

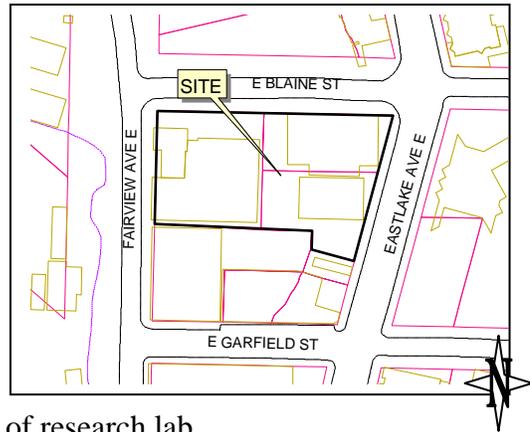


City of Seattle

Gregory J. Nickels, Mayor
Department of Design, Construction and Land Use
D. M. Sugimura, Acting Director

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

Application Number: 3005295
Applicant Name: Emily Wheeler
Address of Proposal: 199 East Blaine Street



SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow a 3-story building containing 116,634 square feet of research lab and 4,450 square feet of retail in an environmentally critical area. Parking for 166 vehicles will be provided below grade. The project includes 28,000 cubic yards of grading and the existing structures will be demolished.

Seattle Municipal Code (SMC) requires the following approvals:

Shoreline Substantial Development Permit - (SMC 23.60.020 and 23.60.720)

SEPA - Environmental Determination - (SMC Chapter 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 subject site includes three parcels for an approximate lot area of 54,560 square feet. There are three structures located on the site which will be removed. The site is an upland lot and is relatively flat. The westerly portion of the site is located within the 100-foot Shoreline Habitat Buffer and the entire site is located within a Liquefaction area. The entire site is zoned General Industrial I with a

45-foot height limit (IG-1/U45) with approximately 120 feet of the westerly portion of the site located within the Urban Maritime (UM) shoreline environment.

Surrounding Area Description

The areas to the west along the shorelines of Lake Union are zoned IG-1/U45 within an UM environment and primarily developed with a variety of maritime uses. The areas to the north across East Blaine Street are zoned Commercial 1 with a 40-foot height limit (C-1/40) and developed with a variety of commercial uses. The areas to the east are zoned Commercial 1 with a 65-foot height limit (C-1/65) and developed primarily with a variety of commercial uses.

Project Description

Shoreline substantial development application to allow a 3-story building containing 116,634 square feet of research lab and 4,450 square feet of retail in an environmentally critical area. Parking for 166 vehicles will be provided below grade. The project includes 28,000 cubic yards of grading and the existing structures will be demolished.

Public Comment

The application was deemed to be complete on September 7, 2006 and notice of application was sent on January 11, 2007. The public comment period ended on February 9, 2007. No public comments were received through the public notice process.

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 research and development building will further the public interests of protecting the shorelines, and will not interfere with the public's use of the water. 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 an upland lot (SMC 23.60.924) and is located within an UM environment, 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 research and development building require a Shoreline Substantial Development Permit, pursuant to SSMP 23.60.020. The proposed building is permitted in the UM shoreline environment pursuant to SMC 23.60.730, and must meet the standards for the UM environment.

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, 16-2000, 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 Lake Union 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.

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 23.60.750 – Development standards for the UM Environment

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

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.

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).

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, 2006. The information in the checklist 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 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 225.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-Term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulates from building activities and hydrocarbon emissions from construction vehicles and equipment; increased dust caused by construction activities; increased traffic due to construction-related vehicles, and increased noise during construction. Due to the temporary nature and limited scope of these impacts, they are not considered to be significant (SMC 25.05.794).

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater, Grading and Drainage Control Code regulates new development and

land-disturbing activities and requires best management practices be used to accomplish the following: control of erosion and the transport of sediment from the site by mulching, matting and/or the use of silt fences; permanent stabilization of exposed soils that are not being actively worked by the installation of permanent vegetative cover and/or installation of slope protective materials; and, the control of the introduction of contaminants and pollutants, and reduction and treatment of contaminants in City systems by the regular cleaning of catch basins, gravel truck loading and heavy equipment areas, sweeping, and maintaining erosion control protective features. A drainage control plan and grading plan, prepared by a licensed civil engineer in accordance with standards adopted by the Director of Construction and Land Use, is required with submittal of the building permit(s). Title 15, Street and Sidewalk Use, regulates construction activities within the public right-of-way. In addition, compliance with the Building Code which regulates construction measures in general; the Energy Code which requires energy conservation measures; and the Noise Ordinance which regulates construction noise, will, with the exception of construction impacts, reduce or eliminate short-term impacts to the environment to the extent that they will be sufficient without conditioning pursuant to SEPA policies. Further analysis and/or conditioning of some of the short term impacts are warranted.

Construction Impacts

The SEPA Overview Policy (SMC 25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675B) allow the reviewing agency to mitigate impacts associated with construction activities.

Construction activities are expected to affect the surrounding area. Impacts to traffic and roads are expected from truck trips during earth moving activities. In addition, delivery of concrete and other materials to the site will generate truck trips. As a result of these truck trips, an adverse impact to existing traffic will be introduced to the surrounding street system. Due to the temporary nature and limited scope of these impacts, they are not considered to be significant (SMC 25.05.794).

Erosion impacts during project construction will be mitigated by the use of best management practices specified in the temporary erosion and sedimentation control plan for the project, as required by the City of Seattle's Stormwater, Grading, and Drainage Control Code. Typical practices include those measures that minimize the amount of soil exposed to wind and water action, as well as construction practices that control sediment and surface water discharge onto steep slopes. These measures include control of drainage, sediment control practices such as filter fabric fences and temporary sedimentation ponds. Best management practices include the use of facilities such as temporary sedimentation basins, silt fences, diversion dikes, catch basin filters, etc. to prevent the sediment from entering the downstream surface water system. Other practices include seeding, mulching and plastic sheeting. The City's Stormwater, Grading and Drainage Control Code provides for adequate mitigation during site preparation and therefore no further mitigation is warranted.

Animal

The proposal includes removing 85 square feet of permeable area and 3 trees within the 100-foot Shoreline Habitat Buffer. The proposal includes mitigation by adding 557 square feet of permeable area and indigenous vegetation (eight trees) within the 100-foot Shoreline Habitat Buffer area. Grading will occur within the 100-foot buffer and Best Management Practices will

be employed during grading and construction, therefore no substantial impacts are expected to the shoreline fish and wildlife habitat.

Long-Term Impacts

Long-term or use-related impacts are also anticipated from the proposal and include: increased ambient noise due to increased human activity; increased demand on public services and utilities; increased light and glare; increased traffic; and increased energy consumption. These long-term impacts are not considered significant because the impacts are minor in scope and are typical in an urban environment. Several adopted Codes and Ordinances and other agencies will appropriately mitigate the other use-related adverse impacts created by the proposal. However, some of the impacts warrant further discussion and review.

Parking Impacts

Per a memorandum dated June 22, 2007 from Heffron Transportation Inc, the peak parking demand for the project was estimated at 156 vehicles for the research and development use and the retail use. This parking demand is being met by the 166 parking spaces being provided on the project site.

Traffic

A traffic impact analysis conducted by Parametrix dated October 2006 provides projections into 2009 for traffic and intersection impacts with and without the proposal. Traffic volumes along the Easlake Avenue East corridor are expected to increase in 2009, with or without the project. This increased volume is not anticipated to affect the operating capacity of the surrounding streets and study intersections, as all the study intersections would continue to operate at or above the City's level of service "D" standard. Thus, the noted traffic-related impacts are not considered significant under SEPA (SMC 25.05.675.R).

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 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).

SEPA CONDITIONS

Prior to Issuance of the MUP

1. The owner and/or responsible parties shall provide DPD with a statement that the contract documents for their general, excavation, and other subcontractors will include reference to regulations regarding archaeological resources (Chapters 27.34, 26.53, 27.44, 79.01, and 79.90 RCW, and Chapter 25.48 WAC as applicable) and that construction crews will be required to comply with those regulations.

Construction Conditions

2. If resources of potential archaeological significance are encountered during construction or excavation, the owner and/or responsible parties shall:
 - Stop work immediately and notify DPD (Mark Taylor, 206-684-5049) and the Washington State Archaeologist at the State Office of Archaeology and Historic Preservation (OAHP). The procedures outlined in Appendix A of Director's Rule 2-98 for assessment and/or protection of potentially significant archeological resources shall be followed.
 - Abide by all regulations pertaining to discovery and excavation of archaeological resources, including but not limited to Chapters 27.34, 27.53, 27.44, 79.01 and 79.90 RCW and Chapter 25.48 WAC, as applicable, or their successors.

CONDITIONS - SHORELINE

Prior to Issuance of the Building Permit

3. Notify in writing all contractors and sub-contractors of the general requirements of the Seattle Shoreline Master Program (SSMP 23.60.152).
4. Prior to commencing construction an emergency containment plan and procedures shall be developed and include the requirement that all necessary equipment for toxic spill clean-up be stocked on the site. A sufficient number of personnel that will be present during construction shall be trained in the proper implementation of this plan. This plan shall be submitted to DPD before the final permit is issued.

Construction Conditions

5. The following conditions(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 Master Use 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.
6. Appropriate best management practices (BMPs) shall be employed to prevent, debris, construction material and/or toxic material from entering Lake Union during the proposed shoreline work. BMPs shall include the installation of a silt fence to contain any sediment laden runoff from the site.

Signature: _____ (signature on file) Date: August 30, 2007
Mark Taylor, Land Use Planner
Department of Planning and Development