



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 4<sup>th</sup> 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](mailto: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.

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

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

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

21           14.     As noted earlier, as a utility-related project within 100 feet of the Ordinary High  
22 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           19.     The project site is located in an area susceptible to flooding as a result of sea level  
20 rise and is therefore subject to the provisions of Chapter 16.80 OMC. For this reason the new  
21 generator is being placed on a concrete slab to increase its elevation and avoid its possible  
22 inundation by sea water. City Staff finds that the project, as conditioned, complies with Chapter  
23 16.80 OMC.

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

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

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

17 25. WDFW has concluded that there is no need for an HMP as the site is already  
18 developed and contains no fish or wildlife habitat. The City therefore waives the requirement for  
19 an HMP.  
20

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

24 27. The project is located in the Downtown Design District. City Staff concludes that  
25 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  
23  
24  
25

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.

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

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

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

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

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

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

## DECISION

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

## CONDITIONS

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

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

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.

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

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

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

21           8.       If contamination of soils or groundwater is encountered during site work and  
22 construction, the Applicant shall notify the Department of Ecology's Environmental Report  
23 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.

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

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

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

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

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

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

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

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

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

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

DATED this 1st day of July, 2020.

Mark C. Scheibmeir  
City of Olympia Hearing Examiner

## RECONSIDERATION/APPEAL

The approved permits are a final decision of the City. Any party may file a Motion for Reconsideration within 10 days of service of this decision in accordance with OMC 18.75.060. Appeals shall be made to Superior Court pursuant to provisions of Chapter 36.70C RCW. The 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.