



City of Seattle

Gregory J. Nickels, 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 Numbers: 3003318, 3003264, 3003268, and 3003269

Applicant Name: Seattle Department of Parks and Recreation (DOPAR)

Addresses of Proposal: 860 Terry Ave. N., 845 Terry Ave N., 1018 Valley St., and
920 Westlake Ave. N.

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to establish use as a park and community center. Seventy-nine accessory parking spaces will be provided. Project includes 20,000 cubic yards of grading.

The following approvals are required:

Shoreline Substantial Development Permit - to allow a city facility/open space use/shoreline recreation (Public Park) in a US, and CM and CW environment and a city facility (community center) in a US environment. (Seattle Municipal Code 23.60.600, 23.60.420, and 23.60.484)

SEPA - Conditioning pursuant to Seattle's SEPA policies. Chapter 25.05.600, Seattle Municipal Code. (Environmental documents prepared by DOPAR)

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

[] DNS with conditions

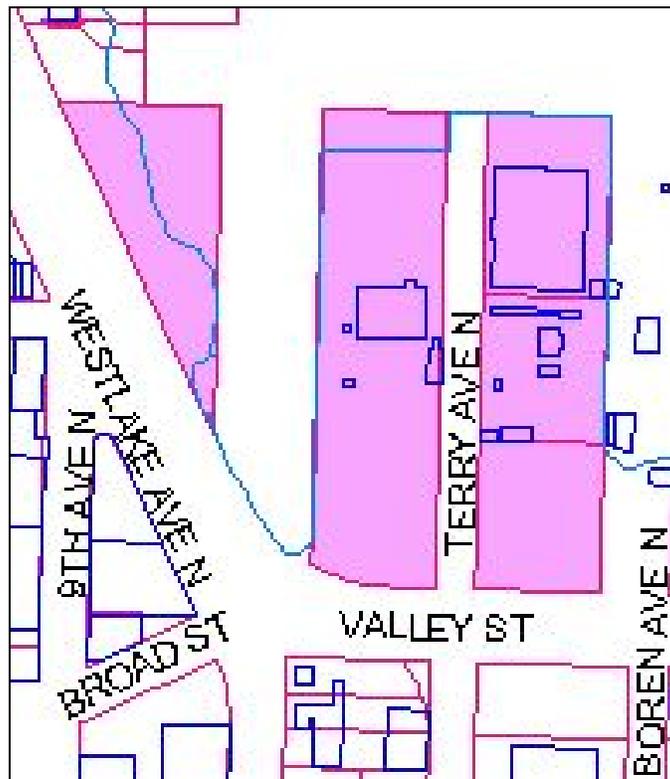
[] DNS involving non-exempt grading, or demolition, or another agency with jurisdiction.

*Mitigated Determination of Non-significance (MDNS) issued by Seattle Department of Parks and Recreation on August 30, 2005. A revised SEPA Checklist was prepared on October 11, 2005.

BACKGROUND DATA

Site and Vicinity Description

The project site is located along the southern shore of Lake Union, between Westlake Avenue North on the west, Valley Street on the south, and Waterway No. 4 on the east. Terry Avenue North bisects the subject site. The site is comprised of approximately 12 acres and includes Waterway Nos. 3 and 4. The property is currently developed with the Center for Wooden Boats, which is to remain, and the former U.S. Naval Armory Building, which is to remain and be converted to a community center use as part of this permit.



**Project site and vicinity map for South Lake
Union Park**

The site is large, consisting of several tax parcels, and includes properties with frontages on three different streets. As a result, four site addresses and four DPD project numbers are used in describing the site and proposal.

The project corridor is generally flat, but there are a few small areas designated as Environmentally Critical due to the presence of steep slopes along the western edge of the project site, near Westlake Avenue North. The applicant requested and was granted a limited exemption from the ECA standards for steep slopes on March 16, 2006. There is also an unmapped wetland along the shoreline at the southern edge of Waterway No. 3 (discussed below).

Other uses in the vicinity include marinas, restaurants, offices and retail uses. There are no water-dependent industrial or manufacturing uses in the immediate vicinity.

Proposal Description

The Seattle Department of Parks and Recreation (DOPAR) propose to develop a park which includes indoor and outdoor recreational opportunities, as well as waterfront access for the public. The area generally west of the Terry Avenue North right-of-way will include recreational open space to accommodate activities such as launching of hand-carried boats, picnicking, walking and occasional scheduled activities. The area east of Terry Avenue will include the community center to be located in the renovated Armory Building and the Center for Wooden Boats. The public will have access to the entire lake frontage of the park.

Work in the water and along the water's edge in Lake Union is proposed. The west bulkhead (approximately 260 feet long along the eastern edge of Waterway No. 3) and the north bulkhead (approximately 240 feet long) will be replaced. The new bulkheads will be located landward of the existing bulkheads. Rip-rap (rockfill and cobble) is proposed to be added along the eastern edge of Waterway No. 3 to add stability to the new bulkhead. The existing retaining wall along Waterway No. 4 at the southwest corner will be removed and the slope will be re-graded, stabilized and planted. Existing wood piles will be removed from Waterway No. 3 and No. 4. Existing dolphins will be removed from Waterway No. 4. Debris (including concrete/asphalt blocks, pieces of old piers, and other miscellaneous debris) will also be removed from the waterways. Shoreline stabilization and vegetation is proposed along the shoreline (in the non-bulk-headed areas). A boat-launching beach, approximately 100 feet long, is also proposed along the northwestern edge of Waterway No. 3. The DOPAR documents describe the project as including a limited amount of dredging; however, this is more accurately described as work associated with the debris removal and bulkhead repair. Site grading in the amount of approximately 10,000 sq. ft. of cut and approximately 10,000 of fill is proposed. The area to be graded includes the western shore of Waterway No. 3 and the southwestern shore of Waterway No. 4.

The SEPA checklist prepared by the Parks Department (originally prepared in August 2005 and revised by Memorandum in October 2005) includes a broad scope of work beyond that which is included in this project application. The broader scope of work described by the Parks Department, (which includes a pedestrian bridge over Waterway No. 3, construction of a Northwest Coast Indian Canoe Center, Longhouse and Carving Shed, placement of an 'art piece' to be located over water in Lake Union, and potential demolition of several small structures), is not included in this review. Additional review and permits, which may include additional SEPA review and Shoreline permits, will be required for work not included in this review. Master Use Permit Application No. 3004101 is currently under review to allow the floating 'art piece.' Master Use Permit Nos. 3004980 and 3004981 to allow the pedestrian bridge over Waterway No. 3 were recently submitted.

The project has been revised, including changes to the bulkhead design, since the original application. Only the scope of work shown on the plans dated March 1, 2006 and June 29, 2006 (as redlined) is included in this permit application and review.

Public Comments

The official comment period for this project ended on November 18, 2005. No public comments were received.

ANALYSIS - -COMPLIANCE WITH ECA ORDINANCE, COMMERCIAL ZONING, and PARKING

Environmentally Critical Areas Ordinance

The site includes the following environmentally critical areas: Mapped steep slopes south and west of Waterway No. 3, and an unmapped wetland along the southern edge of Waterway No. 3. On March 16, 2006, a Limited Steep Slope Exemption was granted for DPD Project No. 3003269 (920 Westlake Ave. N.). This Limited Exemption waived the steep slope development standards (i.e., the threshold disturbance level of 30 percent of the steep slope critical areas) for Project 3003269. All other ECA Submittal, General, and Landslide-Hazard, and development standards will apply for this development.

DPD staff identified a small wetland along the southern edge of Waterway No. 3 during visits to the site. As a result, DOPAR identified the wetland on the plans and will provide a 25-foot wetland buffer zone around it. According to Plan Sheet L).2, existing plant material, including a willow tree, will remain and be protected within the wetland. Within the wetland buffer zone, invasive plant material will be removed by hand. No grading, impervious surface, structures or other disturbance will be allowed within the 25-foot wetland buffer zone. Only native, wetland plants will be planted within this area.

The 25-foot wetland buffer is less than would be required under the Environmentally Critical Areas (ECA) Ordinance. However, per Section 25.09.040.F, public projects which promote a public objective (such as providing access to a creek or wetland) and are “located and designed to minimize environmental disturbance to the greatest extent possible” may be exempted from the requirements of the ordinance. However, exemptions may only be approved when projects are undertaken pursuant to best management practices to avoid impacts the environmentally critical area. To ensure protection of the wetland during construction, the wetland will be delineated in the field and protective fencing will be provided as a condition of approval of this project.

Commercial Two Zoning

The property is located within a C2-40' zone: Commercial Two with a structure height limit of forty feet. All other standards of the underlying C2-40' apply (Commercial Two with a structure height limit of 40 feet) apply. The existing Armory Building, which is roughly 60 feet in height, is nonconforming with respect to the 40-foot height limit of the C2 zone. However, no increase in the height of the Armory Building is proposed. The light standards shown in the plans do not exceed 40 feet in height. Therefore, this project is consistent with the development standards of the C2-40 zone.

Parking Waiver

The Parks Department has requested a waiver of parking standards to provide fewer than the required number of parking spaces. The parking requirement for this project is based on the size of the community center use. The former Armory Building, which is to be converted to a community center has an area of about 49,300 sq. ft. The parking requirement for community center operated by DOPAR is one parking space per 555 sq. ft. Based on this standard, eighty-nine (89) parking spaces are required. However, seventy-nine (79) parking spaces are provided. In shoreline environments, the DPDP Director may waive or modify required parking spaces subject to the following (per SMC 23.60.156A.):

- 1) if alternative means of transportation will meet the parking demand of the proposed development in lieu of such off-street parking or loading requirements; or
- 2) if parking to serve the proposed uses is available within eight hundred (800) feet of the proposed development and if pedestrian facilities are provided. Waivers shall not be granted if they encourage the use of scarce, on-street parking in the neighborhood surrounding the development.

The South Lake Union Area is well served by Metro transit (including Route Nos. 17, 70, 71, 72, 73, 74 and 83.) It is anticipated that many park users will arrive by bicycle (Dexter Ave. N., two blocks to the west, has a designated bike lane). The park is also expected to draw many visitors from nearby offices and other businesses in the vicinity. In addition, there are several surface parking lots in the area which could provide some additional parking. For these reasons the waiver of eight parking spaces is granted.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposal is located within the following Shoreline Environments as designated by the Seattle Shoreline Master Program (SSMP): Urban Stable (US), Conservancy Management (CM), and Conservancy Waterway (CW). 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.

A. 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 to protect 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 and other jurisdictions with shorelines, 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 Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The City of Seattle Shoreline policies incorporate these goals by reference and include area objectives pursuant to these goals. These policies contemplate protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting public rights of navigation and corollary incidental rights. Permitted uses in the shorelines 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 interference with the public's use of the water.

As discussed below, the City's Shoreline policies encourage public access and increased opportunities for the public to enjoy water-dependent recreation. The proposal to establish a public park is consistent with the objectives for Lake Union. Thus, this proposal is consistent with the policies and procedures of the RCW Chapter 90.58.

B. THE REGULATIONS OF CHAPTER 23.60

The regulations of Section 23.60.064 SSMP require that the proposed use(s): 1) conform to all applicable development standards of both the shoreline environment and underlying zoning; 2) be permitted in the shoreline environment and the underlying zoning district and 3) satisfy the criteria of shoreline variance, conditional use, and/or special use permits as may be required.

The proposed park and community center uses are permitted outright in the underlying commercial zone and as open space and water-related public facility uses on waterfront lots in the US environment. Shoreline recreation is permitted outright on waterfront lots in the CM environment, and as a Special Use in the CW environment (per SMC 23.60.484). Natural beach protection and bulkheads to prevent erosion are permitted as Special Uses in the US environment per SMC 23.60.602. Natural beach protection is permitted as a Special Use in the CM

environment per SMC 23.60.424. Shoreline protective structures and landfill which does not create dry land are permitted as Special Uses in the CW environment. All Special Uses are subject to the criteria at SMC 23.60.032. The criteria for special use approval will be analyzed below under the Special Use Analysis section of this report.

SSMP 23.60.004 - Shoreline Policies

Policies governing approval of development in shoreline districts are set out in the Land Use Element of the Seattle Comprehensive Plan and SSMP Section 23.60.004. Seattle's Comprehensive Plan Shoreline Goals and Policies encourage improved public access along shorelines. Policy LU 236 promotes "public enjoyment of the shorelines through public access standards by requiring improvements that are safe, well designed and offer adequate access to the water." Policy LU 258 reads: "Allow for increased opportunity for the public to enjoy water-dependent recreation including boating, fishing, swimming, diving and enjoyment of views."

More specifically, with regard to Lake Union, Policy LU 242 recognizes the importance of waterways in Lake Union for providing public access from dry land to the water. Adopted area objectives for Lake Union in Policy LU 269 include providing a "maximum amount of public access in locations that do not conflict with water-dependent manufacturing uses" and "restore and enhance the Lake's natural environment."

This project establishes a park and community center that will provide public access and recreation facilities along the shoreline of Lake Union, and is therefore consistent with adopted Comprehensive Plan policies.

Shoreline Development Standards

The proposed park and community center and associated development are regulated as open space and water-related public facility uses, shoreline recreation, natural beach protection, bulkheads, shoreline protective structures and landfill which does not create dry land, and are located in the US, CM and CW Shoreline Environments. Pursuant to the Seattle Shoreline Master Plan, the proposed action is subject to:

1. the general development standards (SSMP 23.60.152);
2. the development standards for natural beach protection and bulkheads, (SSMP 23.60.186 and 23.60.188,); as well as,
3. the development standards for uses in the US, CM and CW environments (SSMP 23.60.270).

1. SSMP 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. 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 Department of Parks and Recreation issued a Mitigated Determination of Non-significance for this (and other projects) in September 2005. A list of mitigation measures is provided as "Exhibit A" on pages one through three of that document. The mitigation measures listed in Exhibit A include the use of construction best management practices (BMPs). Specific BMPs described include: erosion control measures and monitoring of the groundwater table and settlement outside of excavation during dewatering of soils, and construction techniques for the removal of existing timber piles from Waterway No. 3 to minimize sediment disturbance (breaking the piles off at the mud-line and leaving the lower portion in the ground). The mitigation measures listed in Exhibit A are listed will be required as conditions of approval of this permit.

Additional BMPs, beyond those listed in the DOPAR MDNS, should be employed to decrease the probability of debris or other deleterious material from entering the water during the proposed work and to decrease the water quality impacts of the work. A silt fence shall be deployed around the bulkhead work. The silt fence will serve two purposes: One, to contain turbidity in the nearshore area and two, to contain any debris that enters the water. At a minimum any floating debris that enters the water during construction shall be collected once per day. This material shall be contained on site, secured, and then disposed of at the appropriate upland facility. If heavy debris or deleterious material enters the water and sinks, the location of the material shall be recorded in a log that is kept through the duration of the project. When construction is completed, this material/debris shall be removed by a diver and disposed of at the appropriate upland facility.

Additionally, to mitigate the impacts of leaving the pile stubs in the substrates, which can benefit bass, an introduced species that preys on juvenile Chinook salmon, any pile stub that is greater than 6 inches above the substrate shall be covered with a substrate material that is 2 inches or less in diameter.

Construction material and equipment pose some potential danger of water and near shore contamination and shoreline erosion. The contamination and erosion could lead to both water quality and aquatic habitat damage. In order to be prepared to provide a fast and effective response to spills or other actions which cause new contaminants to be introduced into the shoreline environment, it is necessary to condition the project to require that prior to commencing construction an emergency containment plan and procedures be developed and all necessary equipment be stocked on the site.

Construction activity will be restricted to timing limitations set forth in the Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife.

Additionally, native vegetation is proposed to be planted along the shoreline to meet 23.60.152 H and I of the general development standards, which included the requirement to protect fish and wildlife habitat conservation areas and to minimize interference with natural shoreline processes. This vegetation shall consist of native vegetation exclusively consisting of trees, shrubs and groundcover.

2. SSMP 23.60.186 and 23.60.188 - Development Standards for Specific Uses

Development standards for specific uses are contained in SSMP Subchapter XV, Part 2. Standards for natural beach protection are found at SMC 23.60.186, and standards for bulkheads are found at SMC 23.60.188.

The proposal includes replacing an existing bulkhead, removing an existing bulkhead and grading and bank stabilization along the shorelines of Waterway #3 and 4. The existing bulkhead at the northern and eastern area of Waterway #3 which is old will be replaced with a new bulkhead. The existing bulkhead in Waterway #4 is proposed to be removed and replaced with an erosion control blanket and native vegetation. Additional new bank stabilization is proposed along Waterway #3, which will include approximately 240-ft of shoreline armoring using articulating concrete block (ACB) mats and 745 feet of a more natural bank stabilization using erosion control blankets (ECB). Both these methods will include native vegetation, and the addition of “fish mix” in the water, with the shoreline stabilization work. The use of “fish mix” infill and planting of native vegetation in this way improves habitat when compared with the use of riprap and armament alone.

The proposal conforms to all shoreline master plan development standards for bulkheads and natural beach protection.

3. SSMP 23.60.600, 23.60.420 and 23.60.482 - Development Standards in the US, CM and CW Environments

Permitted uses in the Urban Stable (US), Conservancy Management (CM) and Conservancy Waterway (CW) environments are contained in SSMP Subchapter XV, Part 1, in sections SMC 23.60.600, 23.60.420, and 23.60.482, respectively. The proposed park and community center uses are permitted outright as open space and water-related public facility uses on waterfront lots US environment. Shoreline recreation is permitted outright on waterfront lots in the CM environment, and as a Special Use in the CW environment (per SMC 23.60.484).

Natural beach protection and bulkheads to prevent erosion are permitted as a Special Use in the US environment per SMC 23.60.602. Natural beach protection is permitted as a Special Use in the CM environment per SMC 23.60.424. Shoreline protective structures and landfill which does not create dry land are permitted as Special Uses in the CW environment. All Special Uses are subject to the criteria at SMC 23.60.032. Please see the Special Uses Analysis discussion, below.

Development Standards in the US Environment

Development standards in the US environment regulate structure height, maximum size limits (not applicable to the proposed uses), lot coverage, view corridors, public access, and location of specific uses (also not applicable). No new structures, with the exception of the bulkheads (which are discussed in the Special Uses Analysis, below) are proposed as part of this permit application. The proposal improves public access to the shoreline, and exceeds the standards for regulated public access provided at SMC 23.60.160.

The existing Armory Building, which is roughly 60 feet in height, is nonconforming with respect to the 30-foot height limit of the US environment. However, no increase in the height of the Armory Building is proposed. The light standards shown in the plans do not exceed 30 feet in height. Therefore, this project is consistent with the development standards of the US Shoreline Environment.

Development Standards in the CM Environment

Development standards in the CM environment regulate critical habitat protection, height, lot coverage, view corridors, and regulated public access. No new structures are proposed in the CM environment as part of this permit application. The proposal improves public access to the shoreline, and exceeds the standards for regulated public access provided at SMC 23.60.160. Therefore, this project is consistent with the development standards of the CM Shoreline Environment.

The proposed natural beach protection is discussed under Special Uses, below.

Development Standards in the CW Environment

Development standards in the CW environment regulate temporary structures, height, lot coverage, view corridors, and public access. No new structures are proposed in the CW environment as part of this permit application. The proposal improves public access to the shoreline, and exceeds the standards for regulated public access provided at SMC 23.60.160. Therefore, this project is consistent with the development standards of the CW Shoreline Environment.

Shoreline recreation and shoreline protective structures and landfill which does not create dry land are permitted as Special Uses in the CW environment. Please see the Special Uses Analysis discussion, below.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

Chapter 173-27 WAC sets forth permit requirements for development in shoreline environments, and give 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) and the RCW 90.58 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.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposed shoreline substantial development permit for this public park and community center (and associated special uses: natural beach protection, bulkheads to prevent erosion, shoreline protective structures and landfill which does not create dry land – see below) is **CONDITIONALLY GRANTED.**

Shoreline Substantial Development conditions are listed below.

ANALYSIS – SHORELINE SPECIAL USE

The following aspects of the proposal require Special Use approval: natural beach protection and bulkheads to prevent erosion as Special Uses in the US environment, natural beach protection as a Special Use in the CM environment, and shoreline recreation, shoreline protective structures and landfill which does not create dry land as Special Uses in the CW environment. (Seattle Municipal Code SMC 23.60.424, 23.60.484 and SMC 23.60.602)

SMC 23.60.032 Criteria for special use approvals

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;
- B. That the proposed use will not interfere with the normal public use of public shorelines;
- C. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area;
- D. That the proposed use will cause no unreasonably adverse effects to the shoreline environment in which it is to be located; and
- E. That the public interest suffers no substantial detrimental effect.

Compliance with the special use criteria in each of the Shoreline environments is discussed below.

Urban Stable Environment

Natural beach protection, and bulkheads necessary to support a water-dependent or water-related use, when natural beach protection is not a practical alternative, are permitted as Special Uses in the US environment per SMC 23.60.602.

The project will replace existing bulkheads with new bulkheads of the same approximate length. The replacement bulkheads will be located landward of the location of the existing bulkheads. The remainder of the shoreline of the subject site will be modified using natural beach protection

techniques and the use of soil erosion blankets and articulating concrete block (ACB) mats where needed to stabilize slopes. The areas where natural beach protection, soil erosion control blankets and ACB mats are used will be infilled with “fish mix” and planted with a combination of native plantings as shown on Plan Sheets L4.0, L4.1 and L4.2.

As discussed above, the proposed park for which these beach protection features are proposed is consistent with the policies of RCW 90.58.020 and the Shoreline Policies will enhance the public use of the shorelines and will be compatible with other permitted uses within the area. No unreasonably adverse effects to the shoreline environment, nor detrimental effect to the public interest, are anticipated. Therefore the proposal meets the criteria for Special Use approval in the US environment.

Conservancy Management Environment

Natural beach protection is permitted as a Special Use in the CM environment per SMC 23.60.424. The shoreline within the CM environment will be modified using natural beach protection techniques and the use of soil erosion blankets and articulating concrete block (ACB) mats where needed to stabilize slopes. The areas where natural beach protection, soil erosion control blankets and ACB mats are used will be infilled with “fish mix” and planted with a combination of native plantings as shown on Plan Sheets L4.0, L4.1 and L4.2.

As discussed above, the proposed park for which these beach protection features are proposed meets the criteria for Special Use approval in the CM environment.

Conservancy Waterway Environment

Shoreline recreation uses, shoreline protective structures, and landfill which do not create dry land are permitted as Special Uses in the CW environment.

The proposed public park, as a shoreline recreation use, is consistent with the policies of RCW 90.58.020 and the Shoreline Policies, will enhance the public use of the shorelines and will be compatible with other permitted uses within the area. No unreasonably adverse effects to the shoreline environment, nor detrimental effect to the public interest, are anticipated. Therefore the proposed shoreline recreation (Public Park) meets the criteria for Special Use approval in the CW environment.

The project also includes shoreline protective features in the form of bulkhead replacement and support which includes the use of rockfill and cobble, as shown on Plan Sheet MC1.0. The rockfill and cobble will be used for structural support of the boardwalk section south of the bulkhead wall and for slope stabilization after removal of existing hogfuel between the existing timber wall (to be removed) and the new bulkhead. The rockfill which will occur in the waterway is submerged; dry land will not be created. “Fish mix” will be added on top of the rockfill, for habitat enhancement. In conjunction with the proposed shoreline recreation use, the proposed shoreline protective structures and rockfill meet the criteria for Special Use approval in the CW environment.

CONCLUSION - SHORELINE SPECIAL USE

The proposed Shoreline Special Uses for natural beach protection and bulkheads to prevent erosion in the US environment, natural beach protection in the CM environment, and shoreline recreation use, shoreline protective structures and landfill which does not create dry land in the CW environment meet the special use criteria and can be approved with the Shoreline Substantial development permit.

ANALYSIS – STATE ENVIRONMENTAL POLICY ACT (SEPA)

Environmental impacts of the proposal have been analyzed in environmental documents prepared by Seattle Department of Parks and Recreation (“DOPAR”) including a SEPA Environmental Checklist dated August 30, 2005, a Mitigated Determination of Non-Significance dated September 2, 2005 and a DOPAR Memorandum dated October 11, 2005.

Seattle Municipal Code (SMC) Section 25.05.660 provides that proposals can be conditioned or denied in order to mitigate environmental impacts. All conditions must be related to impacts identified in the environmental documents, based on adopted policies, be reasonable and capable of being accomplished. This proposal is reviewed under that substantive SEPA authority.

Disclosure of the potential impacts from this project was made in the environmental documents listed above. This information and supplemental information provided by the applicant (plans, written descriptions of the project) a field visit and the experience of this agency with review of similar projects form the basis for this analysis and conditioning.

The SEPA Overview Policy (SMC 25.05.665) establishes the relationship between codes, policies, and environmental review. Specific policies for specific elements 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 or circumstances (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term impacts are anticipated from the proposal and are discussed below.

Short-term Impacts

The following temporary or construction-related impacts are expected: temporary soil erosion; temporary increased water turbidity levels, decreased air quality due to increased dust and other suspended air particulates during excavation, filling and transport of materials to and from the site as well as due to vehicle exhaust from operation of construction equipment; increased noise and vibration from construction operations and equipment and slightly increased traffic and parking demand from construction personnel traveling to and from the work site.

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. As discussed above, compliance with the ECA Ordinance requires protection of the existing wetland during construction. Compliance with these codes and/or ordinances will lessen the environmental impacts of the proposed project.

The applicant's SEPA Checklist discloses that the proposed construction work will take place in the waters of Lake Union 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. A list of mitigation measures is provided as "Exhibit A" on pages one through three of the DOPAR MDNS. The mitigation measures listed include the use of construction best management practices (BMPs) such as erosion control measures and monitoring of the groundwater table and settlement outside of excavation during dewatering of soils, and construction techniques for the removal of existing timber piles from Waterway No. 3 to minimize sediment disturbance (breaking the piles off at the mud-line and leaving the lower portion in the ground). The mitigation measures included in Exhibit A are listed below, and will be required as non-appealable conditions of approval of this permit.

Additional BMPs, beyond those listed in the DOPAR MDNS, should be employed to decrease the probability of debris or other deleterious material from entering the water during the proposed work and to decrease the water quality impacts of the work. A silt fence shall be deployed around the bulkhead work. The silt fence will serve two purposes: One, to contain turbidity in the nearshore area and two, to contain any debris that enters the water. At a minimum any floating debris that enters the water during construction shall be collected once per day. This material shall be contained on site, secured, and then disposed of at the appropriate upland facility. If heavy debris or deleterious material enters the water and sinks, the location of the material shall be recorded in a log that is kept through the duration of the project. When construction is completed, this material/debris shall be removed by a diver and disposed of at the appropriate upland facility.

Construction material and equipment pose some potential danger of water and near shore contamination and shoreline erosion. The contamination and erosion could lead to both water quality and aquatic habitat damage. In order to be prepared to provide a fast and effective response to spills or other actions which cause new contaminants to be introduced into the shoreline environment, it is necessary to condition the project to require that prior to commencing construction an emergency containment plan and procedures be developed and all necessary equipment be stocked on the site.

Construction activity will be restricted to timing limitations set forth in the Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife.

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 from the proposal and include: increased human activity in the near-shore and shoreline environment for recreation; increased area of shoreline with bank stabilization using ACB, increased traffic on surrounding streets; increased light in the near-shore aquatic environment; and increased noise from human activities. These long-term impacts are not considered significant because they are minor in scope. Notwithstanding the determination of non-significance, the following impacts merit more detailed discussion.

Plants and Animals

Chinook salmon, a species listed as threatened under the Endangered Species Act (ESA) in March 1999, are known to inhabit Lake Union including the proposed project area. Lake Union is also designated critical habitat for Chinook salmon under ESA (2004 or 2005). 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.*

This project is proposed to occur in the nearshore environment and in waters of Lake Union, which is designated critical habitat of Chinook salmon. The project site serves as a migration corridor as well as rearing area for juvenile Chinook salmon from the Cedar River and other water bodies in Water Resource Inventory Area 8.

Long-term impacts on juvenile Chinook salmon and the aquatic environment include disturbance in the littoral area by recreational users of the water and the removal of vegetation and increase in shoreline armoring and leaving pile stubs exposed at the substrate, which may increase bass habitat, a predatory species of juvenile Chinook salmon. Additionally, the use of non-native vegetation in the form of a lawn and impervious surface in the shoreline environment decreases the potential shoreline habitat for both aquatic and terrestrial animals. While the beach area is being used for recreation at the park the juvenile salmon will be disturbed and will most likely not use this area during the time when both juvenile salmon and recreational users overlap.

As provided by SMC 25.05.350 C, and 25.05.675 N 2 c, the lead agency may specify mitigation measures on a proposal that would allow the lead agency to issue a Determination of Non-Significance (DNS). These mitigation measures can be in the form of clarification of the proposal, changes to the proposal, or the project may be conditioned to include the mitigation measures. The Department of Parks and Recreation, as the lead agency, has included mitigation measures in the project and therefore issued an MDNS on this project.

Native vegetation is proposed to be planted along the shoreline to enhance the shoreline habitat. This native vegetation shall consist of native vegetation exclusively consisting of trees, shrubs and groundcover. Additional mitigation measures include: removal of existing wood piles from Waterway Nos. 3 and 4; removal of existing dolphins in Waterway No. 4; and, removal of concrete/asphalt blocks, pieces of old piers, and miscellaneous debris from Waterway Nos. 3 and 4.

Each of these mitigation measures and conditions are intended to minimize impacts on juvenile salmon habitat or improve the aquatic habitat at the site.

Other Impacts

Several adopted Codes and Ordinances and other Agencies will appropriately mitigate the other use-related adverse impacts created by the proposal. Specifically, these are the Puget Sound Air Pollution Control Agency (increased airborne emissions); and the Seattle Energy Code (long-term energy consumption).

The other impacts not noted here as mitigated by codes, ordinances, or conditions (increased ambient noise; increased pedestrian traffic; increased demand on public services and utilities) are not sufficiently adverse to warrant further mitigation by conditions.

CONDITION – NON-APPEALABLE FOR ECA COMPLIANCE

1. To ensure protection of the wetland and 25-foot buffer during construction, the wetland and buffer will be delineated in the field and protective fencing will be provided along the 25-foot buffer perimeter as a condition of approval of this project.

CONDITIONS – NON-APPEALABLE FOR COMPLIANCE WITH DOPAR MDNS

The following are the identified mitigation measures from Exhibit A of the DOPAR MDNS:

1. Geotechnical Measures - An experienced geotechnical engineer has provided appropriate design recommendations considering the subsurface conditions for the project. The project was designed based on the site conditions, available subsurface information, and design procedures approved by the City of Seattle. An experienced geotechnical engineer shall observe the construction of the project and provide recommendations to minimize the earth resources impacts.
2. Erosion and Sediment Transport - Drainage features for the proposal must be designed to contain the anticipated surface runoff from the site features over the long term. Construction BMPs, such as construction staging barrier berms, truck wheel-wash basins, filter fabric fences, temporary sediment detention basins and use of slope coverings to contain sediment, and other erosion control measures suitable to the site conditions must be included as part of the project design. Temporary erosion and sediment control plans must be prepared for approval in accordance with BMPs.
3. Construction trucks - Loads should be covered during transport to reduce dust during hauling.
4. Excavations and Dewatering - Conventional equipment including excavators and backhoes will likely be used to perform the excavations. Proper shoring or sloping of

the excavation should be performed to mitigate potential sloughing of soils and lateral movement or settlement of nearby roadway, structures, and utilities. Where excavations might extend below the groundwater table, erosion and instability of excavation sides might result. The contractor shall control the entry of water into excavations. Dewatering of soils within and below excavations should be performed to control inflow, remove water from excavations, and reduce hydraulic forces on shoring. Proper maintenance of the pumping wells shall be performed to assure that they are working as designed. Monitoring of the groundwater table and settlement outside of the excavation shall be performed to confirm that the dewatering system is working as designed.

5. Removal of Existing Structures - Removal of existing timber piles from Waterway #3 shall be done in a way that will minimize disturbance of bottom sediments, such as breaking the pile off at the mudline and leaving the lower portion in the ground.
6. Bridge Foundations - The foundations for Waterway #3 pedestrian bridges are pilings and can be driven with impact hammers to reduce vibrations. Vibration and settlement monitoring shall be performed during construction to evaluate effects on adjacent structures and slopes. (NOTE: Not applicable to this permit).
7. Air Quality - Mitigation measures for reducing the potential for air quality impacts during construction shall include measures for reducing both exhaust emissions and fugitive dust. The Washington Associated General Contractors brochure Guide to Handling Fugitive Dust from Construction Projects and the PSCAA suggest a number of methods for controlling dust and reducing the potential exposure of people to emissions from diesel equipment. The City of Seattle Standard Specifications for construction activities also include specific requirements intended to protect air quality from construction-related emissions. The City of Seattle Standard Specifications requires compliance with the PSCAA regulations pertaining to emissions of fugitive dust and odors, requires unused equipment to be shut down, and prohibits burning. The following is a list of mitigation measures that should be implemented as appropriate to reduce potential impacts at onsite and off-site locations during construction and to ensure compliance with the requirements of the City specifications.
 - Use only equipment and trucks that are maintained in optimal operational condition;
 - Require all off road equipment to be retrofit with emission reduction equipment (i.e., require participation in Puget Sound region Diesel Solutions by project sponsors and contractors);
 - Use bio diesel or other lower-emission fuels for vehicles and equipment;
 - Use car pooling or other trip reduction strategies for construction workers;
 - Stage construction to minimize overall transportation system congestion and delays to reduce regional emissions of pollutants during construction;
 - Implement construction curbs on hot days when region is at risk for exceeding the ozone NAAQS, and work at night instead;

- Locate construction equipment away from sensitive receptors such as fresh air intakes to buildings, air conditioners, and sensitive populations;
 - Locate construction staging zones where diesel emissions won't be noticeable to the public or near sensitive populations such as the elderly and the young;
 - Spray exposed soil with water or other suppressant to reduce emissions of PM10 and deposition of particulate matter;
 - Pave or use gravel on staging areas and roads that will be exposed for long periods;
 - Cover all trucks transporting materials, wetting materials in trucks, or providing adequate freeboard (space from the top of the material to the top of the truck bed), to reduce PM10 emissions and deposition during transport;
 - Provide wheel washers to remove particulate matter that will otherwise be carried off site by vehicles to decrease deposition of particulate matter on area roadways;
 - Remove particulate matter deposited on paved, public roads, sidewalks, and bicycle and pedestrian paths to reduce mud and dust; sweep and wash streets continuously to reduce emissions;
 - Cover dirt, gravel, and debris piles as needed to reduce dust and wind blown debris; and,
 - Route and schedule construction trucks to reduce delays to traffic during peak travel times to reduce air quality impacts caused by a reduction in traffic speeds.
8. Environmental Health/Contaminants - A Sampling Analysis Plan (SAP) shall be implemented to determine whether contaminated soil and/or groundwater are present in proposed areas of excavation. Where contaminants are identified during the SAP, certain elements of the project may be discarded to avoid encountering hazardous materials. Where avoidance of contamination is not feasible, the volume of contaminated soil and/or groundwater encountered will be minimized to the extent possible. All contaminated soil and groundwater will be disposed of following local, state, and federal regulations. In addition, a spill prevention, control, and countermeasure plan, erosion and sedimentation control plan, and plans for handling and disposal of known and unanticipated contamination will be implemented. These plans will present procedures, including best management practices, which will be employed for construction of the project. The presence and quantities of ACBM and LBP occurring in and on the six structures to be demolished will be verified prior to demolition. (NOTE: This permit does not include the demolition of any structures.)
9. Noise - All contractors must adhere to city of Seattle noise ordinance regulations as well as comply with requirements of the City of Seattle Standard Specifications. Other means of noise control include placing stationary equipment as far as possible away from sensitive receiving locations while maintaining the effective use of such equipment. Where this is infeasible, or where noise impacts are still likely to be significant, portable noise barriers shall be placed around the equipment with the opening directed away from the sensitive receiving property. In addition, where

feasible, equipment operators shall drive forward rather than backward to minimize this noise. Finally, operators shall lift rather than drag materials wherever feasible.

10. Recreation - The project team shall use City of Seattle Department of Parks and Recreation standards for notifying the public of any temporary inconvenience or closures of park areas during construction. The location of alternate recreation opportunities shall also be provided.
11. Historic & Cultural Resources - A professional archaeologist shall monitor any excavation activities in the project area that may extend into undisturbed native soils with the exception of driving piles. Pile driving does not allow an archaeologist to examine subsurface deposits for archaeological resources. If the project changes to include repair elements that could contribute to the significance of the Armory building, a Determination of Effect shall be developed through consultation with the City of Seattle and the OAHF. In this case, the Landmarks Preservation Board will require complete documentation of the Armory building prior to consultation.

CONDITIONS – SEPA and SHORELINE

SEPA and Shoreline - Construction Conditions

The following condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

1. Prior to commencement of work the owner(s) and/or responsible party(ies) shall notify in writing all contractors and sub-contractors of the general requirements of the Seattle Shoreline Master Program (SSMP 23.60.152), including the requirements set forth in conditions of the MUP.
2. Prior to commencing construction an emergency containment plan and procedures be developed and all necessary equipment be stocked on the site.
3. Construction activity will be restricted to timing limitations set forth in the Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife.
4. Best Management Practices shall be employed during the bulkhead removal and replacement to meet applicable State of Washington water quality standards.

5. A silt fence shall be deployed around the bulkhead work to contain turbidity in the nearshore area and to contain any debris that enters the water. The silt fence should remain in place until for the duration of the proposed work.
6. Any floating debris that enters the water during construction shall be collected once per day, contained on site, secured, and then disposed of at the appropriate upland facility.
7. If heavy debris or deleterious material enters the water and sinks, the location of the material shall be recorded in a log that is kept through the duration of construction. When construction is completed, this material/debris shall be removed by a diver and disposed of at the appropriate upland facility.
8. Any pile stub that is greater than 6 inches above the substrate after the pile has been removed shall be covered with native 2 inch minus substrated that covers the pile stub so that area is not conducive to bass has spawning, rearing, or hiding habitat.

SEPA and Shoreline – Life of the Project

9. Vegetation monitoring is required by the applicant to ensure eighty (80) percent or greater survival of the vegetation planted at this project site after five (5) years from the time of planting.

Signature: (signature on file)
Molly Hurley, Senior Land Use Planner
Department of Planning and Development

Date: July 6, 2006