



**CITY OF SEATTLE
ANALYSIS AND RECOMMENDATION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

DPD Application Number: 3013257
Clerk’s File Number: 312624
Applicant Name: Bonnie Lindner of HDR for Seattle Public Utilities (SPU)
Address of Proposal: 3939 Lake Washington Blvd S

SUMMARY OF PROPOSED ACTION

Council Land Use Action to allow a City facility in the shoreline environment consisting of a 380,000 gallon underground Combined Sewer Overflow (CSO) tank including an underground facility vault, flow diversion structure and force main in an environmentally critical area. Project includes 8,350 cu. yds. of grading. The existing parking lot is to be restored upon completion of the tank. Determination of Non-Significance has been conducted by Seattle Public Utilities.¹

The following Land Use approvals are required:

- **COUNCIL CONCEPT APPROVAL OF A CITY FACILITY**
To allow a utility service use in Single Family zone
Chapter 23.51A.002 + 23.76.064
- **SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT (SSDP)**
To allow a utility service use in a CR environment
Chapter 23.60
- **SHORELINE CONDITIONAL USE**
To allow a utility service use in a CR environment
Chapter 23.60.365²
- **STATE ENVIRONMENTAL POLICY ACT (SEPA)**
Chapter 25.05 (substantive conditioning)¹

SEPA DETERMINATION

- Exempt DNS MDNS EIS
- DNS with conditions
- DNS with conditions involving non-exempt grading or demolition or involving another agency with jurisdiction.¹

¹ DNS published by SPU on 5/23/2011
² Project relies on Ordinance # [124023](#).

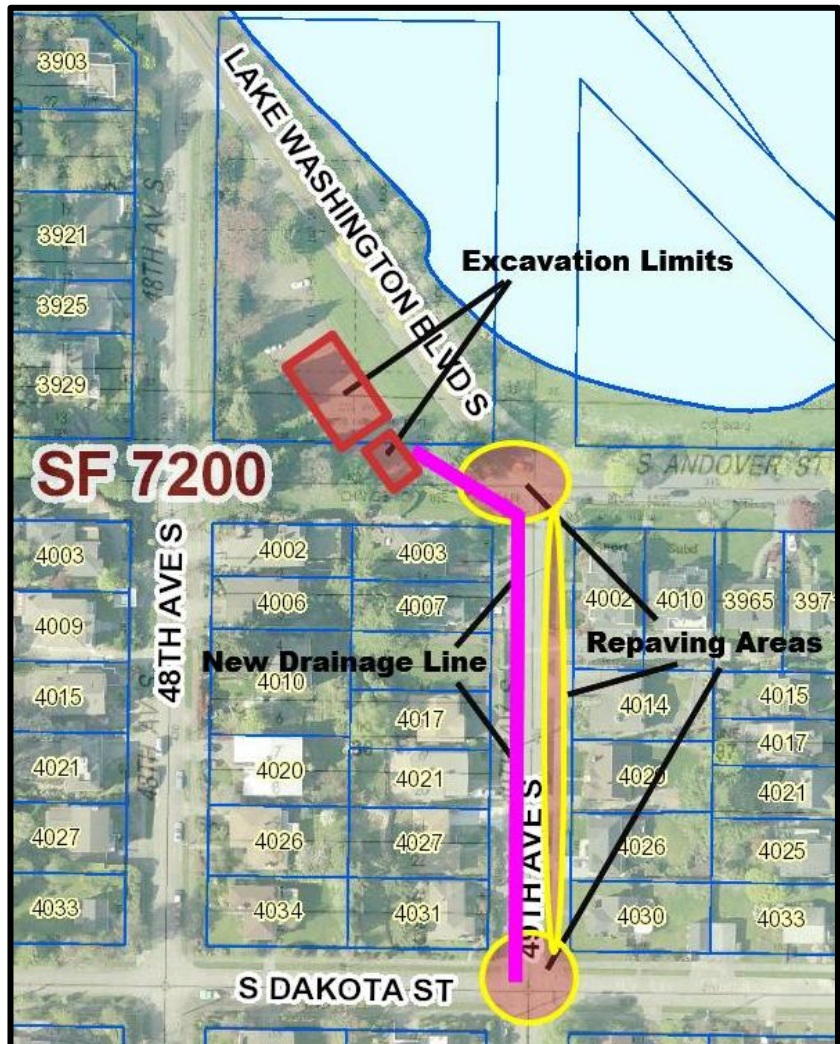
BACKGROUND AND PROPOSAL

SPU proposes to construct a 380,000 gallon underground combined sewer storage tank and associated facilities vault in an existing paved parking lot located at the northwest corner of the intersection Lake Washington Boulevard South and 49th Avenue South (See Site Area Map). Lake Washington Boulevard is a City park and is zoned Single Family 7200 (SF 7200). The proposed tank would be approximately 40' wide, 90' long, and approximately 27' deep. The tank is intended to temporarily store excess combined sewage from drainage Basins 40 and 41.

The below-grade facilities vault (known as CSO facility 11A) would be approximately 25' wide by 45' long by 12' deep. The storage tank and below-grade facilities vault would be underneath the existing parking lot immediately contiguous to Lake Washington Boulevard South. A small portion of the

tank and the entire vault are proposed to be located on a Parks owned parcel and within S Andover St, an unopened right-of-way and City park. This facilities vault would contain pumps, mechanical equipment, and other items associated with the flushing water system; HVAC equipment for the tanks atmospheric control facility; electrical gear including motor starters, control panels, and other instrumentation; and odor control equipment including the carbon scrubber vessel, odor control fan, and mist eliminator. The Site Plan below shows the proposed below grade tank and vault locations (buried structures) below the existing paved parking area. Three trees are anticipated to be removed with the proposal, one on Parks property and two in the right-of-way.

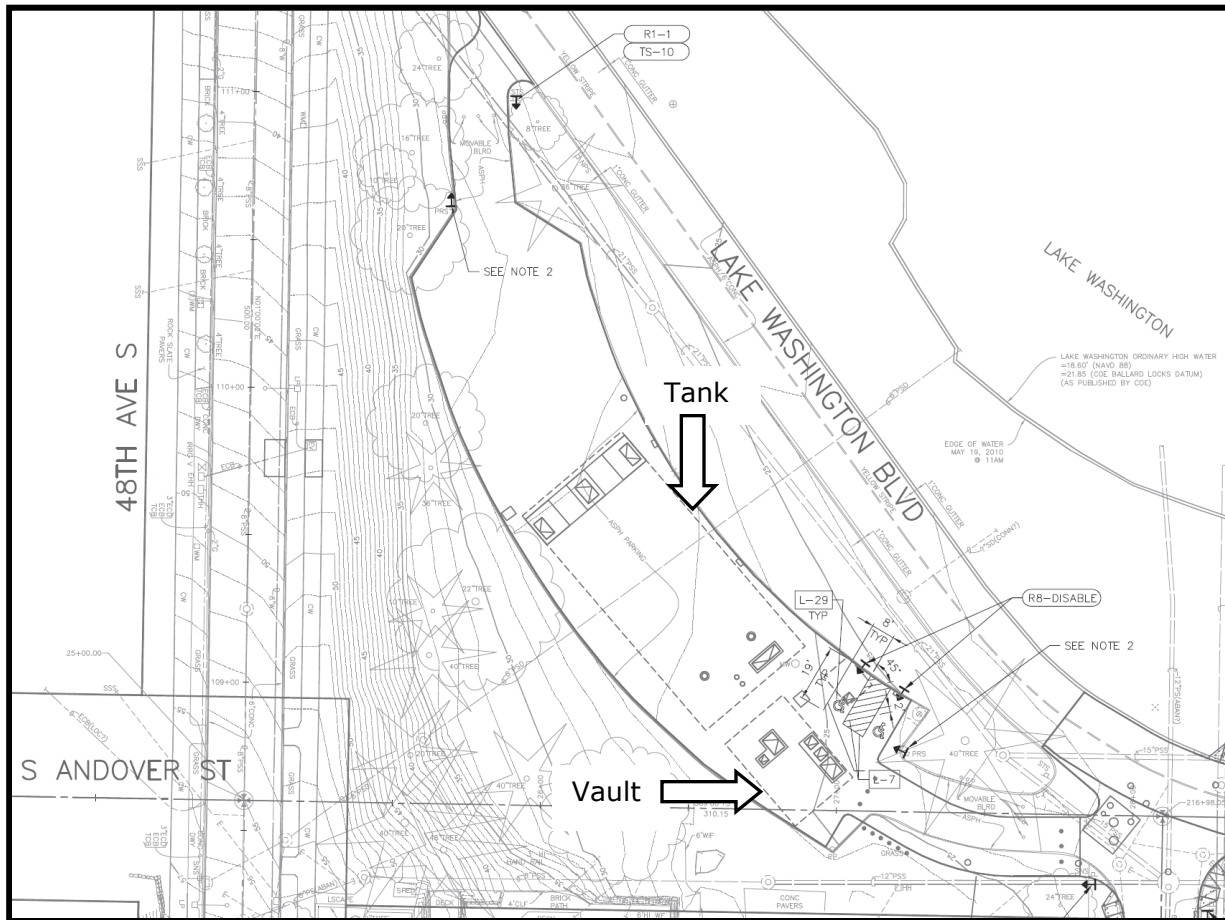
Utility services uses such as the proposal require Concept Approval from City Council in Single Family zones, which is a Type V Council Land Use Decision. City Council also makes the decisions on the projects associated Type II decisions, which are Shoreline Substantial Development Permit, Shoreline Conditional Use, and SEPA (conditioning only). In relation, another very similar underground CSO facility proposed by SPU is currently under review and that proposal is located seven blocks south of this proposal under DPD # 3014022 addressed 4608 Lake Washington Blvd S. The public hearing for that project is scheduled for February 22nd.



Site Area Map

The goals of the Genesee Combined Sewer Overflow (CSO) Reduction Project are to improve water quality in Lake Washington, protect the public health, improve the environment by reducing CSOs from the Genesee area, and meet State laws and regulations (RCW 90.48.480 and WAC 173-245-020(22)) that limit CSOs to a long-term average of no more than one untreated discharge per year per outfall .

The excess combined sewage that causes CSOs comes from stormwater that enters the combined sewer system. The sewers in the Genesee Basin were designed as combined sewers which convey both sanitary sewage and stormwater. In order to reduce CSOs into Lake Washington, some of the sewers were converted to partially separated, meaning that stormwater runoff from roofs and foundation drains enter the sanitary sewer system while stormwater from roadways enters a separated stormwater system. Some portions of the Genesee Area have fully separated sewer systems, meaning that sanitary sewage and stormwater are collected and conveyed in two separate pipe systems.



Site Plan

For combined systems and partially separated systems, under wet weather conditions, flows are a combination of sewage and stormwater. As long as the flow volumes are within the capacity of the sewer system, all of the flows are sent to the wastewater treatment plant. However, if the flow volumes exceed the capacity of the sewer system, the excess volume of sewage and stormwater is discharged into receiving water bodies through outfalls.

This is called a combined sewer overflow (CSO). To reduce untreated discharges, facilities are required to treat the combined sewage and stormwater, or temporarily store until the combined sewer system can again handle the flow volumes.

The Genesee Area is located in southeast Seattle near Genesee Park and Seward Park on Lake Washington. It is approximately 700 acres in size and encompasses seven basins: Basins 37, 38, 40, 41, 42, 43 and 165. Currently, Basins 40, 41, and 43 do not meet the overflow limit frequency of one overflow per year.

To convey flows to the storage tank, SPU would need to modify the existing CSO Facility 11. CSO Facility 11 is located along South Dakota Street from 50th Avenue South to 49th Avenue South. A new 6' diameter, 15' deep diversion structure would be installed near the intersection of 49th Avenue South and South Dakota Street. The diversion structure would convey excess flows from CSO Facility 11 to the proposed tank. The project also proposes a diversion sewer line from the new diversion structure to a second diversion structure located at the intersection of Lake Washington Blvd S and 49th Ave S. A discharge force main would be located within the parking lot to convey flows from the proposed storage tank back into the combined sewer in order to empty the tank.

Right-of-Way Improvements

The concrete pavement and curbs of 49th Avenue South, extending from the intersection of South Dakota Street to Lake Washington Boulevard, would be replaced as part of this project due to by the installation of an upgraded sewer line diversion sewer from CSO Facility 11 on South Dakota Street to proposed CSO Facility 11A. All pavement on 49th Avenue South and Lake Washington Boulevard would be replaced in accordance with Seattle Department of Transportation (SDOT) street restoration requirements, and include the upgrading of seven ADA-compliant curb ramps along 49th Avenue South, and the installation of a new ADA-compliant curb ramp along the south edge of Lake Washington Boulevard.

An approximate 100-foot section of asphalt pavement on Lake Washington Boulevard would also be replaced due to the installation of the Diversion and Overflow Structure, its appurtenant piping, and a drainage reconfiguration of the 49th Avenue South and Lake Washington Boulevard intersection.

Approximately 30 street trees (from the approved list of small trees) would be planted along 49th Avenue South as part of right-of-way improvements associated with street restoration. Trees would be spaced approximately 25 feet on center along the planting strip.

Stormwater Improvements

As required for the project, a GSI feasibility evaluation was conducted as part of the design process in accordance with Director's Rule 1009-17, SMC 22.800-808, and the City's stormwater manual (Director's Rules 15-2009 through 18-2009). Results of the evaluation indicate that physical limitations, including steep slopes and conflicts with below- and above-ground utilities preclude GSI best management practices (BMPs) other than tree retention and planting.

However, the project proposes to use Filterra® tree planter boxes in the right-of-way to provide stormwater treatment that meets the basic water quality treatment requirements for both the parcel and right-of-way portions of the project. The sizing and location of the Filterra units was designed to treat the total new plus existing Pollution Generating Impervious Surface (PGIS) area of the project.

Environmentally Critical Areas

The Environmentally Critical Areas maps for the City show the tank, northern diversion structure, and staging area are within the 100-foot “Shoreline Habitat” buffer. These maps also identify three other ECAs in the project area: 40% Steep Slopes, Landfill and fringe wetlands located along the shore of Lake Washington to the northeast of the parking lot site. Further discussion on the ECAs is provided in the SEPA analysis below.

The Shoreline Master Program shoreline environment designation for the parking lot project site is Conservancy Recreation (CR). All project features within the parking lot, the force main, northern diversion structure and approximately 130 of the 450 feet of the 24-inch-diameter diversion sewer are within the 200-foot shoreline jurisdiction. These features, however, are all located within existing paved areas.

ANALYSIS – COUNCIL LAND USE ACTION

Recommendation criteria to Council are outlined in SMC 23.76.050-A and require the Director to write an evaluation of the proposal based on the standards and criteria for the approval sought and consistency with the applicable City policies. Seattle’s Comprehensive Plan identifies policies that speak to various issues addressed by the proposed facility. The proposal is a Type V - Council Land Use Decision for concept approval of a City facility in Single Family 7200 (SF 7200) zone.

Report of the Director

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

SPU did conduct public outreach and meetings for the project prior to submitting the application to DPD. From those public meetings, SPU maintains their own email and mailing lists as well as public comments, all which informed the project prior to submittal to DPD.

The MUP plans were referred to the Parks Department for comment. SPU submitted to Seattle Department of Transportation for their Street Improvement Permit (SIP). At this time SDOT has approved the 30% SIP design for the project and the consultants for SPU (HDR) are close to 60% SIP approval. As a result comments from SDOT aren’t necessary due to the SIP process being so far along in the review process. DPD contacted the SDOT project manager; no comments were needed from SDOT for Council’s review. SDOT’s reviews are very technical which won’t have an effect on Council’s decision for the project.

Parks Department Comments:

1. Project entails repaving of parking lots. Per federal law, this triggers the requirement to provide ADA parking stalls, including at minimum one van-accessible stall in each lot. Actual number of stalls required depends on number of parking spaces in lot. ADA-compliant cross-slopes, striping, signage, and curb ramps will all be required as applicable. (Sheets 78, 54, 190, 195)
2. Provide details regarding proposed siting and site restoration associated with electrical control boxes for NPDES 40/41 & NPDES 43.
3. Provide artist rendering/perspective of proposed electrical control boxes for NPDES 40/41 and NPDES 43 for use in communicating how these boxes will actually look once installed.

Seattle Design Commission

Because of the small amount of area that will be disturbed, and the lack of significant plantings or other improvements above grade, the Design Commission will not be reviewing the project (SMC 3.58.010 + .020). Communication from Design Commission is located in the file.

2. *Responses to written comments submitted by interested citizens;*

Public Comment

The required comment period for this proposal was held from November 8th, 2012 to December 7th. DPD received 4 public comments for this application, one of the commenters simply requested a better site plan and one was mailed to the commenter. The comments are summarized as follows:

Comment 1

This is an opportunity to restore the existing parking lot to a green area. Lake Washington has plenty of public access points and parking, this site is not needed. Drug dealings, drug use, loud music and murder (police reports) occur in the parking lot. It is strongly suggested not pave the area.

Comment 2

Make the parking lot smaller and move it closer to Lake Washington Blvd. Many police calls are a result of loud parties, fighting and drug dealing. Shrinking and moving the parking lot to be more visible may cut down on police calls.

Comment 3

Do not repave the parking lot, the park is lovely but parking invites noise and disruption to the neighborhood. Consider removing concealing vegetation which encourages and shields bad behavior.

Public Comment Response

Seattle Parks & Recreation (Parks Department) is the City department that has jurisdiction over the parking lot site and its usage. According to the Parks Department, Lake Washington Boulevard is a regional destination park that draws visitors from both the local area as well as the region. Based on the historical usage of the parking lot, the Parks Department does not believe that elimination or a reduction in the size of the parking lot is warranted. Regarding inappropriate behavior and criminal activity in the parking lot, the Parks Department does not condone any inappropriate or illegal activities in the parking lot. However, the Parks

Department has identified that there are enough legitimate uses and activities in the parking lot such that the parking lot should be neither reduced in size nor eliminated. Regarding landscaping, the Parks Department supports “Crime Prevention through Environmental Design” (aka, CPTED), which is defined as “the proper design and effective use of the built environment which can lead to a reduction in the fear of crime and incidence of crime, and to an improvement in the quality of life.” Planting of new landscaping on the parking lot site will incorporate CPTED principles to discourage criminal activity.

3. *An evaluation of the proposal based on the standards and criteria for the approval sought and consistency with applicable City policies;*

The following is a summary of those standards and their evaluation based on City Policies:

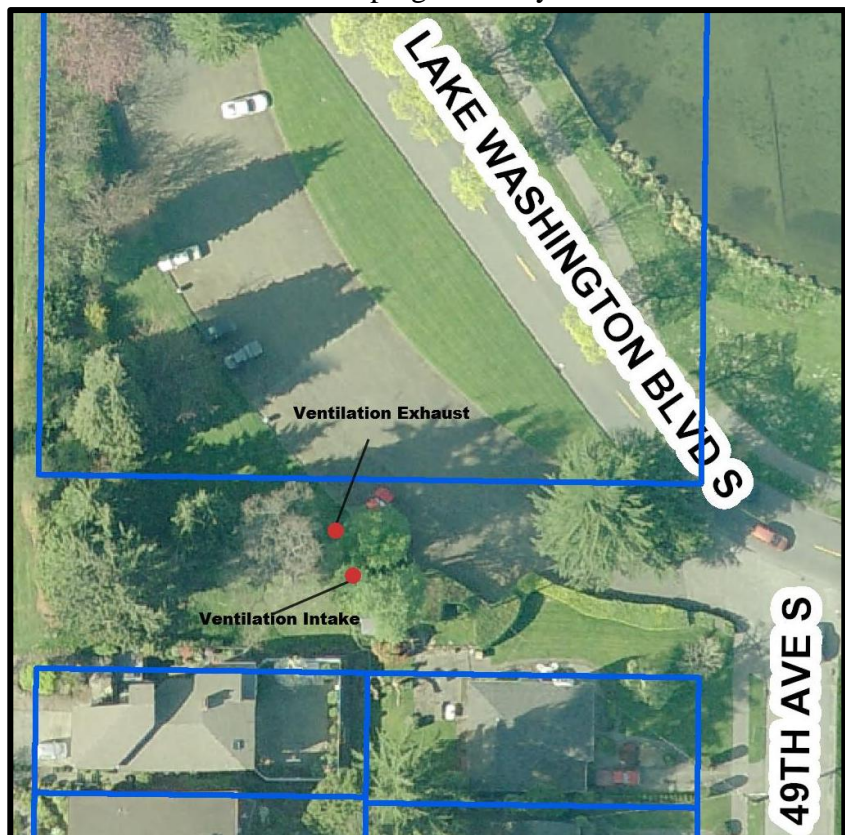
- Analysis under applicable development standards (SMC 23.44.008-.016 + .022)
- Analysis of the proposal based on Shoreline Policies (SMC 23.60).
- Analysis under Seattle’s ECA Code (SMC 25.09).
- Analysis under Seattle’s Comprehensive Plan.

Evaluation of Development Standards

Per SMC 23.51A.002-B, the proposal is subject to the requirements of 23.44.022 for Institutions as well as the development standards for uses permitted outright found in SMCs 23.44.008-.016.

A succinct analysis of 23.44.022 is appropriate, but most of the requirements and standards do not apply due to the structure’s proposed underground location. The two requirements that are applicable, section H. Noise and Odors and section I. Landscaping are analyzed below.

The only feature of the development that would fall under the Noise and Odors provisions are the air vents, HVAC plenums. The two vents (intake and exhaust) are proposed to be located in the landscaped area between the existing parking lot and single family homes to the south within an unopened portion of S Andover St. The vents are proposed approximately 25’ away from the residences to the south. The plenums are not designed or anticipated to have odor. Potential noise from the project could be generated by motors for the HVAC supply and exhaust Fans, Odor Control Unit Supply Fan, and/or Water Supply and Booster Pumps.



Proposed Ventilation Intake and Exhaust Locations

All motors and equipment will be located within the concrete walls of the underground structure. Any noise generated from the motors would need to be transmitted through the at-grade access hatches to reach the above-grade environment. The manufacturer lists the noise level emanating from the fan of 100 dBA at 4 feet. Noise levels reduce by approximately 6 dBA when the distance is doubled. Noise levels also reduce as they are absorbed by materials, such as the concrete structure and access hatches. The calculation of noise levels emanating from the below-grade structure that could be heard above-grade has not been completed. The construction permit will have a Noise Ordinance review to ensure compliance with the Noise Ordinance.

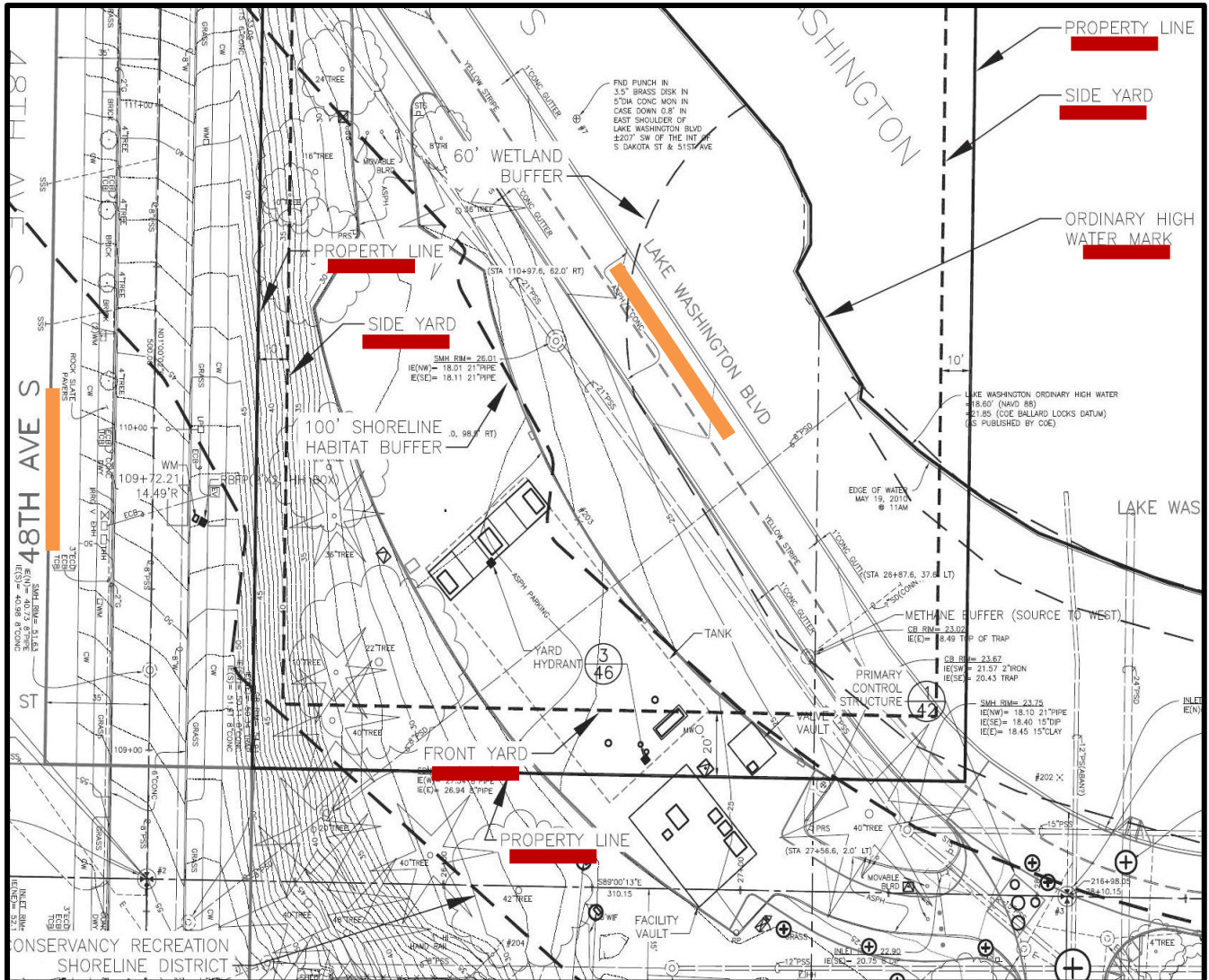
The Landscaping provision requires integration with the adjacent areas; reduction for the potential for erosion or stormwater runoff, reduce the coverage of the site by impervious surfaces, screen parking from adjacent residentially zoned lots or streets or to reduce the appearance of bulk of the institution. In this case the Parks Department is reviewing the application and has provided specific comment on all facets of the project including landscaping, no further analysis is necessary. The proposal is to repave the parking lot in generally the existing configuration which requires compliance with the drainage code.

The following is analysis of the underlying single family zoned development standards that also apply to the project.

D. General Provisions

1. New or expanding institutions in single-family zones shall meet the development standards for uses permitted outright in Sections 23.44.008 through 23.44.016 unless modified elsewhere in this subsection or in a Major Institution master plan.

The proposal meets all development standards of SMC 23.44.008-.016. Yard (setback) standards do not apply to the proposal as no portion of the proposal will project above existing grade and existing grade will be restored after the tank and vault facilities are constructed. The proposal and its components meet the definition of “underground,” as defined in 23.84A.040 – “U.” The graphic below shows the relationship of the tank and vault structures with the property line and required front and side yards to provide reference.



Facility Location and Required Yards

Environmentally Critical Areas

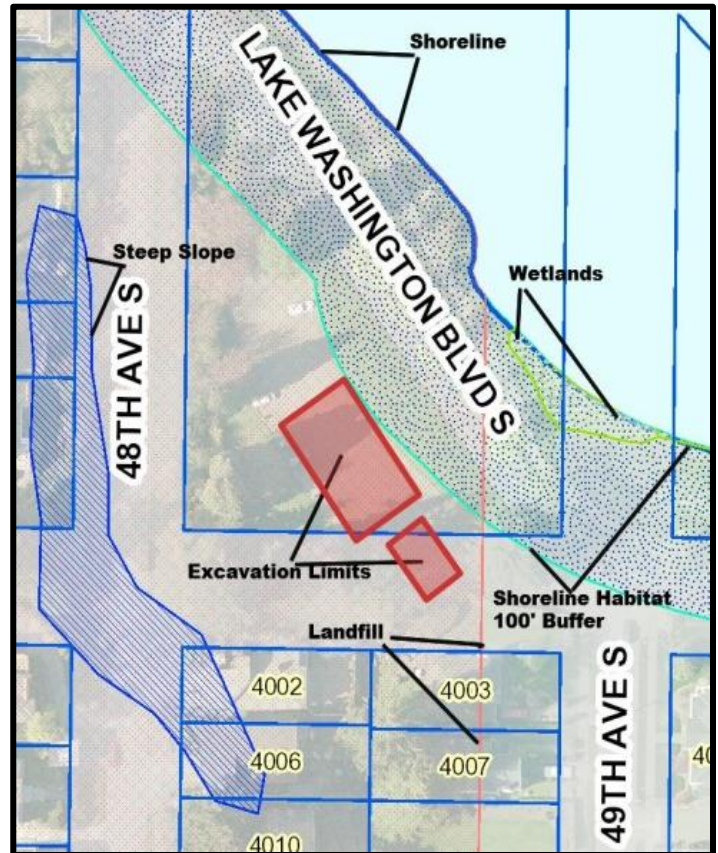
The development area surroundings contain the following mapped ECAs: 40% Steep Slope, Landfill, Shoreline Habitat buffer (100') and Wetlands as depicted to the below. Seattle Public Utilities has executed an ECA Exemption pursuant to SMC 25.09.045-H.3.b for the cited Wetlands. The signed ECA exemption is located in the project file.

DPD determined during plan review that the Steep Slope mapped on west side of 48th Ave S qualifies for the criteria established in SMC 25.09.180-B.2.b, the Steep Slopes were created by previous legal grading associated with street improvements and park development.

Comprehensive Plan

Related to the proposal's function as a utility and City Council's required public involvement, the project meets Comprehensive Plan Goals UG1, UG2, UG3, UG4, UG5 and policies U3, U4, U7, U9, U12, U14, U16, U17 and U19 (maintenance of utilities, reliability, and improvements to deficiencies in utility service, correcting combined sewer overflows, work with community on siting, consider opportunities for incorporating open space).

4. All environmental documentation, including any checklist, EIS or DNS



Mapped ECAs

DPD's recommendation on the Concept approval for the location of the City facility, SEPA conditioning analysis and recommendation, SPU's issued SEPA DNS and SEPA checklist, Briefing Memo Genesee Area Alternatives, Phase I Environmental Site Assessment, Genesee CSO Reduction Project Noise Assessment, Genesee Construction Closure Traffic Impacts Analysis, Alternative 40/41b Environmental Review, The Geotechnical Analysis, Cultural Resources Inventory, Wetland Delineation Report and the associated plans are part of this report and will be transmitted to Council.

5. The Director's recommendation to approve, approve with conditions, or deny a proposal.

The facility proposal is consistent with the City's applicable land use policies, in that it "strives to correct instances of combined sewer overflows by prioritizing remedial action according to the frequency and volume of the overflow and the sensitivity of locations where the overflows occur."³

RECOMMENDED DECISION – COUNCIL CONCEPT APPROVAL

DPD's recommendation is to **approve** the proposal with conditions as analyzed under applicable SEPA and Shoreline policies and codes.

³ City of Seattle Comprehensive Plan Policy U14 – Utilities 6.5

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

SMC 23.60.030 of the Seattle Municipal Code provides criteria for review of a Shoreline Substantial development permit and reads:

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 Shoreline Management Act (See recommended conditions 1-4 below).

A. *The Policies and Procedures of Chapter 90.58 RCW*

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. 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. This policy contemplates 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 generally 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.

The Shoreline Management Act 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 adopted a shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60. 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. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

B. *The Regulation of Chapter 23.60*

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program." In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SSMP 23.60.030. Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (*shoreline conditional use*, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SSMP 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SSMP 23.60.004, and meet development standards for all shoreline environments established in SMC 23.60.152 as well as the criteria and development standards for the shoreline environment in which the site is located, any applicable special approval criteria and the development standards for specific uses.

Each of these elements is evaluated below in the order they are listed in the Shoreline Master Program. The shoreline designations for the area of work are Conservancy Recreation (CR) (SMC 23.60.220 + 23.60.360-.400).

SMC 23.60.004 – Shoreline goals and policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and location criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. The purpose of the CR environment is stated in SMC 23.60.220-C.3:

Conservancy Recreation (CR) Environment

a. Purpose.

The purpose of the CR shoreline environment is to protect areas for environmentally related purposes, such as public and private parks, aquaculture areas, residential piers, underwater recreational sites, fishing grounds, and migratory fish routes. While the natural environment is not maintained in a pure state, the activities to be carried on provided minimal adverse impact. The intent of the CR environment is to use the natural ecological system for production of food, for recreation, and to provide access by the public for recreational use of the shorelines. Maximum effort to preserve, enhance or restore the existing natural ecological, biological, or hydrological conditions shall be made in designing, developing, operating and maintaining recreational facilities.

b. Locational Criteria.

- (1) Dry or submerged lands generally owned by a public agency and developed as a park, where the shoreline possesses biological, geological or other natural resources that can be maintained by limiting development,
- (2) Residentially zoned submerged lands in private or public ownership located adjacent to dry lands designated Urban Residential where the shoreline possesses biological, geological or other natural resources that can be maintained by limiting development;

8,350 cubic yards of grading (cut and fill) is proposed for all work associated with construction including grading in the right-of-way. 3,300 cubic yards of fill will be used for whole project. The project includes a re-vegetation plan, which includes the landscaped area between the parking lot and Lake Washington Blvd and also some new plantings between the parking lot and 49th and in S Andover St.

The project would reduce untreated combined sewer overflows into Lake Washington which currently occur an average of 4.2 times per year in basin 40 and 9.2 times per year in basin 41. Goals of the CSO reduction are improved shoreline ecosystem as it relates to water and shoreline quality, habitat for juvenile salmonids and other wildlife.

In summary, the proposal is consistent with the CR environment's purpose.

SMC 23.60.064 - Procedures for Obtaining Shoreline Substantial Development Permits

This application has followed the procedural requirements for a Master Use Permit as specified in subsection A. SMC 23.60.064 also provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter 23.60, and with RCW 90.58.020 (State policy and legislative findings).

Per SMC 23.60.064-C, in evaluating whether a development which requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that:

- 1. The proposed use is not prohibited in the CR environment and underlying zone in which it would be located:*

CR Environment

The existing Park use is a permitted use per SMC 23.60.360-A under the definition of “Shoreline recreation” (SMC 23.60.936-S). The Park use will remain and the site restored to its current form upon completion of the tank.

The proposed CSO facility is considered a “Utility services use” per SMCs 23.60.940 and 23.84A.040. Utility service uses (CSO facility) are permitted by Shoreline Conditional Use pursuant to SMC 23.60.365-D⁴. Utility services uses are not prohibited in the underlying Single Family 7200 zone, but require Council Concept approval (Type V Council Land Use Decision) per SMC 23.51A.002-B and SMC 23.76.062 - .064.

- 2. The development meets the general development standards and any applicable specific development standards set forth in Subchapter III, the development standards for the shoreline environment in which it is located, and any applicable development standards of the underlying zoning, except where a variance from a specific standard has been applied for:*

The conformance of the project with the general Shoreline development standards and development standards in the shoreline environments in which the project is located is discussed below.

The proposal conforms to the Single Family zoning development standards; see the analysis is located above in the Director’s Report section titled “Evaluation of development Standards.”

- 3. If the development or use requires a conditional use, variance, or special use approval, the project meets the criteria for the same established in Sections 23.60.034, 23.60.036 or 23.60.032, respectively.*

⁴ Project relies on Ordinance # [124023](#), effective 2/18/13.

ANALYSIS - SHORELINE CONDITIONAL USE

The project requires a Shoreline Conditional Use approval per SMC 23.60.365-D. The criteria for Shoreline Conditional Uses are based the criteria in WAC 173-27-160:

The purpose of a conditional use permit is to provide a system within the master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program.

(1) Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:

(a) That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;

The goals of the Genesee Combined Sewer Overflow (CSO) Reduction Project are to improve water quality in Lake Washington, protect the public health, improve the environment by reducing Combined Sewer Overflows from the Genesee Area, and meet State laws and regulations (RCW 90.48.480 and WAC 173-245-020(22)) that limit CSOs to a long-term average of no more than one untreated discharge per year per outfall.

The proposal is compliant with RCW 90.58.020 as the main goal for the installation of the tank is to reduce combined sewer system overflows into Lake Washington thereby increasing water quality and reducing pollutants in shoreline environment. Reduction of CSO occurrences serve both state and local interests for the health of our surrounding waters and shorelines. The proposal will not alter the shoreline as it currently existing and is proposed within the boundaries of an existing paved parking lot that provides public access to the Park and Lake Washington. The impervious surface area will not be expanded but the parking lot is to be repaved and replaced and will be required to comply with the current drainage code.

The existing public access to the site which is very good will not be reduced; the park area, parking lot and access will be restored upon completion of the facility. The pedestrian path along the Lake will not be closed during construction. The proposal's underground location will allow the existing public access and recreational opportunities for the public to continue for years to come.

(b) That the proposed use will not interfere with the normal public use of public shorelines;

The finished proposal will not affect normal public use of public shorelines; during construction some access may be limited due to construction activities.

(c) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;

Considering the facilities below grade proposed location, the tank will be compatible with surrounding uses as it is unmanned and its existence will be screened from surrounding uses, mostly Single Family residences. The future land use anticipated by the comprehensive plan for the area is single family residential areas and city owned open space.

This proposal is compatible with Single Family uses and open spaces based on its below grade design which will allow the park to remain in its current function and usability.

SPU will conduct scheduled maintenance twice annually for the odor control facilities for three to four hours at a time. During these maintenance activities, untreated air may be bypassed around the carbon media using the fan or the fan may be turned off and the foul air is allowed to remain in the storage tank or sewer pipes. During this period, some odors may be present immediately around the odor control facility.

(d) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

Considering the nature of the use and its intended goals the proposed use won't cause significant adverse effects to the shoreline, but rather should accomplish the opposite by reducing untreated pollutants in the shoreline environment.

(e) That the public interest suffers no substantial detrimental effect.

The proposal will not have substantial detrimental effects to the public interest but rather positive effects by untreated reducing pollutants and maintaining the park use for the foreseeable future.

(2) In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

There are no other installations that require conditional use similar to the proposal of which DPD is aware. DPD recently published a recommendation to approve another SPU proposed CSO facility 7 blocks south of the subject proposal, but it did not require Shoreline Conditional Use approval. The DPD project number for the other CSO facility is 3014022 - 4608 Lake Washington Blvd S.

(3) Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.

Not applicable.

(4) Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (1) or (2) of this section.

Not applicable.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environment. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. These general standards of the SMP state, in part, that all shoreline development 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.
- Not release oil, chemicals or other hazardous materials onto or into the water.
- 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;
- 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;
- Be located, designed, constructed, and managed in a manner that minimizes adverse impacts on surrounding land and water uses and is compatible with the affected area; and
- Be located, constructed, and operated so as not to be a hazard to public health and safety.

The proposal, as designed and conditioned below, would not adversely affect the quality and quantity of surface and ground water on and adjacent to the site on a long-term basis. No planned discharge of solid wastes would occur. Spillage of petroleum or diesel products must be avoided and contained should it occur. No intentional release of oil, chemicals, or other hazardous materials shall occur. Erosion would not result from the development. Impacts to fish and wildlife and shoreline processes are minimized. Long-term impacts to surrounding land and water uses are also minimized. Some vegetation will be cleared with this proposal, but a re-vegetation plan part of the project. No hazard to public safety or health is proposed by this development. Navigation channels will not be affected. The proposal would not affect existing shoreline stabilization. No submerged public right-of-way or view corridors would be significantly affected. The conditions noted at the end of this report, which are based on the criteria of SSMP 23.60.152, ensure that the project conforms to the goals and regulations of the Seattle Shoreline Master Program. The public interest suffers no substantial detrimental effect from the proposal.

SMC 23.60.390-400 Development Standards for CR Environment

The proposal meets all development standards relating to, natural beach protection, height, lot coverage, view corridors, and public access.

C. The Provisions of Chapter 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). Since DOE has approved the Seattle Shoreline Master Program, any project consistent with the criteria and procedures of SMC 23.60 is also consistent with WAC 173-14 and RCW 90.58.

CONCLUSION

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC, RCW and with the regulations of SMC 23.60, Seattle Shoreline Master Program. The specific standards for development in the shoreline environment will be met by the proposed development.

Pursuant to the Director's authority under Seattle's Shoreline Master Program to ensure that development proposals are consistent with the policies and procedures, and conform to specific development standards of the underlying zone, and having established that the proposed use and development are consistent with the Seattle Shoreline Program, with the recommended conditions below the proposal is recommended for approval. Further DPD finds that the criteria found in WAC 173-27-160 are satisfied in order to allow the proposed Utility service use and the proposed development as a Shoreline Conditional Use.

RECOMMENDED DECISION – SHORELINE CONDITIONAL USE

DPD recommends the Shoreline Conditional Use Permit be **GRANTED** by City Council.

RECOMMENDED DECISION - SSDP

DPD recommends the Shoreline Substantial Development Permit be **CONDITIONALLY GRANTED** by City Council.

ANALYSIS - SEPA

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and Seattle's SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

Disclosure of the potential impacts from this project is made in the environmental checklist submitted by the applicant dated May 17th, 2011. DPD has analyzed the environmental checklist, reviewed the project plans and the supporting information in the file. As indicated in the information, this action may result in some adverse impacts to the environment. However, due to their temporary nature and limited effects, the impacts are not expected to be significant with conditioning. A discussion of these impacts, short and long term, is warranted.

Short - Term Impacts

Construction Impacts

Construction activities (grading, shoring, tank/vault construction, pipe installation, asphalt/concrete breaking paving, landscaping and associated electrical work) for project could result in the following adverse impacts: construction dust, emissions from construction machinery and vehicles, increased particulate levels, increased noise levels, occasional disruption of adjacent vehicular and pedestrian traffic, and a small increase in traffic and parking impacts due to construction workers' vehicles. Several construction related impacts are mitigated by existing City codes and ordinances applicable to the project, such as: Noise Ordinance; Street Use Ordinance; Grading and Drainage Code; Noise Ordinance; Environmentally Critical Areas Ordinance; Tree Protection Ordinance, Land Use Code and Building Code. Following is an analysis of the applicable SEPA policies.

The Street Use Ordinance includes regulations that mitigate dust, mud, and circulation. Temporary closure of sidewalks and/or traffic lane(s) is adequately controlled with a street use permit through the Seattle Department of Transportation.

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant. The project is anticipated to take 16 months to complete construction between 2013 and 2015. From Lake Washington Boulevard South from approximately 51st Avenue South northward will be fenced for Seafair activities. A temporary suspension of construction activities in the right-of-way to accommodate more-than-usual numbers of users of the Park facilities is anticipated during these activities and other special events.

SPU will maintain a website for the project to inform the public of progress and specific construction phases. The website will provide contacts for surrounding residents to communicate with the contractor during the construction process. Contacts and phone numbers will also be distributed to nearby property owners. Conditioning is warranted (recommended SEPA condition #5) to ensure the public outreach plan is in place prior to the commencement of construction.

Road Closures and Construction Traffic

The construction of the facility will require temporary closure of some City streets to complete the work with only local access permitted. Below is a summary from the traffic closure analysis conducted by HDR, SPU's consultant for the project. This summary itemizes the temporary street closures (local access only) anticipated and their timing of right-of-ways that will be affected during construction.

Horizontal directional drilling of electrical conduit along South Alaska Street from 54th Avenue South to 53rd Avenue South.

- Expected closure of South Alaska Street with local access only during an approximate 2 week construction period.

Horizontal directional drilling of electrical conduit along 53rd Avenue South from South Alaska Street to Lake Washington Boulevard South.

- Expected closure of 53rd Avenue South with local access only during an approximate 2 week construction period.

Under the road closure condition, traffic will operate at acceptable levels. Delay will increase at several study area intersections; however, all intersections will maintain at least LOS B operations, with most intersections seeing very little change in operations under the closure conditions. The consultant concluded that four recommendations can further minimize traffic disruption during construction:

- 1.) Advanced public notice and signage should be provided for expected closures.
- 2.) Phase construction so local access to driveways is maintained.
- 3.) Flaggers should be used for heavy vehicle traffic on Lake Washington Blvd.
- 4.) Lake Washington Blvd Trail should be rerouted with as little impact to operations.

DPD has reviewed the report and agrees with the four recommendations of the traffic consultant to minimize traffic disruption. SPU has incorporated these recommendations into the project specifications that the contractor is required to follow so SEPA conditioning is not required.

The estimated truck traffic is 24 truck trips per day (645 total) for the anticipated 27 days of excavation. For the filling activity, the estimated truck traffic is 24 truck trips per day (260 total) for the anticipated 11 days of filling activity. In order to mitigate impacts from truck traffic during construction, for the duration of the grading activities, DPD recommends that the contractor be required to cease weekday grading truck trips during weekdays from 4:00 pm and 6:00 pm (recommended SEPA condition #8). This condition will assure that truck trips do not interfere with daily PM peak traffic in the vicinity.

Construction Vehicles and Grading

Construction is expected to temporarily add particulates to the air and will result in a slight increase in auto-generated air contaminants from construction worker vehicles; however, this increase is not anticipated to be significant. Federal auto emission controls are the primary means of mitigating air quality impacts from motor vehicles as stated in the Air Quality Policy (SMC 25.05.675).

Existing City code (SMC 11.62) requires truck activities to use arterial streets to every extent possible. City code (SMC 11.74) provides that material hauled in trucks not be spilled during transport. The City requires that a minimum of one foot of “freeboard” (area from level of material to the top of the truck container) be provided in loaded uncovered trucks, which minimizes the amount of spilled material and dust from the truck bed en route to or from a site.

An impact not always mitigated in other city code requirements is dirt/dust created by excavation materials onto the adjacent streets system and surrounding residences. Considering the proposed 8,350 cu. yds. of grading and its proximity to single family homes and the right-of-way, SEPA conditioning is warranted to mitigate impacts of particulates in the air and street system. During grading activities repeated wetting of the soils during grading activities and in uncovered trucks to keep dirt and dust impacts to a minimum is required (recommended SEPA condition #9). Also to mitigate constructions vehicles transfer particulates into the street system, the contractor shall make provisions to wash vehicle tires, wheels and exteriors leaving the site (recommended SEPA condition #10).

Construction Noise

Noise associated with excavation could adversely affect surrounding uses in the area, which include residential uses.

SPU stated in SEPA checklist that “Noise from construction operations at either project may occur between the hours of 7 a.m. and 7 p.m. on weekdays and between 9 a.m. and 7 p.m. on weekends and legal holidays. Nighttime work is not currently anticipated.”

After review of the SEPA checklist and noise assessment report and due to the proximity of the project site to residential uses, DPD finds the limitations of the Noise Ordinance to be inadequate to mitigate the potential noise impacts to surrounding residential uses. Pursuant to the SEPA Overview Policy (SMC 25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675 B), mitigation is warranted. SPU submitted a noise assessment analysis for the project outlining code requirements, anticipated impacts and proposed mitigation measures.

Noise Ordinance General Limits

General Construction

Monday – Friday 7:00 a.m. until 10:00 p.m. Saturdays, Sundays and Holidays 9:00 a.m. until 10:00 p.m.

High Impact Work

Monday – Friday 8:00 a.m. until 5:00 p.m. Saturdays, Sundays and Holidays 9:00 a.m. until 5:00 p.m.

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).

Further, SPU has cited the following self mitigating specifications to reduce noise impacts (recommended SEPA conditions # 11-14):

- 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.
- Minimize idling time of equipment and vehicle operation.
- Conduct noise monitoring to ensure compliance with the SMC if noise complaints are received during construction.
- 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.

As necessary, SPU will implement appropriate additional noise measures, possibly including changing the location of stationary construction equipment, shutting off idling equipment, rescheduling construction activity, notifying adjacent residents in advance of construction work, or installing acoustic barriers around stationary sources of construction noise.

Long - Term Impacts

The following long-term or use-related impacts, slight increase in demand on public services and utilities; and increased energy consumption are not considered adverse; furthermore, other City Departments will review in detail the service requirements needed to meet the project impacts/demand.

Environmentally Critical Areas

The parcel contains the following mapped ECAs: 40% Steep Slope, Shoreline Habitat buffer (100'), Landfill and Wetlands as depicted above.

It was determined during review that the Steep Slope mapped on south side of the Lake Washington Blvd does not extend north across Lake Washington Blvd S and as a result, there are no Steep Slopes or buffer impacted by the proposal. Also, the work is proposed outside of the wetland buffer and is determined to be exempt per SMC 25.09.045-F and SPU has executed an ECA Exemption pursuant to SMC 25.09.045-H.3.b for the cited Wetlands. The signed ECA exemption is located in the project file.

Environmental Health

The goals of the proposed Project are to improve water quality in Lake Washington, protect the public health, improve the environment by reducing CSOs from the Genesee area, and meet State laws and regulations (RCW 90.48.480 and WAC 173-245-020(22)) that limit CSOs to a long-term average of no more than one untreated discharge per year per outfall .

Noise

The finished project will not have long term noise impacts due to its underground placement and will be within noise levels of The Noise Ordinance. The construction and mechanical permits will receive noise reviews for compliance.

Plants and Animals

Existing vegetation at the parking lot consists of mowed grass and a large Deodar cedar tree. Along the perimeter of the site other trees are present including Black locust, European mountain ash, and flowering cherry. The majority of the site is paved. All of the existing vegetation is regularly maintained as part of the park. The parking strip areas along 49th Avenue South construction area are vegetated with mowed grass.

There is mowed grass between the street and the sidewalks on both sides of 49th Avenue South.

Three trees are planned to be removed as a result of the project. The proposal is exempt from SMC 25.11 (Tree Protection Ordinance) per SMC 25.11.030-D.

No mitigation is necessary or required.

Historic and Cultural Preservation

Historical Research Associates (HRA) conducted a cultural resource inventory for project. The archival research indicated that there is a high probability for identifying prehistoric or ethnohistoric hunting and harvesting activities within the project area due to its proximity to the shoreline of Lake Washington; however, most of this alternative is in paved areas.

As a result, HRA conducted a pedestrian survey of all exposed areas and excavated 25 shovel probes. No cultural materials were identified. HRA recommends monitoring ground disturbing activities in paved areas.

Even though the shovel probes don't show indication of places or objects, conditioning is required per City of Seattle Director's Rule 2-98 to require that any city or contracted employee should be made aware of what cultural resources might be encountered pursuant to Director's Rule 2-98 as well as if resources of potential archaeological significance are encountered during construction or excavation (recommended SEPA conditions #s 6, 15 and 16).

RECOMMENDATION - SEPA CONDITIONING SUMMARY

In conclusion, adverse effects on the environment resulting from the proposal are anticipated to be non-significant. Meeting the conditions stated below and analyzed above, the project will be compliant with SEPA policies.

Existing codes and development regulations applicable to this proposed project will provide sufficient mitigation and with analyzed and recommended conditioning the project will be compliant with SEPA policies.

This analysis was done after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes DPD's substantive SEPA conditioning and recommendation to City Council.

RECOMMENDED CONDITIONS – TYPE V COUNCIL LAND USE DECISION

None.

RECOMMENDED CONDITIONS – SSDP

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

4. 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.

RECOMMENDED CONDITIONS – SHORELINE CONDITIONAL USE

None.

RECOMMENDED CONDITIONS – SEPA

Prior to Commencement of Construction

5. 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

6. 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. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

7. 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).
8. 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.
9. During grading activities, watering of the site and uncovered materials in trucks shall be required to reduce construction dust.
10. 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.
11. 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.
12. Minimize idling time of equipment and vehicle operation.

13. Conduct noise monitoring to ensure compliance with the SMC if noise complaints are received during construction.
14. 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.
15. 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 de Herrera 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.
16. 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.

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

Date: February 14, 2013