

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

In the Matter of the Application of

CF 312299

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

For Council Conditional Use approval

DPD Project Nos.:  
3012914, 3013346

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**Introduction**

The applicant, King County Department of Natural Resources, Wastewater Treatment Division, has applied for Council Conditional Use approval to allow a public facility in a Single Family zone, with modification of required setbacks. The project consists of upgrades to the North Beach Pump Station to prevent combined sewage overflows into Puget Sound, and to fulfill permit requirements of the National Pollutant Discharge Elimination System.

The public hearing on this application was held on December 6, 2012. Represented at the hearing were the Director, Department of Planning and Development (DPD), by Ben Perkowski, Senior Land Use Planner; and the applicant King County, by Pamela Erstad, Real Property Agent. The record was held open after the hearing for purposes of the Hearing Examiner's inspection of the site.

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

**Findings of Fact**

1. King County Department of Natural Resources, Wastewater Treatment Division (King County) is proposing upgrades to the North Beach Pump Station which is located at 2458 NW Blue Ridge Drive. The upgrades include a new electrical/mechanical building (approximately 12'x55'x15'), a 525 square-foot below-grade mechanical room, and a 432 square-foot below-grade odor control vault. Also included in the proposal is the up-sizing of an influent pipeline on the property, from 18-inch diameter pipe to 36-inch diameter pipe. The pipe carries sewage from local sewer lines to the pump station, where it is pumped, conveyed and eventually treated at the West Point Treatment Plant.

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2. The upgrades are associated with the placement of a wastewater storage tank within the public right of way adjacent to the existing North Beach Pump Station; the storage tank is reviewed under a separate process, and is not the subject of this application for Council Conditional Use approval.

3. In addition to the above upgrades, the existing access road to the site will be replaced and extended to loop around to the north end of the pump station property, in order to improve access for maintenance vehicles. New landscaping would be installed at the pump station and new right-of-way improvements (e.g., sidewalk, curbs and fencing). An existing fence that surrounds the site would be restored or replaced to restrict public access. Bioretention facilities would be installed to treat stormwater runoff. The existing rockery retaining wall along the southwestern boundary would be modified or replaced to facilitate site grading and construction.

4. The proposed upgrades are part of the North Beach Combined Sewer Overflow (CSO) Control Project; the purpose of the project is to prevent untreated CSO discharges to Puget Sound. Under the federal standards administered by the state Department of Ecology, no more than one untreated CSO discharge event per CSO outfall per year on average is allowed. In 2011, North Beach Pump Station experienced 15 overflow events, and the historic average is 10 events. This average equates to approximately 2.2 million gallons of untreated stormwater and wastewater discharging into Puget Sound.

5. The project site is the existing North Beach Pump Station site, which is in the Blue Ridge neighborhood. The site is zoned Single Family 7200 (SF 7200). Blue Ridge Park, a private park with access to the local community only, is located adjacent to and northeast of the pump station.

6. The new above-grade electrical/mechanical building will be 15 feet above grade, and will be lower in elevation than nearby houses. See. Ex. 11, p.11. The building would be located along the west property line where there is an existing berm. The other facilities would be located below-grade to minimize their visual impacts.

7. The up-sizing of the existing 18-inch influent pipeline to a 36 inch pipe, will involve placing new pipe, precast manholes and a cast-in-place overflow structure. All components will be below grade. Most of the excavation associated with the pipeline work will occur within the Shoreline Urban Residential (UR) environment, but some minor overexcavation will occur in the Conservancy Recreation (CR) environment. The work area within the CR environment will consist primarily of temporary operation of equipment that will be used for excavation. An easement is being obtained from the Blue Ridge Club Inc., a private entity, for work in the CR Environment.

8. The proposal will include a new odor control system (the pump station currently does not have odor control facilities) to treat air from the station and from the new CSO storage tank in the street.

9. A bioretention planter is proposed to capture stormwater runoff from the new building's roof. Stormwater from the site will be routed to an on-site catch basin and to a wet well for treatment at the West Point Treatment Plant. Pervious pavements will be used at the site to reduce runoff.
10. New landscaping, fencing and street improvements are also proposed, including several landscape features and a fence design that have been selected by the North Beach community during public outreach meetings with the County; see Ex.11.
11. The trees on the site and along Triton Drive NW and NW 100<sup>th</sup> have been evaluated. Most of the existing landscaping at the site, including a crab apple tree and a rhododendron will be removed, due to location and condition. The new landscaping on the site includes a vine maple west of the above-grade building, sod and low-maintenance shrubs. Trees in the street right-of-way will also be removed and replaced pursuant to the SDOT permitting process for the CSO storage facility in the right-of-way.
12. Construction activities may take up to 24 months. The work will occur in phases. The proposed work area is within a gated private park, and it is anticipated that this park will be affected for approximately 4-10 months, during which the eastern-most edge of the park will be fenced off because of work at the site. However, the picnic and playground area to the north of the work area will remain open to club members. Construction-related traffic will include heavy construction trucks and construction workers' vehicles moving to and from the construction site. Excavation hauling and delivery of concrete and fill material would require approximately 1,800 truck trips, primarily during the first six months of construction activity. SDOT is currently reviewing a Street Improvement Plan to address construction-related road closures, temporary traffic re-channeling, and a traffic control plan, which must be approved prior to commencement of construction activities.
13. Noise associated with construction activities has been evaluated, and the applicant has proposed a number of measures to ensure that the project will comply with the City's Noise Ordinance (Ch. 25.08); see Ex. 6 and 7.
14. King County as lead Agency for the project issued a SEPA Determination of Nonsignificance (DNS) on April 21, 2011. The DNS was not appealed. DPD has reviewed the checklist and the DNS, and has recommended conditions to mitigate impacts, as described in pages 19-20 of the DPD analysis, Ex.16.
15. DPD has reviewed the proposal pursuant to its authority under SEPA to condition the project, and has concluded that most of the project's potential impacts are adequately addressed by existing City Codes and Ordinances. DPD has recommended a few additional conditions, primarily related to construction, to mitigate the project's impacts, which are set forth in the Director's Analysis and Recommendation.

16. The applicant seeks modifications to four development standards. The applicant proposes a reduction of the required 10-foot side yard setback under SMC 23.44.022. The proposal reduces the side yard setback to six feet (including a one-foot wide arbor to screen the adjacent residential garage) for the new above-ground ancillary building, and a five-foot waiver for the proposed below-ground ancillary building and vault are requested. The County notes that is necessary to reduce the setback because of the location of the existing driveway adjacent to the proposed building. The location of many underground pipes and ancillary utilities at the site prevent the new building from being located elsewhere on the site.

17. The applicant also seeks a reduction of the front yard setback required by SMC 23.44.022. The above-ground portion of the ancillary structure will encroach 10 feet into the required 20-foot front yard setback. The reduction is sought in order to provide access for equipment to service both new and existing buildings, and because locating the structure in the setback allows more light and air to reach the property to the south of the site. The project also includes the placement of an eight-foot tall decorative fence along the front of the property, the same height as the existing fence. The fence design has been selected by the community at North Beach, and will be placed in the same perimeter location as the existing fence.

18. The applicant seeks a modification of the minimum driveway width required by SMC 23.54.030. The proposal includes an extension of the existing driveway, creating a loop so that maintenance vehicles will no longer need to back up onto the street, and also allowing access to pumps located in the CSO drain vault for operation and maintenance activities. The proposed driveway width at the southern end of the site will meet the minimum width requirements of 15-20 feet. But the new driveway at the north end of the site will range from 15 feet to 8.5 feet in width.

19. The applicant also seeks a waiver from the parking standards of SMC 23.54.015.H. There are currently no designated parking spaces at the pump station. The site is gated with no public access. Instead, the proposed buildings are for maintenance purposes and are used infrequently and County equipment is on the site for short durations. There is adequate area for two maintenance vehicles at the site, and the applicant requests that the project not be required to add designated parking spaces.

20. The project will also require a Shoreline Substantial Development permit from DPD to allow expansion of a utility service in the Urban Residential (UR) Shoreline environment. The project also involves some minor excavation and material storage activities which will likely occur in the Conservancy Recreation (CR) environment. The use is permitted outright in the UR environment, and is a special use within the CR environment. DPD has therefore reviewed the project under the general development standards in SMC 23.60.152 as well as the applicable special use criteria of SMC 23.60.032. DPD has determined that the applicable standards of Ch. 23.60 SMC are met, and that a shoreline substantial development permit should be granted. The Director

will issue the shoreline permit and file it with the state Department of Ecology after the City Council issues its decision on the Council Conditional Use.

21. No written public comments were submitted to DPD and no public testimony was offered at the public hearing. One comment letter was submitted to the Hearing Examiner, indicating that the commenter had no objections to the project as long as the building was no more than one story and didn't affect views..

22. King County has for some time been engaged with the North Beach neighborhood to solicit input on the proposal, conducting public meetings and site tours for neighbors and working with individual neighbors who are adjacent to the site. The County has also been working closely with the Blue Ridge Club Inc., the community entity which owns the private park adjacent to the site, regarding access, landscaping, security and other issues. The project's landscape plantings and fencing are based on community input. The County will be conducting regular meetings with the North Beach residents during construction and has established for project website to keep the public informed about the status of construction.

#### Codes

23. SMC 23.44.036 provides that: *"Public facilities may be permitted in single-family zones as a council conditional use, according to the provisions of 23.51A.002. Public facilities include, but are not limited to, police precinct stations, fire stations, public boat moorages, and utility services uses."*

24. SMC 23.51A.002 provides:

*A. Except as provided in subsections B, D and E of this Section 23.51A.002, uses in public facilities that are most similar to uses permitted outright or permitted as an administrative conditional use under Chapter 23.44 are also permitted outright or as an administrative conditional use, subject to the same use regulations, development standards and administrative conditional use criteria that govern the similar use. The City Council may waive or modify applicable development standards or administrative conditional use criteria according to the provisions of Chapter 23.76, Subchapter III, Council Land Use Decisions, with public projects considered as Type IV quasi-judicial decisions and City facilities considered as Type V legislative decisions.*

*B. Permitted Uses in Public Facilities Requiring City Council Approval. The following uses in public facilities in single-family zones may be permitted by the City Council, according to the provisions of Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions:*

1. *Police precinct station;*
2. *Fire station;*
3. *Public boat moorage;*
4. *Utility services use; and*
5. *Other similar use.*

*The proponent of any such use shall demonstrate the existence of a public necessity for the public facility use in a single-family zone. The public facility use shall be developed according to the development standards for institutions (Section 23.44.022), unless the City Council makes a determination to waive or modify applicable development standards according to the provisions of Chapter 23.76, Subchapter III, Council Land Use Decisions, with public projects considered as Type IV quasi-judicial decisions and City facilities considered as Type V legislative decisions*

25. SMC 23.76.058.D provides that for public projects not meeting development standards, *“the City Council may waive or modify applicable developments standards, accessory use requirements, special use requirements, and conditional use criteria for public projects.”*

### **Conclusions**

1. The Hearing Examiner has jurisdiction to hold a public hearing and make a recommendation on this application pursuant to SMC 23.76.052.
2. Under SMC 23.44.036 and 23.51A.002.B.4, the proposed use may be permitted by Council Conditional Use approval as a utility service use in a public facility in a Single Family zone. Under SMC 23.5.1.002.B.4, a proponent of the use shall demonstrate the existence of a public necessity for the public facility use in a Single Family zone. The proposed upgrades to the existing facility are required to reduce the CSO overflows to no more than one per year, in accordance with the state Department of Ecology mandate. There is a public necessity for this public facility use in the Single Family zone.
3. A public facility use in a Single Family zone is required to be developed according to the development standards for institutions set forth in SMC 23.44.022, unless the City Council makes a determination to waive or modify applicable development standards. The applicable standards of SMC 23.44.022 are discussed below.

4. Dispersion. The proposal would meet the development standards for dispersion under SMC 23.44.022.E. It is a utility service use, and is neither an occupied space nor an institution. It is not within 600 feet of the lot line of any institution or public facility.
5. Demolition. No residential structures would be demolished or have their use changed to provide for parking, consistent with SMC 23.44.022.F.
6. Noise and Odor. SMC 23.44.022.H addresses reduction and mitigation of noise and odor. During operation, the facility's fans and pumps will produce noise. The noise studies conducted by the applicant show that the expected noise levels are within the levels allowed by the City's Noise Ordinance. Construction noise will also be required to comply with the Noise Ordinance, unless a noise variance is granted under the Ordinance. The Director has also limited the hours of construction as a SEPA condition on the project. The ancillary mechanical building will be equipped with odor control equipment to control odors from the CSO, and the filter materials will be replaced on a schedule to prevent odors. Noise and odors have been mitigated so as to be consistent with this standard.
7. Landscaping. The proposed landscaping would be consistent with the standard of SMC 23.44.022.I. Landscaping has been selected to integrate with the adjacent areas, while maintaining access to the facilities. Sod will be used to reduce the potential for erosion or stormwater runoff, and low maintenance plants, compatible with those in the neighborhood, will be used. Fencing and screening have been selected based on input from the neighborhood to ensure that these elements are compatible with the neighborhood.
8. Light and glare. The ancillary mechanical building will have lighting that is shielded and directed away from the nearby residentially zoned lots, consistent with SMC 23.44.022.J. The roof will be constructed of non-reflective materials.
9. Bulk and Siting. The existing site is less than an acre in size. The triangular-shaped lot has only three sides and the siting of the mechanical building has been chosen so as to minimize impacts on the adjacent residential areas. The building would comply with the required rear yard setback, but would not comply with the required front and side yard setbacks, and modifications of those standards are requested as discussed in the Findings and below. SMC 23.44.022.K provides that the Director may reduce the required yards on a finding that the reduction will not significantly increase the project's impacts, and the applicant seeks a modification of the standards as part of its request for Council Conditional Use approval.
10. Parking and Loading. There is no existing parking at the site. Under SMC 23.44.022.L, parking is to be provided as required by SMC 23.54.015, unless that requirement is waived or modified. As noted in the Findings and below, the proposal includes a request for a waiver from the parking standards of SMC 23.54.015.

11. The requested modifications to the required side and front yard setbacks should be granted, as they do not increase any project impacts and may reduce the project's impacts on adjacent residences. The modification to the minimum driveway width should be granted, since it will allow creation of a longer driveway that will eliminate the need for service vehicles to back up into the street as is currently the case. The proposed waiver of parking standards should also be granted. There are currently no designated parking spaces and the site is gated with no public access, with only County equipment accessing the site, and there is adequate space for short duration parking of maintenance vehicles. The waiver of parking standards at the site would create no additional impacts and would allow the small site to be efficiently utilized for improvements to the pump station.

12. The proposal with the conditions proposed by the Director meets the criteria for Council Conditional Use approval, and should therefore be granted.

### **Recommendation**

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

Entered this 17<sup>th</sup> day of December, 2012.



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Anne Watanabe  
Deputy Hearing Examiner

### **CONCERNING FURTHER REVIEW**

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

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