FINDINGS, CONCLUSIONS AND DECISION OF THE CITY COUNCIL OF THE CITY OF SEATTLE

Council Concept Approval for construction of 120,000 gallon underground Combined Sewer Overflow tank, in an environmentally critical area, at a public facility in a single family zone located at 4608 Lake Washington Boulevard South. (Project No. 3014022, Type V).	)))))	C.F. 312610 DPD Application #3014022 FINDINGS, CONCLUSIONS AND DECISION

Background

Seattle Public Utilities (SPU) has proposed the construction and installation of a 120,000 gallon Combined Sewer Overflow (CSO) tank at 4608 Lake Washington Blvd S. The proposed CSO tank and related infrastructure will be located beneath under an existing paved parking lot to the east of the intersection of Lake Washington Blvd S. and S. 53rd Street; piping and related infrastructure in adjacent rights of way will also be installed to support the facility.

The proposed CSO tank is approximately 25 feet wide, 36 feet long and 16 feet deep. The CSO tank and its related infrastructure (odor control facility, electrical and mechanical equipment) will also be located under the parking lot. The project site is zoned Single Family 7200 (SF 7200). Seattle Public Facilities (SPU) will own the CSO; the property is owned by Seattle Department of Parks and Recreation.

CSO tanks are a Utility Service Use as defined in the City's land use code as a public facility; Seattle Municipal Code (SMC) Section 23.84A. New public facilities are permitted in SF 7200 zones by City Council concept approval.

This project is part of SPU's strategy to protect public health and the environment by improving its existing wastewater system, compliance with its 2010 National Pollutant Discharge Elimination System (NPDES) permit with the Washington State Department of Ecology (WSDOE). This CSO tank will store untreated stormwater and wastewater that would otherwise be discharged into Lake Washington during peak storm events. In this particular drainage basin, there have been a number of untreated discharges; this facility will help SPU meet a goal of no more than one such event in any year.

On January 17, 2013 the Department of Planning and Development (DPD) issued its Report and Recommendation and also published a Notice of Public Hearing for Council to consider the request for concept approval.DPD recommend ed approval of the project with 16 conditions to mitigate both construction and use impacts.

On February 22, 2013, the City Council's Libraries, Utilities and Seattle Center (LUC) Committee had a briefing and held a public hearing on DPD's recommendation, prior to making its recommendation to the full City Council. At its March 19, 2013 meeting, LUC further deliberated on the proposal.

Findings of Fact

The City Council hereby adopts the following Findings of Fact:

1. As reflected in Attachment A, the proposed CSO tank is located at 4608 Lake Washington Blvd. S. The project site is located in the Lakewood neighborhood and abuts Lake Washington.

2. The project site is zoned Single Family 7200 (SF 7200) and is owned by Seattle Department of Parks and Recreation (DOPAR). The City Council recently authorized a partial transfer of jurisdiction, specifically the underground portions of this site, from DOPAR to SPU (Ordinance 124119); this Council land use action authorizes SPU to proceed with permitting on this project.

3. The project site is flat, paved, and is in use as a parking lot. The parking lot serves the related park trail system along Lake Washington Blvd and is immediately south of the Lakewood Marina. The surrounding areas to the south, west and north are marked by a variety of grade changes rising from Lake Washington, some of which are regulated steep slopes and potential slide areas. The surrounding areas are dominated by single family homes and recreation facilities along Lake Washington. The project site is also located in a Shoreline Overlay zone (SMC Chapter 23.60) and is subject to a Substantial Shoreline Development Permit (shoreline permit) due to its location within the Conservancy Management (CM) Shoreline Overlay zone and the cost of construction.

4. The project is subject to environmental review (SEPA). SPU issued a SEPA determination of non-significance (DNS) on September 12, 2011. No comments on the SEPA checklist, disclosing the project impacts, were received before the DNS was issued, or after its issuance; the comment period ended September 26, 2011. No appeal was filed by October 3, 2011, the last date to request that relief.

5. SPU submitted a Master Use Permit application in October 2012. A public comment period for the proposal ran from October 11, 2012 to November 9, 2012. DPD did not receive public comments from this notice. However, SPU held a series of public meetings and outreach on the proposal prior to submitting for a Master Use Permit. The bulk of comments (see Page 5 – DPD recommendation) that SPU received focus on the quality and extent of landscaping and how the parking lot would be restored following construction.

5. In making a recommendation to Council, SMC 23.76.050 requires that the DPD Director draft an evaluation of the proposal based on the following standards and criteria:

a. The written recommendations or comments of any affected City departments and other governmental agencies having an interest in the application;

b. Responses to written comments submitted by interested citizens;
c. An evaluation of the proposal based on the standards and criteria for the approval sought and consistency with applicable City policies;
d. All environmental documentation, including any checklist, EIS or DNS; and
e. The Director's recommendation to approve, approve with conditions, or deny a proposal.

6. The proposal also requires a Shoreline Substantial Development Permit (shoreline permit) as, 1) the value of construction in the City's Shoreline Zone[1] exceeds $2,500, and 2) the request to install a CSO tank and related infrastructure occurs in the Conservancy Recreation (CM) shoreline zone. Normally, DPD reviews and approves a shoreline permit as a Type II land use permit. However, SMC Section 23.76.036 requires that Council approve a Master Use Permit application when it includes both Type II and a Type V requests.

7. Shoreline permits may be issued when the proposed development 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 shoreline permit, to assure consistency of the proposed development with the Seattle Shoreline Master Program and the State's Shoreline Management Act.

8. The DPD Director recommends that the Council approve the request for a new CSO tank as well as approve the shoreline permit. DPD has recommended 16 conditions to address short and long-term impacts of the new use.

Conclusions

The City Council hereby adopts the following Conclusions:

1. The facility – a Utility Service Use - is a City facility as defined in SMC 23.84.006.
2. Utility Service Uses are public facilities that require Council approval when the use is established in a SF 7200 zone.
3. The Council adopts the following findings, included in DPD recommendation concerning the project's compliance with criteria in SMC 23.76.050:

   a. City departments and other governmental agencies provided input into the project. This included significant work with DOPAR to ensure that the parking lot design following construction did not encourage criminal activity, a concern raised by neighbors;

   b. DPD did not receive public comments during the Master Use Permit comment period. However, SPU did receive comments during their own community outreach. SPU has considered those comments and have designed the project to be responsive to the communities concerns about parking lot design and landscaping;

[1] The Shoreline Zone extends 200 feet landward from the Ordinary High Water Mark of Puget Sound.

c. The project complies with land use code development standards; few development standards apply as the development occurs underground;

d. SPU's SEPA determination for the project resulted in project impacts being mitigated with additional conditions imposed by DPD that are appropriate; and

e. DPD has recommended approval of the project.

4. The Council also acknowledges that SMC Section 23.76.036 requires that Council approve Master Use Permit application that includes both Type II (shoreline permit) and a Type V (council concept approval) requests. The Council has considered the Shoreline Permit requirements in SMC 23.60, DPD's analysis as detailed on Pages 9-13 of its recommendation, and supporting documents. The Council concludes that the project, as designed meets 1) the Policies and Procedures of R.C.W. Chapter 90.58, 2) requirements in SMC 23.60 and 3) the provisions of W.A.C. Chapter 173-27.

Accordingly, The City Council now concludes that the land use action, and the related shoreline permit, should be approved.

Decision

The City Council hereby **APPROVES** SPU's request to install a 120,000 square foot Combined Sewer Overflow tank at 4608 Lake Washington Blvd S. as reflected in C.F. 312610, and APPROVES the following 16 conditions recommended by DPD in their recommendation:

A. CONDITIONS – TYPE V COUNCIL LAND USE DECISION

None

B. CONDITIONS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

During Construction

1. Any work water ward of ordinary high water shall be restricted to applicable work windows established by Washington Department of Fish and Wildlife.

2. Appropriate Best Management Practices (BMPs) shall be employed to prevent any debris or other deleterious material from entering Lake Washington, such as the use of a turbidity curtain and/or debris boom surrounding the project area during in-water and over-water work to contain any debris, suspended sediments, or spills caused by construction activities. Materials to be disposed of shall be contained on site and then discarded at an appropriate upland facility.

3. Any debris that enters the water during the proposed work shall be removed immediately and contained until it can be disposed of at an appropriate upland facility.

For Life of the Project

1. No pesticides or fertilizers shall be applied within 50 feet of the stream, wetland or shoreline at this project location except as authorized by DPD.

C. CONDITIONS – SEPA

Prior to Commencement of Construction

1. Execute the public outreach plan including: a website to provide project and progress updates, obtain email list-serve for project updates, and provide project contacts (with phone numbers) for the public. These contacts should also be mailed to nearby property owners (SPU should define the appropriate area of the mailings).

Prior to Issuance of the Master Use Permit – Council Land Use Decision

1. The project owner and/or responsible parties shall provide DPD with a statement that the contract documents for their general, excavation, and other subcontractors will include reference to regulations regarding archaeological resources and that construction crews will be required to comply with those regulations, including the following:

- Archaeological Sites and Resources (RCW 27.53)
- Indian Graves and Records (RCW 27.44)
- Archaeological Site Public Disclosure Exemption (RCW 42.56.300)
- Discovery of Human Remains (RCW 27.44)
- Archaeological Excavation and Removal Permit (WAC 25-48)
- Abandoned and Historic Cemeteries and Historic Graves (RCW 68.60)

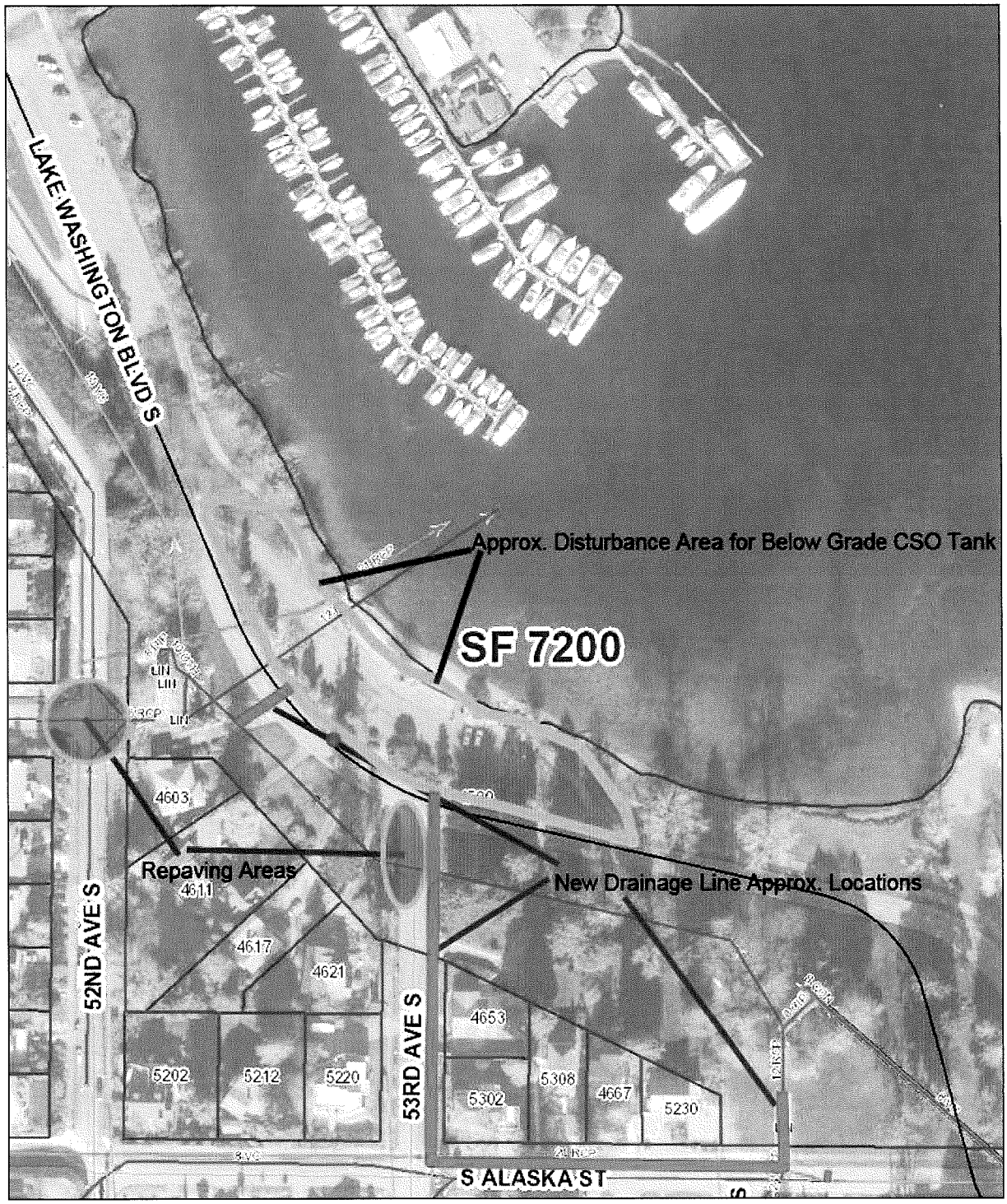
During Construction

1. The following conditions to be enforced during construction shall be posted at each street abutting 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. The conditions shall 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:

A. In order to further mitigate the noise impacts during construction, SPU and/or responsible party(s) shall limit the hours of construction to the hours allowed by the noise ordinance (SMC 25.08) except no work shall occur on non-holiday weekdays or Saturdays past 6:00 pm and no work is permitted on Sundays. Work on Sundays or outside the above stated limits, but within the limits of the Noise Ordinance, may be permitted only with prior approval (3 days notice) by DPD when a Construction Management Plan is provided for the specific requested work (recommended SEPA conditions #7). Any requests to work outside the allowable hours of the Noise Ordinance require a noise variance per (SMC 25.08.560 -.655).
B. During grading activities, watering of the site and uncovered materials in trucks shall be required to reduce construction dust.
C. The contractor shall make provisions to wash vehicle tires, wheels and exteriors leaving the site in order to prevent spillover of particulates into the adjacent rights of way.
D. For the duration of grading activity, the contractor is required to cease weekday grading truck trips during weekdays from 4:00 pm and 6:00 pm.
E. Ensure the adequacy of sound-control devices that are at least as effective as those on the original equipment. No equipment would have un-muffled exhaust.
F. Minimize idling time of equipment and vehicle operation.
G. Conduct noise monitoring to ensure compliance with the SMC if noise complaints are received during construction.
H. Maintain as much of the existing vegetation around the site as possible to provide a vegetative buffer and visual screen to those residences nearest the site.
I. If resources of potential archaeological significance are encountered during construction or excavation, the owner and/or responsible parties shall stop work immediately and notify DPD (Lucas DeHerrera 206.615.0724) and the Washington State Archaeologist at The Department of Archaeology and Historic Preservation. Follow procedures outlined in Appendix A of Director's Rule 2-98.

J. If human remains are encountered during construction or excavation, the owner and/or responsible parties shall Stop work immediately and notify the Washington State Archaeologist at The Department of Archaeology and Historic Preservation. Course of action will be determined by the appropriate regulating agency.

Dated this 25th day of March, 2013.

City Council President

ATTACHMENT A