



City of Seattle

Edward B. Murray, Mayor

Seattle Department of Construction and Inspections

Nathan Torgelson, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

Application Number: 3020397
Applicant Name: Jennifer Grant
Address of Proposal: 1201 Alaskan Way South

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow improvements to marine cargo terminal (Port of Seattle). Project includes structural improvements to the northerly 200-foot portion of existing pier (including new crane rail beam and support piling), maintenance and repair of a portion of existing stormwater outfall, and electrical upgrades and installation of new light poles (Terminal 46, Port of Seattle). Determination of Non-Significance by Port of Seattle.

The following approvals are required:

Shoreline Substantial Development Permit - to allow a development in an Urban Industrial (UI) shoreline environment.

SEPA - Conditioning pursuant to Seattle's SEPA policies. Chapter 25.05.660, Seattle Municipal Code.

SEPA DETERMINATION: Exempt DNS MDNS EIS
 DNS with conditions
 DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

Proposal Overview

The proposed Terminal 46 cargo pier maintenance and repair project includes actions to strengthen approximately 200 linear feet of the existing cargo pier such that larger, heavier container cargo cranes may operate along the entire length of the pier. The project also includes repair of above-water concrete piling caps and crane rail support beams and installation of storm-water collection and treatment systems. These actions will ensure safe continuing use of the existing facility. Storm-water improvements will benefit aquatic area conditions in southeast Elliott Bay, with associated environmental and public health benefits.

The project will lengthen the lateral range of movement available to the existing large container cargo cranes at the site, as necessary for simultaneous loading/unloading of two super post-Panamax ships. An existing 50-foot gauge crane will be removed to accommodate strengthening the north end of the existing pier and allow for effective re-configuration of dock cargo transshipment operational areas.

Specific activities associated with this project include: (1) demolition of existing fender system, including removal of treated wooden piling; (2) removal of approximately 200 linear feet, existing waterward concrete rail beam and 22, 16.5-inch diameter concrete structural piles supporting the crane rail beam; (3) installation of 33, 24-inch diameter stronger replacement concrete structural piling and fabrication of strengthened replacement cast-in-place waterward crane rail beam; (4) installation of replacement alternative above-water panel fender system; (5) installation of replacement utilities serving 100-foot gauge container cranes; and, (6) repair and rehabilitation of a portion of the existing stormwater system.

The project includes rehabilitation and revegetation of an unvegetated rip-rap bank-line along Elliott Bay as habitat mitigation for the project's impacts due to an increase in deep sub-tidal piling footprint at Terminal 46.

On May 19, 2015, the Port of Seattle issued a SEPA Addendum for this project to the 1999 SEPA Determination of Non-Significance for the Terminal 37/46 Apron Upgrade and Crain Rail Project.

Public Comment

The public comment period ended on July 3, 2015. No comments were received.

ANALYSIS — SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Section 23.60A.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.

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 23.60A.

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 23.60A.004 because the site is located within the shoreline district and the cost of the project exceeds \$6,416.00. 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 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.

A. THE REGULATIONS OF CHAPTER 23.60A

Chapter 23.60A 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 23.60A.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.

Pursuant to SMC 23.60A.063, 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 23.60A.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 23.60A.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 location and its vicinity 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 23.60A.220.C.9 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 use at this location, which is not changing as part of this proposal, is a water dependent use that clearly supports industrial and water-dependent uses. The proposed repair and replacement actions serve this use and therefore is 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 23.60A.482 governing the UI shoreline environment and is therefore subject to:

1. *the general development standards for all shoreline environments (SMC 23.60A.152);*
2. *the development standards for uses in the UI environment (SMC 23.60A.486); as well as*
3. *the development standards for General Industrial zones (SMC 23.50).*

1. General Development Standards for all Shoreline Environments (SMC 23.60A.152)

These general standards apply to all uses in the shoreline environments. The standards 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. The Stormwater, Grading and Drainage Control Code places considerable emphasis on protecting water quality. This generally takes the form of best management practices being required on building permits. The applicant has provided a construction best management practices plan and detailed responses in the application to each of the general development standards in SMC 23.60A.152. These measures will be adequate to ensure protection of the shoreline environment and nearby land uses from the construction that is proposed, and will be required to be implemented during construction as a condition of approval.

The proposed project includes a net increase in sub-tidal aquatic area "foot-print" of approximately 25-30 square feet of piling structure in the aquatic area between 45 and 50 feet below MLLW at the waterward margin of the Terminal 46 cargo pier, waterward of OHW. To mitigate for this impact, the Port of Seattle proposes to improve existing bank-line habitat conditions for approximately 200 to 225 linear feet of existing un-vegetated rip-rap armored bank-line at the Terminal 86/Centennial Park shoreline, including approximately 3000 to 3300 square feet of native riparian vegetation. The proposed native riparian vegetation is intended to provide natural resource values important to fish and wildlife that utilize the nearshore environment.

This mitigation measure will address mitigation requirements for unavoidable impacts (SMC 23.60A.158) and is consistent with general development standards for protection of the shoreline environment.

2. Development Standards for UI Shoreline Environments (SMC 23.60A.486)

The development standards set forth in the Urban Industrial (UI) Shoreline Environment relate to 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 23.60.482 – Uses Permitted Outright in the UI Environment

The proposal does not change the current permitted use of the property and is consistent with allowed uses in the Urban Industrial environment.

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

The project proposal also conforms with applicable development standards of the underlying General Industrial 1 (IG1) zone.

B. 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 23.60A 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 23.60A 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**.

SEPA ANALYSIS

Environmental impacts of the proposal have been analyzed in the environmental documents prepared by the Port of Seattle. The applicant submitted a SEPA Addendum (dated May 19, 2015) to the 1999 SEPA Determination of Non-Significance for the Terminal 37/46 Apron Upgrade and Crain Rail Project. The information in this document, construction plans, information submitted by the applicant and the experience of the Seattle Department of Construction and Inspections with the review of similar projects form the basis for this analysis and SEPA conditioning.

The Department has analyzed the environmental documents submitted by the project applicant; and reviewed the project plans and any additional information in the file. As indicated in the

Port's determination of non-significance, this action will result in adverse impacts to the environment. However, due to their temporary nature and limited effects, the impacts are not expected to be significant.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and 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. Short-term adverse impacts are anticipated from the proposal. No adverse long-term impacts are anticipated.

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 pile driving, 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.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Seattle Noise Ordinance (construction noise); and State Air Quality Codes administered by the Puget Sound Clean Air Agency (air quality). In addition Federal and State regulations and permitting authority (Section 10 Permit, 404 Permit from the Army Corps and HPA permit from Washington Department of Fish and Wildlife) are effective to control short-term impacts on water quality. Compliance with these codes and/or ordinances will lessen the environmental impacts of the proposed project.

Installation of 30 replacement larger diameter concrete structural piling necessary to strengthen approximately 200 linear feet of the existing Terminal 46 cargo pier will require impact pile driving equipment. In addition, impact pile driving will be used to install steel H-piling adjacent to the landward portion of the 200-foot-long cargo pier strengthening project. It is expected that impact pile driving will require approximately 15 days in-water concrete piling installation and approximately seven days for upland steel piling installation. Approximately 190-195 total hours of impact piling driving work is expected, including work periods five days per week during a period of approximately three weeks. Recent noise monitoring of impact pile driving at Terminal 46 indicated compliance with day-time City of Seattle noise code requirements at the Terminal 46 property line. The proposed work will use wooden pads as a noise reduction measure. Sound levels expected for the present project will be consistent with maximum permissible and construction and equipment operations noise levels in the Noise Ordinance.

The proposed construction work will take place in the waters of Elliott Bay and in the near shore environment. With the proposed work taking place in and near water, there exists the potential for debris and other deleterious material to enter the water during this proposed work. Best management practices (BMPs) will be employed to decrease the probability of debris or other deleterious material from entering the water during the proposed work. These BMPs are described in more detail in application material, including SEPA Addendum. Proper implementation of construction BMPs are a condition of this permit.

No further conditioning or mitigation is warranted pursuant to specific environmental policies or the City's SEPA Conditioning Authority (SMC 25.05.660)

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased carbon dioxide and other greenhouse gas emissions; increased demand for public services and utilities; increased height, bulk, and scale on the site, and increased project energy consumption. Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the City Energy Code which will require insulation for outside walls and energy efficient windows; and the Land Use Code which controls site coverage, setbacks, building height and use, parking requirements, shielding of light and glare reduction, and contains other development and use regulations to assure compatible development.

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. However, the proposed repair/replacement project results in an increase in overwater coverage with the resulting impacts to the nearshore environment in the form of increased shading and increased risk of predation on migrating salmonids.

The applicant proposes to mitigate anticipated project-related impacts to the aquatic environment with the revegetation of a section of nearshore environment adjacent to Elliott Bay, as summarized above and described in more detail in application materials. Implementation of this revegetation mitigation project is a condition of this permit. No further conditioning for long-term impacts are required.

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 AND SHORELINE

During Construction

1. The proposed construction best management practices (BMPs) described in application material, including Biological Evaluation submitted for project, shall be implemented.
 2. In-water construction shall follow applicable work windows established by Washington Department of Fish and Wildlife and Army Corps of Engineers for protection of fish. Conditions of Hydraulic Permit Approval from WDFW for this project shall be followed.
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Prior to Building Permit Final

3. Mitigation plan for revegetation/rehabilitation of portion of Centennial Park shoreline (at least 200-225 feet lineal feet along shoreline) as described in application materials shall be implemented and documentation provided to Seattle DCI.

For Life of Project

4. Applicant shall maintain mitigation planting area and replace dead plants with same or similar native species.
5. All operational activities at this facility shall be conducted consistent with development standards in SMC 23.60A.152 and SMC 23.60.155 for protection of the shoreline environment and adjacent land uses.

Ben Perkowski, Senior Land Use Planner Date: April 21, 2016
Seattle Department of Construction and Inspections

BP:bg

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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 Seattle DCI 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.