



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

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

Application Number: 3009515
Applicant Name: Paul Fitzgerald, Seattle Housing Authority
Address of Proposal: 113 12th Avenue

SUMMARY OF PROPOSED ACTION

Land Use Application to allow excavation of 2,200 cu. yds. for soil remediation (remove 2,200 cu. yds. of contaminated soil and fill with clean, import soil) the project is located at 109 through 117 12th Avenue. A Determination of Non-Significance was prepared by Seattle Housing Authority.

The following approval is required:

SEPA – to approve, condition or deny pursuant to 25.05.660.
(Chapter 25.05, 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 INFORMATION

Site and Vicinity Description

The project site consists of four individual tax parcels totaling approximately 35,200 sq. ft. of land located at 109 through 117 12th Avenue. The parcel to the north is currently developed with a two-story wood-framed structure (listed as a duplex per KC Assessor). The parcels to the west are developed with the Yesler Terrace Apartments operated by the Seattle Housing Authority (SHA). The parcel to the south is currently occupied with a mixed use building (Owned by SHA). The topography of the site slopes slightly from the west to the east, with grades

descending approximately 11' towards 12th Avenue. The site is zoned Neighborhood Commercial 3 with a Pedestrian designation. Maximum structure height is 65' (NC3P-65). The site is also located within the 12th Avenue Urban Center Village Overlay and is located close to where the borders of the International District – Chinatown Urban Center Village and the First Hill Urban Center Village intersect. The site has not been mapped as an Environmentally Critical Area.



The adjacent parcels on the west side of the project site are zoned Midrise (MR) with a maximum structure height of 60 feet. Parcels immediately north are zoned NC3P-65 as well as the parcels immediately across 12th Avenue. Properties south of the site are zoned NC3-65.

According to information supplied by the applicant the property operated as a dry cleaner from around 1931 to 1994. Other uses included two single-family residences and an apartment building.

Proposal

- The applicant proposes to excavate up to 4,000 cubic yards of material and export the contaminated soils to an approved facility. Contaminated groundwater will be extracted, cleaned and disposed of into the city's sanitary sewer system. Clean fill material will be backfilled and the site leveled and hydroseeded until a suitable use of the property can be proposed by SHA.

Public Comments

No comments were received during the two-week public comment period that ended on September 24, 2008.

ANALYSIS - SEPA

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

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated August 13, 2008. The SHA also issued a Determination of Non-significance on August 28, 2008. A Clean-up Action Plan dated June 15, 2007 was prepared by GeoEngineers, Inc. The Plan has been approved by the State Department of Ecology, and the federal Environmental Protection Agency. The information in the checklist, the submitted Clean-up Action Plan 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, and certain neighborhood plans and other policies explicitly referenced, may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, “*Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*” subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D) mitigation can be considered.

The applicant has provided an approved clean-up plan which has determined the extent of contamination and has developed mitigation alternatives which will be implemented. The following has been excerpted from the approved plan and identifies the components that will clean up the contamination and provide monitoring to ensure success:

6.0 PROPOSED CLEANUP REMEDY

6.1 OVERVIEW

The proposed cleanup remedy includes the following components:

- Employ interim protective measures, if appropriate and necessary, such as removing any fluids from existing USTs, and installing signage and/or fencing to reduce the likelihood of exposure before the excavation remedy is implemented.
- Demolish existing buildings on the Site (located at 113 and 117 12th Avenue) and as needed to access contaminated soil requiring excavation.
- Remove existing USTs.
- Removal of both rainwater and groundwater from the excavation as needed to enable excavation of soil exceeding cleanup levels and collection of confirmation soil samples.
- Excavate and remove accessible soil with COC concentrations of regulatory significance from the Site (as described in Section 6.3.5 and Appendix A). Obtain cleanup confirmation soil samples to document that concentrations of COCs have been successfully removed. Soil excavation will be conducted until remaining soil meets MTCA Method A or Method B cleanup levels, unless excavation is limited by physical constraints such as adjacent public rights-of-way, utilities that cannot be shored, or private property.
- Load excavated soils into trucks and transport to a permitted Subtitle D landfill or equivalent facility. The Washington State Department of Ecology (“Ecology”) has issued a contained-in determination stating that soil excavated from the site does not warrant management as dangerous waste.
- Backfill the excavations with imported or noncontaminated soil and restore the Site surface to approximately pre-cleanup elevations with gravel or vegetation.
- Install groundwater compliance monitoring wells and conduct groundwater compliance monitoring to confirm that the UST and soil removal activities have addressed the source of groundwater contamination.
- Utilize an institutional control (deed restriction), if needed, to prevent future withdrawal of groundwater from the Site. This component will be utilized only if concentrations of residual COCs in groundwater at the time of Site redevelopment are greater than applicable cleanup standards.

UST= Underground Storage Tank; COC = Contaminants of Concern; MTCA = Model Toxics Control Act

Several adopted codes and/or ordinances provide mitigation for impacts identified as part of the general site work. The Stormwater, Grading and Drainage Control Code regulate site excavation and require that soil erosion control techniques be initiated for the duration of construction. The Building code provides for construction measures and life safety issues. The Noise Ordinance regulates work practices' and equipment operation that generate sound that migrates off site.

Several adopted State and Local Ordinances regulate the remediation work proposed as part of the grading work on the site including Department of Ecology Model Toxic Control Act, Level A clean-up standards and Puget Sound Air Control Act standards. Due to the existing contaminated soil conditions on the subject site and the grading and excavation work proposed, additional analysis of earth and grading impacts is warranted. The proposed site clean-up also warrants further analysis of air, water quality, soil, and environmental health impacts.

Short-term Impacts

The following temporary or construction-related impacts are expected; decreased air quality due to suspended particulates from grading and clearing and hydrocarbon emissions from construction vehicles and equipment; temporary soil erosion; increased dust caused by drying mud tracked onto streets during construction activities; increased traffic and demand for parking from construction equipment and personnel; increased noise; increases in carbon dioxide and other greenhouse gas emissions and consumption of renewable and non-renewable resources.

Earth/Soils

Shoring of excavations and erosion control techniques as needed are included on the plans for the site excavation. Any additional information showing conformance with applicable ordinances and codes (i.e. ECA ordinance, The Stormwater, Grading and Drainage Control Code, DR 33-2006, and 3-2007) will also be required prior to issuance of grading/building permits under separate review by DPD.

Applicable codes and ordinances provide extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are utilized. No additional conditioning for site work is warranted pursuant to SEPA policies; however, the precautions and recommendations offered in the Terra Associates, Inc. Geotechnical Report should be observed and implemented.

Air

Greenhouse gas emissions associated with development come from multiple sources; the extraction, processing, transportation, construction and disposal of materials and landscape disturbance (Embodied Emissions); energy demands created by the development after it is completed (Energy Emissions); and transportation demands created by the development after it is completed (Transportation Emissions). Short term impacts generated from the embodied emissions results in increases in carbon dioxide and other green house gases thereby impacting air quality and contributing 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 specific project. The other types of emissions are considered under the use-related impacts discussed later in this document. No SEPA conditioning is necessary to mitigate air quality impacts pursuant to SEPA policy SMC 25.05.675A.

In addition to the 2,000 to 4,000 cubic yards of earth excavation for the remediation, approximately 160 truck trips will be required to remove up to 4,000 cubic yards of contaminated soils from the site. As with any grading the potential distribution of soil as particles in the air during excavation and transport is possible. Adopted State and Local ordinances regulate air quality during the soil remediation activity.

The Puget Sound Clean Air Agency (PSCAA) standards require control of fugitive dust to protect air quality. PSCAA thresholds are not triggered for this project however, as part of the local grading regulations' (SMC) conditioning authority, the following measures have been identified by King County Wastewater Treatment Division and GeoEngineers, Inc. as required elements of the TESC for this project: 1) site watering is only recommended if other methods to prevent fugitive dust are not effective; 2) on-site storage of overburden is to be covered by plastic sheeting and bermed with hay bales; 3) sediment control measures shall be implemented to assure that sediment is not tracked off site during soil loading and hauling; 4) sediment that enters the adjacent streets due to truck traffic will be cleaned from the streets and returned to the site at the end of each day; 5) treated groundwater from the site shall be treated and meet the discharge limitations, special conditions, monitoring and reporting requirements; and 6) the treated water discharge point is the private side sewer on the north side of the building at 103 12th Ave or as designated by the City of Seattle. The applicant is required to receive approval from the City of Seattle prior to discharge into this side sewer connection.

Compliance with regulations will mitigate the potential adverse short term impacts to air and no additional conditioning is warranted pursuant to SEPA policies.

Water

Residual chemicals have been found in the groundwater from prior spills of gasoline-range hydrocarbon (GRHC), diesel-range petroleum hydrocarbon (DRPH), metals, and polycyclic hydrocarbon (PAHs) on the subject property. To reduce contamination levels below the Washington State Department of Ecology Model Toxics Control Act (MTCA) Method A, Soil and Surface Water Cleanup Levels for Unrestricted Land Uses the remedial action on site will include "dewatering" the site which will involve pumping ground water from the soil to on-site holding tanks so that turbidity is reduced and treatment is provided for contaminants prior to discharge into the public sanitary sewer system. King County has granted approval for up to 7,200 gallons per day and has identified acceptable levels of contaminants within the discharge limitations. Thresholds for water treatment are found (WAC173-201A-210 and A240) Clean Up Levels for Ground Water. If water volumes exceed the holding capacity on site, transport storage and treatment off-site may be required.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: State Department of Ecology Model Toxics Control Act (MTCA) Method A, Soil and Surface Water Cleanup Levels; and the ECA Ordinance, the Stormwater, Grading and Drainage Control Code which requires provisions for controlled tightline release to an approved outlet on site and may require additional design elements to prevent contaminated ground water from entering the Stormwater system.

Compliance with these applicable State and Local codes and ordinances is adequate to achieve sufficient mitigation of short term impacts and no further conditioning is warranted by SEPA policies.

Environmental Health

The project involves remediation of existing toxic soils and contaminated ground water that effect soil, air and water quality, through excavation and treatment. To preserve site conditions following clean-up, back-filling the excavated site will be conducted immediately after identifying that all contaminated soils have been removed and the groundwater monitoring wells installed. The project provides assurance that all contaminated soils will be removed. Prior to final approval of the permit, such a statement by a certified professional ensuring that such removal has been achieved shall be provided to Department of Ecology (DOE).

Sate and Local regulations (previously noted) are in place that will mitigate the short term impacts and the proposed soil and water remediation will improve environmental health on the subject site.

Construction/Grading Impacts

Excavation for the project would involve approximately 2,000 to 4,000 cubic yards of grading for the remedial site work. The site excavation could take several weeks and will generate a number of truck and employee trips.

The Seattle Municipal Code (SMC 11.74.160) states that material hauled in trucks shall be loaded so no debris falls onto the street during transport. The Seattle Municipal Code (SMC 11.62.060) also requires truck-trailer or truck semi-trailer used for hauling to use major truck streets and take the most direct route to or from one of the major truck streets to their destination.

The area around the construction site is marked by primary arterials (12th Avenue, East Yesler Way and Boren Avenue). On street parking along 12th Avenue in front of the project site is limited and the demand for parking by construction workers during construction could adversely impact the demand for on-street parking, traffic flow or other aspects of circulation. The owner and/or responsible party shall assure that construction vehicles and equipment are parked on the site next to the water treatment equipment for the term of construction. The applicant has secured a construction traffic management plan which has been approved by SDOT.

The proposal site is near several major arterials and traffic impacts resulting from the truck traffic associated with the hauling of debris will be of short duration and mitigated by enforcement of SMC 11.62.and SMC 11.74, for the removal and disposal of the excavated materials.

These conditions will be posted at the construction site for the duration of construction activity. The authority to impose this condition is found in Section 25.05.675B2g of the Seattle SEPA ordinance.

Long-term Impacts

Long-term or use-related impacts are not anticipated as a result of approval of this proposal because the applicant has not yet established a replacement use. Long term impacts will be evaluated as part of any future reviews which establish uses.

Conclusion

Based on the report and recommendations of the GeoEngineers, Inc. and the information in the SEPA checklist, no short or long-term impacts are anticipated as a result of the proposed excavation and remediation provided applicable City, State and federal regulations are followed and subject to the conditions of this decision. Specifically, regulations in the City's Stormwater, Grading and Drainage Control Code, which provide conditioning authority and prescriptive construction methodology to assure safe techniques are used. In addition, other relevant City Codes and State regulations controlling air quality, transport, clean up and disposal of toxic soil and water will apply. Specifically, Washington Administrative Code (WAC) 173-201A and 173-340, the Department of Ecology's (DOE) Surface Water Quality Standards and the MTCA Model A Surface Water Clean Up Levels. Based on these findings and conclusions no additional conditioning is warranted pursuant to SEPA policies.

DECISION - SEPA

The responsible official on behalf of the lead agency made this decision after review of a completed environmental checklist and other information on file with the 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, with implementation of the conditions of approval (below), 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 - SEPA

Prior to Issuance of a Master Use Permit

1. Provide a permit from Seattle Public Utilities (SPU) to discharge treated groundwater into its sanitary sewer.

Prior to Issuance of a Grading/Demolition or Construction Permit

2. Applicant shall notify in writing all contractors and sub-contractors that proposal is subject to the following conditions:
 - a. All work shall protect surface and ground water on and adjacent to the lot and reflect agencies' (DOE and EPA) requirements.
 - b. Best Management Practices (BMPs), as required by the City and State and as identified by GeoEngineers, Inc., to protect air, water and environmental quality shall

be employed *during remediation*. Include on the plans a written description of the BMPs to be used during the proposed work, including but not limited to: site watering as needed to control dust and airborne particulates, wheel washing and direct loading to transport trucks.

- c. An emergency containment plan is required for all toxic material kept on site, including on-site containment equipment and trained personnel.

During Grading

The following conditions are to be enforced during construction and shall be posted at the site in a location on or near the property line that is visible and accessible to the public and to construction personnel from adjoining street right-of-way(s). The conditions will be affixed to placards prepared by DPD, to be issued along with the grading permit set of plans. The placards shall remain posted on-site for the duration of the construction.

3. If there is evidence of leakage of hazardous materials from construction equipment to the ground, the use of such equipment shall be suspended until leaking is repaired.
4. The only point of discharge shall be the site's proposed service connection. If any water discharges over the expected 15 gpm (gallons per minute) are proposed, the Contractor must notify SPU for additional review, prior to the discharge.
5. Water quality testing and treatment shall be in place, to ensure that all water discharged from the site to the City sanitary sewer system meets State Water Quality Standards.
6. A secure construction entrance at least 30ft. long meeting the surface standards in the Grading code will be constructed on the eastern portion of the site and all trucks involved in transport to and from the site will load and unload from the construction entrance. All equipment and vehicles involved in excavation work will deliver to the transport vehicles at the construction entrance ("direct load") and any equipment working on the site will be cleaned (i.e. wheel washing, etc.) prior to leaving the site.

Prior to Finaling the Grading Permit:

7. The owner(s) and/or responsible party(s) shall provide DPD certification by a competent professional that all contaminated soils has been removed from the site and the groundwater monitoring wells have been installed. A plan showing the location of the monitoring wells will be provided to DPD.

Signature: _____ (signature on file) Date: October 23, 2008
Craig Flamme, Land Use Planner
Department of Planning and Development

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