#3

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

Council land use action to allow an expansion to an existing public facility (Pump Station #39) in an environmentally critical area located at 5080 Beach Drive Southwest.	C.F. 312087 DPD Application #3012748 FINDINGS, CONCLUSIONS AND DECISION

Background

The proposed project is for the expansion of an existing public facility (Wastewater Pump Station #39) in an Environmentally Critical Area (ECA). The project includes the installation of a 40 sq. ft. emergency generator on a 228 sq. ft. concrete pad and 20 cu. yds. of grading. The project site is located at 5080 Beach Drive SW and is zoned Single Family 7200 (SF 7200). The existing Pump Station #39 is located both in the right of way and at the project site. The expansion includes the siting of the generator on the private property portion of the site, which is owned by Seattle Public Utilities (SPU). The project site also has piping and other features related to the operation of the pump station. Pump Station #39 was established in 1957.

Pump Stations are a Utility Service Use that is defined in the City's land use code, Seattle Municipal Code (SMC) Section 23.84A, as a public facility; the facility is owned by the City of Seattle. New public facilities are permitted in SF 7200 zones by City Council approval. Since the facility has been an established use since 1957, Council does not need to approve the use of the property. SMC Section 23.51A.002 allows for expansions of public facilities to be approved by the Director of the Department of Planning and Development (DPD) when the expansion is up to 750 square feet. As the expansion is less than 750 square feet, the expansion would normally not be reviewed by Council. In this case, the Council is being asked to modify four development standards applicable to all uses in a SF 7200 zone. Council is authorized to grant modifications or waivers from development standards under SMC Section 23.76.064.

This project is part of the City's strategy to enhance all of its existing Combined Sewer Overflow (CSO) facilities in response to a 2009 Compliance Order Decree with the United States Environmental Protection Agency (USEPA) requiring SPU to upgrade and enhance these facilities. SPU's wastewater pipes in this location are six feet lower than King County's pipe and therefore Pump Station 39 is required to convey the wastewater into King County's system. The installation of the emergency generator will provide a permanent source of energy to run the facility; power outages causes the facility to go off line, resulting in untreated sewage entering Puget Sound.

On November 8, 2012 DPD issued its Report and Recommendation and also published a Notice of Public Hearing for Council to consider the request for concept approval. DPD recommended approval of the project with 9 conditions to mitigate both construction and use impacts.

On December 12, 2012, the City Council's Planning Land Use and Sustainability Committee (PLUS) had a briefing and held a public hearing on DPD's recommendation, prior to making its recommendation to the full City Council. At its January 9, 2013 meeting, PLUS further deliberated on the proposal.

Findings of Fact

The City Council hereby adopts the following Findings of Fact:

1. As reflected in Attachment A, Pump Station #39 is located at 5080 Beach Drive SW, which runs north-south and is immediately adjacent to Puget Sound. The project site is located approximately one mile south of the Alki neighborhood and two miles north of Lincoln Park.

2. The project site is zoned Single Family 7200 (SF 7200) and is owned by SPU. The project site is marked by a variety of topographic features that include steep slopes and potential slide areas. The proposed expansion is located at the base of these areas and was granted an exemption from City regulations (SMC Chapter 25.09) concerning development in environmentally critical areas. The project site is also located in a Shoreline Overlay zone (SMC Chapter 23.60); DPD exempted the proposal from a Shoreline permit because of the project was determined to be within the scope of normal maintenance and repair of an existing structure (SMC 23.60.020).

3. In the SF 7200 zone, City Council approval of waivers or modifications of development standards for a public facility is authorized in SMC 23.51A.002. The location of the proposed generator requires Council to approve the following development standard modifications:

Development Standard	Code requirement	Requested
Front Yard *(SMC 23.44.014-A.1)*	20' front yard setback minimum for generator.	5'-7" front yard proposed for the actual generator.
Height of Fence in Yard *(SMC 23.44.014-D.10)*	6'average height.	8' average height.
Location of Fence/Wall in Yard (Utility Services Uses) *(SMC 23.44.022-K.2)*	Fences and freestanding walls to be no closer than 10" to the street lot line.	Portions of north and south retaining walls are proposed within 10' of the street lot line and western fence are proposed 1'-8" from street lot line.
Landscaping (Utility Services Uses) *(SMC 23.44.022-K.2)*	Landscaping required between street lot line and fence.	Provide landscaping between street lot line and fence except in the 6' access path and door from Beach Dr SW.

4. SPU evaluated three separate options for siting the generator at the project site. The code compliant version would be located at least 20 feet away from the front property line, which would result in its being located closer to two adjacent single family structures. A second option, to locate the facility completely underground, was also evaluated. In both cases, SPU determined that the costs of the other options were either more expensive or created more impacts on adjacent properties.

The following table shows the three options and costs related to each proposal:

Description	Proposed location	Underground location	Code-compliant location
Construction costs, including WSS tax	$153,181	$559,264	$155,358
Project management costs Soft costs	$196,596	$687,853	$353,031
TOTAL	$349,777	$1,247,117	$508,389

In addition, SPU developed an evaluation to assess the most suitable locations in the area of the project site. Four separate locations were considered, including the project site and two off site locations. Eight different criteria were used to evaluate each of the proposed locations including:

- Accessibility
- Proximity to existing pump station
- Operational efficiency
- Environmental issues
- Proximity to homes
- Noise, odor and visual impacts
- Cost
- Constructability

Alternative 1 – the proposed location requiring the four development standard modifications – scored the highest and also showed the lowest development costs.

5. The project was subject to environmental review (SEPA). SPU made its determination of non-significance on September 12, 2011. No comments were received before or after the determination, which ended September 26, 2011. No appeal was filed by October 3, 2011.

6. SPU submitted a Master Use Permit application in March 2012. A public comment period for the proposal ran from April 19, 2012 to May 16, 2012. Six adjacent property owners commented on the proposal; comments included:

- Questions regarding the validity of SPU's SEPA Declaration of Non-Significance determination and process; An EIS should have been required.
- Why isn't SPU constructing the generator underground?
- Why is the proposal planned on a Scenic Route under SEPA policies?

- The noise, air, odor and visual impacts from a diesel generator have not been addressed.
- The SEPA checklist omitted an American Eagle tree nest and otter habitat.

Pages 4-6 of DPD's recommendation documents DPD and SPU's responses to each of these questions.

7. 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.

8. The DPD Director recommends that the Council approve the four proposed modifications to development standards to accommodate the proposed location of the generator. DPD has recommended 2 conditions related to the proposed location, limiting the time and extent of testing and maintenance of the generator and requiring specific fencing and landscaping. DPD also adopted 7 SEPA conditions to mitigate construction impacts of the proposed generator, using SPU's SEPA determination.

8. During the Council review process, SPU provided additional detail related to the need to site the proposed generator in the proposed location. This included additional cost analysis related to locating the generator in a large underground vault. This would result in a new project requiring redoing SEPA and developing a new design and specifications, in response to neighbors concerns about the validity of SPU's cost estimates for such an option. SPU also provided testimony to address public comment concerning the need for a generator, given King County's proposed upgrades to its Combined Sewer Overflow project south of the project site (Lowman Beach site).

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. As the use has been established since 1957, Council does not need to authorize the use
3. DPD has the authority to allow expansions of a Utility Service Use when the expansion is less than 750 square feet. While the proposed expansion is less than 750 square feet, the proposed location of the generator and related infrastructure does not comply with four development standards in SMC Section 23.44. Council has the authority to waive or modify these standards as set forth in SMC 23.51A

4. The Council adopts the following findings by DPD concerning the criteria in SMC 23.76.050:

a. City departments and other governmental agencies provided input into the project; the Design Commissions concerns about the screening of the generator were incorporated in the final design;
b. Six public comments were received on the proposal. SPU and DPD considered the comments, as did the City Council. The City Council concludes that SPU and DPD have addressed the concerns and have incorporated changes or mitigating measures to address these concerns;
c. The project complies with land use code development standards, with the exception of the four development standard modifications related specifically to the placement of the generator and the elements to mitigate the visual impacts of the facility;
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 and the modification of development standards.

5. The Council concludes that SPU developed a detailed and thorough response to concerns raised by the Community about the proposal. The Council concludes that tying the SPU pump station into King County's proposed upgrade of its Murray Combined Sewer Overflow (CSO) facility is not practical or feasible due to the incompatible purposes of the two projects. They are in separate CSO basins. King County's project will reduce sewage overflows by constructing a 1 million gallon tank, while SPU's project will prevent overflows in the event of a power outage at its pump station by installing the permanent generator. Finally, the Council concludes that undergrounding the generator would result in significant increases in project expenses, to be borne by the City's rate payers that are not appropriate given the size of the generator and its relative impacts on the surrounding community.

Accordingly, The City Council now concludes that the concept and its related development standard modifications should be approved.

Decision

The City Council hereby **APPROVES** SPU's request to the request to install a 40 sq. ft. emergency generator on a 228 sq. ft. concrete pad and 20 cu. yds. of grading at 5080 Beach Drive SW, as reflected in C.F. 312087, and **GRANTS** the following modification of development standards for the project:

Development Standard	Code requirement	Requested
Front Yard *(SMC 23.44.014-A.1)*	20' front yard setback minimum for generator.	5'-7" front yard proposed for the actual generator.
Height of Fence in Yard *(SMC 23.44.014-D.10)*	6'average height.	8' average height.
Location of Fence/Wall in Yard (Utility Services Uses) *(SMC 23.44.022-K.2)*	Fences and freestanding walls to be no closer than 10" to the street lot line.	Portions of north and south retaining walls are proposed within 10' of the street lot line and western fence are proposed 1'-8" from street lot line.
Landscaping (Utility Services Uses) *(SMC 23.44.022-K.2)*	Landscaping required between street lot line and fence.	Provide landscaping between street lot line and fence except in the 6' access path and door from Beach Dr SW.

The Council also adopts the following conditions recommended by DPD:

RECOMMENDED CONDITIONS – TYPE V COUNCIL LAND USE DECISION
For Life of the Project

1. Maintenance testing of the proposed generator shall only occur once a month for 30 minutes around the noon hour. SPU may request additional times for testing from DPD if needed for emergencies or unforeseen circumstances. DPD will evaluate any requests. Any future generator's testing times and frequencies shall be the minimum amounts recommended by the manufacturer.

Prior to Issuance of the Building Permit and For Life of the Project
2. SPU shall use one of the wood fence designs chosen by the Design Commission and the specific design shall be provided in the building permit plans.

RECOMMENDED CONDITIONS - SEPA
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

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.

2. In order to further mitigate the noise impacts during construction, the owner(s) and/or responsible party(s) shall limit the hours of construction to between 8:00 a.m. and 5:00 p.m. on non-holiday weekdays. Construction activities outside the above stated limits, but within the limits of the Noise Ordinance (25.08), may be authorized by DPD when a Construction Management Plan is provided and approved.

3. During grading activities, watering of the site and uncovered materials in trucks shall be required to reduce construction dust.

4. For the duration of grading activity, the contractor or responsible party shall cease grad-ing activity truck trips to and from the project during the hours between 4:00 pm and 6:00 pm.

5. Abide by all regulations pertaining to archaeological resources, including but not limited to those listed in condition #2 above.

6. 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.

7. If human remains are encountered during construction or excavation, the owner and/or responsible parties shall:

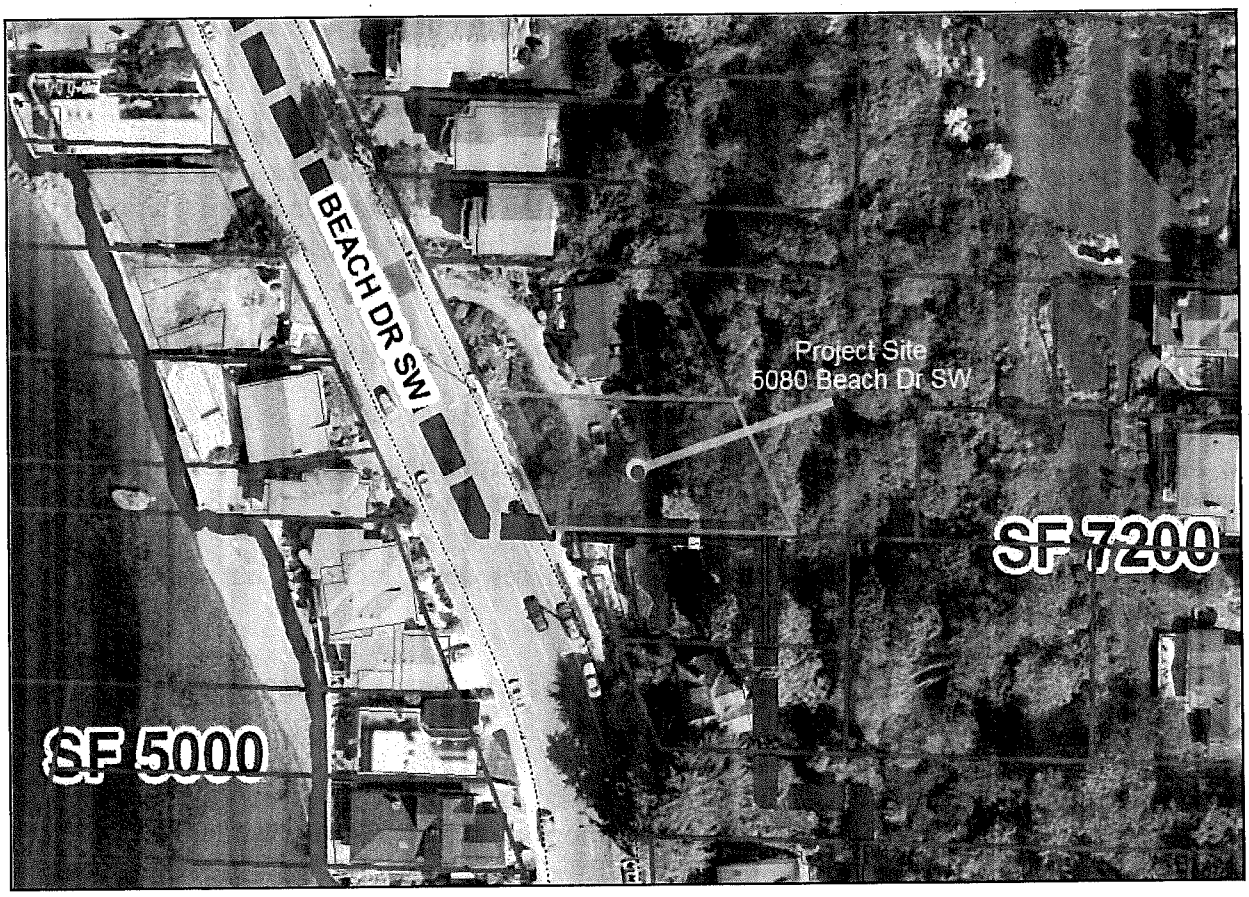
Stop work immediately and notify DPD (Lucas DeHerrera 206.615.0724) and the Washington State Archaeologist at The Department of Archaeology and Historic Preservation. Course of action will be determined by the appropriate regulating agency.

Dated this _____ day of _____, 2013.

_____

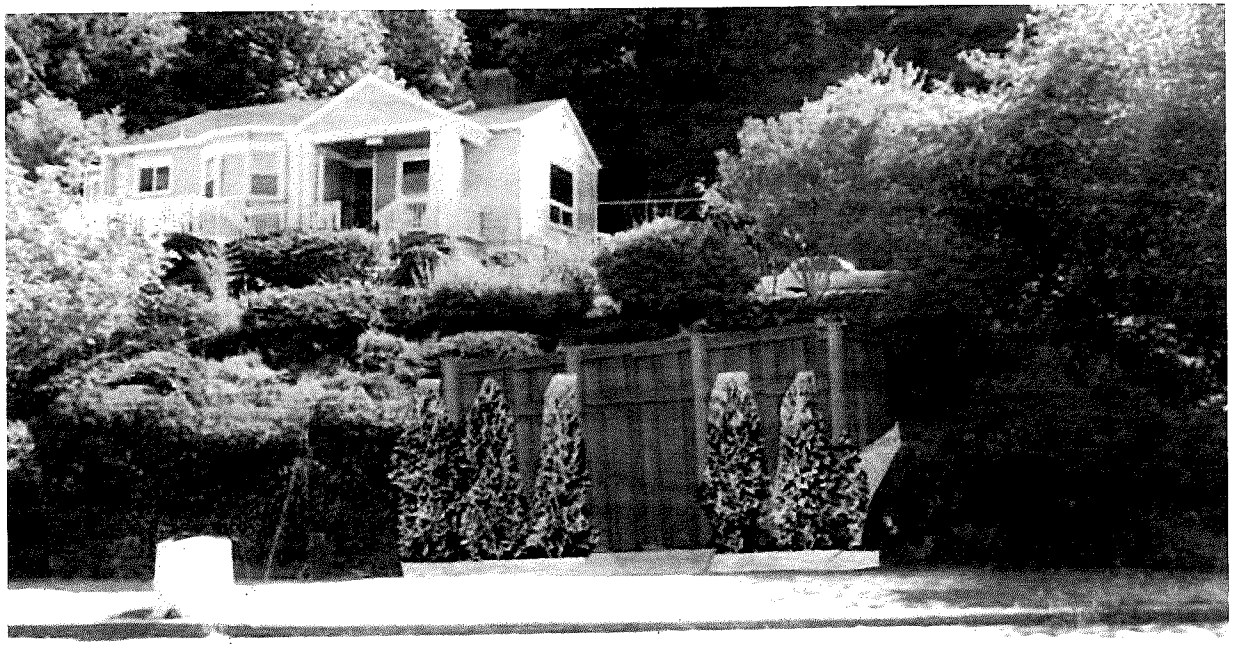
City Council President

ATTACHMENT A



MASTER USE PERMIT #3012748: PUMP STATION 39 EMERGENCY STANDBY GENERATOR INSTALLATION PROJECT (5080 Beach Drive SW)

Presented by:



Luis Ramirez
Project Manager

Young Kim
Project Engineer

SEATTLE PUBLIC UTILITIES

PURPOSE OF BRIEFING

1) Introduce SPU's Wastewater Pump Station (PS) Asset Management Program

2) Summarize Combined Sewer Overflow (CSO) Regulatory Compliance

3) Describe PS 39 setting and circumstances

4) Describe siting challenges for this project

5) Discuss SPU's Request for Council Waiver of Four Applicable Development Standards

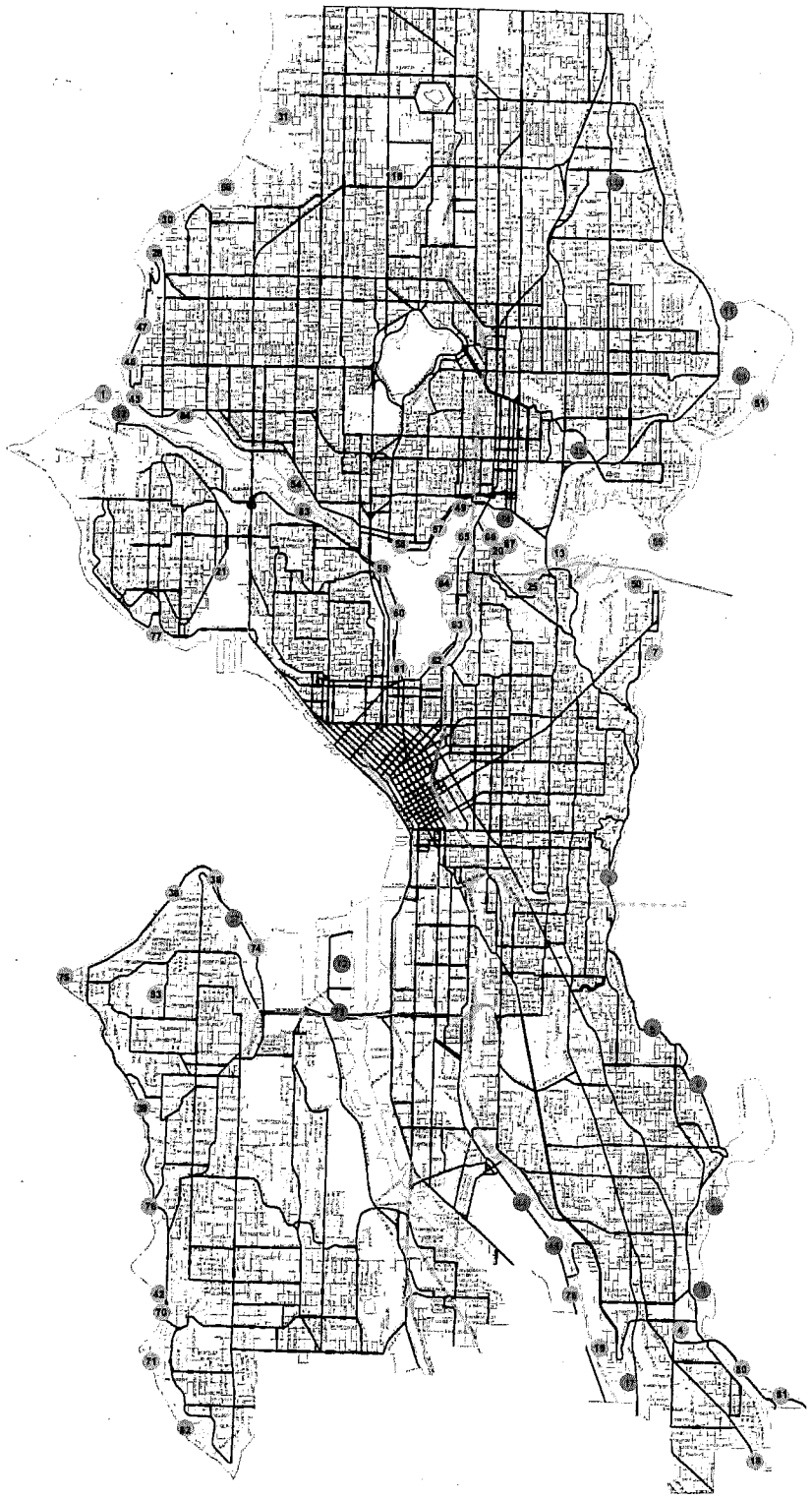
SPU PUMP STATION ASSETS

- 68 pump stations
- Mostly underground
- All within municipal limits
- Continuous wastewater conservancy even during power outages
- Emergency power:

17: permanent generator (●)

40: emergency plugs (portable generator)

11: hard-wire to portable generator



CSO REGULATORY COMPLIANCE

- **NPDES Waste Discharge Permit # WA0031682**
- **USEPA Administrative Order (Sept 2009)**

"...combined sewer overflows (CSO) that reach waters of the State are prohibited..."

"...achieve the greatest reasonable reduction of CSOs at the earliest possible date..."

"...must ensure that safeguards prevent CSOs during electrical power failures..."

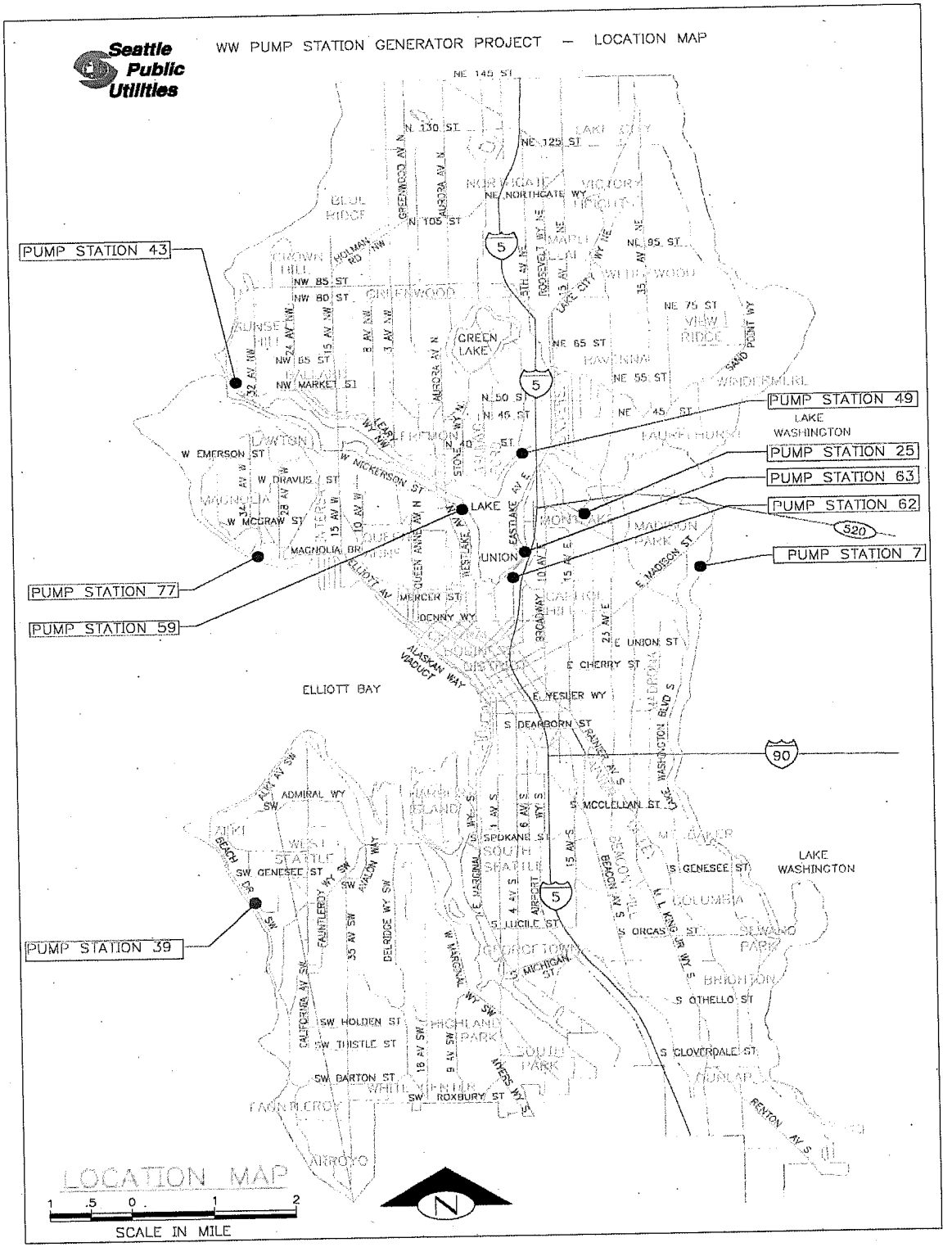
PUMP STATION BACKUP GENERATOR EVALUATION REPORT (Dec 2009)

- SPU determined 9 of 68 PSs required addition of a permanent generator to reduce risk of overflows during power outages.

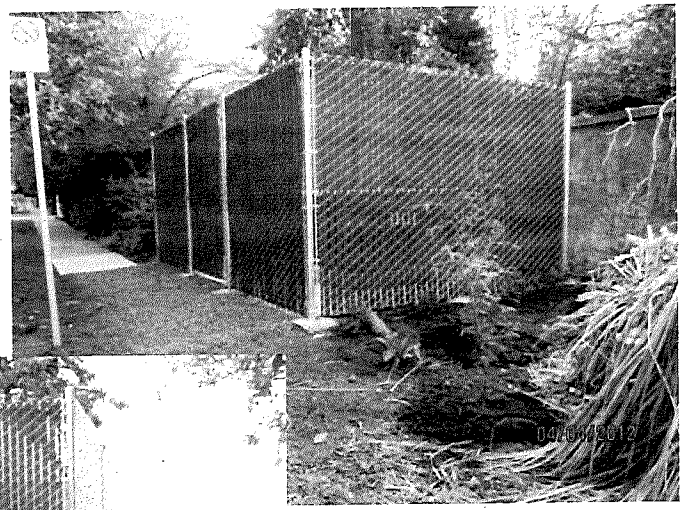
- In 2012, generators were installed at PSs 7, 25, 39, 43, 49, 59, 62, and 63—all in rights-of-way.

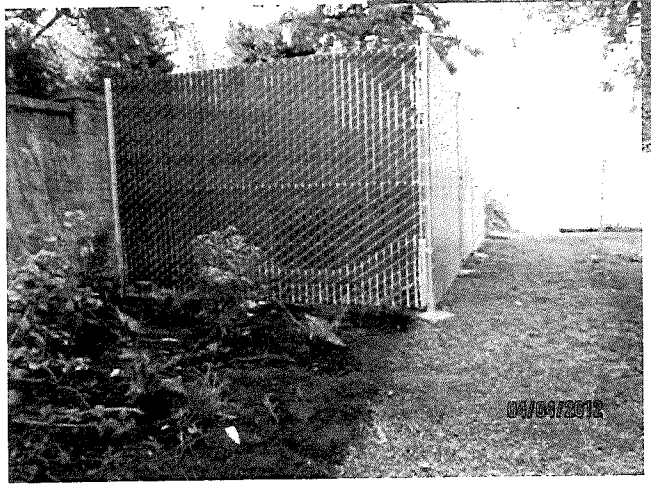
- USEPA granted SPU an extension to December 31, 2013 to install the required permanent generator at PS 39.

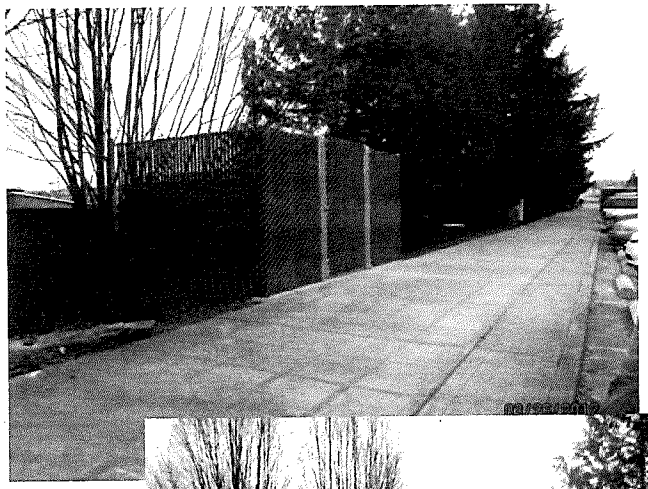
Eight Emergency Standby Generators Installed in 2012



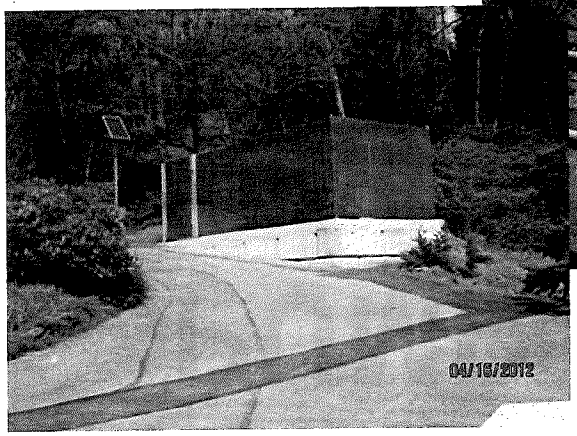
PS 7
Madison Park

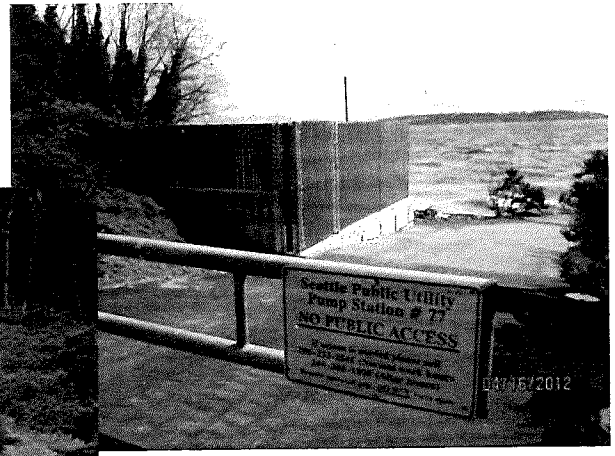






PS 59
West Lake Union

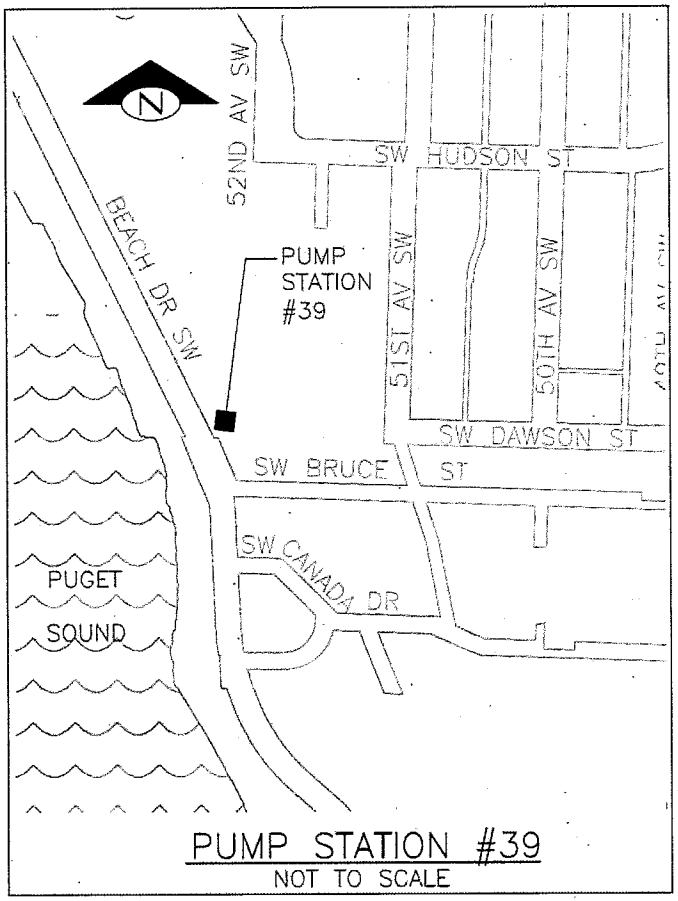


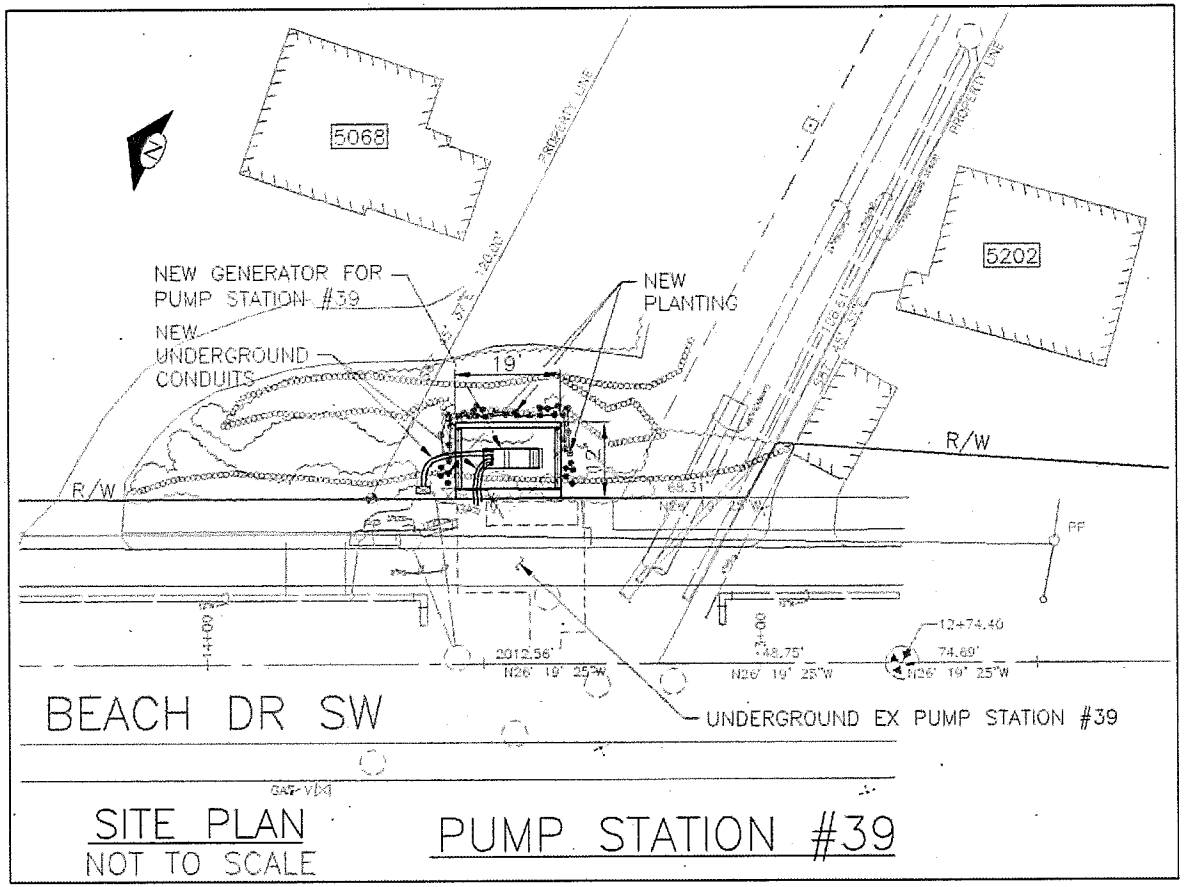


PS 77
Magnolia

PUMP STATION 39

- constructed in 1959
- underground
- overflows to Puget Sound



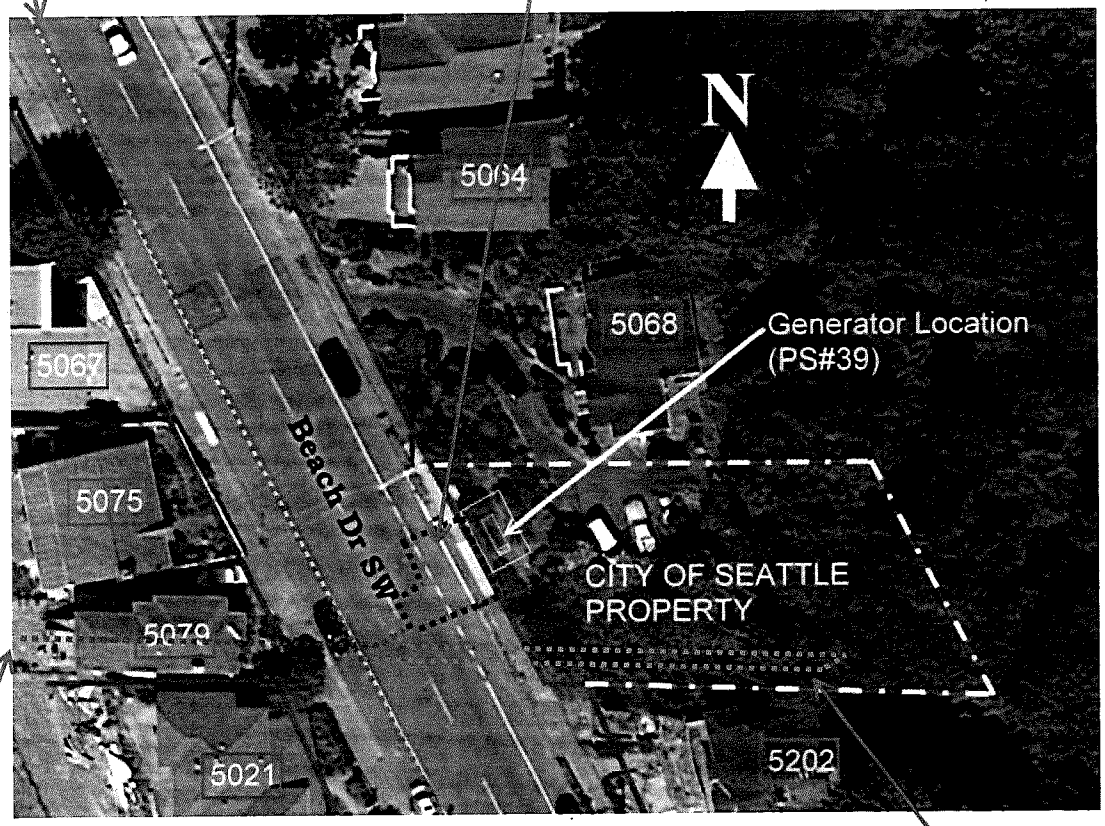


2010.06.07

07/11/2012

KING COUNTY
SEWER MAIN

PS 39 (underground)



OVERFLOW TO
PUGET SOUND

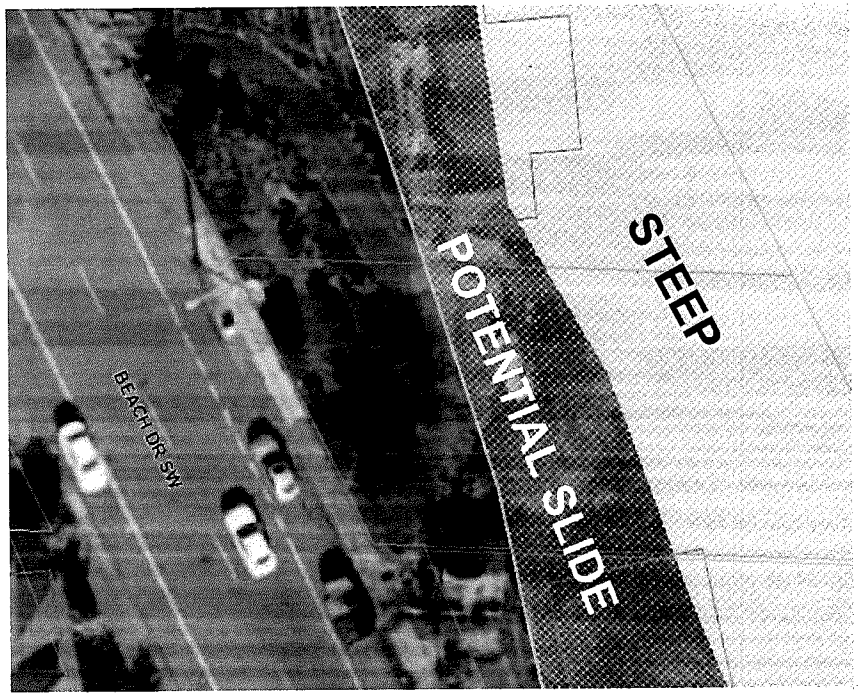
SPU SEWER PIPE

SITING CHALLENGES FOR PS 39 GENERATOR

- noise; aesthetics; emissions; construction in a Single Family zone
- environmentally critical areas
- construction and project costs

DESCRIPTION	PROPOSED FRONT YARD LOCATION	UNDERGROUND LOCATION	CODE-COMPLIANT LOCATION
Construction Cost w/WSS Tax	$153,181	$559,264	$155,358
Soft Cost*	$138,300	$480,000	$268,300
Subtotal Soft and Construction Cost	$291,481	$1,039,264	$423,658
Contingency (20%)	$58,296	$207,853	$84,731
Total Project Cost	$349,777	$1,247,117	$508,389

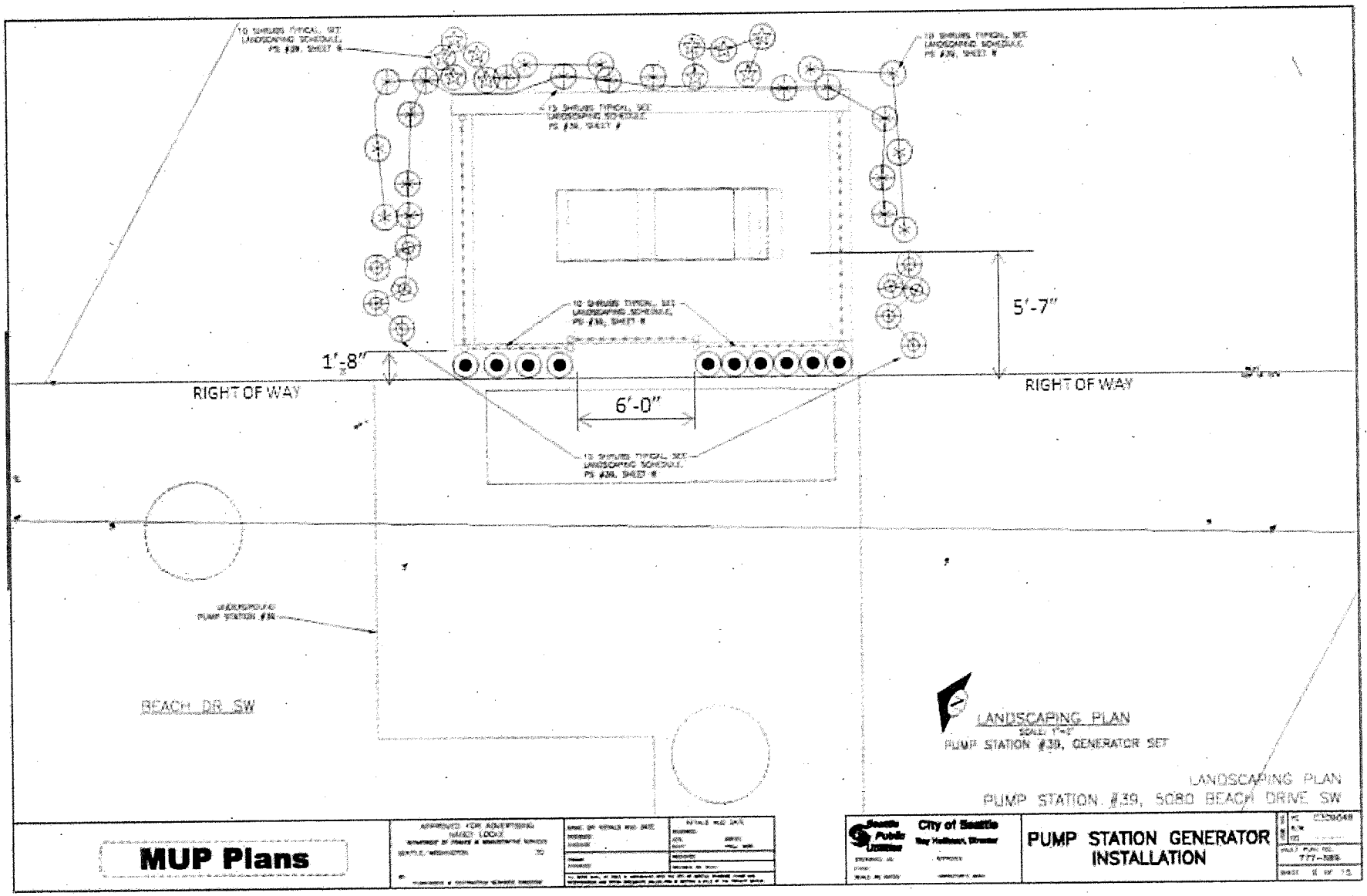
*Soft costs include project management, survey, geotechnical, basemap, engineering, construction inspection, and any other project costs not considered hard costs.



SPU REQUEST:
COUNCIL WAIVER OF FOUR APPLICABLE DEVELOPMENT STANDARDS

DEVELOPMENT STANDARD	CODE REQUIREMENT	PROPOSED
1) Front Yard *(SMC 3.44.014-A.1)*	20' front yard setback minimum for generator	5'-7" front yard proposed for the actual generator
2) Height of Fence in Yard *(SMC 23.44.014-D.10)*	6' average height	8' average height
3) Location of Fence/Wall in Yard (Utility Services Uses) *(SMC 23.44.022-K.2)*	Fences and freestanding walls to be no closer than 10' to the street lot line	Portions of north and south retaining walls are proposed within 10' of the street lot line; western fence is proposed 1'-8" from street lot line
4) Landscaping (Utility Services Uses) *(SMC 23.44.022-K.2)*	Landscaping required between street lot line and fence	Provide landscaping between street lot line and fence except in the 6' access path and door from Beach Drive SW

SPU REQUEST:
COUNCIL WAIVER OF FOUR APPLICABLE DEVELOPMENT STANDARDS



SPU REQUEST: COUNCIL WAIVER OF FOUR APPLICABLE DEVELOPMENT STANDARDS

	INITIAL PROPOSAL	ADDITIONAL MITIGATION
ENVIRONMENTALLY CRITICAL AREAS	Construct in Potential Slide and Steep Slope ECAs	Avoid Potential Slide and Steep Slope ECAs
VISUAL	• Install 8' high chain link fence with green slats • Construct stairwell	• Install 8' high wood fence recommended by Design Commission • No stairwell
NOISE	• Use standard sound-attenuating housing • Exercise generator once per week for 30 minutes around noon • Locate generator equidistant between two neighboring homes	• Use additional Level II muffler • Exercise generator once per month for 30 minutes around noon • Locate generator greatest distance from two neighboring homes
CONSTRUCTION	• Standard construction hours: 7am to 10pm weekdays; 9am to 10pm weekends and legal holidays • No dust control	• Limit construction to 8:00am to 5:00pm weekdays only • Water site and uncovered materials in trucks to control construction dust

INITIAL PROPOSAL FOR MUP

CURRENT PROPOSAL FOR MUP