile removal. 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.
 - d. The appropriate equipment and material for hazardous material cleanup must be kept at the site.
3. All creosote material, pile stubs, and associated sediments 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 and repaving to prevent any deleterious material from entering the water.

CONDITIONS - SEPA

None.

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

Date: July 9, 2007