



City of Seattle

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: 3010128
Applicant Name: Seattle Department of Transportation
Address of Proposal: 350 West Thomas Street

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow a 10 foot wide, 932 linear feet of bicycle and pedestrian overpass beginning at a point on the western margin of 3rd Ave West, across Elliott Ave West continuing on West Thomas Street to the Burlington Northern Railway continuing in a southerly ramping down to Myrtle Edwards park.

The following approvals are required:

- **Shoreline Substantial Development Permit** – (SMC Chapter 23.60)
- **SEPA - Environmental Determination** - (SMC Chapter 25.05)

SEPA DETERMINATION: Exempt DNS EIS

DNS with conditions

DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

The subject sites include:

- A. The following rights-of-way:
W. Thomas Street between 2nd Avenue West and Elliott Bay,
3rd Avenue West between W. Harrison and W. Thomas Streets,
Elliott Avenue W at W. Thomas Street,

- The northern terminus of Western Avenue W. at W. Thomas Street, Alaskan Way W at W. Thomas Street; together with
- B. A portion of Myrtle Edwards Park immediately south of the W. Thomas Street street-end, and
 - C. During the construction phase, most of Myrtle Edwards park northward from Broad Street, from which construction access will be taken along existing paved pathways through the park.

There is a zone line running down the centerline of Elliott Avenue West and Western Avenue West, to the north and east of which the zoning is NC3 with a 65-foot height limit. This area also has an Uptown Urban Center designation. To the west and south of the centerlines, the zoning is IC with a 45 foot height limit. There is another zone line running down the centerline of Alaskan Way W north of W. Thomas Street and the project of that line to the south. Zoning to the west and south of that line is also IC-45, but it has a downtown fire overlay as well. Most of the property west of Alaskan Way W is subject to a Conservancy Management (CM) shoreline environment designation. A tiny portion of the W. Thomas Street right-of-way west of Alaskan Way W is designated UG. Most of the site areas are located within a Liquefaction Prone environmental critical area. Considerable portions of the area within the shoreline district are located within Fish and Wildlife Habitat environmentally critical areas. Certain areas are also designated Floodprone environmentally critical areas.

The subject areas of all of the above-identified properties are vacant. The street rights-of-way are adjacent to large office buildings and, in one case, a parking lot. The Burlington-Northern railroad tracks run down the Alaskan Way W right-of-way. Otherwise, the principal uses in the area are Myrtle Edwards Park, and the Port of Seattle grain terminal.

Proposal

The proposal is to construct a concrete ramp and bridge from the east side of Elliott/Western Avenues W all the way across the railroad tracks and Alaska Way W to Myrtle Edwards Park. Several trees would be removed in the W. Thomas Street right-of-way east of 3rd Avenue W, and various streets in the immediate vicinity would be reconfigured in minor ways to accommodate non-vehicular circulation, existing vehicular access to two properties, and to better control circulation to the north down Alaskan Way W. Construction would be staged in the Myrtle Edwards park area where the bridge touches down, access to which would be from the south along paved pathways in the park.

Public Comment

Over 70 comments letters were received, all but three unreservedly cheering the project. Two commenters protested the expense of the project, and one supportive letter expressed reservations about bridging anything but the BN tracks.

The Seattle Design Commission submitted a recommendation that the proposed project be denied. The Commission considers the length of the span to be the main problem, urging that the span cross only the railroad tracks and additional funds be invested in design details. The Commission takes the view that the long term development in the area would be toward slowing traffic on Elliott Avenue W and “humanizing” the streetscape. These issues are beyond the scope of the application review.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

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. 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. 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. 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. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

B. THE REGULATIONS OF CHAPTER 23.60

Pursuant to SMC 23.60.064.C, the Director shall determine that the proposed use: 1) is not prohibited in the shoreline environment and the underlying zone; 2) meets all applicable development standards of both the shoreline environment and underlying zone and; 3) satisfies the criteria for a shoreline variance, conditional use, and/or special use permits, if required.

This proposal does not require a shoreline variance, conditional use or special use permit. Shoreline recreation uses are permitted outright in the CM shoreline environment, and parks and open space are permitted outright in the IC zone. These are the only uses and zones affected by the proposal in the shoreline. The proposal has been reviewed by DPD and meets the applicable development standards of the IC and NC3 zones (SMC 23.50). The proposed bridge and ramp satisfy the shoreline development standards stated in SMC Section 23.60.450-460.

Shoreline Goals and Policies

Pursuant to SMC 23.60.004, the Shoreline Goals and Policies (part of the Seattle Comprehensive Plan's Land Use Element), and the purpose and locational criteria for each shoreline environment contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district.

The proposal does not conflict with the goals or policies relating to non-water dependent uses. The goals and policies generally state that such uses provide a public benefit in that more people can enjoy the shorelines of the city. Additionally, the site provides a public benefit that allows more people to enjoy the shoreline at Myrtle Edwards Park.

The purpose of the CM environment described in SMC 23.60.220.C.4, is to conserve and manage areas for public purposes, recreational activities and fish migration routes. While the natural environment need not be maintained in a pure state, developments shall be designed to minimize adverse impacts to natural beaches, migratory fish routes and the surrounding community. The proposal clearly facilitates recreational activities. The restoration plan has been designed to minimize adverse impacts to the shoreline environment. Hence, the shoreline goals and policies are satisfied.

General Development Standards for all Shoreline Environments (SMC 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. All shoreline development and uses must, in part: 1) minimize and control any increase in surface water runoff so that receiving water quality and shoreline properties are not adversely affected; 2) be located, designed, constructed, and managed in a manner that minimizes adverse impact 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 proposal, as conditioned and mitigated, is consistent with the general standards for development within the shoreline area. General development standards (SSMP 23.60.152) state that Best Management Practices shall be followed for any development in the shoreline environment. These measures are required to prevent contamination of land and water. The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

Chapter 173-27 of the WAC sets forth permit requirements for development in shoreline environments and gives 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 Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED.**

CONDITIONS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

None.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant, together with the extensive technical reports contained in the project file. 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

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.

The following temporary or construction-related impacts are expected: temporary increase in noise levels, increased levels of fugitive dust and fumes from the construction equipment, impacts on the recreation element due to re-routing of the Myrtle Edwards Park bicycle route, and disruptions of traffic due to work in various roadways. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC 25.05.794). Although not significant, these impacts are adverse and, in some cases, mitigation may be warranted.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Seattle Noise Ordinance (construction noise); and State Air Quality Codes administered by the Puget Sound Clean Air Agency (air quality), the Grading and Drainage Control Code, and SDOT traffic management regulations and practices. Compliance with these codes and/or ordinances will lessen the environmental impacts of the proposed project.

Earth

The Phase II environmental site assessment by Hart Crowser (18 June 2008) identified creosote and/or hydrocarbon contamination above regulated thresholds at 3 sets of borings (HC-01, HC-02, HC-03) within the project area, mostly adjacent to the BN tracks, but also at the west edge of the Alaskan Way W right-of-way at W. Thomas Street. Their recommendation was that screening and managing of any soils removed in the vicinity of these 3 sets of borings be handled in accordance with a construction contingency plan (CCP). Accordingly, project approval is conditioned upon DPD approval of a CCP to be implemented during construction.

Historic Preservation:

Since the proposal site is located with the identified U.S. Government Meander Line, the potential exists for discovery of archeological significant resources and there may be some potential for unknown resources to be discovered. Director's Rule (DR) 2-98 provides clarification of State Environmental Policy Act (SEPA) Historic Preservation Policy for potential archeologically significant sites (SMC 25.05.675.H) and requirements for archeological assessments. Therefore, in the event such resources are found during construction, the proposal will be conditioned pursuant to DR 2-98 and as noted at the end of this report.

Transportation

The SEPA checklist discloses that there will be minor impacts on traffic due to work in the various affected roadways. Elliott Avenue W will be closed relatively briefly for placement of the pre-fabricated concrete spans for the bridge over that segment. In short, there will be adverse traffic impacts, but they do not rise to a level warranting mitigation.

Recreation

The proposal will displace recreation use from small portions of Myrtle Edwards Park, including the area of the ramp touchdowns, and the segment of bicycle trail from the ramps to immediately north of the construction staging area on the Port property. However, the bicycle trail will continue to be available *in toto*, though re-routed to share the pedestrian path on the west side of the park. Although greater caution will be required by users of the shared path, such sharing is a common feature of other parks (e.g. Greenlake), and it would not be customary to mitigate for the additional perceived risk.

No further SEPA conditioning of potential short-term impacts appears to be warranted.

Long-Term Impacts

Long-term or use related impacts are also anticipated from the proposal and include: increased human activity in the near-shore shoreline environment, which can lead to increased adverse impacts on fish habitat and migration routes. These long-term impacts are minor in scope and are not considered significant.

Greenhouse Gases

The applicant has disclosed that approximately 1210 metric tons of carbon dioxide are likely to be emitted (MTCO_{2e}) over lifespan. There is no basis for mitigating such emissions at this time.

Parking

According to the ESA Adolfson report of August 2009, 18 parking spaces would be permanently removed by the project. Adolfson concludes that this is only 3.6% of existing public parking, although Adolfson considered pay lot parking to be public parking. Some increase in demand for parking near the eastern bridge touchdowns is to be anticipated, as people seek to utilize the new access to Myrtle Edwards Park. Nonetheless, because this is not a development proposal per se, but rather a circulation proposal to enhance pedestrian and bicycle movement over high-traffic rights-of-way, DPD defers to SDOT's judgment as to the reasonableness of removal of this parking, and finds no sufficient adverse impact to warrant mitigation.

Public View Protection

Elliott Avenue W is a view-protected street segment in the project vicinity. The Visual Impact Technical Memorandum of September 2009 (prepared by ESA Adolfson) identifies adverse project impacts to protected views, particularly street-level views from Elliott looking westward toward the ramp in Myrtle Edwards Park down from the bridge. Figure 6 in the technical memorandum presents probably the worst-case impact, from a parking lot adjacent to Elliot where best views westward presently exist. The bridge will be visible cutting across the view, obscuring perhaps 15-20% of the water-to-mountain area presently visible. This is not deemed significant enough an impact to warrant mitigation. Moreover, as the technical memorandum notes, there will be substantially improved views for pedestrians and bicyclists from the new structure that will offset losses to motorists.

Recreation

The enhanced ease of access to Myrtle Edwards Park from nearby urban center properties should be associated with perhaps substantially increased use of the park by pedestrians and bicyclists. The park appears to have ample capacity to absorb any likely increased use, and indeed seems to exist to meet such need. No adverse impact warranting mitigation is identified.

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 with conditions. 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).

- [] 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).

SEPA CONDITIONS

Prior to Issuance of Master Use Permit

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.

