



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:	3008712
Applicant Name:	Don Benson
Address of Proposal:	1652 SW Lander St

SUMMARY OF PROPOSED ACTION

Land Use Application to install a 6,600 Barrel above ground storage tank (277,200 gallons, 38’ in height) at an existing petroleum storage and distribution facility in an environmentally critical area. Project includes distribution facility in an environmentally critical area. Project includes installation of kiosks, pipes, pumps, pump house and related equipment.

The following approval is required:

Shoreline Substantial Development Permit – To allow the installation of a 6,600 barrel tank, associated pipes and equipment within the 100-foot shoreline habitat buffer.

SEPA – Environmental Determination- Chapter 23.05 Seattle Municipal Code.

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

BACKGROUND DATA6

Site & Area Description

The subject site is located at an operating marine cargo terminal, an industrial site with no vegetation. The site is irregularly shaped and is 557,420 square feet, or 12.80 acres. The proposed development will occur on land classified as a waterfront lot pursuant to SMC 23.60.924, which is located within an Urban Industrial (UI) shoreline environment. The subject site is located between the Duwamish Waterway and 16th Ave SW, south of SW Florida St. The site holds 1,273.95 feet of frontage on 16th Avenue SW and 885.7 feet along SW Florida Street.

A portion of the proposed development, along with existing offloading/loading facilities, is situated within the 200-foot shoreline zone. Some of the existing and proposed improvements also are situated within the 100-foot shoreline habitat buffer, an environmentally critical area designated by the City of Seattle (Critical Areas Ordinance, 2006).

Proposal

The development site is currently operated by BP West Coast Products, LLC (BP), a bulk fuel storage and transfer facility for gasoline, diesel and ethanol and additives at 1652 SW Lander Street in Seattle on Harbor Island near the Duwamish Waterway. Current operations include use of the site for transport of products by cargo vessels, truck and rail.

The project includes the installation of equipment and improvements to offload, store, blend and dispense bulk bio-diesel products for transfer to retail sales facilities. The proposed development includes:

- expansion of existing offloading facilities
- addition of offloading/loading facilities for tanker trucks
- installation of 277,200 gallon bio-diesel storage tank with an existing tank farm
- Installation of facilities for blending the bio-diesel and petro-diesel and associated pumps etc.

Public Comment:

Date of Notice of Application:	March 27, 2008
Date End of Comment Period:	April 10, 2008
# Letters	0
Issues:	No comment letters were received for this project.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Substantial Development Permit Required

The proposal is located within an Urban Industrial Shoreline Environment as designated by the Seattle Shoreline Master Program (SSMP). This program, Section 23.60 of the Seattle Municipal Code, regulates use and development in the City's shoreline districts, to implement the policy and provisions of the Shoreline Management Act of 1971, and the Shoreline Goals and Policies.

The SSMP requires that a shoreline permit be obtained prior to the undertaking of any substantial development within a shoreline environment. SMC Section 23.60.030 includes criteria for evaluating a shoreline permit. A substantial development permit shall be issued only when the development proposed is consistent with:

- A. The policies and procedures of Chapter 90.58 RCW;
- B. The regulations of this Chapter; and
- C. The provisions of Chapter 173-27 WAC.

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. THE POLICIES AND PROCEDURES OF CHAPTER 90.58.RCW

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 proposal to install 6,600 barrel for an above ground storage tank as described above is consistent with the policies and procedures of Chapter 90.58 RCW and the provisions of Chapter 173-27 WAC.

B. THE REGULATIONS - CHAPTER 23.60

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

SSMP 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 proposal site is located in an area designated as Urban Industrial, the purpose of which is to encourage preservation of the statewide interest by encouraging industrial and port uses in this area, where such uses are already concentrated, while also protecting migratory fish routes. It is also to protect Kellogg Island as an important natural resource for fish and wildlife habitat and the opportunity for the public to view those resources. The purpose also encompasses working with appropriate government agencies and shoreline users to reduce the input of pollutants, restore contaminated areas, and regulate disposal of dredge spoils, while increasing public access and recreational opportunities through the Duwamish Public Access Plan.

Goals for Shoreline use in the Seattle Comprehensive Plan include encouraging uses that result in long-term over short-term benefits, and the integration and location of compatible uses within segments of the shoreline. The goals for economic development include encouraging economic activity of water-dependent uses. The proposed facility would allow Duwamish Waterways to maintain its operations, and support tenants interested in retaining economic development of the Urban Industrial Environment.

Development Standards

The proposal to add a maritime museum use over water structure is permitted outright in SMC 23.60.660 governing the UH shoreline environment. The proposed action is therefore subject to:

1. The general development standards for all shoreline environments (SSMP 23.60.152);
2. The development standards for uses in the UH environment (SSMP 23.60.660); and,
3. The development standards for Downtown Harbor-front 1 zones (SMC 23.49).

1. General Development Standards for all Shoreline Environments (SSMP 23.60.152)

These general standards apply to all uses in the shoreline environments. They require that all shoreline activity be designed, constructed, and operated in an environmentally sound manner consistent with the Shoreline Master Program and with best management practices for the specific use or activity, in order to have minimal impact on the shoreline.

General development standards (SSMP 23.60.152) state that Best Management Practices (BMP's) shall be followed for any development in the shoreline environment. These measures are required to prevent contamination of land or water. The Storm-water, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. Therefore, approval of the substantial development permit will be conditioned to require application of construction BMP's.

The proposed project's design is consistent with the requirements of this section. To ensure that these standards are conformed to, the proponent will be required to notify contractors and sub-contractors of these requirements.

2. Development Standards for UI Shoreline Environment (SSMP 23.60.840)

The subject lot is considered a waterfront lot as defined in SMC 23.60.840. Development standards for waterfront lots in the Urban Industrial environment address height limits, lot coverage, view corridors, public access with certain exceptions, and location. The proposal does not alter the physical development on the site and retains compliance with the development standards.

In summary, as designed, the proposal is supported by both the purpose of the UI shoreline environment and the policies set forth in the Comprehensive Plan. The structure would remain consistent with the underlying commercial zoning and in character with surrounding development, and conforms to the general development standards and the requirements of the underlying downtown zone.

3. Development Standards for Downtown Industrial Environment (SSMP 23.49.870 - 882)

The development standards in SMC 23.49.870 - 23.49.882 relate to general provisions and parking in the Downtown Industrial zone. Each of these provisions has either been met or is not affected by the proposal.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

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

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposed action is **CONDITIONALLY GRANTED.**

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist prepared by the applicant dated March 7, 2008. 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 25.05.665D) 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/demolition-related impacts are expected: minor decreased air quality due to suspended particulates from building and demolition activities and hydrocarbon emissions from construction vehicles and equipment; increased traffic and demand for parking from construction equipment and personnel; conflict with normal pedestrian movement adjacent to the site; increased noise; and consumption of renewable and non-renewable resources. Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. Additionally, these impacts are minor in scope and are not expected to have significant adverse impacts.

Long-term Impacts

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials 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.

Water Quality

There is the potential for debris to enter the water during construction and demolition, so care will have to be taken to prevent this from occurring. In addition to the requirements set forth by 23.60.152 SSMC, measures to protect water quality shall also be followed as conditioned below.

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 43.21.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 43.21C.030.(2)(C).

[] 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(2)(C).

CONDITIONS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT AND SEPA

Prior to Issuance of a Construction Permit

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

1. Notify in writing all contractors and sub-contractors of the general requirements of the Shoreline Master Program (SSMP 23.60.152), including the requirements set forth by Condition #2 below.

Conditions of Approval During Construction

2. The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

3. Care shall be taken by the owner(s), builder(s), or responsible party(s) to prevent debris from entering the water during demolition and 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. The least toxic wood preservations that are appropriate shall be used.

Signature: (signature on file)

Laura Kim, Land Use Planner
Department of Planning and Development

Date: May 22, 2008