



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

D. M. Sugimura, Director

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

Application Number: 2304846
Applicant Name: Minh Nguyen, Sunmoon Design for Quang Tieu
Address of Proposal: 9480 Rainier Avenue South

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to change the use of 1,170 square feet service station to minor auto repair and establish use for future 2,596 square foot addition to existing building for minor vessel repair.

The following approvals are required:

Shoreline Substantial Development Permit - to allow an addition to a building in a CM shoreline environment- SMC 23.60.

Shoreline Special Use - (SMC 23.60.424) to allow minor vessel repair in a CM shoreline environment.

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

BACKGROUND DATA

Site & Vicinity Description

The site is located in the Rainier Beach neighborhood on Rainier Avenue South near the intersection of Seward Park Avenue South. The 15,529 square foot site is zoned Neighborhood Commercial 2 with a forty foot height limit (NC2-40) and within the Conservancy Management (CM) shoreline district.

The site is considered a waterfront lot under the Seattle Land Use Code but is about 100 feet from the water's edge.

The site is currently developed with a one-story auto repair shop (formerly a gas station) with an attached canopy, and is considered a “service station” under the Seattle Land Use Code. The site is almost completely covered with asphalt or structure, but does contain several mature evergreen trees. Topographically the building, canopy and service areas are at the same grade elevation of the sidewalk. The remainder of the site is significantly lower than the sidewalk and is developed with asphalt and is used for parking.

Surrounding property to the north is zoned NC2-40 within the CM shoreline environment and is developed with a large condominium building which is over the water, accessory surface parking and buildings. Surrounding property to the south, across Rainier Avenue South is zoned NC2-40 and NC1-40, and is developed with a variety of commercial uses. Surrounding property to the west is zoned NC2-40 within CM shoreline environment and is developed with retail uses, the Rainier Yacht Club and Parkshore Marina. Surrounding property to the east is zoned NC2-40 within the CM shoreline environment and developed with apartments.

Rainier Avenue South is considered an arterial street and is improved with curb, gutter and sidewalk.

Project Description

The project consists of a 2,596 square foot two-story addition to an existing 1,170 square foot building. The 2,596 square foot addition consists of 1,696 square foot minor vessel repair with an accessory 900 square foot storage space. The service bays for the vessel repair will be located at the same grade elevation as the existing structure so that the addition will be perceived as a one-story building from the street; however, the proposed storage space will be located below the main level. Four parking spaces will be provided on the existing site, including a barrier free space.

Public Comment

Seven public comment letters were received during the public comment period which ended on April 15, 2005. The letters described concerns about past and current activities at the site relating to abandoned vehicles on-site, vehicles leaking gas, oil and other pollutants on the ground, the presence of underground gas tanks, and the general cleanliness of the site. Other concerns related to the removal of the mature trees, conformance with the Neighborhood Plan and the proposed uses as they relate to the shoreline environment.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Substantial Development Permit Required

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC.*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. THE POLICIES AND PROCEDURES OF CHAPTER 90.58.RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against effects to public health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local Shoreline Master Program, codified in the Seattle Municipal Code at Chapter 23.60. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

B. THE REGULATIONS OF CHAPTER 23.60

Shoreline Goals and Policies

Pursuant to SMC 23.60.004, the Shoreline Goals and Policies (part of the Seattle Comprehensive Plan's Land Use Element), and the purpose and locational criteria for each shoreline environment contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district.

The subject site is a waterfront lot but is about 100 feet from the ordinary high water mark and separated from the water by another site. The subject site and surrounding sites are generally improved with built environment as compared to natural environment. The immediate area is characterized by asphalt parking lots for the auto, retail, marina and condominium uses.

The broad shoreline goals in the Seattle Comprehensive Plan's Land Use Element are to: 1) establish shoreline uses that result in long-term over short-term benefit; 2) plan for and encourage the integration and location of compatible uses within segments of the shoreline; 3) locate all non-water dependent uses upland to optimize shoreline use and access; 4) provide a management system that will plan for and permit all reasonable and appropriate use through a system of priorities; and 5) protect those areas of shoreline that are geologically dangerous or

fragile, or biologically fragile. The proposed development will meet these goals, as conditioned, in that the uses proposed should provide economic vitality and provide services to the surrounding community in the long-term. The management, integration and location of the uses will be addressed through the special use analysis which follows in this document.

The specific area objectives for Lake Washington are to: 1) preserve the resources of natural areas and fish migration, feeding areas and spawning areas; 2) provide quality public access to the shoreline by encouraging and enhancing shoreline recreational activities, particularly in developed parks; 3) preserve and enhance views of the water; and 4) protect developed residential and commercial areas in a manner consistent with adopted land use policies. The proposed development will not affect these goals in that the site does not abut the water and has limited views of the water. To some extent the proposed uses will protect the commercial area by providing economic development and providing vessel repair services which could help people enjoy the shoreline.

The purpose of the CM environment described in SMC 23.60.220C4, is to (1) conserve and manage areas for public purposes, recreational activities and fish migration routes. While the natural environment need not be maintained in a pure state, developments shall be designed to minimize adverse impacts to natural beaches, migratory fish routes and the surrounding community. The locational criteria are: 1) dry or submerged land in sensitive areas generally owned by a public agency, developed with a major public facility, including navigation locks, sewage treatment plants, ferry terminals and public and private parks containing active recreation areas; and 2) waterfront lots containing natural beaches or a natural resource such as fish migration routes or fish feeding areas which require management but which are compatible with recreational development. The development site does not epitomize a site meeting the locational criteria in that the site is not abutting the water, owned by a public agency, public or private park. The site is adjacent to a fish migration route but is about 100 feet from the ordinary high water mark at its closest point.

Pursuant to SMC 23.60.064C, in evaluating whether a development which requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that the proposed use: 1) is not prohibited in the shoreline environment and the underlying zone and; 2) meets all applicable development standards of both the shoreline environment and underlying zone and; 3) satisfies the criteria for a shoreline variance, conditional use, and/or special use permits, if required.

Allowed Use

The existing auto repair use is prohibited pursuant to SMC 23.60.430; however a non-conforming use may continue pursuant to SMC 23.60.122. There has been a long history of auto repair within the existing building, specifically in two service bays since construction of a gas station building in 1953 (permit nos. 423879 and 424469). The applicant has provided King County tax records dated from 1954 which describes the gas station building along with two photos which clearly indicate the presence of two auto repair service bays. A canopy was built under permit no 501135 in 1963. Currently, there is a mechanical auto lift under the canopy which has been utilized to repair vehicles; however no permit history or other evidence has been obtained by DPD or provided by the applicant to substantiate that the auto repair use existed at a time that this use was allowed. In light of that, the mechanical lift must be removed and will be a condition of this permit.

The proposed minor vessel repair use is only allowed by special use and is analyzed in this document.

General Development Standards for all Shoreline Environments (SMC 23.60.152)

These general standards apply to all uses in the shoreline environments. They require that all shoreline activity be designed, constructed, and operated in an environmentally sound manner consistent with the Shoreline Master Program and with best management practices for the specific use or activity. All shoreline development and uses must, in part: 1) minimize and control any increase in surface water runoff so that receiving water quality and shoreline properties are not adversely affected; 2) be located, designed, constructed, and managed in a manner that minimizes adverse impact to surrounding land and water uses and is compatible with the affected area; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety.

Department of Ecology records indicate that three underground gas tanks exist on the site as remnant of the former gas station use. The tanks have not been used to hold gas for decades and the DOE records indicate that the tanks predate any regulations; however in analogous situations, evidence suggests that the soil surrounding the tanks will likely be contaminated. Water quality could be adversely impacted if contaminated water has been migrating from this site to Lake Washington. In light of that, this project will be conditioned to require that soil samples be taken by a trained professional to determine whether the tanks are leaking toxics and/or the soil is contaminated. The applicant will be required to follow the recommendations of the trained professional on whether the tanks should be removed and soil remediate or whether the contamination, if any, can be contained on-site.

The proposal, as conditioned and mitigated, is consistent with the general standards for development within the shoreline area. General development standards (SSMP 23.60.152) state that Best Management Practices shall be followed for any development in the shoreline environment. These measures are required to prevent contamination of land and water. The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality.

Development Standards for CM Shoreline Environments (SMC 23.60.450)

The development standard limits the height of structures to a maximum height of 30 feet in SMC 23.60.454 with exceptions for rooftop features such as elevators and stairs. The proposal will reach a height of 28 feet at its highest point as measured from the north elevation. However under the Land Use Code height is measured from an average grade so the building is considered to be substantially under the height limit. Thirty five percent lot coverage is allowed and the proposed coverage is 19%. A view corridor is proposed on the eastern portion of the site which is compliant with the standard to provide 35% of the width of the lot. To enhance views of the water, the existing chain link fencing will be re-configured and slats removed so that the view is improved from the sidewalk. No public access is required.

Development Standards for Specific Shoreline Uses (SMC 23.60.179 through SMC 23.60.210)

These standards do not apply to any of the proposed uses.

Criteria for a Shoreline Variance, Conditional Use, and/or Special Use Permits

See analysis in this document.

Development Standards for Neighborhood Commercial 2 with 40 foot height limit (NC2-40) zone (SMC 23.47)

The proposal has been reviewed by DPD and meets the applicable development standards of the NC2-40 zone.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

Chapter 173-27 of the WAC sets forth permit requirements for development in shoreline environments and gives the authority for administering the permit system to local governments. The State acts in a review capacity. The Seattle Municipal Code Section 23.60 (Shoreline Development) and the RCW 90.58 incorporates the policies of the WAC by reference. These policies have been addressed in the foregoing analysis and have fulfilled the intent of WAC 173-27.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED.**

CONDITIONS

See conditions at the end of this document.

ANALYSIS – SHORELINE SPECIAL USE

The CM environment allows minor vessel repair uses as a shoreline special use (SMC 23.60.0424) subject to criteria for special uses which are described in SMC 23.60.032 and indicates that the Director may approve or conditionally approve a special use only if the applicant can demonstrate all of the following:

- A. *That the proposed use will be consistent with the policies of RCW 90.58.020 and the Shoreline Policies;*

The policies of the RCW 90.58.020 provide for management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses, while allowing development in a manner which will promote the public interest. It states, in part: permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize , insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The subject site is considered a waterfront lot pursuant to the Land Use Code; however, the property is separated by the water by surface parking, accessory building and 169 unit condominium which are predominately over water.

The proposed vessel repair use is not expected to interfere or otherwise impact the purpose of the Conservancy Management environment as described above and as conditioned.

B. That the proposed use will not interfere with the normal public use of public shorelines;

The proposed use is located offshore and will not impair physical access to the shoreline or use of the water. Other privately owned parcels separate the subject site from the water.

C. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area;

Other uses and structures on this bluff are sited similarly with surface parking in front of a one story building.

D. That the proposed use will cause no unreasonably adverse effects to the shoreline environment in which it is to be located; and

As noted above, the shoreline environment would not suffer unreasonable adverse effects as conditioned.

E. That the public interest suffers no substantial detrimental effect.

The public interest is not expected to suffer substantial detrimental effect; therefore, the proposal meets the criteria for Special Use approval.

DECISION - SHORELINE SPECIAL USE

The proposed shoreline special use permit is **CONDITIONALLY GRANTED** to allow minor vessel repair.

CONDITIONS – SHORELINE SPECIAL USE AND SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Prior to Issuance of the Master Use Permit

1. Dismantle and remove the existing mechanical vehicle lift under the canopy.

Prior to Issuance of any Construction Permits

2. To minimize adverse impact to surrounding land and water uses, soil samples shall be taken by a trained professional, approved by DPD, to determine whether the three existing underground gas tanks are leaking toxics, whether the soil is contaminated and whether contamination is migrating off-site. The applicant will be required to follow the recommendations of the trained professional which could include, but not be limited to removal of the tanks and/or soil remediation.

Prior to Final Occupancy

3. To enhance water views within the view corridor re-configure the chain link fencing.

Signature: (signature on file)
Jess Harris, AICP Senior Land Use Planner
Department of Planning and Development

Date: October 2, 2006