



City of Seattle
Mike McGinn, 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: 3010777
Applicant Name: Alan Foltz
Address of Proposal: 2340 Broadmoor Dr E

SUMMARY OF PROPOSED ACTION

Land Use Application to allow 1,000 cubic yards of maintenance dredging around an intake screen system on Lake Washington in Union Bay near the Arboretum and the 37th Avenue East right-of-way street end.

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 involving another agency with jurisdiction.

BACKGROUND INFORMATION

Site and Vicinity Description

The subject property is located on the southern shoreline of Seattle's Union Bay, near the point where Lake Washington ship canal enters Lake Washington south of the evergreen Point floating Bridge (State Route 520). The water withdrawal structure is located 90 feet from the shoreline. The site is also located on submerged street right-of-way known as East Lakeside Boulevard and just north of the 37th Avenue east street end. The applicant has applied for a Seattle Department of Transportation Street Use Permit to authorize the work within the city's street right-of-way. The proposed work is also located 30 to 40 feet from a beaver lodge which is just northwest of the project location. A total of 5 to 6 beavers have been reported to be in the vicinity but it is not actually been established whether they are currently occupying the lodge next the project area or somewhere else nearby. To be on the conservative side, the city is assuming that the beaver lodge is currently occupied. The project site is zoned Single-Family 5000 (SF5000) with a Conservancy

Recreation Shoreline Environment designation. This zoning is prevalent throughout most of the immediate area. The applicant has received an exemption from obtaining a Shoreline Substantial Development Permit because this is deemed as maintenance work as described below. The surrounding shoreline area is dominated by residential uses to the east of 37th Avenue East and the Washington Park Arboretum and the Broadmoor Golf Club to the west and south. There is also a shoreline access at the 37th Avenue East street end that is also used as public access to the water and Lake Washington shoreline. There is a finger pier located just off the street end that is in fair shape.

The project site is basically a small area of open water characterized by invasive plant species that will be removed as part of the maintenance dredging.

Proposal

A proposal to maintenance dredge approximately 1,000 cubic yards of lake sediment to clear an existing water intake and pump that supplies irrigation water to the Broadmoor Golf Club's golf course. The intent of the dredging is to restore the lake bottom to its documented 1974 depth and keep the intake structure clear of sediments. This level is approximately 10 to 12 feet from today's lake bottom within the project area.



The intake has been in place since May 1961. A permit was granted by the Seattle Public Works Department (Permit #90786) to install a 10-inch water pipe to provide irrigation. A water right was granted by the State of Washington Department of Conservation, Division of Water Resources to the golf club July 10, 1961 to appropriate 1.23 cubic feet per second, up to 246 acre-feet per year continuously each year to irrigate 123 acres.

The dredge spoils will be collected via a clam shell dredge using a barge based crane. The crane will be based at the project location for the 2 to 3 weeks the project is expected to last. The dredge spoils will be collected onto a shuttle barge which will take the dredge spoils to a storage barge located approximately 1/3 of a mile to the east. The storage barge will be "spudded" to receive the dredge spoils which will be deposited in an approved upland location. The approved landfill location is in Maltby, WA. The materials will be trucked to the site by Fruhling Trucking.

Since the original application was submitted, the applicant has reduced the proposed dredging area from a 20 foot radius around the water intake location to just a 17 foot radius west of the intake, 6' radius south of the intake and a 5' radius east of the intake. They have also identified a minimum dredge area approximately 5 to 6 feet deep that would result in less material being dredged and requiring less time to complete the work. This is the minimum work necessary to clear the intake of the accumulated bottom sediments. No dredging will be conducted north of the intake to minimize any disruption or potential unlawful taking of the beavers. Beavers are a protected wildlife species under Washington State laws (RCW 77.15.130) as they are considered to be fur bearing animals. All work will be conducted via barge (including employee trips to and from the project site). There will be no near shore dredging and only limited to that redefined area as discussed above.

Public Comments

Public notice of the project application was published on December 17, 2009. The required public comment period ended on December 30, 2009. DPD received a request to extend the public comment period to January 14, 2010. DPD received 8 comment letters regarding this proposal. The comments provided a range of issues that included relevant concerns in regard to resident beavers and the potential disruption of their habitat, as well as other types of wildlife (e.g. Blue Herons, otters), impacts to the street end improvements conducted by the residents clearing out invasive plant species, and the overall sensitivity of the area where the proposed work will be conducted. Response to the relevant issues will be addressed within the body of this report and decision.

ANALYSIS - SEPA

The initial disclosure of the potential impacts of the proposed project was made in the environmental checklist dated August 5, 2008.

The SEPA Overview Policy (SMC 25.05.665) 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. Thus, the mitigation that may be required pursuant to SEPA authority is limited. A discussion of likely adverse impacts and how they may be appropriately mitigated follows below.

Short-Term Impacts

The following temporary or construction-related impacts are expected; decreased air quality due to suspended particulates from hydrocarbon emissions from construction vehicles and equipment; increased noise; increases in greenhouse gas emissions and consumption of renewable and non-renewable resources.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically these are: 1) Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, 2) Noise Control Ordinance; and 3) Stormwater, Drainage and Grading Code (temporary soil erosion). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts.

Air Quality

Greenhouse gas emissions associated with the proposal come from multiple sources; the extraction, processing, transportation, and disposal of dredged materials (Embodied 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. No SEPA conditioning is necessary to mitigate air quality impacts pursuant to SEPA policy SMC 25.05.675A.

Noise

Due to the dredging activities from the barge-based crane, the limitations of the Noise Ordinance are found to be adequate to mitigate the potential noise impacts on the surrounding neighborhood from the on-site dredging activities. Pursuant to the SEPA Overview Policy (SMC.25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675 B), additional mitigation is not required.

Fish and Wildlife

The proposed dredging will be outside of the “fish window” restrictions so impacts to juvenile salmonids are expected to be minor. The required US Army Corps of Engineers (Nationwide Permit 3 – Maintenance) and State Department of Fish and Wildlife Permits (Hydraulic Project Approval – HPA) will adequately mitigate for impacts to salmonids.

There also appears to be about 5 to 6 beavers present in the vicinity. There is a beaver lodge approximately 50 feet away from the proposed project area. It has not really been determined if the beavers are actually using the lodge at present. However, comments from area residents have indicated that the beavers are using the lodge. The city will take that under advisement and have discussed potential impacts with Department of Fish and Wildlife (DFW) biologists consulting with their beaver experts.

Beavers are found to breed between January and March. Litters of one to eight kits (average of four) are produced between April and June. Beavers are protected as fur bearing animals, but restrictions on development activity within the vicinity of a beaver lodge are not regulated. The DFW recommends limiting activities in the vicinity of beaver dens to protect the breeding season. This “window” would end on April 1st.

Long-term Impacts

Long-term or use-related impacts are not anticipated as a result of this proposal.

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 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 MUP and Grading Permit Issuance

1. The required Street Use Permit (Seattle Department of Transportation), Hydraulic Project Approval (HPA) Permit from the Department Fish and Wildlife and the US Army Corps of Engineers Nationwide Permit shall be provided prior to issuance of the SEPA MUP and grading permits.

During Construction

2. In-water work will not begin until after April 1, 2010 to protect the resident beavers' breeding season.
3. Dredging depth and area will be limited to the "Minimum Dredge Area" as shown on the revised plans date stamped January 20, 2010.

Signature: _____ (signature on file) Date: March 11, 2010
Craig Flamme, Land Use Planner
Department of Planning and Development

CWF:lc

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