



City of Seattle

Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND SUBSTANTIVE CONDITIONING OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

DPD Application Number: 3013158
Applicant Name: Kathy Robertson of Seattle Public Utilities
Address of Proposal: 8730 Seward Park Ave S

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit Application to restore an existing culverted creek in an environmental critical area including installation of a pedestrian bridge, walking path and landscaping within Beer Sheva Park. Review includes 1,100 cubic yards of grading, site restoration and re-vegetation. (Mapes Creek Restoration Project). Determination of Non-Significance issued by Seattle Public Utilities ¹.

The following approvals are required:

- **STATE ENVIRONMENTAL POLICY ACT (SEPA)**
[Chapter 25.05](#) – Seattle Municipal Code (substantive conditioning)¹
- **SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT (SSDP)**
[Chapter 23.60](#) – Seattle Municipal Code

SEPA DETERMINATION Exempt DNS MDNS EIS

DNS with conditions

DNS with conditions involving non-exempt grading or demolition or involving another agency with jurisdiction. ¹

¹ DNS published by SPU on 2/16/2012.

BACKGROUND, SITE AND PROPOSAL

SPU proposes to daylight a portion of Mapes Creek within Beer Sheva Park which is currently culverted beginning from S Henderson Street's terminus at the site to the outfall in Lake Washington. The Single Family 5000 zoned (SF 5000) site locates between Seward Park Ave S and Lake Washington, just north of S Henderson St. Rainier Beach High School is across the street to the west with single family zoning and development to the north, multifamily zoning and development to the south and commercial zoning and development further south and west. The project area within the park is located between the comfort station and the existing play, which are both to remain.

This project is proposed in conjunction with SPU's 52nd Ave S Combined Sewer Overflow project which includes approximately 1,800 feet of 18" diameter pipe within 52nd Ave S and S Henderson St and would convey combined sewage and stormwater to King County's Henderson Pump Station. The subject of this approval is only the improvements within Beer Sheva Park; Seattle Department of Transportation is reviewing all work in the right of ways.



Site Area Map

The goals of the Mapes Creek Restoration Project are to increase juvenile Chinook salmon rearing and migration habitat, provide environmental education and stewardship opportunities, and reverse some of the past environmental impacts caused by previous drainage projects.

Within the park 1,100 cubic yards of grading are proposed to accomplish the approximately 375' long day lighting of the creek. Also included is the installation of a pedestrian bridge to allow pedestrian movements north/south across the day lighted creek which is proposed to be oriented east/west day lighting from Seward Park Ave S to the outfall in Lake Washington. The project includes re-vegetation, shoreline plantings, and woody debris structures that mimic natural tree falls to enhance the insect of detrital input to the system.

The Mapes Creek Restoration Project would improve the function of the Lake Washington shoreline ecosystem as it relates to habitat for juvenile salmonids and other wildlife.

Seattle Design Commission Review

The Design Commission's review of the proposal is ongoing and details will be refined at the building/grading permit stage.

Public Comment

The DPD's comment period for this proposal ended on October 12th, 2012. During the public comment period, DPD received no public comments on the proposal.

ANALYSIS - SEPA

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

Disclosure of the potential impacts from this project is made in the environmental checklist submitted by the applicant dated February 9th, 2012. DPD has analyzed the environmental checklist, reviewed the project plans and the supporting information in the file and referenced by SPU. As indicated in the information, this action may result some impacts to the environment. However, due to their temporary nature and limited effects, the impacts are not expected to be significant. Appropriate conditioning will also mitigate possible impacts. A discussion of these impacts, short and long term, is warranted.

Short - Term Impacts

Construction Impacts

Construction activities (grading) for the project could result in the following adverse impacts: construction dust, emissions from construction machinery and vehicles, increased particulate levels, increased noise levels, occasional disruption of adjacent vehicular and pedestrian traffic, and a small increase in traffic and parking impacts due to construction workers' vehicles. Several constructions related impacts are mitigated by existing City codes and ordinances applicable to the project, such as: Noise Ordinance; Street Use Ordinance; Grading and Drainage Code; Noise Ordinance; Environmentally Critical Areas Ordinance, Land Use Code and Building Code. Following is an analysis of the applicable SEPA policies.

The Street Use Ordinance includes regulations that mitigate dust, mud, and circulation. Temporary closure of sidewalks and/or traffic lane(s) is adequately controlled with a street use permit through the Seattle Department of Transportation.

Construction is expected to temporarily add particulates to the air and will result in a slight increase in auto-generated air contaminants from construction worker vehicles; however, this increase is not anticipated to be significant. Federal auto emission controls are the primary means of mitigating air quality impacts from motor vehicles as stated in the Air Quality Policy (Section 25.05.675 SMC).

Construction Noise

Noise associated with grading and excavation could adversely affect surrounding uses in the area, which include residential uses. Due to the proximity of the project site to residential uses, DPD finds the limitations of the Noise Ordinance to be inadequate to mitigate the potential noise impacts. Pursuant to the SEPA Overview Policy (SMC 25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675 B), mitigation is warranted.

In order to further mitigate the noise impacts during construction, the owner(s) and/or responsible party(s) shall limit the hours of construction to between 8:00 a.m. and 5:00 p.m. on non-holiday weekdays. Construction activities outside the above stated limits, but within the limits of the Noise Ordinance, may be authorized by DPD when a Construction Management Plan is provided and approved (Condition #2).

SPU stated during review of the application that construction is only anticipated on non-holiday weekdays between 7:00 am and 6:00 pm, except for unforeseen emergencies.

Further, SPU has cited the following self mitigating specifications to reduce noise impacts (Condition #s 3 - 7):

- Conduct on-site noise monitoring to ensure compliance with the Seattle Municipal Code provisions, if necessary.
- Ensure that equipment has sound control devices that are at least as effective as those on the original equipment. No equipment with un-muffled exhaust would be allowed.
- Minimize idling time of equipment and vehicle operation.
- Implement appropriate additional noise control measures, as necessary, such as changing the location of stationary construction equipment, operating only the equipment needed to match the phase of construction, shutting off idling equipment, rescheduling construction activity, notifying adjacent residents in advance of construction work, or installing acoustic barriers around stationary sources of construction noise.
- Maintain the existing vegetation, where possible, to provide a vegetative buffer and visual screen to residences near the site.

Grading Impacts

Existing City code (SMC 11.62) requires truck activities to use arterial streets to every extent possible. City code (SMC 11.74) provides that material hauled in trucks not be spilled during transport. The City requires that a minimum of one foot of “freeboard” (area from level of material to the top of the truck container) be provided in loaded uncovered trucks, which minimizes the amount of spilled material and dust from the truck bed en route to or from a site.

An impact not always required to be mitigated in other City Code requirements is dirt/dust created by excavation materials that permeates in the air adjacent street system. Considering the 1,100 cubic yards of grading proposed in concert with the fact that trucks will be maneuvering near or on the site and in the area for a substantial duration during construction, conditioning is warranted to mitigate the impact of particulates in the air and street system.

The owner(s) and/or responsible party(s) shall repeatedly wet the soils during grading activities and in uncovered trucks to keep dirt and dust impacts to a minimum and in the surrounding street system by requiring wheel washing facilities for trucks leaving the site (Conditions #8 and #9).

Movements of grading trucks to and from the park site can cause traffic impacts during peak pm traffic, so conditioning is warranted to limit truck movements during these times. For the duration of the grading activities, DPD conditions that the contractor is required to cease grading truck trips during the hours between 4:00 pm and 6:00 pm (Condition #10). This condition will assure that truck trips do not interfere with daily PM peak traffic in the vicinity.

Construction Staging/Worker Parking

SPU identified four potential locations for temporary contractor parking and staging: Option A - the Safeway parking lot at 9262 Rainier Avenue South; Option B – the Saar’s Marketplace parking area at 9000 Rainier Avenue South; Option C – a vacant lot located between McDonald’s and the Hong Kong Restaurant at 9291 Rainier Avenue South; and Option D – the 52nd Ave S right of way. Viability of the private property options would depend on the willingness of property owners to allow these parcels to be used for contractor staging and parking. The contractor would select the option(s) at the time of construction based on a combination of factors, such as accessibility, availability, and space needs. Most or all worker parking and staging for the work within the park can be accommodated on site, so conditioning is not necessary.

Long - Term Impacts

The following long-term or use-related impacts, slight increase in demand on public services and utilities; and increased energy consumption are not considered adverse; furthermore, other City Departments will review in detail the service requirements needed to meet the project impacts/demand.

Environmentally Critical Areas (ECA)

Contained in the development area are five mapped ECA: Liquifaction, Shoreline Habitat, Peat Settlement, Wetland and Riparian Corridor. An ECA exemption was granted by SPU based on the proposal and is located in the project file. No further analysis is necessary.

Air Quality and Environmental Health

Operational activities, primarily vehicular trips associated with the project and the projects’ energy consumption, are expected to result in small 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 due to the relatively small contribution of greenhouse gas emissions from this project due to its function and nature.

Historic Preservation

As cited in the SEPA checklist, review under information from the Office of Archaeology and Historic Preservation demonstrated there is a low likelihood of affecting cultural resources with the proposed action.

Even though documentation doesn’t indicate any places or objects, conditioning is required per City of Seattle [Director’s Rule 2-98](#) to require that any city or contracted employee should be made aware of what cultural resources might be encountered pursuant to [Director’s Rule 2-98](#) as well as if resources of potential archaeological significance are encountered during construction or excavation (condition #s 1, 11, 12 and 13).

Summary

In conclusion, adverse effects on the environment resulting from the proposal are anticipated to be non-significant. Meeting the conditions below and analyzed above, the project will be compliant with SEPA policies.

Existing codes and development regulations applicable to this proposed project will provide mitigation and no further conditioning or mitigation is warranted pursuant to specific environmental policies or the SEPA Overview Policy (SMC 25.05.665).

SEPA SUBSTANTIVE CONDITIONING REVIEW

This review was made after review by the responsible official for the lead agency (SPU) of the completed environmental checklist and DNS. This constitutes the exercised authority of DPD to review SPU's DNS for substantive conditioning authority pursuant to SEPA Policies.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

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 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 generally 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 adopted a 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. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

B. The Regulation of Chapter 23.60

Chapter 23.60 of the Seattle Municipal Code is known as the “Seattle Shoreline Master Program.” In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SSMP 23.60.030. Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SSMP 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SSMP 23.60.004, and meet development standards for all shoreline environments established in SMC 23.60.152 as well as the criteria and development standards for the shoreline environment in which the site is located, any applicable special approval criteria and the development standards for specific uses.

Each of these elements is evaluated below in the order they are listed in the Shoreline Master Program. The shoreline designations for the area of work are Conservancy Recreation (CR) (SMC 23.60.220 + 23.60.360-.400).

SMC 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 purpose of the CR environments is stated in SMC 23.60.220-C.2 +C.3 and C.6 respectively:

- The purpose of the CR shoreline environment is to protect areas for environmentally related purposes, such as public and private parks, aquaculture areas, residential piers, underwater recreational sites, fishing grounds, and migratory fish routes.

The goals of the Mapes Creek Restoration Project are to increase juvenile Chinook salmon rearing and migration habitat, provide environmental education and stewardship opportunities, and reverse some of the past environmental impacts caused by previous drainage projects.

1,100 cubic yards of grading are proposed to accomplish the approximately 375’ long day lighting of the creek within the park. Also included is the installation of a pedestrian bridge to allow pedestrian movements north/south across the day lighted creek which is proposed to be oriented east/west day lighting from Seward Park Ave S to the outfall in Lake Washington. The project includes re-vegetation, shoreline plantings, and woody debris structures that mimic natural tree falls to enhance the insect of detrital input to the system.

The Mapes Creek Restoration Project would improve the function of the Lake Washington shoreline ecosystem as it relates to habitat for juvenile salmonids and other wildlife.

In summary, the proposal is consistent with the CR environment's purpose.

SMC 23.60.064 - Procedures for Obtaining Shoreline Substantial Development Permits

This application has followed the procedural requirements for a Master Use Permit as specified in subsection A. SMC 23.60.064 also provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter 23.60, and with RCW 90.58.020 (State policy and legislative findings).

Per SMC 23.60.064-C, in evaluating whether a development which requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that:

1. The proposed use is not prohibited in the shoreline environment and underlying zone in which it would be located:

CR Environment: The existing park use (Beer Sheva Park) and proposed enhancements: Creek day lighting, pedestrian paths, pedestrian bridge, re-vegetation and opportunities environmental education and stewardship opportunities are permitted uses under the definition of "shoreline recreation," (SMC 23.60.936-S).

2. The development meets the general development standards and any applicable specific development standards set forth in Subchapter III, the development standards for the shoreline environment in which it is located, and any applicable development standards of the underlying zoning, except where a variance from a specific standard has been applied for:

The conformance of the project with the general development standards and development standards in the shoreline environments in which the project is located is discussed below.

3. If the development or use requires a conditional use, variance, or special use approval, the project meets the criteria for the same established in Sections 23.60.034, 23.60.036 or 23.60.032, respectively.

None of the above requirements are applicable to the proposal.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environment. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. These general standards of the SMP state, in part, that all shoreline development 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.
- Not release oil, chemicals or other hazardous materials onto or into the water.
- 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;
- 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;
- Be located, designed, constructed, and managed in a manner that minimizes adverse impacts on surrounding land and water uses and is compatible with the affected area; and
- Be located, constructed, and operated so as not to be a hazard to public health and safety.

The proposal, as designed and conditioned below including the proposed mitigation, would not adversely affect the quality and quantity of surface and ground water on and adjacent to the site on a long-term basis. No planned discharge of solid wastes would occur. Spillage of petroleum or diesel products must be avoided and contained should it occur. No intentional release of oil, chemicals, or other hazardous materials shall occur. Erosion would not result from the development. Impacts to fish and wildlife and shoreline processes are minimized. Long-term impacts to surrounding land and water uses are also minimized. Some vegetation will be cleared with this proposal, but a re-vegetation plan is in place to enhance the restored creek. No hazard to public safety or health is proposed by this development. Navigation channels will not be affected. The proposal would not affect existing shoreline stabilization. No submerged public right-of-way or view corridors would be significantly affected. The conditions noted at the end of this report, which are based on the criteria of SSMP 23.60.152, ensure that the project conforms to the goals and regulations of the Seattle Shoreline Master Program. The public interest suffers no substantial detrimental effect from the proposal.

SMC 23.60.390-400 Development Standards for CR Environment

The development standards set forth in the Conservancy Recreation Shoreline Environment state all developments shall be located and designed to minimum adverse impact to natural areas of biological or geological significance and to enhance the enjoyment by the public of those natural areas. Development in critical natural areas shall be minimized. Remaining development standards regulate height, lot coverage, view corridors, and public access.

The proposal meets all development standards relating to height, lot coverage, view corridors, and public access.

C. The Provisions of Chapter 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). Since DOE has approved the Seattle Shoreline Master Program, any project consistent with the criteria and procedures of SMC Chapter 23.60 is also consistent with WAC 173-14 and RCW 90.58.

CONCLUSION

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC, RCW and with the regulations of Chapter 23.60, Seattle Shoreline Master Program. The specific standards for development in the shoreline environment will be met by the proposed development.

Pursuant to the Director's authority under Seattle's Shoreline Master Program to ensure that development proposals are consistent with the policies and procedures, and conform to specific development standards of the underlying zone, and having established that the proposed use and development are consistent with the Seattle Shoreline Program, as conditioned below the proposal is approved.

DECISION - SSDP

The Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED**.

CONDITIONS - SEPA

Prior to Issuance of the Master Use Permit

1. The project 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 and that construction crews will be required to comply with those regulations, including the following:
 - Archaeological Sites and Resources (RCW 27.53)
 - Indian Graves and Records (RCW 27.44)
 - Archaeological Site Public Disclosure Exemption (RCW 42.56.300)
 - Discovery of Human Remains (RCW 27.44)
 - Archaeological Excavation and Removal Permit (WAC 25-48)
 - Abandoned and Historic Cemeteries and Historic Graves (RCW 68.60)

During Construction

The following conditions to be enforced during construction shall be posted at each street abutting 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. The conditions shall be affixed to placards. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

2. In order to further mitigate the noise impacts during construction, the owner(s) and/or responsible party(s) shall limit the hours of construction to between **8:00 a.m. and 5:00 p.m. on non-holiday weekdays**. Construction activities outside the above stated limits, but within the limits of the Noise Ordinance (25.08), may be authorized by DPD when a Construction Management Plan is provided and approved.
3. Conduct on-site noise monitoring to ensure compliance with the Seattle Municipal Code provisions, if necessary.
4. Ensure that equipment has sound control devices that are at least as effective as those on the original equipment. No equipment with un-muffled exhaust is allowed.
5. Minimize idling time of equipment and vehicle operation.
6. Implement appropriate additional noise control measures, as necessary, such as changing the location of stationary construction equipment, operating only the equipment needed to match the phase of construction, shutting off idling equipment, rescheduling construction activity, notifying adjacent residents in advance of construction work, or installing acoustic barriers around stationary sources of construction noise.
7. Maintain the existing vegetation, where possible, to provide a vegetative buffer and visual screen to residences near the site.
8. During grading activities, watering of the site and uncovered materials in trucks shall be required to reduce construction dust.
9. The contractor shall make provisions to wash vehicle tires, wheels and exteriors leaving the site in order to prevent spillover of particulates into the adjacent rights of way.
10. For the duration of grading activity, the contractor or responsible party shall cease grading activity truck trips to and from the project during the hours between 4:00 pm and 6:00 pm.
11. Abide by all regulations pertaining to archaeological resources, including but not limited to those listed in condition #1 above.
12. If resources of potential archaeological significance are encountered during construction or excavation, the owner and/or responsible parties shall:
 - Stop work immediately and notify Washington State Archaeologist at The Department of Archaeology and Historic Preservation and DPD (Lucas DeHerrera 206.615.0724). Follow procedures outlined in Appendix A of Director's Rule 2-98.

13. If human remains are encountered during construction or excavation, the owner and/or responsible parties shall:
- Stop work immediately and notify Washington State Archaeologist at The Department of Archaeology and Historic Preservation and DPD (Lucas DeHerrera 206.615.0724). Course of action will be determined by the appropriate regulating agency.

CONDITIONS – SSDP

During Construction

14. Any work water ward of ordinary high water shall be restricted to applicable work windows established by Washington Department of Fish and Wildlife.
15. Appropriate Best Management Practices (BMPs) shall be employed to prevent any debris or other deleterious material from entering Lake Washington, such as the use of a turbidity curtain and/or debris boom surrounding the project area during in-water and over-water work to contain any debris, suspended sediments, or spills caused by construction activities. Materials to be disposed of shall be contained on site and then discarded at an appropriate upland facility.
16. Any debris that enters the water during the proposed work shall be removed immediately and contained until it can be disposed of at an appropriate upland facility.

For Life of the Project

17. No pesticides or fertilizers shall be applied within 50 feet of the stream, wetland or shoreline at this project location except as authorized by DPD.

Signature: _____ (signature on file) Date: November 26, 2012
Lucas DeHerrera, Senior Land Use Planner
Department of Planning and Development

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