City of Seattle
Seattle Public Utilities

Memorandum

From: Alan Lord, Project Manager
To: File
Date: March 7, 2014
Subject: Responses to Public Comments received for Seattle Public Utilities' Master Use Permit application for the Henderson North Combined Sewer Overflow (CSO) project in Seward Park, Seattle Department of Planning & Development Project #3015640

With this memorandum, Seattle Public Utilities (SPU) documents its responses to the public comments that were received regarding the Master Use Permit application for the Henderson North Combined Sewer Overflow (CSO) project in Seward Park, Seattle Department of Planning & Development Project #3015640.

1. The permit sought violates the general purpose of the Land Use Code under SMC 23.02.020 and the specific ordinances under SMC 23.51A.002 dealing with public facilities in a single-family zone. Under SMC 23.51A.002 (E)(4), the establishment of a new sewage treatment plan is strictly prohibited in a single-family zone. This project arguably meets the definition of a "sewage treatment plant" under SMC 23.84A (6) and on that ground alone, the permit should be denied.

   RESPONSE:
   SPU's project would modify and expand an existing facility (an existing combined sewage storage tank and overflow control facility). SMC 23.51A.002(B) defines utility services use as a permitted use in single family zones. Further, expansions to existing facilities are also permitted by SMC 23.51A.002(C) "Expansion of Uses in Public Facilities".

   SPU's project would construct a combined sewage storage tank and not a sewage treatment facility and therefore the reference to SMC 23.51A.002(E)(4) is not applicable. A storage tank is part of a conveyance system and provides no treatment of sewage. Following is the definition of a sewage treatment facility from SMC 23.84A.040 which clearly states the difference between a sewage treatment facility and a storage tank:

   > "Sewage treatment plant" means a utility use in which sanitary or combined sewage is received, treated, and discharged, but does not include: Conveyance lines and associated underground storage facilities; pumping stations; or commercial or industrial facilities for "pretreatment" of sewage prior to discharge into the sewer system.

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2. If the proposed CSO tank at the tennis court location is deemed a "utility" or "utility services use" under SMC 23.84A.040, it should still be denied as it "creates and appreciably aggravates impacts that are incompatible with single-family residences." See SMC 23.51A.002 (3)(b). Comments included examples such as construction noise, vibration, and light; exposure to constant gaseous exposure; and the physical character of the surrounding single family residences.

   RESPONSE:
   SPU's project is a utility services use per 23.84A.040.

   The comment references SMC 23.51A.002 (3)(b), which is an incomplete reference. Based on review of SMC 23.51A.002, the comment appears to refer to the requirements of SMC 23.51A.002(D)(3)(b). Subsection D of this section applies only to sewage treatment plants, which is not applicable to SPU's project.

   Regardless of the applicability of the specific SMC code reference, SPU does not believe the project will create or appreciably aggravate impacts per City Code or the examples given. When completed, the project will be underground and public park functions will be restored to the project site. In addition to improving the water quality in Lake Washington, the project will improve public park features such as the deteriorating shoreline bulkhead and tennis court surfacing. The project will also provide ADA access to the tennis courts and a portion of the park that is currently inaccessible to persons requiring ADA access. SPU does not believe that the temporary construction impacts nor the finished project will have any impact on the physical character of the surrounding residences – no physical changes are proposed outside of the park.

   With regard to the perceived impacts to the neighboring homes, construction work is required throughout the City to operate and maintain the City's infrastructure and it is impossible to eliminate all temporary impacts from construction activities. SPU acknowledges that there will be some temporary impacts during construction which we have been working to minimize as much as possible, including regular conversations and meetings with the neighbors to identify their concerns and discuss options. Construction methods to be used will minimize vibration, measures will be taken to limit noise escaping the site, and construction lights will be used only during working hours. The grate which will exhaust treated air from the odor control system has been relocated further away from the neighbors to the west as a result of meetings with the neighbors. Finally, the project will provide odor control treatment not only for the proposed storage tank, but also for the existing storage tank, thereby improving upon existing conditions for park users and the neighbors.

3. SMC 23.51A.002 specifically references that sewage treatment plants may only be permitted in single-family residences "if there is no feasible alternative in a zone..." The intent behind this portion of the Code is clear - if a reasonable alternative exists, which will result in less adverse impact on single-family residences, it should be the location selected. In this instance, the feasible alternative is the installation of the CSO tank at the south parking lot location in Seward Park. It is further away than the tennis court location and therefore will have a less adverse effect on the single-family residences. SMC 23.51A.002(D)(2)(a) states that the Council's decision as to the feasibility of an alternative

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location "shall be based upon a full consideration of 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 protect single-family areas from intrusions of non-single family uses." There was no consideration given to the environmental, social or economic impacts on the community by the proposed installation of the CSO tank at the tennis court location.

RESPONSE:
This comment references the requirements of SMC 23.51A.002(D)(2), which applies only to sewage treatment plants and is therefore not applicable to the project. Regardless, SPU has considered environmental, social, and economic impacts for the selected project location. The site selection occurred through four public workshops at the end of 2010 and in early 2011 to ensure that the public understood the problem, constraints, alternatives, impacts, and costs. At a high level, the environmental, social, and economic impacts were considered as follows:

Environmental – Construction of the storage tank at either the tennis court site or south parking lot site would improve water quality in Lake Washington and would create a shoreline habitat improvement for juvenile Chinook salmon. The tennis court site will remove more trees than the south parking lot site; however, many of the trees to be removed are problem trees that create safety concerns and maintenance issues for the tennis courts as they tend to lose branches. Construction at the south parking lot site would require excavation near the toe of a slope that is already sliding whereas geotechnical investigations have shown that construction can be completed without adversely affecting the slope adjacent to the tennis courts.

Social – Seward Park is a regional park, hosting large community events and drawing users from throughout the region. Constructing the storage tank in the south parking lot would have a higher temporary (construction) and long-term impact on the park and its users. For perpetuity, portions of the main parking lot would be inaccessible to users and events during maintenance. In addition, above grade features would be immediately adjacent to the portion of the park that sees the heaviest use. The tennis court site allows the existing and new storage and conveyance facilities to be grouped in a corner of the park where they will have the least impact to the public. The tennis court site also provides ADA access to the tennis courts and to a portion of the park south of the tennis courts that are currently inaccessible.

Economic – The cost of the tennis court site is roughly similar to the south parking lot site and roughly the same impact to SPU ratepayers.

4. Seattle Parks and Seattle Public Utilities expanded the scope of this tank at the tennis court location by over 250,000 gallons after the final EIS was published. Any suggestion that the installation of the CSO tank in the backyards of the single-family residences is anything but an intrusion of a non-single family use is without merit. The permit should be denied.

RESPONSE:
As described at community meetings, in person, and in the revised Environmental Impact Statement, the increase in storage volume in Seward Park did not increase the footprint of the proposed buried tank. The increase in storage volume reduced the overall cost of the

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project by over $10 million to SPU ratepayers and meets the social equity goal of dealing with the combined sewer overflow issues in the basins which create the flow where possible, instead of conveying the problem downstream to a different community. Finally, the storage tank and its ancillary facilities are completely within a City-owned parcel of land; there will be no CSO storage tank or ancillary facility within the backyards of single family residents as stated in the comment.

5. In addition, the effect on the wildlife under SEPA has not been thoroughly considered. This project is clear-cutting a swath in a wildlife transition corridor and shoe-horning in a 2.6 million gallon sewage tank between the lakeshore, steep, environmentally sensitive slope, and single-family residences. The permit should be denied.

   RESPONSE:
   In order to comply with SEPA, SPU published and finalized an Environmental Impact Statement (EIS) for the project. The EIS includes several chapters which evaluate potential impacts including potential impacts to wildlife and environmentally critical areas such as the lakeshore, slopes, and the surrounding community. Local resources such as the Audubon society were also consulted to evaluate conditions and potential impacts. In addition, the project has conducted extensive subsurface investigations to identify conditions to inform design and minimize potential impacts.

6. I was told by a parks department representative that there was no way that the project would be moved because the city council always rubber stamps every project that they want to do. This is so very disheartening. Having public hearings is a sham if EVERYONE present is against this site location but the project goes ahead anyway.

   RESPONSE:
   SPU does not support the alleged statement by the parks representative. The ordinances associated with this project must go through the same processes for City Council for review, debate, and approval as do all other ordinances.

   In response to the statement that everyone is against this site location, SPU has received comments throughout the project of proponents of the tennis court site. In fact, the tennis court site was the suggestion of a community member during the public workshop to select a project site.

7. The tennis court location will likely result in significant damage to the neighboring homes.

   RESPONSE:
   SPU disagrees with this statement. SPU has conducted significant subsurface investigations, evaluated project alternatives, construction techniques, and hired a contractor during our design to evaluate and minimize any impacts to neighboring homes or to the existing slope adjacent to the tennis courts. SPU does not believe there will be significant damage to the neighboring homes or slope. SPU has already agreed to perform pre-construction and post-construction evaluations of the neighboring homes and sewers to determine if any damage occurred. Any damage as a result of the project would be repaired at no cost to the homeowners.

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8. How will parking and public safety be monitored during construction in this single family zone?

   RESPONSE:
   Regardless of the project site, the construction site will be secured with a fence and controlled access gate – the same requirements if the project were to occur within the public right of way. Parking and traffic within Seward Park will be controlled by executing a traffic control plan which is approved by the Parks Department. The Contractor is specifically required to create the plan and provide staff to ensure compliance with the plan. The comment mentioned that illegal parking currently occurs on Lake Shore Dr. S during large events at Seward Park. It is worth noting that SPU's CSO project in Seward Park, in either location, will not alter parking or traffic regulations on Lake Shore Dr S.

9. The South Parking Lot is a better location. Several comments stated that there is no opposition to the south parking lot and that the neighborhood expressed its preferred site and was ignored during the site selection process.

   RESPONSE:
   Commenter's preferred site is acknowledged. SPU and Parks have stated their rationale for preferring the tennis court site in the EIS, in public meetings, and in individual meetings with residents. Unfortunately it is impossible to construct a project that completely satisfies everyone's goals and desires.

   The public process for selecting a site was discussed further and is included on the project website. It is true that the neighbors have been consistent in stating that their preferred site is the south parking lot; however, others at the meetings supported the tennis courts as they are further from the children's playground and would have less impact to parking for the park and the Audubon Center. As SPU has stated previously, responses to all official comments received during the EIS process are included in the official EIS document. SPU and Parks also prefer the tennis court site for the reasons stated in the Environmental Impact Statement and published on the project website.

10. Parks and SPU have made vague claims that the south parking lot is going to cost millions more dollars. We have seen no documentation supporting these claims; indeed, all of the documentation completed in the EIS describe the cost of the two sites as equivalent.

    RESPONSE:
    The comment is correct in its statement that the estimated cost of the tennis court site and south parking lot site are similar. For that reason SPU has consistently said that cost was not a factor in selecting the tennis court site over the south parking lot. SPU has recently stated that it would cost millions of dollars to change sites at this time, given the investment that has been made into the design of the tennis court site.

11. The tennis court site includes hazards such as liquefaction prone soils, a nearby wetland, and a steep slope with considerable groundwater flow.

    RESPONSE:

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The environmentally critical areas noted in the comment appear to be from the City of Seattle Department of Planning & Development's (DPD) Geographic Information System (GIS) website. SPU has conducted investigations into each of the items listed.

Liquefaction prone soils – subsurface investigations have shown that the tennis court site and the slope to the west are underlain by relatively shallow bedrock which is not liquefiable. The soils overlying the bedrock are either not of a type susceptible to liquefaction or are above groundwater elevations and are not liquefaction prone conditions as indicated on the DPD website.

Nearby wetland – a wetland biologist visited the site to determine if there were in fact wetlands adjacent to the tennis court site. The wetland biologist found that the information on the DPD website is incorrect and that there are no wetlands adjacent to the tennis court site.

Steep slope and groundwater – A slope exists immediately to the west of the tennis court site. Subsurface investigations have shown that the slope is underlain by relatively shallow bedrock, which is expected to be relatively stable during excavation at the tennis court site. The design team includes geotechnical engineers for the design of the temporary and permanent structures, evaluation of potential impacts to the slope and neighboring structures, and the design of drainage system for ground and surface water draining down the slope. SPU believes the slope and groundwater are being adequately addressed on this project.

12. Construction impacts will affect the livelihood of neighboring residences which include home businesses and senior citizens requiring full time medical care.

    RESPONSE:
    As previously stated, SPU recognizes that it is impossible to eliminate all temporary impacts from construction activities. Construction, both private development and public infrastructure, occurs throughout the City and is a component of living in a dense urban environment. In fact, a new home is being constructed on a parcel immediately adjacent to the tennis court site which has some temporary impact to the neighbors (noise, vibration, dust, light, etc.).

    SPU is committed to minimizing the impacts of construction to the neighbors of the tennis court site and has held regular conversations with the neighbors to identify their concerns and discuss options. SPU does not believe its project will impact the health of any of the neighboring residents and maintains its willingness to discuss specific impacts and evaluate options.

13. The South Parking Lot site offers opportunities to enhance that portion of the park.

    RESPONSE:
    SPU and Parks acknowledge that construction at either site will create opportunities for improvements and enhancements at the chosen site. Either site would improve the parking lot and shoreline bulkhead at that site. Drawbacks to the south parking lot site include closures of portions of the most popular parking lot for SPU maintenance activities, locating

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impacts such as above ground features in the most heavily used area of the park, and bringing utilities into the most heavily used part of the park where all maintenance and repairs will have the greatest impact on park use. In addition, construction of the facility will limit any future development potential at the selected site.

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