



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: 3003134
Applicant Name: Benjamin Pariser for West Seattle Estates, LLC
Address of Proposal: 4741 15th Ave SW

SUMMARY OF PROPOSED ACTION

Land Use Application to allow construction of 33 single family residences with accessory parking in an environmental critical area. Project includes 5,500 cu. yds. of grading.

The following approval is required:

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code.

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

BACKGROUND DATA

Site & Area Description

The subject property includes 33 existing platted parcels that each measure 2,500 square feet in size, in an area bounded on the west by 16th Ave SW and on the south by SW Edmunds St and on the north by SW Alaska St, and including the unopened 15th Ave SW public right-of-way. The general area is south of the West Seattle Bridge and west of the West Duwamish Waterway, and in the Puget Ridge area of West Seattle.

Sixteenth Ave SW (which turns into Puget Way SW as it continues south of the site) is currently improved with a paved surface, but does not include a drainage system, sidewalks, or planting strips. Fifteenth Ave SW and SW Edmunds St are unimproved public rights of way. The site is vacant, with trees and vegetation covering the 33 lots. There are no alleys adjacent to the site.

The site is located in a Single Family 5000 (SF 5000) zone, which continues to the north, south, east, and west. Further to the east is an industrial zone bordering West Marginal Way South (IG U/85). The site is separated from the industrial zone by a steep downhill slope with approximately 30 feet of grade.

Surrounding uses consist of single family residential to the north and west, vacant property and industrial uses to the east, and vacant property to the south.

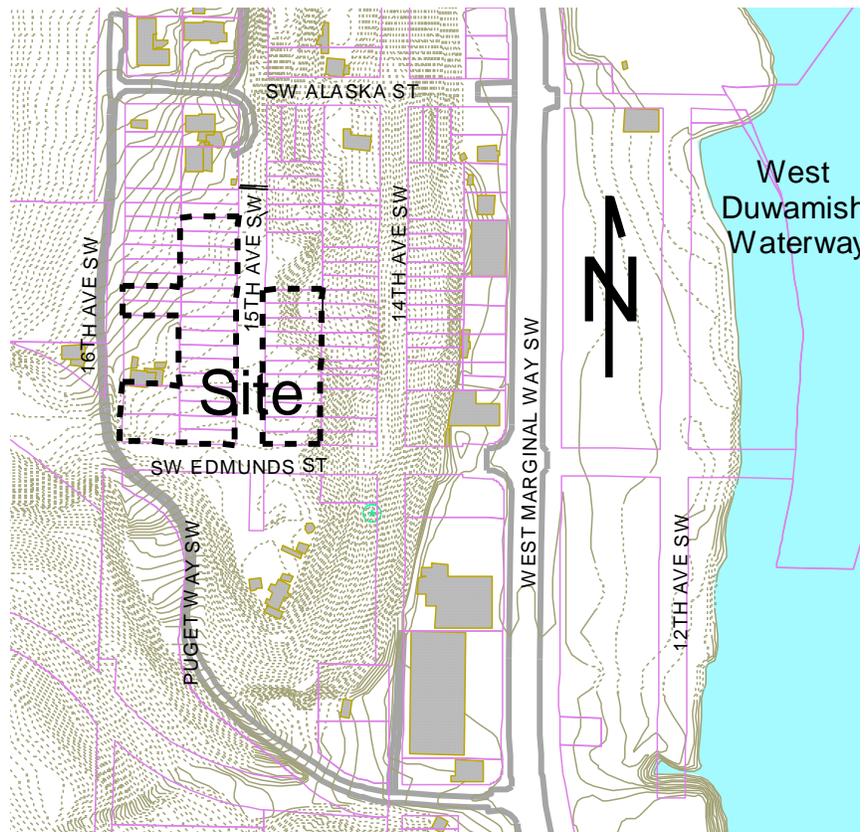
Environmentally critical areas are located on site, including a steep slope, steep slope buffer, and a potential slide area that affects the eastern 11 lots. Puget Creek is located to the south and west of the site. Puget Park is located to the west, across 16th Ave SW.

Proposal

The applicant proposes to construct 33 houses on the existing lots, with associated improvements in the Puget Way SW right-of-way, the 15th Ave SW right-of-way, the 16th Ave SW right-of-way, and the SW Edmunds St right-of-way. Each proposed residence would include an attached 1-car garage, accessed from a curb cut at the street front. Proposed residences on the eastern 11 lots would have a smaller footprint to avoid any development in the steep slope or required buffer.

Public Comments

Public notice of the proposal was issued on March 9th, 2006. Twelve public comments were offered, including concerns about soil contamination, adequate vehicular access, soil stability, and ecological effects of the proposal on local animal populations.



For illustrative purposes only

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the annotated environmental checklist (dated January 18, 2006), and supplemental information in the project file submitted by the applicant's agent. The information in the checklist, the supplemental information, and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) 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 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. The ECA ordinance and DR 33-2006 and 3-2007 regulate development and construction techniques in designated ECA's. The Street Use Ordinance requires watering streets to suppress dust, on-site washing of truck tires, removal of debris, and regulates obstruction of the pedestrian right-of-way. Puget Sound Air Pollution Control Agency regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures in general. Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the city. Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment.

However, due to previous soil contamination on site and the proximity to existing residences, additional analysis of soil erosion, air quality, environmental health, trees and vegetation, noise and vibration, and traffic is warranted. Although not significant, some of the impacts are adverse and certain mitigation measures are appropriate as specified below.

Air Quality

Demolition of structures and surface paving and transport for demolition will create dust, leading to an increase in the level of suspended particulates in the air, which could be carried by winds out of the construction area. Demolition could require the use of heavy trucks and smaller equipment such as generators and compressors. These engines would emit air pollutants that would contribute slightly to the degradation of local air quality.

The Street Use Ordinance (SMC 15.22) requires watering the site, as necessary, to reduce dust. In addition, the Puget Sound Clean Air Agency (PSCAA regulation 9.15) requires that reasonable precautions be taken to avoid dust emissions.

The applicant has recently completed a remedial action to remove contaminated soils from the site. Prior to the remedial action, the site contained Cement Kiln Dust (CKD), lead, and arsenic. The remedial action was reviewed by Washington State Department of Ecology (“Ecology”). Ecology issued a No Further Action for remedial action to clean up the site (VCP Project NW1722, No Further Action dated July 6, 2009).

The extent and location of the previously contaminated materials and the proposed soil remediation plan documents were examined and reviewed by a third party toxicological expert contracted by DPD in the following reports:

- “Phase I Environmental Site Assessment Proposed Residential Development, SW Edmunds St. and Puget Way SW, Seattle, Washington, E-2085” dated August 22, 2005 by GEO Group Northwest, Inc.
- “Project #3424, PCPID NW1585, Upper Hudson Street Site CKD Excavation Completion Report, Voluntary Cleanup Program Application, No Further Action Request, Attention: John M. McFarland, Prepared by Jeff Berebitsky,” dated March 6, 2006, by SESCO
- Letter from Kerry Behnke at SESCO to Dale Myers, Coordinator for the VCP, dated May 18, 2006, Re: Battery Casing Excavation Completion Report, Upper Hudson Street Stie, 4815 15th Ave SW, Seattle WA, TCPID NW1585, SESCO Project #3424 (report dated May 18, 2006 included with letter)
- Letter and enclosures from David Baumeister to Jeff Berebitsky Re: Analytical Data for Project 3424, Laboratory Reference 0609-074, dated September 13, 2006
- Email and attachments from Benjamin Pariser Re: Cyanide Samples, dated September 25, 2006
- “Site Assessment Completion Report, Upper Hudson Street Stie, 4815 15th Ave SW, Seattle WA, TCPID NW1585, SESCO Project #3424” dated October 5, 2006 from Matt Alspaugh at SESCO to Dale Myers, Coordinator for the VCP, Northwest Regional Office, Department of Ecology
- “Opinion Letter (Revised), Environmental Issue Review, Proposed Residential Development, SW Edmunds Street and Puget Way SE, Seattle, Washington, MUP #3003134, Summit PO #DM06U004, Pinnacle GeoSciences File No. 0143-005” dated October 26, 2006 by Steve Perrigo of Pinnacle GeoSciences
- “Phase I Environmental Site Assessment/Phase II Investigation Report, Proposed Residential Development, SW Edmunds St/Puget Way SW, Seattle WA 98106” dated January 4, 2007 by Kevin Freemean at Entrix
- “Comment Letter, Review of Report dated January 4, 2007, Proposed Residential Development, SW Edmunds Street and Puget Way SE, Seattle, Washington, MUP #3003134, Summit PO #DM06U004, Pinnacle GeoSciences File No. 0143-005” dated February 21, 2007 by Steve Perrigo of Pinnacle GeoSciences
- “Groundwater Monitoring Report, West Seattle Estates Property, SW Edmunds St. & 16th Ave SW, Seattle Washington 98106” dated March 29, 2007 by John R. Kane of Kane Environmental Inc.
- “Opinion Letter, Environmental Issue Review, Proposed Residential Development, SW Edmunds Street and Puget Way SE, Seattle, Washington, MUP #3003134, Summit PO

#DM06U004, Pinnacle GeoSciences File No. 0143-005” dated May 8, 2007 by Steve Perrigo of Pinnacle GeoSciences

- “Limited Phase II Site Assessment – Soil Sampling, West Seattle Estates, SW Edmunds St & Puget Way SW, Seattle, Washington 98106” dated July 9, 2007 by John Kane of Kane Environmental Inc.
- Fax Transmittal from Benjamin Pariser to Shelley Bolser Re: No Further Action Letter, dated October 20, 2007*
- No Further Action letter from State of Washington Department of Ecology Northwest Regional Office, Dale R. Myers (Site Manager, NWRO Toxics Cleanup Program), dated July 6, 2009 (referenced: Site Name West Seattle Estates LLC; Site Address 4741 15th Ave SW, Seattle; Facility/Site No. 3858982; VCP Project No. NW1722)

**Note: the “No Further ActionLetter” in the fax from Benjamin Pariser to Shelley Bolser dated October 20, 2007 letter was mistakenly labeled. The attached letter is in fact a Washington State Department of Ecology Opinion Letter only, which gives the Department’s opinion as to the adequacy of the soil remediation plan proposed at that time.*

DPD has received a valid No Further Action letter from Ecology (dated July 6, 2009), as described above. Given the determination of No Further Action from Ecology for soil cleanup activities, there are no anticipated adverse impacts from excavation and construction at the site, and the proposed action does not warrant mitigation under SEPA.

Construction Impacts

Construction activities include construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials. These activities themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project and do not warrant mitigation under SEPA.

The previous contamination of the soils on site is described in the response to Air Quality SEPA polices above. Given the determination of No Further Action from Ecology for soil cleanup activities, there are no anticipated adverse impacts from excavation and construction at the site, and the proposed action does not warrant mitigation under SEPA.

Earth

The applicant has submitted several geotechnical reports addressing soil stability, including potential impacts during excavation and construction. Reports address both soil stability issues on the site (environmentally critical area steep slopes) and proposed improvements in the nearby public rights-of-way. Seattle Department of Transportation administers codes and reviews design specifications for structural requirements for improvements within the public right-of-way. During review of the proposed MUP, the applicant revised the proposal to restrict all associated public right-of-way improvements only to areas within the public right-of-way.

The submitted geotechnical reports include the following:

- “Geotechnical Considerations Revised Roadway Alignment, Puget Way S.W., Pigeon Point Development, Seattle, Washington, G-0290-2” dated November 1, 1994 by Geo Group Northwest, Inc.
- “Geotechnical Engineering Study, Proposed New Roadway, SW Edmunds Street, Seattle, Washington,” dated December 30, 2005 by GEO Group Northwest, Inc.
- “Addendum to Geotechnical Engineering Study Report, Proposed Residential Development, SW Edmunds St and Puget Way SW, Seattle, Washington, (Project No. G-2085)” dated January 20, 2006 by GEO Group Northwest, Inc.
- “Slope Stability Analysis, West Seattle Estates, 15th Ave SW & SW Edmunds Street, Seattle WA” dated November 10, 2006 by Jason Engineering & Consulting Businesses, Inc.
- “Slope Stability Analysis, West Seattle Estates, 15th Ave SW & SW Edmunds Street, Seattle WA” dated July 6, 2007 by Jason Engineering & Consulting Businesses, Inc.
- “Previous reports, soil parameters, DPD MUP 3003134” dated January 27, 2009 by Jason Engineering & Consulting Businesses, Inc.
- “Structural Calculations for Soldier Pile Retaining Wall Design at 16th Ave SW Improvements” dated February 27, 2009 by Pace Engineers, Inc.

These reports have been reviewed by geotechnical engineers in DPD for soil stability issues in relation to the proposed residences on the eastern 11 lots adjacent to the steep slope ECA. The reports have also been reviewed by DPD geotechnical engineers for improvements that could affect soil stability in areas outside of the public right-of-way, adjacent to proposed public right-of-way improvements (ex. Soldier pile retaining walls at the edge of the Puget Way SW public right-of-way).

The construction plans, including shoring of excavations as needed and erosion control techniques will receive additional and separate review by DPD. Any additional information showing conformance with applicable ordinances and codes (ECA ordinance, The Stormwater, Grading and Drainage Control Code, DR 33-2006 and 3-2007) will be required prior to issuance of building permits. Applicable codes and ordinances provide extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are utilized. Given the existing codes and ordinances, the proposed buffer from the edge of the steep slope, and the proposed type of construction at the edge of the public right-of-way, no additional conditioning is warranted for these items pursuant to SEPA policies.

Environmental Health

The previous contamination of the soils on site and the July 6, 2009 No Further Action Determination from Ecology are described in the response to Air Quality SEPA polices above. Given the determination of No Further Action from Ecology for soil cleanup activities, there are no anticipated adverse impacts from excavation and construction at the site, and the proposed action does not warrant mitigation under SEPA.

Noise

Excavation will be required to prepare the building sites and foundations for the new buildings. Additionally, as development proceeds, noise associated with construction of the buildings could adversely affect the surrounding residential uses. Due to the proximity of neighboring residential uses, the limitations of the Noise Ordinance are found to be inadequate to mitigate the potential noise impacts. Pursuant to the SEPA Overview Policy (SMC.25.05.665) and the SEPA Noise Policy (SMC 25.05.675 L), mitigation is warranted. The hours of construction activity shall be limited, subject to the conditions listed below.

Plants and Animals

Public comment raised the question of the potential of a nearby Great Blue Heron rookery and the potential of Bald Eagle nests. The applicant submitted a report to DPD titled, "Habitat Assessment – Letter Report, MC #341134.001" dated August 29, 2005, by MCS Environmental. DPD reviewed the potential for either a Heron rookery or Bald Eagle habitat in conjunction with Washington State Department of Fish and Wildlife (WDFW). According to WDFW, the nearest Bald Eagle nest is 1800 feet from the site and the Heron rookery was no longer active in the general vicinity of the proposal.

Two exceptional trees have been identified on the site, and the applicant has proposed tree protection plans for both trees that meet the requirements of SMC 25.11, Tree Protection. The trees were identified and proposed tree protection during construction was specified in two tree reports:

- "West Seattle Estates Tree Inventory" letter dated January 22, 2006 by Arboriculture & Restoration
- "West Seattle Estates Tree Inventory and Protection Specification" memo dated December 11, 2008 from Tree Solutions, Inc.

The exceptional trees are a Pacific dogwood located on Lot 5 of Block 2 (listed as tree #39 in the 2006 report noted above), and a Pacific madrone located on Lot 43, Block 1 (listed as tree #132 in the 2006 report noted above, and further discussed in the 2008 report noted above).

Due to tree protection code requirements in SMC 25.11 and tree protection specified in the reports listed above, the proposed excavation and construction at the site would be unlikely to result in loss of wildlife habitat and vegetation which have substantial aesthetic, educational, ecological, and/or economic value. Therefore, no additional conditioning is warranted for these items pursuant to SEPA policies.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased bulk and scale on the site; increased traffic in the area; increased demand for parking; and increased demand for public services and utilities.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Stormwater, Grading and Drainage Control Code which requires on site collection of stormwater with provisions for controlled tight line release to an approved outlet and may require additional design elements to prevent isolated flooding; the City

Energy Code which will require insulation for outside walls and energy efficient windows; and the Land Use Code which controls site coverage, setbacks, building height and use and contains other development and use regulations to assure compatible development. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of most long term impacts and no further conditioning is warranted by SEPA policies, except as noted below.

Earth

The geotechnical reports submitted by the applicant and reviewed by DPD are described in the response to Short-Term impacts Earth SEPA polices above. As noted in that response, DPD geotechnical engineers have determined that the proposed development includes adequate soil stabilization techniques. The construction plans, including structural calculations and erosion control techniques, will receive separate review by DPD.

To address long-term impacts associated with soil stability at the eastern edge of the site, an Environmentally Critical Area Covenant has been recorded on the site, restricting all land disturbing activities to areas outside the steep slope and buffer, and requiring permanent markers to be placed at the edge of the 10' steep slope buffer (King County recording #20090123000902).

Pursuant to the SEPA Overview Policy (SMC.25.05.665) and the SEPA Earth Policy (SMC 25.05.675 D), mitigation is warranted to ensure that the environmentally critical area requirements are in place. As detailed in the recorded Covenant, the applicant shall be required to provide proof of the installation of the 22 markers prior to issuance of a Master Use Permit, as conditioned below.

Environmental Health

Operational activities, primarily vehicular trips associated with the project and the projects' energy consumption, are expected to result in increases in carbon dioxide and result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project and do not warrant mitigation under SEPA.

The previous contamination of the soils on site and the July 6, 2009 No Further Action determination from Ecology are described in the response to Air Quality (Short-term impacts) SEPA polices above. Given the determination of No Further Action from Ecology for soil cleanup activities, there are no anticipated adverse impacts from excavation and construction at the site, and the proposed action does not warrant mitigation under SEPA.

Height, Bulk and Scale

There will be increased height, bulk and scale on this site due to the proposed project. Required yards, height, and lot coverage standards are being met. The proposed development is allowed in this zone and no additional height, bulk, or scale SEPA mitigation is warranted pursuant to the SEPA height, bulk and scale policy.

Parking

There will be increased parking demand created by the project. Parking for 33 vehicles is proposed. The Institute of Transportation Engineers (ITE) Parking Manual 3rd Edition indicates that a single family residential use would generate peak demand for approximately 33 vehicle parking spaces (1 space per residential unit). The Land Use Code requires 33 parking spaces.

The applicant has proposed 33 parking spaces, which is the amount required by the Land Use Code and equal to the parking demand indicated by the ITE Parking Manual. Therefore, no additional conditioning is warranted under SEPA policies.

Plants and Animals

As described under the Short Term impacts Plants and Animals section above, the public comments regarding potential bald eagle and Great Blue Heron habitat and exceptional trees on site have been reviewed.

Public comment also raised the question of possible wetlands on site. The applicant submitted a letter to DPD for review, "West Seattle (Puget Drive) Wetland Review" dated April 24, 2006 by A.C. Kindig & Co. On May 23, 2006, the DPD wetland reviewer issued a Wetland Determination, noting there are no regulatory wetlands on site.

DPD has determined that the proposed development would not result in the loss of wildlife habitat and vegetation which have substantial aesthetic, educational, ecological, and/or economic value. Therefore, no additional conditioning is warranted for these items pursuant to SEPA policies.

Public Services and Facilities

The applicant has proposed 33 new residences in an area that currently lacks nearby access to many utilities. The existing water service lines are connected to a water main adjacent to West Marginal Way South. There are limited drainage facilities to carry storm water down to West Marginal Way South. The applicant has proposed public utilities with the improvements to Puget Way SW, including service for the proposed 33 residences.

The proposed development will therefore not create excessive demands upon existing public services and facilities. Therefore, no additional conditioning is warranted for these items pursuant to SEPA policies.

Traffic

The applicant has submitted a traffic report, "West Seattle Estates, LLC Residential Development Traffic Impact Analysis," dated December 29, 2005, by Mirai Transportation Planning & Engineering. The report stated that the proposed change of use would generate a total of approximately 316 vehicle trips per day and 33 peak hour trips. The report noted a different proposed right-of-way improvement scenario (original proposal included improvements connecting SW Edmunds through to West Marginal Way S.). While the proposal has changed to remove these improvements from the scenario, the number of vehicle trips that would be generated by the proposed 33 residences has not changed.

The applicant is proposing improvements to Puget Way SW, which will improve traffic flow between the proposed development and West Marginal Way S. 316 total vehicle trips per day and 33 additional trips at the peak hour would not likely have a significantly adverse effect on the existing traffic patterns in this area. Therefore, the noted traffic-related impacts of the proposed completed project are not considered adverse and no further mitigation is warranted under SEPA (SMC 25.05.675.R).

Summary

The Department of Planning and Development has reviewed the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the file; and any comments which may have been received regarding this proposed action have been considered.

The applicant will be required to obtain all required Street Improvement Permits from the Seattle Department of Transportation, as well as permits from Seattle Public Utilities for new public services associated with the proposed development. The MUP decision for application 3003134 and any issuance of that MUP do not constitute approvals for any additional permits required by Seattle's Department of Planning and Development, other Seattle Departments, or other governmental entities.

As indicated in the checklist and this analysis, this action will result in probable adverse impacts to the environment. However, due to their temporary nature and limited effects as conditioned below, the impacts are not expected to be significant.

DECISION - SEPA

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 requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public 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 43.21C.030 2C.

[] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2C.

CONDITIONS – SEPA

Prior to Issuance of a Master Use Permit

1. Provide proof (surveyed location, or photos and surveyor's statement) of the installation of permanent markers at the edge of the 10' steep slope buffer on the eastern 11 lots, as described in the Environmentally Critical Area Covenant has (King County recording #20090123000902).

During Construction

2. All construction activities are subject to the limitations of the Noise Ordinance. Construction activities (including but not limited to demolition, grading, deliveries, framing, roofing, and painting) shall be limited to non-holiday weekdays from 7 am to 6 pm. Interior work that involves mechanical equipment, including compressors and generators, may be allowed on Saturdays between 9 am and 6 pm once the shell of the structure is completely enclosed, provided windows and doors remain closed. Non-noise generating activities, such as site security, monitoring, weather protection shall not be limited by this condition.

Construction activities outside the above-stated restrictions may be authorized by the Land Use Planner (Shelley Bolser 206-733-9067 or shelley.bolser@seattle.gov) when necessitated by unforeseen construction, safety, or street-use related situations. Requests for extended construction hours or weekend days must be submitted to the Land Use Planner at least three (3) days in advance of the requested dates in order to allow DPD to evaluate the request.

Signature: (signature on file)
Shelley Bolser AICP, Senior Land Use Planner
Department of Planning and Development

Date: August 10, 2009