



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 Numbers: 3013110
Applicant Name: Seattle Department of Parks and Recreation
Addresses of Proposal: 10801 Arroyo Beach Pl SW

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow a 15-foot tall stainless steel sculpture on top of an existing rip-rap bulkhead in a public park.

The following approvals are required:

Shoreline Substantial Development Permit to allow an art sculpture in public park in an Urban Residential (UR) environment. (Seattle Municipal Code 23.60.600).

SEPA - Conditioning pursuant to Seattle's SEPA policies. Chapter 25.05.600, Seattle Municipal Code. (Environmental documents prepared by Parks Department).

SEPA DETERMINATION: Exempt DNS MDNS EIS

DNS with conditions

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

Determination of Non-significance (DNS) issued by Seattle Department of Parks and Recreation on December 22, 2011

BACKGROUND DATA

Site and Vicinity Description

The Arroyos Natural Area is owned by the City of Seattle Department of Parks and Recreation and is located approximately one mile south of Lincoln Park along Puget Sound in the far southwest corner of the City of Seattle. The 7.4-acre natural area is comprised of a variety of undeveloped upland and shoreland parcels. There is one single family residence located on the subject site that is a holding subject to a life estate. The shoreline has been developed in the past with a rip rap bulkhead and there is a variety of invasive vegetation plants on the property. The upland forest area contains a large number of healthy Madrone trees and an understory typical of the west facing slope in the Puget Sound region. Access to the site is via a private driveway from Arroyo Beach Place SW. At low tide, the beach at the site is accessible but the site is surrounded by private property.

Proposal Description

The proposed project is to install a sculpture along the shoreline on top of the bulkhead. The sculpture is a stainless steel hollow form approximately 3.5 feet wide, 18 inches deep and 15 feet tall. The piece is a self-supporting sculpture that has been fabricated off-site from stainless steel plate material. The based will be a poured in place concrete pad. The sculpture will be bolted to the concrete pad. The proposed site of the sculpture is landward of Ordinary High Water and is 375 feet from an existing house to the north and 200 feet from the house to the south. No excavation is proposed for the project or change to the bulkhead.

Public Comments

The official comment period for this project ended on March 23, 2012. No public comments were received.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposed site for the sculpture is located within the Urban Residential (UR) Shoreline Environment as designated by the Seattle Shoreline Master Program (SSMP). The Shoreline Master Program, Chapter 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

The State of Washington Shoreline policies (RCW Chapter 90.58) provide for the control of pollution and prevention of damage to the natural environment, and to protect the resources and ecology of the shoreline over the long term. 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. The Shoreline Management Act of 1971 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 City of Seattle Shoreline policies incorporate these goals by reference and include area objectives pursuant to these goals. These policies contemplate 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 City's Shoreline policies encourage increased opportunities for the public to enjoy water-dependent recreation, which is consistent with this proposal to establish an art sculpture as an enhancement to a public park along the shoreline of Puget Sound. Thus, this proposal is consistent with the policies and procedures of the RCW Chapter 90.58.

B. THE REGULATIONS OF 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. The proposed recreational floating dock and "art piece" to be located in an established park use are permitted outright in the underlying commercial zone and as open space and water-related public facility uses on waterfront lots in the US environment.

SSMP 23.60.004 - Shoreline Policies

Policies governing approval of development in shoreline districts are set out in the Land Use Element of the Seattle Comprehensive Plan and SSMP Section 23.60.004. Seattle's Comprehensive Plan Shoreline Goals and Policies encourage improved public access along shorelines. Policy LU 236 promotes "public enjoyment of the shorelines through public access standards by requiring improvements that are safe, well designed and offer adequate access to the water." The proposed art sculpture will enhance the public's enjoyment of the shoreline and this natural, public area. Therefore, it is consistent with adopted Comprehensive Plan policies.

Shoreline Development Standards

The proposed art sculpture will be located in an established park that is regulated as an allowed shoreline recreation use in the UR Shoreline Environment.

Pursuant to the Seattle Shoreline Master Plan, the proposed action is subject to:

1. the general development standards (SSMP 23.60.152); and,
2. development standards for uses in the UR environment (SSMP 23.60.540).

1. SSMP 23.60.152 - General Development Standards for all Shoreline Environments

General standards for all uses and development in all shoreline environments are established in SMC Section 23.60.152. Generally, these standards 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 environment. The following general development standards are relevant to the proposed project:

- A. The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as paving and berming of drum storage areas, fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- B. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.
- D. The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
- E. All shoreline developments and uses shall minimize any increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catch-basins or settling ponds, interceptor drains and planted buffers.
- H. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.

- I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.
- J. All shoreline developments and uses shall 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.
- L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.
- N. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.

Installation of the art sculpture at this location will be conducted entirely landward of Ordinary High Water and will be installed with Best Management Practices to ensure protection of the nearshore environment and consistency with the general shoreline development standards cited above.

Use Standards in the UR Environment

Permitted uses in the Urban Residential (UR) are contained in sections SMC 23.60.540-23.60.550. The proposed sculpture is permitted outright as an accessory to the permitted principal shoreline recreation use, pursuant to SMC 23.60.540.

Development Standards in the UR Environment

The proposed sculpture will be approximately 15 feet in height, well below the allowed 30-foot height limit in the UR Shoreline Environment, pursuant to SMC 23.60.572. The sculpture meets all other applicable development standards in the UR Shoreline Environment.

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 shoreline substantial development permit for this art sculpture in an established public park is **CONDITIONALLY GRANTED.**

Shoreline Substantial Development conditions are listed below.

ANALYSIS – STATE ENVIRONMENTAL POLICY ACT (SEPA)

Environmental impacts of the proposal have been analyzed in environmental documents prepared by Seattle Department of Parks and Recreation (DOPAR) Mitigated Determination of Non-significance (MDNS) issued by Seattle Department of Parks and Recreation on December 22, 2011.

Seattle Municipal Code (SMC) Section 25.05.660 provides that proposals can be conditioned or denied in order to mitigate environmental impacts. All conditions must be related to impacts identified in the environmental documents, based on adopted policies, be reasonable and capable of being accomplished. This proposal is reviewed under that substantive SEPA authority.

Disclosure of the potential impacts from this project was made in the environmental documents listed above. This information and supplemental information provided by the applicant (plans, written descriptions of the project) a field visit and the experience of this agency with review of similar projects form the basis for this analysis and conditioning.

The SEPA Overview Policy (SMC 25.05.665) establishes the relationship between codes, policies, and environmental review. Specific policies for specific elements 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 or circumstances (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term are anticipated from the proposal and are discussed below.

Short-term Impacts

Short-term or construction-related impacts related to this proposal are expected to be minimal, since the sculpture will be constructed off-site and installed on-site already generally intact. The sculpture will be bolted to a small concrete pad, which will be poured in place using Best Management Practices to prevent any leakage of concrete or deleterious material into the water.

The applicant’s SEPA Checklist discloses that the proposed construction work will take place at the edge of Puget Sound and adjacent to the near shore environment. With the proposed work taking place near water, there exists the potential for debris and other deleterious material to enter the water during this proposed work. The sculpture will be bolted to a small concrete pad, which will be poured in place using Best Management Practices to prevent any movement of concrete or deleterious material into the water. These BMPS should adequately prevent debris or other deleterious material from entering the water during the proposed work and effectively decrease the likelihood of water quality impacts of the work. Any floating debris that enters the water during construction shall be collected, secured, and then disposed of at the appropriate upland facility. If heavy debris or deleterious material enters the water and sinks, the location of the material shall be recorded in a log that is kept through the duration of the construction. When construction is completed, this material/debris shall be removed and disposed of at the appropriate upland facility.

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

Long-term Impacts

No long-term or use related impacts are anticipated from the proposal. The sculpture is designed using material suitable for the location and will require minimal or no maintenance.

CONDITIONS – SEPA and SHORELINE

The following condition(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 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.

During Construction

1. Best Management Practices shall be employed during the installation of the sculpture to meet applicable State of Washington water quality standards.
2. Any floating debris that enters the water during construction shall be collected immediately, contained on site, secured, and then disposed of at the appropriate upland facility.
3. If heavy debris or deleterious material enters the water and sinks, the location of the material shall be recorded in a log that is kept through the duration of construction. When construction is completed, this material/debris shall be removed and disposed of at the appropriate upland facility.

Life of the Project

4. Best Management Practices shall be followed during any maintenance or cleaning of the sculpture to ensure that no deleterious material enters Puget Sound.

Signature: (signature on file)
Ben Perkowski, Senior Land Use Planner
Department of Planning and Development

Date: April 23, 2012