



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

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**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:** 3018782  
**Applicant Name:** Jill Macik for Seattle Department of Transportation  
**Address of Proposal:** 4315 11<sup>th</sup> Ave NW

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Application to grade 430 cu. yds. of material (350 cu. yds. cut; 80 cu. yds. fill) in an environmentally critical area and to allow site improvements (elevated walkway, benches and deck/viewing platform, re-vegetation) to 11th Avenue NW street end for public recreation use. (Seattle Department of Transportation)

The following Master Use Permit components are required:

**Shoreline Substantial Development Permit:** to allow development in an Urban Industrial (UI) Shoreline Environment. (SMC 23.60.840)

**SEPA - Environmental Determination** - Chapter 25.05 SMC

**SEPA DETERMINATION:**  Exempt  DNS  MDNS  EIS

DNS with conditions

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

**Background, Summary of Proposal**

The project site is located between at the southern terminus of 11<sup>th</sup> Avenue NW, south of its intersection with NW 45<sup>th</sup> Street, on the Lake Washington Ship Canal. The subject property is currently zoned Industrial General 1, (IGI, U65) and is located within the Urban Industrial Shoreline Environment.

This project is part of Seattle Department of Transportation's (SDOT) overall Shoreline Street Ends Program to improve selected street ends that end on waterfronts in the City of Seattle to provide the public with increased waterfront access and recreational enjoyment of the shoreline. The project includes regrading a portion of the shoreline to provide enhanced shallow habitat for migrating salmonids and other aquatic life, revegetation with native plants along the shoreline, installation of decking, pathways, bicycle racks, seating areas, and sculpture. The project will result in a net decrease of impervious surface compared to the existing condition, which is nearly entirely impervious surface. The project will result in a loss of informal parking spaces.

### **Public Comment**

The public comment period began on December 15, 2015 and ended on January 13, 2015. Several public comments were received objecting to the project and the impacts it will have on neighboring businesses, including loss of parking.

### **ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

The proposal is located within the Urban Maritime 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.

### **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 for the protection of 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 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 policies of the Act regarding preferences for uses in the Shoreline District are articulated in RCW 90.58.020. These use preferences include two preferences that are particularly relevant to this proposal:

- Increase public access to publicly owned areas of the shorelines; and
- Increase recreational opportunities for the public in the shoreline.

The proposed project will increase public access to the City's shorelines and increase recreational opportunities for the public by enhancing amenities and the environment at this publicly owned street end adjacent to the Ship Canal. This proposal is consistent with the policies and procedures of the RCW Chapter 90.58.

### **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. Development standards of the shoreline environment and underlying zone must be considered as well as any conditioning that may be necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline goals and policies pursuant to SMC 23.60.004, and meet applicable use and development standards for the Shoreline Environment in which the site is located.

Each of these elements is evaluated below in the order they are listed in the Shoreline Master Program. The shoreline designation for the area of this project within the Shoreline District is the Urban Industrial (UI) Shoreline Environment.

#### **SMC 23.60.004 - Shoreline Goals and Policies**

Pursuant to SMC 23.60.004, the Shoreline Goals and Policies contained in the City of Seattle's Comprehensive Plan and the purpose and location criteria for each shoreline environment shall be considered in making all discretionary decisions in the Shoreline District.

The purpose of the UI Shoreline Environment as described in SMC 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.

In the Shoreline Goals and Policies section of the City of Seattle's Comprehensive Plan, Goal LUG 44 promotes development that provides for "the optimum amount of public access – both physical and visual – to the shorelines of Seattle." LU258 promotes development that results in an "increase opportunity for the public to enjoy water-dependent recreation including boating, fishing, swimming, diving and enjoyment of views. LU244 states that "shorelines street ends are a valuable resource for public use and access. Public or private use or development of street

ends shall be designed to enhance rather than reduce public access.” The project is clearly designed to enhance public access and so is consistent with this clear goal for shoreline street ends. Shoreline street ends have been designated by the City of Seattle (City Resolution 29370) as special rights-of-way that should be preserved and improved for public use.

The proposed project will allow enhanced opportunities for the public to access and enjoy the shoreline environment of the Ship Canal and will enhance nearshore habitat conditions through regrading and native vegetation planting along the shoreline, which is consistent with the goals and policies mentioned above.

SMC 23.60.064 - Procedures for Obtaining Shoreline Substantial Development Permit

This application has followed the procedural requirements for a Master Use Permit as specified in subsection A of SMC 23.60.064. This section 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.

Pursuant to SMC 23.60.064.C, in evaluating whether a development that 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(s) and underlying zone(s) in which it would be located.*

The proposed project is not a prohibited use in the Urban Industrial Shoreline Environment. The proposed use is consistent with a shoreline recreation use, which is permitted outright pursuant to SMC 23.60.840.K.

The proposed project is also not a prohibited use in the underlying zone, which is Industrial General (IG).

*2. The development meets all applicable development standards of both the shoreline environment and underlying zone.*

The conformance of the project with the general development standards and development standards in the shoreline environment 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 Section 23.60.034, 23.60.036 or 23.60.032, respectively.*

The proposal does not require a shoreline conditional use or variance approval. The proposal does require special use approval, which is discussed below.

## **Shoreline Development Standards**

The proposed shoreline development is located in the Urban Maritime (UM) Shoreline Environment. Pursuant to the Seattle Shoreline Master Plan, the proposed action is subject to the:

1. general development standards (SMC 23.60.152);
2. development standards for uses in the UI environment (SMC 23.60.840).

### **1. SMC 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 leakproof 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.*

The project will result in a loss of 18 perpendicular parking spaces that are utilized, in part, by adjacent and local businesses. A parking study was submitted by SDOT (March 18, 2015 and revised March 26, 2015) and reviewed by DPD's transportation planner. The loss of 18 parking spaces would result in a daytime utilization rate of approximately 59.7% within 800 feet of the project site. On-street parking utilization is generally considered to be at capacity when it reaches a rate of 85% or higher. No SEPA conditioning based on parking impacts was found to be justified based on this analysis.

Best Management Practices for the fill activities described above and construction adjacent to the shoreline are contained in the application material, including SEPA Checklist. Implementation of these BMPs as proposed by the applicant and conditioned in this decision will provide sufficient protection of the aquatic and shoreline habitat consistent with these general development standards during construction of this project.

This project is proposed to occur in the aquatic and shoreline environment of the Ship Canal that provides habitat for Chinook salmon. The project site serves as a migration corridor as well as potentially rearing area for juvenile Chinook salmon from the Cedar River and other water bodies in Water Resource Inventory Area 8. The project will result in enhanced habitat for migrating salmon through the regrading of the nearshore area, revegetation with native plants, and placement of gravel substrate meeting specifications approved by Washington Department of Fish and Wildlife for use at this location and for this purpose.

As proposed and as conditioned below, the project complies with the above shoreline development standards.

### **SMC 23.60.840 - Development Standards in the UI Environment**

In addition to development standards applicable to all environments contained in the General Provisions subchapter, developments in the Urban Industrial (UI) Shoreline Environment shall be consistent with development standards set forth in specifically for the UI Environment the relate to height, maximum size limits, lot coverage, view corridors, regulated public access, and location of uses (SMC 23.60.840). The proposed development has been reviewed and is consistent with these development standards, where applicable.

As discussed previously, the proposed project is a shoreline recreation use and permitted outright in the UI Shoreline Environment pursuant to SMC 23.60.840.K.

The project proposes to place landfill on submerged lands to improve shoreline habitat and enhance the proposed shoreline recreation use, which requires special use approval pursuant to SMC 23.60.842.D, which is analyzed below.

### ***Analysis – Shoreline Special Use***

As described above, the proposed landfill associated with this project proposal is subject to the special use criteria of Section 23.60.032:

SMC 23.60.032 provides the following:

*Uses which are identified as requiring special use approval in a particular environment may be approved, approved with conditions or denied by the Director. The Director may approve or conditionally approve a special use only if the applicant can demonstrate all of the following:*

- A. *That the proposed use will be consistent with the policies of RCW 90.58.020 and the Shoreline Policies;*

RCW 90.58.020 states that permitted uses in the shorelines of the state “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 interferences with the public’s use of the water.”

The applicant is proposing implementation of Best Management Practices (summarized above and detailed in the application material) to protect the environment during the fill activities that require a special use approval pursuant to SMC 23.60.842. The fill actions are temporary and will not prevent the public’s use of the shoreline. The purpose of the fill is to provide enhanced habitat for salmonids and other aquatic life that utilize the nearshore environment of the Ship Canal, particularly shallow areas that are particularly valuable in the Ship Canal due to their relative rarity as the vast majority of shorelines in the Ship Canal are developed with bulkheads and other hard armoring. The proposed enhancement of the ecology of the Ship Canal is clearly consistent with the policies for shoreline protection in RCW 90.58.020.

*B. That the proposed use will not interfere with the normal public use of public shorelines;*

The fill actions are expected to take approximately one to three days. The fill actions are temporary and will not prevent the public’s use of the shoreline.

*C. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area;*

The proposed fill will take place waterward of Ordinary High Water and will not interfere with any permitted uses within the area, including navigation in the Ship Canal.

*D. That the proposed use will cause no unreasonably adverse effects to the shoreline environment in which it is to be located; and*

Best Management Practices will be implemented during the fill actions to protect the nearshore environment during implementation, as described in the application material. Washington Department of Fish and Wildlife was specifically consulted regarding the material and design of the fill and regrading for this project. Feedback from WDFW was incorporated in the final design. A Hydraulic Project Approval permit from WDFW for the fill placement will be obtained prior to construction and is a condition of this permit.

*E. That the public interest suffers no substantial detrimental effect.*

With respect to the fill actions that triggered this special use analysis, the fill activities are temporary in nature and will be conducted using Best Management Practices for protection of the adjacent environment as well under the authority of applicable permits from WDFW and the U.S. Army Corps of Engineers, which provides further assurance that these actions will be accomplished in a manner that will cause no substantial detrimental effect to the public interest. The long-term ecological benefits of this action will enhance the ecology of the Ship Canal and the public interest in the enhancement of aquatic habitat in the shorelines and publicly owned street ends of Seattle.

### *Decision – Shoreline Special Use*

The Director has determined that the proposed landfill and dredging uses meet the Special Use Criteria of SMC 23.60.032 and are **CONDITIONALLY GRANTED**

### **The Provisions of Chapter 173-27 WAC**

Chapter 173-27 WAC sets forth permit requirements for development in shoreline environments, and gives 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) 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.

### **Conclusion – Shoreline Substantial Development Permit**

The proposed shoreline substantial development permit is **CONDITIONALLY GRANTED.** Shoreline Substantial Development conditions are listed below.

### **ANALYSIS – STATE ENVIRONMENTAL POLICY ACT (SEPA)**

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 Feb. 19, 2015). The Department of Planning and Development has analyzed and annotated the environmental checklist submitted by the project applicant; reviewed the project plans, any additional information in the file and comments that have been received regarding this proposed action. 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. 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 225.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion (below) of some of the impacts is appropriate.

Codes and development regulations applicable to this proposed project will provide sufficient mitigation for short and/or long term impacts, except as specifically noted below. Applicable codes may include the City's 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), as well as applicable state, regional and federal regulations.

### Construction Impacts

Best Management Practices will be implemented, as described in application, to address potential short-term impacts to water quality and aquatic habitat due to construction activities near the shoreline and placement of fill waterward of Ordinary High Water. SDOT is required to get appropriate permits and approvals for this work from Washington Department of Fish and Wildlife and the US Army Corps of Engineers. It is condition of this permit that all conditions of these state and federal permits are implemented to address potential negative impacts to the surrounding area during construction.

No further SEPA conditioning of potential temporary construction impacts was found to be warranted.

### 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

Several long-term or use-related impacts are anticipated as a result of approval of this proposal including impacts on plants and animals and traffic and transportation, which are discussed below.

### Parking and Transportation

In order to better understand the potential transportation-related impacts posed by this project, a Parking Study was submitted by the applicant and reviewed by DPD's transportation planner John Shaw. Parking counts of on-street spaces within 800 feet of the project site were performed on two weekdays in the late morning.

The proposed project would remove 18 perpendicular parking spaces. According to the study conducted by SDOT staff dated March 18, 2015 and revised March 26, 2015, there are 141 legal on-street parking spaces available within 800 feet of the project site, with a utilization rate of 52.5%. A removal of 18 parking spaces would result in a utilization rate of 59.7%. On-street parking utilization is generally considered to be at capacity when it reaches a rate of 85% or higher.

Pursuant to DPD's authority in SMC 25.05.665 and SMC 25.05.675 M, DPD finds that no additional conditions pursuant to SEPA are warranted with respect to parking and transportation impacts.

*Plants and Animals*

Chinook salmon, a species listed as threatened under the Endangered Species Act (ESA) in March 1999, are known to inhabit the Ship Canal including the proposed project area. Under the City of Seattle's Environmental Policies and Procedures 25.05.675 N (2) it states in part: *A high priority shall also be given to meeting the needs of state and federal threatened, endangered, and sensitive species of both plants and animals. A portion of the project is proposed to take place in the Ship Canal, which is part of the migration corridor of Chinook salmon from the Cedar River and the other water bodies in Water Resource Inventory Area 8. The project will result in enhanced conditions for these migrating salmonids through planting of native vegetation near the shoreline and regrading a portion of the nearshore and placement of "fish-friendly" gravel substrate. The project includes a commitment by SDOT to monitor and maintain the vegetation and replenish the substrate as needed and only with approval of appropriate permitting agencies.*

No additional conditioning pursuant to SEPA 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 requirements of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(c).

[ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

**SEPA AND SHORELINE CONDITIONS**

*During Construction*

- 1) Best Management Practices for all work in-water and adjacent to the shoreline shall be followed, including all those required by Washington Department of Fish and Wildlife, during construction for protection of the nearshore environment and the habitat and water quality of the Ship Canal.

For Life of the Project

- 2) The proposed vegetation at the subject property as shown on the landscape plan shall be properly installed, monitored and maintained to ensure survival and good health of all plants. The fill to be placed waterward of Ordinary High Water shall be monitored and maintained pursuant to WDFW requirements for fish habitat protection. All applicable permits shall be obtained for any replenishment of this material.

Signature: Denise R. Minnerly for Date: April 6, 2015  
Ben Perkowski, Senior 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](mailto:prc@seattle.gov) or to our message line at 206-684-8467.