- Height—Exceptions to limits. The following structures may be erected above the height limits of KCC 21A.12.030-050 (KCC 21A.12.180):
  - Structures housing or screening elevators, stairways, tanks, ventilating fans or similar equipment required for building operation and maintenance
  - Fire or parapet walls, skylights, flagpoles, chimneys, smokestacks, church steeples, crosses, spires, communication transmission and receiving structures, utility line towers and poles, and similar structures. (Ord. 10870 § 355, 1993).
- Maximum Impervious surface percentage—10 percent; The impervious surface for any property can be increased subject to approval of a conditional use permit.

Development Standards—F Zone Design Requirements

Below are elements that could apply to the Landsburg site depending on the County's interpretation of the use of chlorine on the property (KCC 21A.14.225 A,B):

- Tracts and easements containing hazardous liquid and gas transmission pipelines and required setbacks from such pipelines may include the following uses, subject to other regulations applicable to each use and approval of the holder of the easement:
  - Utility structures not normally occupied necessary for the operation of the pipeline
  - Landscaping
  - Trails
  - Open space
  - Keeping of animals
  - Agriculture
  - Forestry
  - Commercial signage
  - Minor communication facilities and the utility structures not normally occupied necessary for the operation of the minor communication facility
  - Other compatible uses as specified on the face of the recorded plat or short plat; provided that structures designed for human occupancy shall never be allowed within pipeline tracts, easements or setbacks.
- Hazardous liquid and gas transmission pipelines shall not be located in aquifer recharge areas, landslide hazard areas or erosion hazard areas. When it is impractical to avoid such areas, special engineering precautions should be taken to protect public health, safety and welfare (Ord. 14045 § 30, 2001).
- King County's Department of Development and Environmental Services (DDES) Director routinely issues "Public Rules" that give clarification of King County codes. There are no Public Rules adopted or proposed that affect the uses on the Landsburg site.
- In March 2010, DDES will submit to the County Executive, who will transmit to the County Council, proposed amendments to the King County Comprehensive Plan. There are no proposed amendments to the Comprehensive Plan that would affect the redevelopment of the Landsburg site.

Conclusions

Given that the redevelopment alternatives to be considered do not contemplate changing the type of uses at the Landsburg site, no significant land use requirements are anticipated. However, given the many nuances to the uses of the site, there could be an administrative interpretation by King County that would render a different result. A pre-development conference with DDES is recommended.

HISTORIC DISTRICT RESTRICTIONS

The site is listed on the National Register of Historic Places as "Landsburg Headworks Historic District," formally listed on January 26, 2001 with "Community Planning and Development" as its area of significance. The site's significance is tied historically and currently to the water supply for the City of Seattle. There are no specific restrictions on redevelopment listed with the filing, but federal and state oversight is required for requests for any disturbance to the grounds:

- **Federal Oversight**—If federal monies are attached to the proposed redevelopment activity (per Section 106 of the National Historic Preservation Act of 1966), then any changes proposed for the property require that the Advisory Council on Historic Preservation have an opportunity to comment on the project. Federal legislation delegates to state historic offices regulatory authority and oversight for projects that have federal monies attached. In the state of Washington, this delegation is granted to the Department of Archeological and Historic Preservation (DAHP) Review Board.
- **State and Local Oversight**—Revised Code of Washington (RCW) 27.53.060 requires that the Director of DAHP issue a written permit for any ground disturbance of historical sites, and the permit must include the consent of the public property owner. This permit review can be conducted by King County because the County is a "Certified Local Government" by inter-local agreement with the City of Maple Valley. It is recommended that any permit application for redevelopment include a request for permit to disturb ground outside the footprint of any existing facility. This request can be part of the building permit application to the County.

Section 106 of the National Historic Preservation Act also requires that federal permitting agencies identify and assess the effects of federally permitted undertakings on historic resources, archaeological sites, and traditional cultural properties, and find acceptable ways to avoid or mitigate adverse effects.

FOREST PRACTICE PERMIT

Under RCW 76.09.020 "Forest land" means all land that is capable of supporting a merchantable stand of timber and is not being actively used for a use that is incompatible with timber growing. Redevelopment of the Landsburg site should not be interpreted as a "forest practice" under RCW 76.09.020. However it is recommended that SPU contact the South Puget Sound office of the Washington Department of Natural Resources (DNR) and request the status of any applicable forest practice applications, notifications, or final orders and decisions. No such notices were found in preparation of this preliminary engineering report, but the DNR was not contacted for the specific parcel. In addition, the legal ownership and site research references a "Forest Practice Permit 6" that was required for staging of various projects. Contact with the DNR office would reveal if this permit is still in effect.

CRITICAL AREAS ORDINANCE

The project site contains numerous critical areas. King County regulates these critical areas and their respective buffers under the King County Critical Areas Ordinance (KCC 21A.24).

Critical Aquifer Recharge Areas

A critical aquifer recharge area (CARA) is an area with a medium or high susceptibility to groundwater contamination that is located within a sole source aquifer or within a wellhead protection area for a municipal or district drinking water system. Susceptibility to groundwater contamination occurs where there is a combination of permeable soils, permeable subsurface geology and groundwater close to the ground surface (KCC 21A.06.253.C). Pursuant to the Partial Critical Areas Designation L07SA234 (King County, May 2007), the project site contains vested Category I, II, and III CARAs. Pursuant to KCC 21A.24.316.H, large sites such as the subject site are not subject to the alteration requirements for CARAs. Therefore, the presence of CARAs pose no limitation to redevelopment of the project site.

Steep Slope Hazard Areas

A steep slope hazard area is an area on a slope of 40-percent inclination or more within a vertical elevation change of at least 10 feet (KCC 21A.06.1230). Pursuant to the Partial Critical Areas Designation L07SA234 (King County, May 2007), the project site contains vested steep slope hazard areas. Buffers for steep slope hazard areas can be determined through recommendations made by geotechnical engineer or geologist in a critical area report. If a critical area report is not submitted, then a minimum buffer of 50 feet shall apply (KCC 21A.24.310.B).

Wildlife Habitat Network

A wildlife habitat network is an area that links wildlife habitat with critical areas, critical area buffers, priority habitats, trails, parks, open space and other areas to provide for wildlife movement and alleviate habitat fragmentation (KCC 21A.06.1424). Pursuant to the Partial Critical Areas Designation L07SA234 (King County, May 2007), the project site includes a wildlife habitat network associated with the Cedar River. The network, to the maximum extent practical, shall have a width of 300 feet (KCC 21A.24.386.B.2).

Wetlands

A wetland is an area that is not an aquatic area and that is inundated or saturated by ground or surface water at a frequency and duration sufficient to support, and under normal circumstances supports, a prevalence of vegetation typically adapted for life in saturated soil conditions (KCC 21A.06.1391). Wetland buffers are determined based on the classification of the critical area and whether or not they are located within an urban growth area. Buffer widths for wetlands also vary depending on the intensity of planned land use and on the wetland habitat score.

The subject property is located outside of the urban growth area and is zoned Forest (F). Two wetlands are located along the north bank of the Cedar River. Wetland A was previously delineated and vested as a Category III wetland with an 80-foot buffer (Partial Critical Areas Designation L07SA234, King County, May 2007).

The second wetland (Wetland B) is a Category III wetland with a habitat score of 18. Category III wetlands in King County that score less than 20 habitat points are considered to have low habitat functions. Examples of high impact land uses are commercial or industrial activities and active recreation. The proposed redeveloped utility facility does not meet the criteria to be considered a moderate or low intensity land use, so it is considered high intensity by default. Therefore, according to KCC 21A.24.325.B.1, Wetland B would also require an 80-foot buffer.

Aquatic Areas

An aquatic area is any non-wetland water feature including all shorelines of the state, rivers, streams, marine waters, inland bodies of open water including lakes and ponds, reservoirs and conveyance systems and impoundments of these features if any portion of the feature is formed from a stream or wetland and if any stream or wetland contributing flows is not created solely as a consequence of stormwater pond construction (KCC 21A.06.072C). Aquatic area buffers are determined based on the classification of the critical area and whether they are located within an urban growth area. The aquatic area on-site is the Cedar River, which has been designated as a Shoreline of Statewide Significance, and as such is rated as a Type S aquatic area. Type S aquatic areas outside of urban growth areas require a 165-foot buffer.

Building Setbacks

King County requires a 15-foot building setback from the edges of all critical area buffers. Building setbacks may contain landscaping, uncovered decks, building overhangs (if no more than 18 inches into the setback area), impervious ground surfaces with specified drainage provisions, and utility service connections (KCC 21A.24.200). Table 8-2 presents a summary of buffer requirements for the critical areas on the project site.

TABLE 8-2.
CRITICAL AREAS AND BUFFERS

	Category/Type	Buffer (feet)	Building Setback (feet)
Critical Aquifer Recharge Areas	I, II, III	*a*	—
Steep Slope Hazard Areas	—	50	15
Wildlife Habitat Network	—	300*b*	—
Wetlands (A and B)	III	80	15
Aquatic Areas (Cedar River)	S	165	15

a. No buffer is required.
b. The width of the entire network is to be 300 feet.

Critical Area Alterations

Alterations Allowed

The King County Critical Areas Ordinance allows specific alterations to occur within critical areas and their buffers, including aquatic areas, wetlands, and wildlife habitat networks. Specifically, pursuant to KCC 21A.24.045.C, the maintenance, repair or replacement of utility corridor or utility facility is allowed within wetlands and aquatic areas and their respective buffers, as well as within wildlife habitat networks. KCC 21A.24.045.D.36 and 37 authorize this allowance if the disturbed area is not expanded and no hazardous substances, pesticides or fertilizers are applied. The critical area or critical area buffer alterations are subject to the avoidance, minimization and mitigation requirements of KCC 21A.24.125. Specifically, the following measures are to be taken in sequential order:

1. Avoiding the impact or hazard by not taking a certain action.
2. Minimizing the impact or hazard by:
    a. Limiting the degree or magnitude of the action with appropriate technology; or

b. Taking affirmative steps, such as project redesign, relocation or timing.

3. Rectifying the impact on critical areas by repairing, rehabilitating or restoring the affected critical area or its buffer.
4. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods.
5. Reducing or eliminating the impact or hazard over time by preservation or maintenance operations during the life of the development proposal or alteration.
6. Compensating for the adverse impact by enhancing critical areas and their buffers or creating substitute critical areas and their buffer.
7. Monitoring the impact, hazard or success of required mitigation and taking remedial action.

Critical area and critical area buffer alterations must also comply with the development standards for each critical area (KCC 21A.24.365—aquatic areas, KCC 21A.24.335—wetlands, KCC 21A.24.386—wildlife habitat network), including timing restrictions for grading, soil amendment for pervious surfaces, and the placement of structures to avoid the creation of hazard trees.

Further, mitigation requirements would also apply (KCC 21A.25.380—aquatic areas, KCC 21A.24.340—wetlands, KCC 21A.24.388—wildlife habitat network), including providing equivalent or greater aquatic areas functions, an adequate mitigation ratio (depending upon the critical area and classification) to compensate for adverse impacts, and adherence to a comprehensive mitigation monitoring program.

Therefore, if redevelopment of the facility can take place within the existing footprint of disturbance, those portions of the redevelopment located within critical areas and critical area buffers would be allowed subject to the performance standards and impact avoidance and mitigation requirements discussed above.

Buffer Modifications

If redevelopment improvements expand beyond areas of existing disturbance while also encroaching into critical area buffers, then alterations may be allowed pursuant to the buffer modification allowances for each individual critical area.

Within aquatic area buffers, KCC 21A.24.358.E.2 allows the County to establish buffer widths (at its own discretion) if it can be demonstrated that the buffer cannot provide certain functions because of soils, geology or topography, provided that established buffers protect the remaining ecological functions that the buffer can provide. Demonstration would be accomplished through the critical area report process.

Alternatively, wetland and aquatic area buffers may be modified through buffer averaging. Buffer averaging may be allowed if the total buffer area is equivalent to the area before averaging, the averaged buffer is contiguous with the standard buffer, and "the ecological structure and function of the buffer after averaging is equivalent to or greater than the structure and function before averaging" (KCC 21A.24.325.C and KCC 21A.24.358.E.1). In some circumstances, buffer averaging may be accompanied by buffer enhancement in order to balance ecological functions.

Wildlife habitat networks can be reduced to a minimum width of no less than 150 feet at any point (KCC 21A.24.386.B.2). Because the Cedar River is approximately 100 feet wide through the project site, there appears to be room to maintain an adequate corridor while also allowing redevelopment of the utility facility.

King County also allows for buffers associated with aquatic areas and wetlands to end at the edge of a legally established roadway (KCC 21A.24.358.E.4 and KCC 21A.24.325.D.4). This method of buffer modification is viable if the part of the standard buffer on the other side of the roadway provides insignificant biological or hydrological function in relation to the portion of the buffer adjacent to the critical area. The presence of paved access roads on the project site may allow for this form of buffer modification, depending upon the critical area functions provided beyond the roads.

If the buffer modification provisions discussed above, including averaging, do not allow for redevelopment activities, the County can approve alterations to critical areas, buffers and setbacks through the alteration exception process. Specifically, KCC 21A.24.070 allows linear alterations to utility facilities so long as the following criteria are met:

- There is no feasible alternative to the development proposal with less adverse impact on the critical area.
- The proposal minimizes the adverse impact on critical areas to the maximum extent practicable.
- The approval does not require the modification of a critical area development standard.
- The development proposal does not pose an unreasonable threat to the public health, safety or welfare on or off the development site and is consistent with the general purposes of the King County code and the public interest.

Buffer modifications, approved through any scenario discussed above, require compliance with the mitigation and monitoring requirements of KCC 21A.24.130, KCC 21A.24.340, and KCC 21A.24.380. Further, any proposal that requires County critical area review is required to submit a critical area report at a level determined by the County to adequately evaluate the proposed project and all anticipated impacts (KCC 21A.24.110).

SHORELINE MASTER PROGRAM

The Cedar River passes through the Landsburg site from east to west. The river, with a mean annual flow of greater than 20 cubic feet per second, has been inventoried as a “shoreline of the state” in accordance with RCW 90.58 and is therefore subject to the King County Shoreline Master Program (SMP, KCC Title 25). The original County SMP was drafted in 1978. The County adopted a new SMP in November 2010, but the updated SMP does not take effect until approved by Washington State Department of Ecology. Until then, the 1978 SMP remains in effect. Depending upon when an application for work at the Landsburg site is approved, either the 1978 SMP regulations or the 2010 update could be applicable. An analysis of both sets of regulations as they apply to the Landsburg site is provided below.

1978 SMP

Under the 1978 SMP, all submerged portions of the site and the shoreline portions of Landsburg Park carry a Conservancy shoreline designation. Shoreline jurisdiction on the site extends 200 feet landward of the ordinary high water mark (OHWM) of the Cedar River. Utility facilities are allowed within the Conservancy environment (KCC 25.24.110). Parking facilities for utilities and recreation areas are required to maintain a shoreline setback of 100 feet from the OHWM. Upland facilities associated with park redevelopment must be set back to avoid contamination of the shoreline. New water viewing, nature study, recording and viewing shall be accommodated by space, platforms, benches or shelter, consistent with public safety and security (KCC 25.16.200.K). The construction of indoor swimming pools, gyms or other indoor recreational facilities is prohibited (KCC 25.24.150). All project improvements shall be located so as to avoid, minimize and mitigate for adverse impacts on unique and fragile areas; wildlife spawning, nesting and rearing areas; groundwater patterns; and critical aquatic and wildlife stages.

Proposed improvements are unlikely to qualify for a shoreline exemption and would be subject to the Shoreline Substantial Development Permit process.

2010 SMP Update

Under the updated SMP, the landward portions of the utility facility would be within the newly created Forestry shoreline environment, and the areas in Landsburg Park would be in the Conservancy shoreline environment. Shoreline jurisdiction still would extend 200 feet landward of the ordinary high water mark of the Cedar River. Those portions of the site riverside of the ordinary high water mark would be located within the Aquatic shoreline environment.

The repair and replacement of existing utility facilities is a permitted use within the Forestry shoreline environment, requiring a Shoreline Substantial Development Permit. Water-dependent in-stream portions of municipal water production facilities are allowed as a shoreline conditional use within the Aquatic environment if there is no feasible alternate location. Parks are a permitted use within the Conservancy environment, requiring a Shoreline Substantial Development Permit. If any proposed activity within shoreline jurisdiction encroaches into a critical area buffer, thereby requiring an alteration exception, a shoreline variance may be required. In all three environments, project improvements should be located so as to avoid, minimize and mitigate for any adverse impacts on unique and fragile areas; wildlife spawning, nesting and rearing areas; groundwater patterns; and critical aquatic and wildlife stages.

STATE ENVIRONMENTAL POLICY ACT

The State Environmental Policy Act (SEPA; RCW 43.21c) requires all governmental agencies to consider the environmental impacts of a proposal. Therefore, King County will require environmental review of any proposed project that is not categorically exempt from threshold determinations (WAC 197-11-800). Redevelopment of the project site is unlikely to qualify for an exemption, so preparation of a SEPA checklist will be required. If it appears that the proposed project may have probable significant impacts on the quality of the environment, then an expanded checklist or an environmental impact statement (EIS) must be prepared. SPU can perform the duties of a lead agency, including reviewing the SEPA checklist, determining whether an EIS is necessary, ensuring compliance with SEPA's procedural requirements, and issuing a threshold determination (WAC 197-11-050).

CLEAN WATER ACT

Wetlands and streams are regulated by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act. Any filling of waters of the U.S. (the Cedar River and its associated wetlands) would require notification and permits from the Corps. The Corps could likely issue one or several Nationwide Permits (NWP) for the proposed improvements:

- NWP 3—Maintenance
- NWP 7—Outfall Structures and Associated Intake Structures
- NWP 12—Utility Line Activities
- NWP 17—Hydropower Projects
- NWP 42—Recreational Facilities.

If portions or all of the proposed project are ineligible for a NWP, then an Individual Permit from the Corps would be necessary.

OTHER STATE AND FEDERAL REGULATORS

U.S. Fish and Wildlife Service and National Marine Fisheries Service

The Cedar River contains Chinook salmon, which are federally listed as threatened. Federally permitted actions that could affect endangered species (i.e. salmon or bull trout) also require a biological assessment study and consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service. The Corps oversees consultation with the Services regarding endangered species.

Department of Ecology

Application for Corps permits will also require an individual 401 Water Quality Certification and Coastal Zone Management (CZM) Consistency determination from the Washington Department of Ecology. The Department of Ecology also requires a National Pollutant Discharge Elimination System (NPDES) permit for projects that disturb more than 1 acre of land through clearing, grading, excavating or stockpiling of fill if stormwater runoff from the site could enter surface waters of the state. Because the project site is adjacent to the Cedar River, ground disturbance over 1 acre will require an NPDES permit.

Washington Department of Fish and Wildlife

The Washington Department of Fish and Wildlife (WDFW) has jurisdiction over any project that may "use, divert, obstruct, or change the natural bed of any of the salt or freshwaters of the state" (RCW 77.55.011). Thus, any proposal to conduct in-stream or over-stream work requires a Hydraulic Project Approval (HPA) from WDFW.

ANTICIPATED ENVIRONMENTAL PERMITS

Table 8-3 summarizes likely permit requirements for the project.

TABLE 8-3.
CRITICAL AREAS/SHORELINE POTENTIAL PERMIT SUMMARY

Agency	Permit Type	Notes
King County	Shoreline Substantial Development Permit[a]	Permit would authorize upland improvements associated with a redeveloped facility.
King County	Shoreline Conditional Use Permit[a]	Permit would authorize in-stream modifications to existing structures.
King County	Shoreline Variance[a]	Permit may be required if an Alteration Exception is necessary.
King County	Alteration Exception and/or Clearing and Grading Permit	Permit would accompany a proposal to modify a critical area buffer.
SPU	SEPA	SPU can act as the lead agency.
Corps of Engineers	Section 404 (NWP)	Permit authorizes in-water work.
Ecology	Section 401, CZM	Permit authorizes in-water work.
Ecology	NPDES	Permit is necessary if more than 1 acre of ground disturbance is proposed.
WDFW	HPA	Permit authorizes in-water work.

a. Assumes that the new 2010 SMP regulations will apply.

PROPERTY TITLE

Legal Ownership

A short plat certificate was ordered from Chicago Title Insurance Company, Order No: 1298896. Ownership of the Landsburg site is vested in the City of Seattle.

Parcel Information and Legal Description

The Assessor's property tax parcel account number for the site is 1922079001. The legal description of the property is:

> All of Section 19, Township 22 North, Range 7 East, Willamette Meridian, in King County Washington;
>
> **Except** that portion thereof lying westerly of Landsburg Road S.E. and northerly of the Cedar River; and
>
> **Except** that portion thereof lying within Landsburg Road S.E.; and
>
> **Except** that portion thereof lying within Morris Mine Connection Road (S.E. 253rd Street), as established on May 8, 1944, in Volume 42 of Commissioner's Records, page 258; and
>
> **Except** that portion thereof lying within the Burlington Northern Railroad right of way; and
>
> **Except** that portion thereof lying within the Cedar River.

A survey of a portion of the property was prepared in 1981 and recorded February 4, 1981 under recording number 8102049003. This is the only recorded survey known at the present time. SPU has not confirmed whether it has other surveys of the property.

Exceptions to Title

Easements of Record

King County Easement for Road

King County has the right to construct and maintain a road 60 feet in width. Rights are recorded in two easements—one filed October 26, 1931, Volume 32 of Commissioners Records, page 33, and one filed September 11, 1944 in Volume 42 of Commissioner's Records, page 448. Based on review of the legal description outlined in the records provided by Chicago Title's staff, it is believed that this easement is referencing the same property that was eventually granted to King County and is the Landsburg Road exclusion in the legal description. Without a proper survey, however, this conclusion is not certain. The right to construct this road is subject to the existing rights of the City of Seattle to maintain and operate its water system there-under.

King County Access Easement for Inspection and Monitoring

The easement is between the City of Seattle as "Owner" and King County as regulatory agency entitled Declaration of Covenant Prohibiting Use of Leachable Metals, which was recorded on December 8, 2009 as Record No. 20091208000796. This agreement is a condition of the King County building permit application No. B09C0024. In addition to the covenants it contains (see the discussion of stormwater covenants below), it also grants King County a perpetual access easement in order to inspect and monitor that no leachable metal is present on the property.

Unrecorded Easement for Seattle Water Pipe Line

This easement for a pipeline shown as an exception in the plat certificate is a reservation within the easements recorded for the King County easements discussed above. King County's right to construct and maintain the road is subject to the then existing rights of the City of Seattle to maintain and operate its water system there-under.

Covenants, Conditions and Restrictions of Record

Onsite Sewage System Operation and Maintenance Requirements

An agreement between the City of Seattle (as Owner) and King County Board of Health was recorded on August 20, 2002 as Recording No. 20020820000801 for operation and maintenance of the onsite sewage system (OSS). The agreement requires maintenance and operation in accordance with King County Board of Health Code 1360005 as well as Washington Department of Health requirements. A reserve field is identified in order to meet this agreement's requirements for protection from:

- Covering the area with impervious materials or structure
- Surface drainage
- Soil compaction, for example vehicular traffic (added: or large machinery)
- Damage by soil removal or grade alterations.

Drainage is to be directed away from the area where the OSS is located.

Declaration of Covenant—Public Water Supply (Well)

Landsburg Well #1 is 892 feet from the Entry Gate of Landsburg Park and 600 feet north of the north bank of the Cedar River. It is unknown whether this well is currently being used for furnishing potable water. The *Declaration of Covenant—Public Water Supply (Well)* recorded on November 20, 2007 as Document No. 2007112001238, establishes the following requirements for this well:

- The City is to keep the water supplied from said well free from impurities which might be injurious to the public health.
- The following are prohibited within 100 feet of the well (as long as the well is used to furnish potable water for public consumption): cesspools; sewers; pressure effluent pipes, building sewers, privies; septic tanks, drain fields and any of receptacle for the storage, conveyance, treatment of or disposal of sewage, manure piles, manure, sewage, and other lagoons; building foundations; garbage of any kind or description; loafing shed; animal feeding stations, barns, chickens houses, rabbit hutches; dog kennels; pigpens; or other enclosures or structure (either partial or completely within the 100 foot radius), for the keeping or maintenance of fowl, animals; underground storage tanks; hazardous waste sites; storage of liquid or dry chemicals, herbicides, or insecticides; public roads; surface water; railroad tracks; power utility of gas lines (except for individual residential power lines for service), or known or suspected sources of contamination such as use or application of liquid or dry chemicals, herbicides or insecticides on or around household foundations or any other structural foundations; and fuel tanks.
- No well shall be drilled within 1,000 feet of known sanitary and abandoned landfills.

The covenants are binding as long as the well is used for the purpose of furnishing potable water for public consumption.

Water Use Agreement for Group B Public Water Supply

The *Water Use Agreement for Group B Public Water Supply,* establishing conditions on Landsburg Well #1, was recorded on June 10, 2008 as Record No. 2008-61001835 between SPU as "Owner of the Property" and SPU as "Owner and Sole User of the Water System." The covenants in the agreement are to run with the land and are intended to meet the regulatory requirements of the State of Washington and the Seattle and King County Department of Public Health (DPH). The agreement does the following:

- Requires the owner of the Property to bear the cost of construction and connection in accordance with and for the approval of DPH
- Restricts use of the water system to SPU without approval from DPH
- Prohibits the use of the water system for irrigation purposes
- Requires monthly readings and written recording of water usage. Records are to be kept with the records of operation.

In the event that the quantity or quality of the water becomes unsatisfactory as defined by state law, the following will apply:

- SPU must develop or obtain a new source that provides the highest quality supply feasible with at least the minimum quantity flow as required and approved by DPH.
- SPU must provide finished water quality that meets WAC 246-291 through treatment methods acceptable to DPH, Title 12, and WAS 246-291.
- SPU is prohibited from connecting the water system (or any portion thereof) to any other water sources without prior written approval of DPH and/or other appropriate governmental agencies.
- SPU is allowed to make additional reasonable regulations for the operation of the system as long as the regulations do not violate the Agreement, state or local codes.

A manager is to be designated by SPU, with the following responsibilities:

- Being the contact person to DPH
- Regularly performing water sampling and follow-up sampling (as required and detailed in the agreement) and submitting copies of all water quality samplings with appropriate fees to the DPH
- Notifying DPH and the system users of sample results (detailed notification requirements are spelled out including timeframes (10 to 14 days), required format and required content of all notifications)
- Ensuring that the 100-foot protective radius around the water source is observed
- Providing for routine maintenance of physical components of the water system, notifying users when the system is shut down for maintenance and ensuring that the system is not shut down for more than 24 hours for repairs and routine work
- Meeting requirements for recordkeeping, signatures and timeframes that records must be kept and made available to DPH
- Providing notification of changes to system to DPH and users
- Handling system emergencies.

The agreement prohibits the following within 100 feet of the well, as long as the well is being used to furnish potable water for public consumption:

- Septic tanks, drain fields, cesspools; privies, pressure effluent pipes, building sewers, sewers, and any other receptacle for the storage, conveyance, treatment of or disposal of sewage
- Underground storage tanks and fuel storage tanks
- Public road rights-of-way, railroad tracks, easements for power utility or gas lines, and vehicles (except for individual residential power or gas lines for service)
- Building foundations and structures including houses, and garages
- Manure piles or manure or other lagoons
- Animal feeding stations, barns, chickens houses, loafing sheds, rabbit hutches; dog kennels; pig pens; or other enclosures for the keeping or maintenance of fowl or animals (either partial or completely within the 100-foot radius)
- The storage of liquid or dry chemicals, herbicides, or insecticides or the use or application of liquid or dry chemicals, herbicides or insecticides on or around household foundations
- Hazardous wastes or garbage of any kind or description and hazardous waste sites
- Stormwater facilities, and surface water.

Sanitary and abandoned landfills are not to be located within 1,000 feet.

Two potential sources of contamination are identified as being located within 600 feet of the well:

- Garage for tool storage
- Water Quality Analyzer Building

Water pipelines are prohibited to be installed within 10 feet of a septic tank or within 10 feet of sewage disposal drain field lines. This requirement is applicable to the Property due to the OSS.

This agreement runs with the land and is for the benefit of any subsequent owner.

Declaration of Covenant Prohibiting Use of Leachable Metals

The *Declaration of Covenant Prohibiting Use of Leachable Metals*, between the City of Seattle as "Owner" and King County as regulatory agency, was recorded on December 8, 2009 as Record No. 20091208000796. This agreement is a condition of the King County building permit application No. B09C0024. The Owner covenants that no leachable metal surfaces exposed to the weather will be allowed on the property. Common leachable metal surfaces identified in the document include, but are not limited to, galvanized steel roofing, gutters, flashing, downspouts, guardrails, light posts and copper roofing.

The agreement grants King County a perpetual access easement to inspect and monitor that no leachable metal is present on the property. The covenant is binding upon the property unless or until a new drainage or site plan is reviewed and approved by King County DDES or its successor.

Declaration of Covenant for Inspection and Maintenance of Stormwater Facilities and BMPs

The *Declaration of Covenant for Inspection and Maintenance of Stormwater Facilities and BMPS*, between the City of Seattle as "Owner" and King County as regulatory agency, was recorded on

December 8, 2009 as Record No. 20091208000797 and affects a portion of the southwest quadrant of the property. This agreement is a condition of the King County building permit application No. B09C0024. The property uses the "full dispersion," "full infiltration" and "basic dispersion" for stormwater management flow control, and specific requirements for implementing these best management practices (BMPs) are contained in the exhibits to the agreement (engineering details from the *BMP Site Plan* and *Flow Control BMP Maintenance Instructions*). This agreement runs with the land unless terminated by written agreement by the Owner and King County or its municipal successor.

Unresolved Items

Three items related to the property title have not yet been satisfactorily resolved:

- **Transmission Lines**—The ownership of the transmission lines that bisect the property has not yet been determined. These transmission lines are shown on the survey recorded under Recording No. 8102049003. There is no recorded easement with PSE or any other power company for the transmission lines. At the site inspection/site walk, an attempt was made to determine ownership of the transmission poles by inspecting the information plates (Seattle City Light or PSE) but the information plates on the poles inspected were missing or too worn to be unreadable. The poles immediately next to the buildings are Seattle City Light poles. There are four possibilities:
  - There is a written easement that was never recorded.
  - There is a use permit between the two entities.
  - PSE has an easement by prescription.
  - The transmission line is owned by the City of Seattle and any connection to PSE is offsite.
- **Hunting and Other Possible Rights of Tribal Community on Property**—Known hunting rights as a result of an Indian Treaty are at least partially identified by marked areas, based on physical inspection of the property. As stated in the Certificate, there are other possible rights including rights to conduct ceremonies. How these rights could affect the development of the property are still outstanding.
- **Forest Practice Permit**—The area on the property that has been used for staging required a Forest Practice Permit 6 issued by DNR, according to SPU staff. It is unknown whether the permit has been kept up to date as various projects have been completed. Typically, this type of permit requires the owner to reforest the area upon completion of the project contemplated by the permit. Since this area is considered a natural staging area for ongoing projects, an extension of the permit should be obtained. SPU Facilities project manager Carlos Sanabria will work with staff at the Cedar Falls site to obtain the needed extension or new permit.

CHAPTER 9.
SITE DEVELOPMENT ALTERNATIVES

CONSIDERATION OF SITE PLANNING ZONES

In identifying development alternatives for the Landsburg site, the following considerations were made for each of the site's five planning zones (see Figure 9-1):

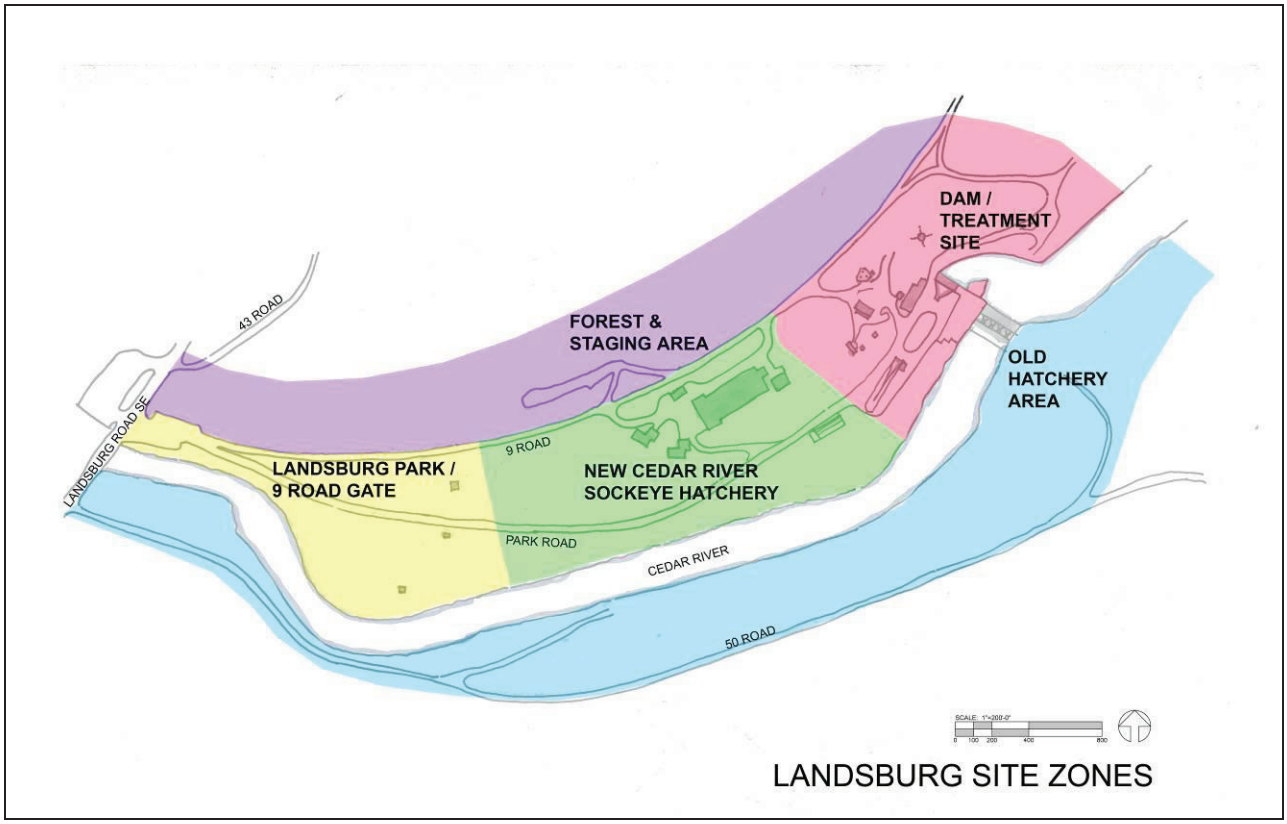

Figure 9-1. Landsburg Site Planning Zones

- Landsburg Park/9 Road Gate—A concept plan for the park is presented but because these are relatively minor improvements no plan variations are provided.
- New Cedar River Sockeye Hatchery—The new Cedar River Sockeye Hatchery is currently under construction. For planning purposes it was assumed to be an existing facility, but no alternative proposes any changes to this zone.
- Old Hatchery and Area South of the Cedar River—The area on the south side of the Cedar River houses the current sockeye hatchery and will be restored to a natural state after the new hatchery is operational. Construction of a spillway adjacent to the south end of the dam is being planned by SPU. A secure gate and fencing are recommended for installation at the south entrance to the dam. No alternatives are proposed for this zone.
- Forest and Staging Area North of 9 Road—The area north of the 9 Road is a forested area with a cleared area that will provide contractor mobilization space before being reforested.

- Dam/Treatment Site—The dam/treatment site (see Figure 9-2) is the focus of the site development alternatives. This zone is characterized by the following:
  - Unpaved driveways and undefined parking areas
  - Poor vehicle circulation, particularly for chemical delivery trucks
  - Mix of permanent, temporary, functional and non-functional facilities
  - Limited fire water service and no potable domestic water service
  - Inadequate sanitation facilities
  - New fish program operational facilities and fish ladder
  - Historic structures in decline
  - Antiquated electrical facilities
  - Chlorine gas security risk
  - Inferior and inadequate staff facilities
  - Seismically deficient water tower
  - Subject to numerous public tour visits during salmon run
  - Subject to emergency staff-up during storm events
  - Surrounded by wooded natural area.

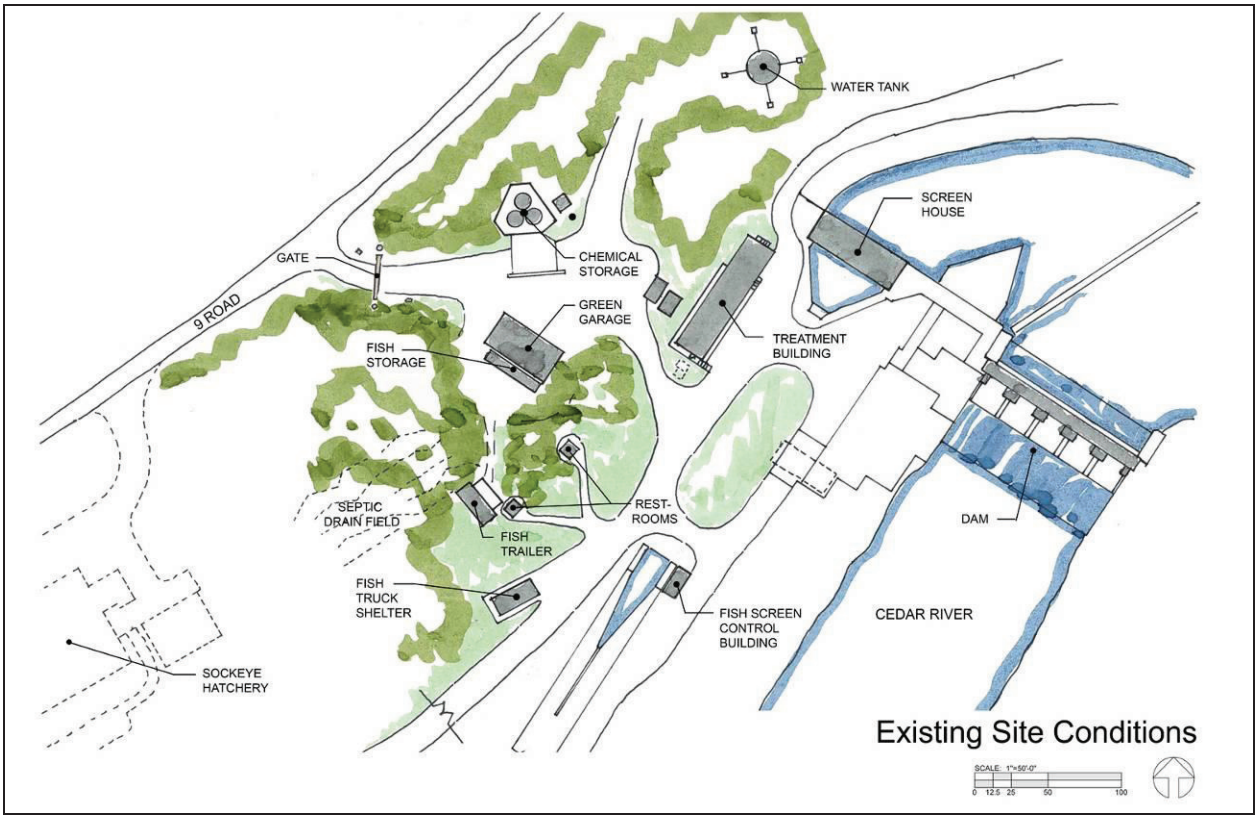

Figure 9-2. Existing Conditions at the Dam/Treatment Site

DESIGN METHODOLOGY FOR DEVELOPING ALTERNATIVES

Based on program information and field conditions, seven preliminary alternatives were produced for site development plans. At the time that the preliminary alternative plans were being developed, Water Quality had not yet determined which chlorine treatment method (gas or liquid) would be used at Landsburg in the future. Because of this, the project team determined that the spectrum of alternatives should include plans that would work with gas, plans that would work with liquid and plans that would work with either technology. Ultimately the team developed three preliminary alternatives specific to the use of liquid chlorine, two specific to continued use of gas treatment and two that would function with either treatment method.

The project team worked with the executive steering committee to make improvements to these plans with a focus on functionality and minimizing impacts. The most desirable aspects of these plans were consolidated into revised alternatives. Two basic alternatives emerged from this process, and the project team felt that two variations of these schemes warranted consideration. These two alternatives and their variations were moved forward for more detailed design development, conceptual pricing, and a structured evaluation (see Chapter 10). The overall process can be summarized as follows:

1. Confirm site conditions and verify program requirements.
2. Design a variety of preliminary conceptual site development alternatives.
3. Review with executive steering committee.
4. Determine the best features of each alternative and combine these into two new distinct alternatives.
5. Develop a variation of each scheme to create two additional alternatives (four total).
6. Develop alternative plans in greater detail for pricing and evaluation.

PRELIMINARY CONCEPTUAL ALTERNATIVES

Alternative 1A—New Consolidated Building (Gas or Liquid Treatment)

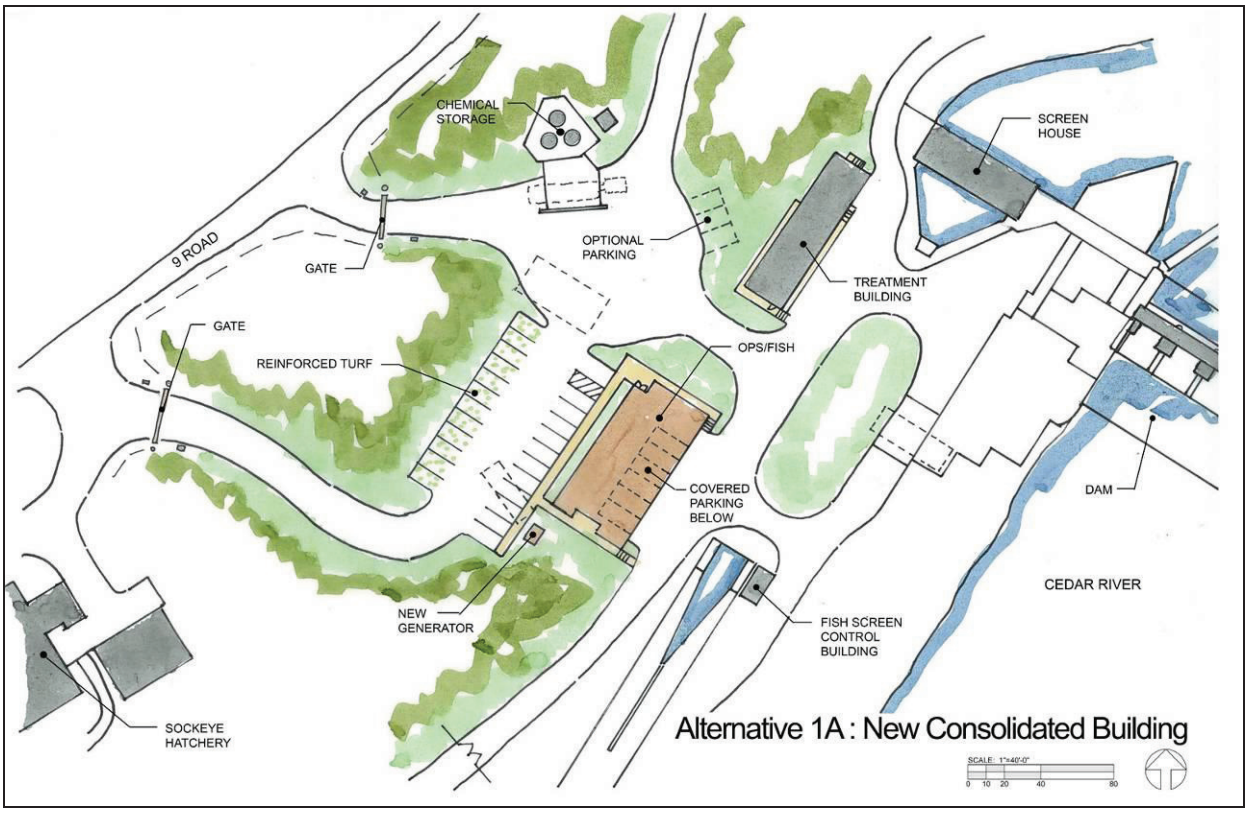

Figure 9-3. Preliminary Alternative 1A

This alternative consists of the following:

- Retain chemical storage facility platform
- Retain and renovate screen house
- New primary driveway access to parking and site
- Existing secondary drive limited to truck deliveries
- Remove green garage
- Retain treatment building
- Add new two-story consolidated facility for fish program, operations, storage and covered parking (ops/fish facility)
- Storage and covered parking under new ops/fish facility
- Drive to dam located between new ops/fish facility and treatment building.

Alternative 1B—New Consolidated Building (Gas or Liquid Treatment)

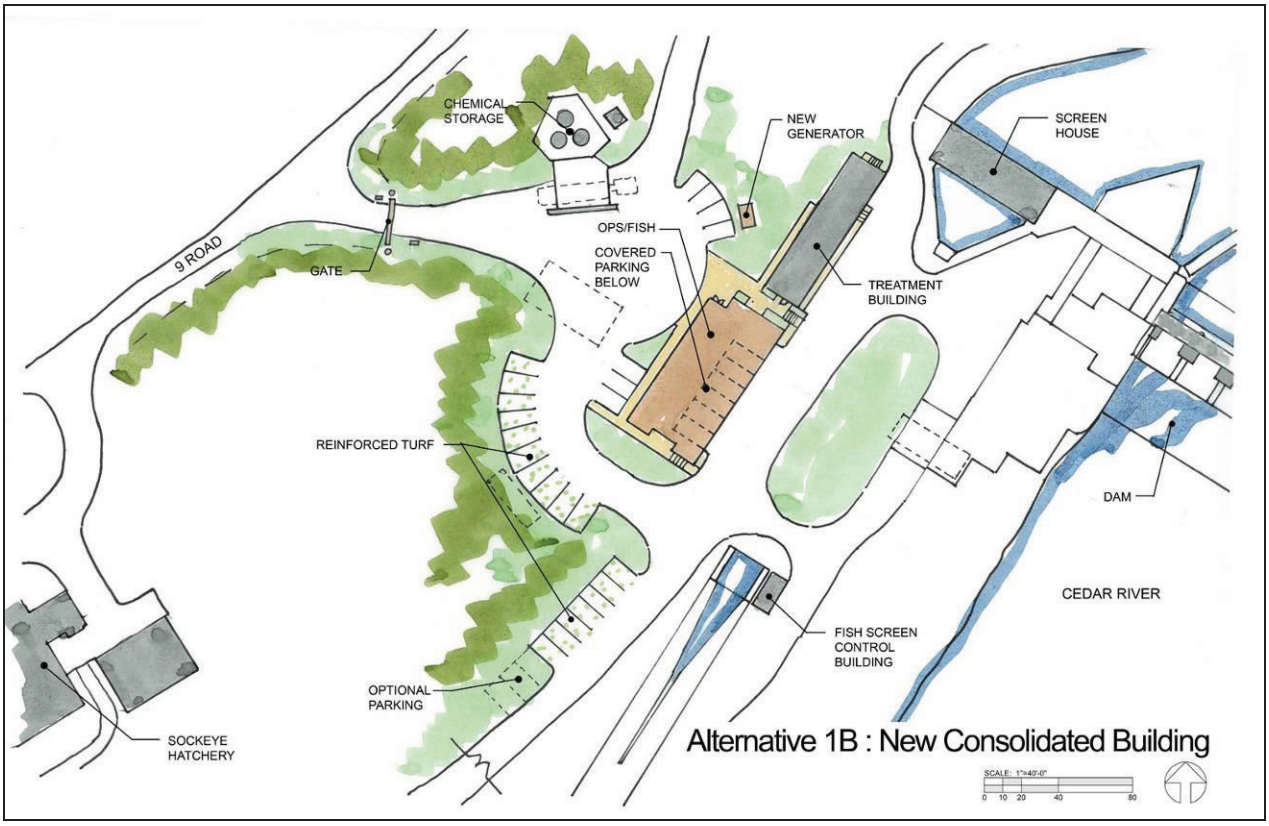

Figure 9-4. Preliminary Alternative 1B

This alternative consists of the following:

- Retain chemical storage facility platform
- Retain and renovate screen house
- Compact circulation and parking
- Remove green garage
- Add new two-story consolidated facility for fish program, operations, storage and covered parking
- New ops/fish facility located immediately adjacent to treatment building
- Storage and covered parking located under new ops/fish facility
- Drive to dam located south of new ops/fish facility