



**City of Seattle**  
Edward B. Murray, Mayor

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**Department of Planning and Development**  
Diane M. Sugimura, Director

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

**Application Number:** 3016943/3017331  
**Applicant Name:** John Rork  
**Address of Proposal:** 1801 North Northlake Way

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development application to allow grading of 11,500 cu. yds. of material to place an 18” protective layer of soil over existing grade. Related project at 1701 North Northlake Way (#3017331) for an additional 700 cu. yds. of grading. Total grading: 12,200 cu. yds. of material (1,700 of cut; 10,500 of fill) at Kite Hill Gas Works Park. (\*)

*(\*) Project was revised after initial application to remove project element to replace 140 linear foot retaining wall.*

The following approvals are required:

**Shoreline Substantial Development Permit** - to allow grading in a Conservancy Management (CM) shoreline environment. (Section 23.60.420, Seattle Municipal Code)

**SEPA – Environmental Determination** pursuant to SMC 25.05.

**SEPA DETERMINATION:** [ ] Exempt [ X ] DNS [ ] EIS  
[ ] DNS with conditions  
[ ] DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

## **BACKGROUND and PROPOSAL**

The project consists of placing a protective soil cover across approximately 4.25 acres of Gas Works Park, centered on the Kite Hill area. Gas Works Park is located on an approximately 20.5-acre peninsula at the northern edge of Lake Union. In addition to the work on Gas Works Park project, a portion of the grading and fill activities will occur on an adjacent property owned by Seattle Harbor Patrol (project no. 3017331) at 1701 North Northlake Way. Kite Hill is an approximately 40-foot-tall constructed hill that sits in the southwest portion of the park.

The soil cover is designed and intended to prevent erosion and transport of contaminated soil to Lake Union as well as isolate contaminated soil from Park users. This project is associated with a cleanup action at Gas Works Park required by Washington Department of Ecology, pursuant to Consent Decree #99-2-52532-9SEA.

Construction of the soil cover consists of limited grading to prepare the surfaces and improve drainage, placing a geotextile or geogrid on existing exposed soil and placement of cover material ranging from 18 inches at the thickest points to 6 inches thick at the edges of the project. The project area will be restored by hydroseeding and/or sodding and reconstructing asphalt and gravel pathways similar to existing conditions. The existing irrigation system also will be removed and installed.

Fill (topsoil) will be obtained from a local borrow source and will be free of toxic or contaminated material. The project will require approximately 1,700 cubic yards of stripping or cut and approximately 10,500 cubic yards of fill. No work is proposed over or below Ordinary High Water. Construction activities will temporarily displace recreational use of the project area beginning in late summer and continuing through approximately March 2015. The schedule was selected to minimize impacts to Park users by avoiding the times of heaviest Park use.

A Construction Management Plan that provides details of truck haul routes to and from the site area will be prepared and approved by Seattle Department of Transportation. During construction, approximately 1,000 truck trips will be required to remove material from the site and to haul in clean fill. The peak volumes of truck traffic will occur in early September, during initial stripping, and then when filling occurs after the geogrid product has been placed and the irrigation system replaced.

### **Public Notice and Comment Period**

Notice of the application was published on April 10, 2014. The required public comment period ended on May 9, 2014. No public comments were received.

## **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. 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 effects to public health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, 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 and other jurisdictions with shorelines, 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. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The proposal is subject to the Shoreline Policies of SMC 23.60.004 because the site is located within the shoreline district and the cost of the project exceeds \$6,416. The proposed development has been designed to ensure minimum impact to the public health, land and waters of the state, and their aquatic life. The location of the proposed work on the shoreland will not interfere with the public rights of navigation and corollary rights, thus providing for the management of the shorelines by planning for and fostering all reasonable and appropriate uses. Therefore, the subject application is consistent with the procedures outlined in RCW 90.58.

#### **B. THE REGULATIONS 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 SMC 23.60.030 (cited above). 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 requirements use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064).

Pursuant to SMC 23.60.064C, 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 the proposed use: 1) is not prohibited in the shoreline environment and the underlying zone and; 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.

#### 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 locational 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 Conservancy Management (CM) environment as set forth in Section 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 project will not change the use of Gas Works Park as a public park, which is consistent with this purpose of the CM Environment.

The shoreline recreation use at this location, which is not changing as part of this proposal, is a permitted use in CM Shoreline Environment. The proposed soil remediation serves this use and therefore is supported by both the purpose of the CM shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan, including LUG53: "Manage publicly owned shorelines that are suitable for public recreation to optimize their potential," and LUG 44: "Provide for the optimum amount of public access – both physical and visual - to the shorelines of Seattle."

#### Development Standards

The proposal is permitted outright in SMC 23.60.420 governing the CM shoreline environment and is therefore subject to:

1. *the general development standards for all shoreline environments (SMC 23.60.152);*
2. *the development standards for uses in the CM environment (SMC 23.60.420); as well as*
3. *the development standards for Industrial Buffer and Industrial Commercial zones (SMC 23.50).*

#### General Development Standards for all Shoreline Environments (SMC 23.60.152)

*All uses and developments shall be subject to the following general development standards:*

- 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*
- C. *Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, vessel repair facilities, marine service stations and any use regularly servicing vessels....*
- 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.*
- F. *All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.*
- G. *All shoreline developments and uses shall control erosion during project construction and operation*
- 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.*

- K. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.*
- L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.*
- M. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.*
- 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.*
- O. Navigation channels shall be kept free of hazardous or obstructing development or uses.*
- P. No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.*

A number of Best Management Practices will be employed during the implementation of this project to address potential risks to the shoreline environment, including those risks posed by stormwater runoff and erosion during grading and fill activities. These BMPs are shown on the plans and contained in the application material, including a Geotechnical Engineering Service document by GeoEngineers dated March 24, 2014, which has been reviewed by a geotechnical engineer at DPD. Erosion control measures will be addressed in a Temporary Erosion and Sediment Control (TESC) Plan prepared by the contractor and adhered to during construction.

The proposal as proposed and conditioned below meets the applicable general development standards for the shoreline environment.

#### Development Standards for CM Shoreline Environments (SMC 23.60.420)

The development standards set forth in the Conservancy Management (CM) Shoreline Environment relate to critical habitat protection, height, lot coverage, view corridors, setbacks, water-related uses on waterfront lots and public access. The proposal conforms to all applicable development standards for the CM Environment.

#### Development Standards for the Industrial Buffer and Industrial Commercial Zones (SMC 23.50)

The project proposal must meet the development standards of the underlying Industrial Buffer and Industrial Commercial zones. The development proposal has been reviewed by the Land Use Planner who has determined the project complies with the required development standards

### **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 government s, 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). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of the SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

### Summary

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC and RCW and with the regulations of Chapter 23.60 of the Seattle Shoreline Master Program.

The project as proposed meets the specific standards for development in the CM Environment. It also conforms to the general development standards, as well as the requirements of the underlying zone.

The Director's authority under Seattle's Shoreline Master Program is to ensure that development proposals are consistent those policies and procedures, and conforms to specific development standards of the underlying zones. Having established that the proposal is consistent with the Seattle Shoreline Program, it is hereby conditionally approved.

## **DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

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

### **SEPA ANALYSIS**

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle 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 March 20, 2014). The Department of Planning and Development has analyzed and annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the file and any pertinent comments which may have been received regarding this proposed action have been considered. As indicated in the checklist, this action may result in adverse impacts to the environment. However, due to their temporary nature or limited effects, the impacts are not expected to be significant.

The SEPA Overview Policy (SMC 25.05.554D) 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.

Codes and development regulations applicable to this proposed project will provide sufficient mitigation for short and/or long term impacts. Applicable codes may include the Stormwater Code (SMC 22.800-808), the Grading Code (SMC 22.170), the Street Use Ordinance (SMC Title

15, the Seattle Building Code, and the Noise Control Ordinance (SMC 25.08). Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality.

### Short Term Impacts

Grading and filling activities pose some potential danger of contamination of groundwater and surface water at and adjacent to this site. The applicant will implement a number of Best Management Practices during the project to reduce the risk of contaminated runoff or erosion, including installation of a permeable filter fabric insert over each of the stormwater catch basins on the property.

During construction, stormwater runoff will be diverted as much as feasible around the work area using sand bags and other diversion Best Management Practices. If stormwater comes into contact with exposed soils and does not infiltrate within the work area, it will be collected, contained in temporary aboveground storage tank(s), treated if necessary, and discharged to the storm or sanitary sewer under permit or hauled off-site for proper disposal in an approved upland facility. Erosion control measures will be addressed in a Temporary Erosion and Sediment Control (TESC) Plan prepared by the contractor and adhered to during construction.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts in the submitted environmental documents. Specifically, these are: 1) Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, construction along the street right-of-way, and sidewalk repair); 2) Building Code (construction measures in general, including best management practices to address potential runoff of surface water and sediment to Lake Union during construction); and 3) the Stormwater Code and Grading Code place considerable emphasis on protecting water quality. This generally takes the form of best management practices being required on building permits.

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. The other short-term impacts not noted here as mitigated by codes, ordinances or conditions (e.g., increased traffic during construction, additional parking demand generated by construction personnel and equipment, increased use of energy and natural resources) are not sufficiently adverse to warrant further mitigation or discussion.

### Greenhouse Gas

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery; and the movement of vehicles — themselves result in 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 increased contribution of greenhouse gas emissions from this project.

Long-term Impacts

No long-term or use related impacts are anticipated from the proposal. There will be no change in uses at the property as a result of the project and the remedial actions will result in a cleaner environment at the property with reduced levels of contaminants in the soils compared to existing conditions and reduced risk of further contamination to groundwater, soils and nearby surface waters.

No further conditioning or mitigation is warranted pursuant to specific environmental policies or the SEPA Overview Policy (SMC 25.05.665).

**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).

**CONDITIONS - SEPA**

None.

**CONDITIONS - SHORELINES**

During Construction

- 1) The owner(s), builder(s), and all responsible party(s) shall follow the best management practices as carried over to the approved construction set of plans. These BMPs shall be in place to prevent any toxic materials, petrochemicals and other pollutants from entering enter the surface water during the proposed repair work. The spill prevention and response procedures developed for this project shall be followed and the appropriate material shall be kept at the site for quick response to any toxic spills at the site.

Signature: \_\_\_\_\_ (signature on file) Date: July 17, 2014

Ben Perkowski, Land Use Planner  
Land Use Services  
Department of Planning and Development

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