City of Seattle
Edward B. Murray, Mayor

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:	3020997
Applicant Name:	Richard Connelly
Address of Proposal:	1220 SW Massachusetts St.

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to install a 204 linear foot catwalk, four new dolphins, fenders and moorage to cargo terminal. Two existing dolphins to be demolished (Rainier Petroleum).

The following approvals are required:

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

SEPA - Environmental Determination - (SMC Chapter 25.05)

SEPA DETERMINATION: [ ] Exempt [ ] DNS [ ] MDNS [ ] EIS

[X] DNS with conditions

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

BACKGROUND DATA

The proposed project is located west of Pier 15 ½ on the north end of Harbor Island in Elliott Bay in Seattle. The purpose of the project is for continued vessel mooring for Rainier Petroleum for delivering and receiving petroleum products.

The project consists of the removal of two dolphins and the installation of four new dolphins and a 3'-6"-wide grated catwalk connecting the two most southerly dolphins to the shoreline. The two dolphins to be removed are located on submerged land owned by Department of Natural Resources (DNR) and leased by Alaska Railroad Corporation. The four new dolphins and catwalk would be located on submerged land owned by DNR and leased by Rainier Petroleum Corporation.

The dolphins to be removed consist of 40 treated wood piles and three steel piles. The piles will be removed entirely using vibratory extraction or by direct pulling.

Three of the new dolphins will consist of four 36"-diameter steel piles with three 16"-diameter steel fender piles protected by HDPE sleeves. The purpose of the project is for continued vessel mooring for Rainier Petroleum.

The project will result in an increase in overwater coverage of approximately 1,111 square feet, which will be mitigated by the removal of an existing overwater covered boat shed and 8 piles at an adjacent property for a net reduction in overwater coverage of 407 square feet. The applicant has applied for and received a shoreline exemption approval for removal of the boat house and associated pilings through Seattle DCI project number 6520545.

Public Comment

The public comment period ended on October 27, 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 portion of the Duwamish Waterway, including Harbor Island, 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. The proposed replacement dolphins 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. These measures will be adequate to ensure protection of the shoreline from the construction that is proposed, and will be required to be implemented during construction as a condition of approval.

In addition, the applicant proposes to mitigate anticipated project-related impacts to the aquatic environment with the removal of in-water and over-water structure (as detailed in application and Biological Evaluation), which will result in a net reduction in overwater coverage, which 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 review resulting in a Threshold Determination is required pursuant to the 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 July 15, 2015. 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 Department of Construction and Inspections has analyzed and annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the file. As indicated in the annotated checklist, this action will result in adverse impacts to the environment. A discussion of likely adverse impacts and how they may be appropriately mitigated follows below.

The SEPA Overview Policy (SMC 25.05.665.D) 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 25.05.665D.1) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

There is a small potential for adverse impacts during construction activities at the subject site, such as debris or deleterious material or liquids falling or entering into the water. While these impacts are adverse, they are not expected to be significant and should be mitigated by following standard Best Management Practices, as conditioned below.

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.

The proposed construction work will take place in the waters of the Duwamish Waterway 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) should be employed to decrease the probability of debris or other deleterious material from entering the water during the proposed work. A floating silt curtain should be deployed around the construction area to contain the turbid water and any debris that enters the water during construction. At a minimum the floating debris that enters the water during construction should be collected once per day. This material should be contained on site and then disposed of at the appropriate upland facility.

No further SEPA conditioning of potential short-term impacts appears to be warranted.

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 removal of in-water and over-water structures, resulting in a net reduction of over-water coverage. 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 owner(s), builder(s), or responsible party(s) shall follow a Best Management Practices and the Emergency Containment plan developed to prevent debris and other deleterious material from entering the water during construction.

Prior to Building Permit Final

2.) Habitat mitigation described in the Biological Evaluation for this project, including removal of in-water and over-water structures, shall be completed and documentation confirming completion submitted to Seattle DCI.

For Life of project

3.) 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 aquatic environment.

Ben Perkowski, Senior Land Use Planner
Seattle Department of Construction and Inspections

Date: March 21, 2016

BP:drm

K\Decisions-Signed\3020997.docx

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.