

**FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE**

In the Matter of the Application of

CF 312839

**KING COUNTY DEPARTMENT OF NATURAL
RESOURCES, WASTEWATER TREATMENT
DIVISION**

For Council Conditional Use approval

DPD Project:
3014631

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Introduction

The applicant, King County Department of Natural Resources, Wastewater Treatment Division, has applied for Council Conditional Use approval for placement of new biogas treatment equipment and a retaining wall at the existing West Point Treatment Plant.

The public hearing on this application was held on July 2, 2013 before the undersigned Deputy Hearing Examiner. Represented at the hearing were the Director, Department of Planning and Development (DPD), by Marti Stave, Senior Land Use Planner; and the applicant King County, by Christopher Dew, King County Department of Natural Resources and Parks.

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code ("SMC" or "Code"), as amended, unless otherwise indicated. After due consideration of the evidence elicited during the hearing, the following shall constitute the findings of fact, conclusions and recommendation of the Hearing Examiner on this application.

Findings of Fact

1. King County Department of Natural Resources, Wastewater Treatment Division (King County) is proposing upgrades to the West Point Treatment Plant, which is located within Discovery Park, and addressed as 1400 Discovery Park Boulevard, Seattle.
2. The application is for installation of 1,200 square feet of tanks and equipment to upgrade a biogas fuel treatment system. The new biogas treatment system is being installed by King County in order to comply with the terms of a settlement agreement with the Puget Sound Clean Air Agency (PSCAA); Ex. 8. The agreement calls for the new system to be constructed in fall of 2014, as shown in Section A.1 ("Milestone Schedule") of the agreement.
3. Currently, the methane gas generated onsite as a by-product of the wastewater treatment process is re-used on-site, as fuel for the engines that pump wastewater into the

Hearing Examiner Recommendation
King County West Point Treatment Plan
Page 2 of 5

plant. The settlement agreement calls for a reduction in the emissions produced by the engines which use the biogas, through installation of the proposed biogas treatment system.

4. The proposed project will add a single biogas treatment system, a new air-to-fuel ratio controller for each engine, and a three-way catalyst for each engine. The biogas treatment system will be constructed on four main skids with an approximate footprint of 1,200 square feet, and the three-way catalyst will be located in a housing attached in line to each raw sewage pump engine exhaust pipe.

5. The new treatment equipment will be located next to the existing digesters within the Treatment Plant's perimeter fencing area, next to the raw sewage pump engine.

6. On January 28, 2013, King County, as SEPA Lead Agency for the project, issued a determination that the project is categorically exempt under SEPA.

7. The construction activities associated with the project are expected to last approximately three months. During that period, delivery trucks would bring the equipment (which will be built off-site) to the plant location and the equipment would be bolted into place. Following installation, one or two new truck trips are anticipated per year, to change filter media. Some construction noise is expected during normal working hours, which will comply with the Noise Ordinance. The new equipment will operate within existing ambient noise levels.

8. The Director has reviewed the application, and recommends approval of the project.

Codes

9. SMC 23.51A.002.D provides that *"The decision on an application for the expansion or reconfiguration of a sewage treatment plant is a Type IV Council land use decision."* SMC 23.51A.002D also sets forth the criteria for approval for an expansion or reconfiguration of an existing sewage treatment plant in a single-family zone.

Conclusions

1. The Hearing Examiner has jurisdiction to hold a public hearing and make a recommendation on this application pursuant to SMC 23.76.052.

2. Under SMC 23.51A.002.D.2, the project proponent shall demonstrate that there is no feasible alternative location in a zone where establishment of that use is permitted. The feasibility of alternative locations shall consider *"the environmental, social and economic impacts on the community, and the intent to preserve and to protect the physical character of single-family areas, and to project single-family areas from intrusions of non-single family uses;"* SMC 23.51A.002.D.2.a.

3. There is no feasible alternative to locating the proposed new biogas treatment equipment on the West Point site, since it must be located adjacent to the existing digester lines. The site is physically isolated from other non-single family homes. Except for temporary construction impacts, no long-term negative environmental impacts are anticipated, but the project is expected to improve air quality by improving the exhaust emissions generated by pump engines which burn biogas. No social or economic impacts have been identified. The project would be located within the perimeter wall of the existing West Point Treatment Plant; the nearest residential housing is further than one-half mile from the plant. The project would not change the current separation that exists between the treatment plant and the single family area and uses in the area.

4. SMC 23.51A.002.D.2.b provides that the determination of feasibility may be the subject of a separate application for a Council land use decision prior to submission of an application for a project-specific approval, *"if the Director determines that the expansion or reconfiguration proposal is complex, involves the phasing of programmatic and project-specific decisions or affects more than one site in a single-family zone."* The Director has concluded that the project does not require a separate determination of feasibility.

5. SMC 23.51A.002.D.3 sets out the conditions for approval of the project. The first condition is that adverse impacts on residential areas are minimized. The project would be located within the interior of the existing West Point Treatment Plant, which is separated from the residential areas, and more than half-mile from the nearest residential housing. This condition is met.

6. The next condition is that the expansion of a facility must not result in a concentration of institutions or facilities that would create or aggravate impacts that are incompatible with single-family residences. The project would not expand the facility or its capacity for wastewater treatment. No concentration of institution or facilities would be caused by the addition of the biogas treatment equipment. Therefore, this condition is met.

7. A facility management and treatment plan must be provided. The existing West Point Treatment Plant has a Facility Plan registered with the Department of Ecology, and a Transportation Plan developed as part of the 1996 secondary upgrade project. The project would not affect sludge transportation, hours of operation, long term traffic or noise. The project meets this condition.

8. Another condition is that a facility must incorporate measures in its design and operation to minimize potential odor emission and airborne pollutants, including methane, which meet the standards of, and are consistent with, best available technology as determined in consultation with the PSCAA. The proposal is designed to meet Best Available Control Technology (BACT) as approved by PSCCA and is a response to the timetable established by PSCCA and the County as part of the settlement agreement. The project will meet this condition.

9. The next condition addresses methods of storing and transporting chlorine and other hazardous and potentially hazardous chemicals; the project does not involve the transport of any of these materials.

10. Another condition requires availability of vehicular access suitable for trucks between the plant and a designated arterial; the existing access route via W. Government Way is not changed by this project, so this condition continues to be met.

11. The Code also addresses the bulk of facilities, which must be compatible with the surrounding community. The biogas treatment system would be located within the perimeter berm of the existing West Point Treatment Plant; the new equipment would not be visible from the outside of the plant, and would not create any incompatibilities on account of bulk. This condition is satisfied.

12. Measures to ensure compatibility of the use with the surrounding area, such as landscaping and screening, separation from less intensive zones, noise, light and glare controls, are to be incorporated into the facility design and operation. In this case, the existing landscaping surrounding the Plant continues to screen noise and light generated by the Plant from the surrounding area. The project is located within the interior of the Plant and would not effectiveness of the existing compatibility measures. This condition is met.

13. Finally, no residential structures would be demolished or modified for this project.

14. The project would meet all of the Code criteria, and should be approved.

Recommendation

The Hearing Examiner recommends the City Council grant approval of the requested Council Conditional Use.

Entered this 8th day of July, 2013.



Anne Watanabe
Deputy Hearing Examiner

CONCERNING FURTHER REVIEW

NOTE: It is the responsibility of the person seeking further review to consult appropriate Code sections to determine applicable rights and responsibilities.

Pursuant to SMC 23.76.054, any person substantially affected by a recommendation of the Hearing Examiner may submit an appeal of the Hearing Examiner's recommendation to the City Council. The appeal must be submitted within fourteen (14) calendar days following the date of the issuance of the Hearing Examiner's recommendation, and be addressed to: Planning, Land Use and Sustainability Committee, c/o Seattle City Clerk, 600 Fourth Avenue Floor, P.O. Box 94728. Seattle, WA 98124-4728. The appeal shall clearly identify specific objections to the Hearing Examiner's recommendation and specify the relief sought.

