



City of Olympia | Capital of Washington State
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July 2, 2019

Greetings:

Subject: Water Street Lift Station Generator Replacement
File Number 19-1127

The enclosed decision of the Olympia Hearing Examiner hereby issued on the above date may be of interest to you. This is a final decision of the City of Olympia.

In general, any appeal of a final land use decision must be filed in court within twenty-one (21) days. See Revised Code of Washington, Chapter 36.70C, for more information relating to timeliness of any appeal and filing, service and other legal requirements applicable to such appeal. In particular, see RCW 36.70C.040.

Please contact the City of Olympia, Community Planning and Development Department, at 601 4th Avenue East or at PO Box 1967, Olympia, WA 98507-1967, by phone at 360-753-8314, or by email cpdinfo@ci.olympia.wa.us if you have questions.

Sincerely,

Kenneth Haner
Program Assistant
Community Planning and Development

Enclosure:

BEFORE THE CITY OF OLYMPIA HEARINGS EXAMINER

IN RE:) HEARING NO. 19-1127
WATER STREET SEWER LIFT) FINDINGS OF FACT,
STATION EMERGENCY GENERATOR) CONCLUSIONS OF LAW
REPLACEMENT.) AND DECISION

APPLICANT: City of Olympic Public Works Department

REPRESENTATIVES:

Jim Rioux, Project Manager

SUMMARY OF REQUEST:

A Shoreline Substantial Development Permit and a Shoreline Conditional Use Permit to replace an existing emergency generator at the Water Street Sewer Lift Station along with associated site improvements and the installation of a new mural wall on the west and south sides of the project site.

LOCATION OF PROPOSAL:

220 Water Street N.W., Olympia, Washington.

SUMMARY OF DECISION:

The Shoreline Substantial Development Permit and Shoreline Conditional Use Permit are **approved** subject to amended conditions requested by City Staff.

BACKGROUND

The City's existing emergency generator for its sewer system, located at 220 Water Street N.W., is in need of replacement. While the replacement of such equipment would normally be a fairly mundane task, it is made more complicated in this instance due to the site's location within shoreline jurisdiction, coupled with a history of contaminated soils on nearby properties. The site's proximity to the shoreline requires that it be granted a Shoreline Substantial Development Permit as well as a Shoreline Conditional Use Permit. The site's proximity to historic

1 contaminated soils has required that the project be given additional conditions to ensure that Best
2 Management Practices are utilized. But subject to these enhanced conditions of project approval,
3 there is no governmental or public opposition to the project.

4 The project site is located at 220 Water Street N.W. near the northeast corner of the
5 intersection of State Avenue and Water Street West. The project site is adjacent to the "Laurana"
6 project - a mixed use development - currently under construction. South of the project, across
7 State Avenue, is the proposed "State and Water" project recently approved by the Hearing
8 Examiner under Case No. 19-1844.

9 The site lies within 200 feet of Budd Inlet and therefore requires a Shoreline Substantial
10 Development Permit. In addition, as a utility-related project located within 100 feet of the
11 Ordinary High Water Mark, the project must also be granted a Shoreline Conditional Use Permit.

12 The project is located in the Urban Waterfront Housing (UW-H) zoning district. It is
13 designated as Urban Intensity in the City Shoreline Master Program and its land use designation
14 is Residential Mixed Use with High Density Overlay in the Comprehensive Plan.

15 There is an existing generator at the site associated with the Water Street Sewer Lift
16 Station. The new generator is noticeably larger than the existing one and cannot be contained
17 within the existing building housing the current emergency generator. As it will not be located
18 in the existing building, a custom sound enclosure has been designed to reduce noise to
19 acceptable levels. A condition of the earlier Laurana project approval was that a new mural
20 would be designed for the west and south enclosure walls. Additional project work includes
21 removal of the existing above grade fuel tank; removal of some of the existing pavement,
22 leveling of the site, installing a new 8 x 20 foot concrete pad; repaving; replacement of louvered
23 openings with solid material (for sea level rise mitigation), and necessary electrical work.

24 In addition to the new mural, the project will also establish new landscaping along the
25 west boundary of the project site and, more importantly, establish a new pedestrian walkway

1 along the project's east side. This new pedestrian path will provide a second north/south
2 pathway to enhance the walkability of the waterfront area. The design of this pathway has been
3 complicated by the need to ensure the security of the lift station, but a tentative design has been
4 approved that would allow the opening/closing of this pathway as needed for security reasons
5 through the use of several gates.

6 As noted earlier, the surrounding area has a history of known contamination to address
7 the possible contamination of the project's soils has caused review of this application to be
8 continued for more than a year as City Staff and the Department of Ecology have worked at
9 arriving at a consensus on how to deal with any possible contamination. These issues were first
10 addressed through a revised SEPA Determination with enhanced requirements for managing soil
11 removal.

12 Then, after additional comment from Ecology, City Staff has agreed to recommend
13 additional conditions relating to the handling of soils. These additional conditions address all of
14 Ecology's concerns.

15 Except for the contamination-related concerns by Ecology, there has been no public
16 comment let alone public opposition. The emergency generator is an essential public facility
17 necessary to ensure that if there is a loss of power to the lift station wastewater will not be
18 allowed to escape to Budd Inlet or elsewhere.

19 I therefore conclude that the necessary Shoreline Substantial Development Permit and
20 Shoreline Conditional Use Permit should be **granted** subject to the City's proposed revised
21 conditions of approval. I therefore make the following:

22 **FINDINGS OF FACT**

23 1. The Applicant, City of Olympia Public Work Department, requests a Shoreline
24 Substantial Development Permit and a Shoreline Conditional Use Permit to replace the existing
25 emergency generator at the Water Street Sewer Lift Station; removal of a portion of existing

1 pavement; leveling of the site and installation of a new 8 x 20 foot concrete generator pad;
2 repaving; replacement of louvered openings with solid material for sea level rise mitigation;
3 associated electrical work; a new mural on the south and west walls of the new enclosure; new
4 landscaping to the west of the utility, and a new pedestrian pathway to the east of the utility.

5 2. Any Findings of Fact contained in the foregoing Background Section are
6 incorporated herein by reference and adopted by the Hearing Examiner as his own Findings of
7 Fact.

8 3. A SEPA Determination of Non-Significance (DNS) was initially issued in 2019
9 but later withdrawn in response to comments from the Department of Ecology. The SEPA DNS
10 was later reissued on June 5, 2020. Additional comments from Ecology following the reissued
11 DNS have led to the City requesting additional conditions of project approval. The DNS has not
12 been appealed.

13 4. Notification of the public hearing was mailed to the parties of record, property
14 owners within 300 feet and recognized neighborhood associations, posted on the site and
15 published in The Olympian in conformance with Olympia Municipal Code 18.78.020.

16 5. City Staff recommends approval of the requested permits subject to the conditions
17 set forth in the Staff Report together with additional revised conditions set forth in Exhibit 18.
18 These revised conditions are intended to fully respond to Ecology's concerns relating to historic
19 soil contamination.

20 6. The Applicant does not oppose the City's revised proposed conditions of project
21 approval.

22 7. The Staff Report, at pages 2 through 4, contain proposed Findings relating to the
23 property, the project, and the review undertaken by City Staff prior to the public hearing. The
24 Hearing Examiner has reviewed those Findings and adopts them as his own Findings of Fact.
25

1 8. The Staff Report, at page 4, contains proposed Findings relating to project's
2 consistency with the general provisions of the City Comprehensive Plan. City Staff finds that the
3 project is consistent with Goal GU8 and Policy PU8.8 and that the project is otherwise consistent
4 with applicable Goals and Policies of the City Comprehensive Plan. The Hearing Examiner has
5 reviewed those proposed Findings and adopts them as his own Findings of Fact.

6 9. The project lies within 200 feet of the shoreline and is therefore subject to the
7 shoreline regulations.

8 10. The project is also within 100 feet of the Ordinary High Water Mark of Budd
9 Inlet and, as a utility-related project, also requires a Shoreline Conditional Use Permit.

11 11. The Staff Report, at page 5, contains proposed Findings relating to the project's
12 consistency/compliance with applicable shoreline policies. City Staff finds that the project, as
13 conditioned, complies with and furthers the applicable goals and policies of the Shoreline Master
14 Program including Policies PN12.3.A; PN12.15; and PN12.19.A. The Hearing Examiner has
15 reviewed these Findings and adopts them as his own Findings of Fact.

16 12. In addition to compliance with the Shoreline Master Program, the project must
17 also be in compliance with the Shoreline Master Program regulations, Chapter 18.20 OMC for
18 both Shoreline Substantial Development Permits, OMC 18.20.210 and Shoreline Conditional
19 Use Permits, OMC 18.20.230.

20 13. The project exceeds thresholds set forth in WAC 173-27-040 and therefore
21 requires a Shoreline Substantial Development Permit.

22 14. As noted earlier, as a utility-related project within 100 feet of the Ordinary High
23 Water Mark, the project must also have a Shoreline Conditional Use Permit.

1 15. The Staff Report, at pages 6 and 7, contain proposed Findings relating to the
2 project's compliance with Shoreline Master Program Regulations found in Chapter 18.20 OMC.
3 City Staff finds that the project, as conditioned, complies with the requirement for no net loss of
4 shoreline ecological functions and processes, OMC 18.20.410; complies with the Critical Areas
5 requirements of OMC 18.20.420 and Chapter 18.32 OMC; makes appropriate provisions for
6 public access as required under OMC 18.20.450 and does not trigger view protection measures.
7 OMC 18.20.500. The Hearing Examiner has reviewed these Findings and adopts them as his
8 own Findings of Fact.
9

10 16. City Staff also finds that the project satisfies the development standards found in
11 OMC 18.20.620, Tables 6.2 and 6.3.

12 17. City Staff finds that the project, as conditioned, complies with the Shoreline
13 Master Program; Shoreline Master Program Regulations; and the criteria found in WAC 173-27-
14 150 and 160 regarding Shoreline Substantial Development and Shoreline Conditional Use
15 Permits.

16 18. The project is subject to standards in OMC 18.60 regarding tree protection during
17 construction. City Staff finds that the project, as conditioned, is compliant with this requirement.

18 19. The project site is located in an area susceptible to flooding as a result of sea level
19 rise and is therefore subject to the provisions of Chapter 16.80 OMC. For this reason the new
20 generator is being placed on a concrete slab to increase its elevation and avoid its possible
21 inundation by sea water. City Staff finds that the project, as conditioned, complies with Chapter
22 16.80 OMC.
23

24 20. City Staff finds that the project, including its enclosure, are well below the
25 maximum building heights in the Urban Waterfront District and that the project complies with all

1 applicable development standards found in Table 6.02, OMC 18.06.100 Figure 6.2. Staff further
2 finds that the proposed use is a permitted use in the Urban Waterfront District. OMC 18.06.080,
3 Table 6.01

4 21. In the UW-H zoning district, 100% of the site can be impervious, and 100%
5 building and impervious coverage is allowed.

6 22. City Staff has identified the site as having high potential for cultural resources.
7 Although the City has not received comment from either the Department of Archaeology and
8 Historic Preservation (DAHP) or any nearby tribes regarding historic preservation, the City's
9 Historic Preservation Officer recommends that an Inadvertent Discovery Plan be required as a
10 condition of approval. As such, the project will be in compliance with OMC 18.12.120.

11 23. The project is located within 1,000 feet of Budd Inlet which has the potential for
12 important habitat and species and the project is therefore subject to the requirement of a Habitat
13 Management Plan (HMP).

14 24. Pursuant to OMC 18.32.325, the City can waive their requirement for an HMP
15 after consulting with WDFW.

16 25. WDFW has concluded that there is no need for an HMP as the site is already
17 developed and contains no fish or wildlife habitat. The City therefore waives the requirement for
18 an HMP.

19 26. City Staff finds that the project, as conditioned, complies with the requirements of
20 Chapter 18.36 OMC for landscaping with the final landscape plan to be approved at the time of
21 permit submittal.

22 27. The project is located in the Downtown Design District. City Staff concludes that
23 the project is exempt from design review pursuant to OMC 18.100.060(B) as the lift station is an

1 existing facility and replacement of the generator is essential to its operation. The project will
2 not affect the use of surrounding properties and its noise impacts have been mitigated through a
3 noise reducing enclosure. City Staff therefore finds that the project, as conditioned, complies
4 with Chapter 18.100 OMC.

5 28. There has been no public opposition to the project.

6 Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

7 **CONCLUSIONS OF LAW**

8 1. The Hearing Examiner has jurisdiction over the parties and the subject matter.

9 2. Any Conclusions of Law contained in the foregoing Background or Findings

10 Sections are incorporated herein by reference and adopted by the Hearing Examiner as his
11 Conclusions of Law.

12 3. The requirements of SEPA have been met.

13 4. A Shoreline Substantial Development Permit is required for the proposed use of
14 this site.

15 5. A Shoreline Conditional Use Permit is also required for the proposed use of this
16 site.

17 6. The site's designation in the Shoreline Master Program is Urban Intensity.

18 7. The project, as conditioned, complies with the policies and regulations of the
19 SMP, including those policies specifically identified in the Findings of Fact for the Urban
20 Intensity Shoreline.

21 8. The project, as conditioned, complies with the overall goals of the SMP to
22 develop the full potential of Olympia's shoreline in accordance with the unusual opportunities

1 presented by its location to the City and surrounding areas, its natural resource values, and its
2 unique aesthetic qualities offered by water, topography, views, and maritime character; and to
3 develop a physical environment which is both ordered and diversified and which integrates
4 water, shipping activities, and other shoreline uses within the structure of the City while
5 achieving a net gain of ecological function.

6 9. The project, as conditioned, is consistent with the City Comprehensive Plan,
7 including those goals and policies identified in the Findings of Fact.

8 10. The project, as conditioned, complies with all Shoreline Master Program
9 regulations contained in Chapter 18.20 OMC.

10 11. The project, as conditioned, is:

- 11 a. Consistent with the Shoreline Master Program;
- 12 b. Does not interfere with the normal public use of the shoreline;
- 13 c. Is compatible with existing and planned uses in the area and with uses
14 planned for under the Comprehensive Plan and Shoreline Master Program.
- 15 d. Will not cause any significant adverse impacts to the shoreline to occur;
16 and
- 17 e. The public interest will not suffer any substantial detrimental effect.

18 12. The project, as conditioned, complies with the Tree, Soil and Native Vegetation
19 Protection and Replacement requirements of Chapter 16.60 OMC.

20 13. The project, as conditioned, complies with the Sea Level Rise Flood Damage
21 Prevention requirements of Chapter 16.80 OMC.

22 14. The project, as conditioned, complies with the requirements for Commercial
23 Districts found in Chapter 18.06 OMC.

1 15. The project, as conditioned, complies with the Cultural Resource requirements of
2 OMC 18.12.120.

3 16. The project, as conditioned, complies with the requirements for landscaping under
4 18.36 OMC.

5 17. The project, as conditioned, complies with the Olympia Unified Development
6 Code.

7 18. The project, as conditioned, complies with the Critical Areas requirements of
8 Chapter 18.32 OMC and OMC 18.20.420.

9 19. The project, as conditioned, complies with the Engineering Design and
10 Development Standards (EDDS).

11 20. The requested Shoreline Substantial Development Permit and Shoreline
12 Conditional Use Permit should be **approved** subject to the revised conditions recommended by
13 City Staff.

DECISION

14 The Applicant's request for a Shoreline Substantial Development Permit and Shoreline
15 Conditional Use Permit shall be **approved** subject to the following:

CONDITIONS

16 1. Development shall be substantially as shown on the architectural plans
17 A100-A201) and preliminary construction plans (D1, D2, and C1), date-stamped March 20,
18 2019.

19 2. A landscape plan, prepared in accordance with OMC 18.36, shall be submitted for
20 review and approval in conjunction with the building permit application for the generator
21

1 installation. The Public Works and Parks departments will participate in the review and approval
2 of the landscape plan.

3 3. Construction pursuant to the Shoreline Substantial Development and Conditional
4 Use Permits shall not begin prior to 21 days from the date of filing as defined in RCW
5 90.58.140(6) and WAC 173-27-130, or until review proceedings initiated within 21 days from
6 the date of such filing have terminated.

7 4. Per WAC 173-27-090(2), construction activities shall commence within two years
8 of the effective date of the Shoreline Conditional Use Permit. The local government may
9 authorize a single one-year extension based on reasonable factors, if a request for extension has
10 been filed before the expiration date and notice of the proposed extension is given to parties of
11 record and the Department of Ecology.

13 5. The project shall follow the recommendations outlined in the Environmental
14 Media Management Plan, dated April 1, 2020.

15 6. Upon completion of the project, submit a final report to Ecology's Toxic Cleanup
16 Program documenting all environmental activities completed. The report shall follow reporting
17 requirements outlined in WAC 173-340-515. Provide all appropriate bills of lading for disposed
18 materials in the final report.

19 7. Upload environmental data that has been collected to Ecology's Electronic
20 Information Management (EIM) database pursuant to Ecology Toxic Cleanup Program Policy
21 840.

23 8. If contamination of soils or groundwater is encountered during site work and
24 construction, the Applicant shall notify the Department of Ecology's Environmental Report
25 Tracking System Coordinator for the Southwest Regional office at 360-407-6300.

1 9. Pursuant to OMC 18.40.080.C.7, construction activity detectable beyond the site
2 boundaries shall be restricted to the hours between 7:00 a.m. and 6:00 p.m.

3 10. Any work requiring a permit shall be submitted to Community Planning and
4 Development for review and approval prior to permit issuance.

5 11. The Developer shall submit final designs for portions of the project that are their
6 responsibility for review and approval. These items include, but are not limited to, the mural
7 walls, artwork, security fencing, and gates.

8 12. The Developer shall secure a Temporary License to Construction (TLC) prior to
9 commencement of any work on the City of Olympia parcel.

11 13. The project shall comply with the City of Olympia Construction Codes as adopted
12 through the Olympia Municipal Code, OMC 16.04, as follows:

13 a. A demolition permit shall be obtained for the removal of existing
14 structures or portions of buildings and remodels. The Applicant shall submit an
15 application to the Olympic Regional Clean Air Agency (ORCAA) prior to application
16 and issuance of a demolition permit;

16 b. Building and electrical permits shall be obtained by the Applicant for the
17 generator and associated improvements;

17 c. A building permit shall be obtained by the Developer for the walls and
18 gates prior to installation;

19 d. The project is subject to the provisions of the Sea Level Rise Ordinance as
20 adopted through the Olympia Municipal Code, Chapter 16.80;

21 e. A soils report is required to address soils conditions and all foundation and
22 building design criteria per the International Building Code;

22 f. The existing west wall shall be evaluated by a Washington State licensed
23 structural engineer to determine if it is adequate to support additional loads as a result of
24 increasing its height; and

24 g. The proposed south wall shall be designed by a Washington State licensed
25 structural engineer.

1 14. The project shall comply with OMC 16.60, Tree, Soil and Native Vegetation
2 Protection and Replacement and the Urban Forestry Manual. The following information shall
3 be shown on the final plans: tree protection fence locations, tree protection fence detail, tree
4 protection measures, and the timeline for tree protection installation and inspections.

5 15. The project forester is required to review the final plans, customize tree protection
6 measures, and conduct site inspections before, during, and after construction.

7 16. A signed Inadvertent Discovery Plan (IDP) which outlines how the project
8 proponent and site crew will respond in the event that archaeological resources are uncovered
9 during the course of project work shall be submitted by the Applicant at the time of engineering
10 plan submittal. An approved IDP template will be provided to the Applicant by the City of
11 Olympia. The signed IDP will be reviewed at the preconstruction meeting and shall be
12 maintained at the project site and available for inspection for the duration of excavation and
13 construction.

15 DATED this 1st day of July, 2020.



16 17 Mark C. Scheibmeir
18 City of Olympia Hearing Examiner

19 **RECONSIDERATION/APPEAL**

20 The approved permits are a final decision of the City. Any party may file a Motion for
21 Reconsideration within 10 days of service of this decision in accordance with OMC 18.75.060.
22 Appeals shall be made to Superior Court pursuant to provisions of Chapter 36.70C RCW. The
23 filing of a Motion for Reconsideration is not a prerequisite for seeking judicial review. If a
Motion for Reconsideration is filed, the time for filing an appeal shall not commence until
disposition of the Motion.