



City of Seattle
Edward B. Murray, 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: 3018108
Applicant Name: Alice Williams
Address of Proposal: 1652 SW Lander St.

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow two 30,000 gallon, above-ground storage tanks and accessory structures for blending butane into gasoline at existing gasoline and distribution storage site (BP Petroleum).

The following approvals are required:

Shoreline Substantial Development Permit - to allow development in an Urban Industrial (UI) shoreline environment. (Section 23.60.840, Seattle Municipal Code)

SEPA - Environmental Determination - (SMC Chapter 25.05)

SEPA DETERMINATION: Exempt DNS MDNS EIS

DNS with conditions

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

BACKGROUND AND PROPOSAL SUMMARY

The subject site is located at 1652 SW Lander Street in Seattle. The project site is the British Petroleum (BP) West Coast Products Terminal Harbor Island site, which is located on the west side of Harbor Island adjacent to the east bank of the Duwamish River West Waterway. The site is zoned Industrial General-1 (IG1) and the shoreline portion of the site is within the Urban Industrial (UI) shoreline environment. The project consists of installing two 30,000 gallon liquid petroleum (LP) tanks and associated equipment enclosures, pump, pipes and protective

bollards in order to allow butane to be blended into gasoline at the site. Approximately 382 cubic yards of soil and pavement will be removed from the ground as part of the project. All soil taken from the ground will be removed from the facility for off-site disposal.

Public Comment

The public comment period for this project started on October 9, 2014 and ended on November 7, 2014. No 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. An economic objective for the shoreline is to “Encourage economic activity and development of water-dependent uses by supporting the retention and expansion of existing water-dependent businesses and planning for the creation of new developments in areas now dedicated to such use.” (Please refer to Economic Development Goals, Policy LUG51). An area objective for this portion of the Duwamish Waterway is to “encouraging industrial and port uses in this area, where such uses are already concentrated, while also protecting migratory fish routes.” (Please refer to Area Objectives for Seattle’s Shorelines, Policy LU269 1d). The purpose of the Urban Industrial (UI) environment as set forth in Section 23.60.220.C.11 is to “provide for efficient use of industrial shorelines by major cargo facilities and other water-dependent and water-related industrial uses. Views shall be secondary to industrial development and public access shall be provided mainly on public lands or in conformance with an area-wide Public Access Plan.”

The cargo terminal and outdoor storage use at this location is an established use and is not changing as part of this proposal. The proposed project serves this use and therefore are supported by both the purpose of the UI shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan.

Development Standards

The proposal is permitted outright in SMC 23.60.840 governing the UI 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 UI environment (SMC 23.60.870); as well as*
3. *the development standards for General Industrial zones (SMC 23.50).*

1. *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.*

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. This measure will be adequate to ensure protection of the shoreline from the construction that is proposed.

Cleanup actions are ongoing at the site under the state of Washington's Model Toxics Control Act (MTCA) and Consent Decree No. 00-05714-8SEA. Washington Department of Ecology is aware of the proposal and any soils disturbed or excavated will be properly tested and disposed of at an appropriate off-site facility using appropriate health and safety procedures consistent with MTCA standards (see letter in project file from Dept. of Ecology dated Dec. 11, 2014).

As proposed and conditioned, the proposal meets the applicable general development standards for the shoreline environment.

2. *Development Standards for UI Shoreline Environments (SMC 23.60.870)*

The development standards set forth in the Urban Industrial (UI) 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 UI environment

SMC 23.60.840 – Uses Permitted Outright in the UI Environment

The proposal does not change the current uses of the property (cargo terminal, outdoor storage) and is consistent with allowed uses in the Urban Industrial environment.

3. *Development Standards for Industrial Zone Uses (SMC 23.50)*

The project proposal must meet the applicable development standards of the underlying General Industrial 1 (IG1) zone.

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). 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 UI 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**

CONDITIONS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

(Noted at the end of this document.)

SEPA ANALYSIS

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant (dated Nov. 29, 2014). 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 25.05.554D) 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. Under such limitations/circumstances (SMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary construction-related impacts are expected: 1) decreased air quality due to the increase dust and other suspended particulates from building activities; 2) increased noise and vibration from construction operations and equipment; 3) increased traffic and parking demand from construction personnel; and 4) consumption of renewable and non-renewable resources. These impacts are not significant.

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, 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 the Duwamish 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.

The project includes excavation of potentially contaminated soil as cleanup actions are ongoing at the site under the state of Washington’s Model Toxics Control Act (MTCA) and Consent Decree No. 00-05714-8SEA. Washington Department of Ecology is aware of the proposal and any soils disturbed or excavated will be properly tested and disposed of at an appropriate off-site facility using appropriate health and safety procedures consistent with MTCA standards (see letter in project file from Dept. of Ecology dated Dec. 11, 2014). Applicants summarized Best

Management Practices for soil excavation and testing in SEPA Checklist as well as document titled “Management and Stewardship Plans for Excavated Soil” in project file.

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 change to use of the facility is proposed as part of this project and no long-term or use-related impacts are anticipated as a result of approval of this proposal and so no further conditioning pursuant to SEPA policies is warranted.

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. 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).

CONDITIONS – SEPA AND SHORELINE

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.

- 2) Testing and disposal of excavated soils shall follow health and safety procedures consistent with MTCA and Department of Ecology standards and summarized in Management and Stewardship Plans for Excavated Soils submitted by applicant.

Signature: _____ (signature on file) Date: January 22, 2015
Ben Perkowski, Land Use Planner
Department of Planning and Development

BP:drm

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IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT

Master Use Permit Expiration and Issuance

The appealable land use decision on your Master Use Permit (MUP) application has now been published. At the conclusion of the appeal period, your permit will be considered “approved for issuance”. (If your decision is appealed, your permit will be considered “approved for issuance” on the fourth day following the City Hearing Examiner’s decision.) Projects requiring a Council land use action shall be considered “approved for issuance” following the Council’s decision.

The “approved for issuance” date marks the beginning of the **three year life** of the MUP approval, whether or not there are outstanding corrections to be made or pre-issuance conditions to be met. The permit must be issued by DPD within that three years or it will expire and be cancelled. (SMC 23-76-028) (Projects with a shoreline component have a **two year life**. Additional information regarding the effective date of shoreline permits may be found at 23.60.074.)

All outstanding corrections must be made, any pre-issuance conditions met and all outstanding fees paid before the permit is issued. You will be notified when your permit has issued.

Questions regarding the issuance and expiration of your permit may be addressed to the Public Resource Center at prc@seattle.gov or to our message line at 206-684-8467.