



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

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

Application Number: 3004346
Applicant Name: Dante Palmaffy
Address of Proposal: 4233 Beach Drive SW

SUMMARY OF PROPOSED ACTIONS

Land Use Application to establish use for future construction of two, two-story single family residences each with attached one-car garages in an environmentally critical area. Existing structures to be demolished. Project includes 240 cubic yards of grading.

The following approvals are required:

Shoreline Substantial Development Permit - to allow a two single family residences in an Urban Residential/Conservation Recreation Environment. (SMC Section 23.60.020A).

SEPA - Environmental Determination - SMC Chapter 25.05.

SEPA DETERMINATION: [] Exempt [X] DNS [] MDNS [] EIS

[X] DNS with conditions

[] DNS involving non-exempt grading or demolition or involving another agency with jurisdiction

BACKGROUND DATA

Site and Vicinity Description

The 4,852.8 square foot subject site is mostly zoned Lowrise 2 with the southern portion of the site zoned Single Family 7200. The site is located on the west side of Beach Drive, where SW Genesee Street terminates at Beach Drive. The site is developed with one single family home and a detached garage. The upland portion of the site is zoned as an Urban Residential (UR) Shoreline and the underwater portion of the site is zoned as Conservation Recreation Environment (CR).

The site topography slopes down to the west with approximately 10 feet difference between the highest and lowest elevation. The site is also identified as within the Flood Prone and Liquefaction ECA's.

Zoning to the south is Single Family 7200 and developed with residential homes. To the north, the Lowrise zone continues and is also developed with residential homes. The site abuts Emma Schmitz Memorial Overlook Park immediately to the south.

Beach Drive SW is improved with roadway, curb, gutter and sidewalk on both sides of the street.

Proposal

The application is for the future construction of two single family homes, each containing a single car garage. The existing home and detached garage will be demolished. The proponent for the project has applied for a short plat under a separate application (#3006676) to create two parcels of land. All of the proposed development is proposed to occur on only that portion of the site that is designated an Urban Residential shoreline environment.

Public Comment

One public comment letter was received during the comment period which ended on June 9, 2006 and was extended to June 23, 2006. The comment letter notes disagreement with the height measurements and calculations used, but finds the architectural design well-done and well-scaled to the community.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

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 adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines 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 Shorelines 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 emphasis on ensuring compliance with the policy and provisions of the Act. As a result of the Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60, that also incorporates the provisions of Chapter 173.27, WAC. 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.

Construction of the multifamily structure would be consistent with the procedures of Chapter 90.58 RCW and the provisions of Chapter 173-14 WAC in terms of encouraging a use allowed and anticipated for the Urban Residential shoreline environment and minimizing the entry of pollutants into the water. The construction itself would not adversely affect the shoreline environment and the siting of the structure would not be in a sensitive area of the site thereby protecting migratory fish routes.

Chapter 23.60 of the Seattle Municipal Code is known as the “Seattle Shoreline Master Program” and is also a part of the City’s Land Use Code. In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must also show that the proposal is consistent with the shoreline policies established in SMC 23.60.004 which are found in the Seattle Comprehensive Plan and the purpose and locational criteria for each shoreline environment. The proposal must also meet: the criteria and development standards for the shoreline environment in which the site is located; any applicable special approval criteria; general development standards; and the development standards for specific uses.

The subject property is classified as an upland lot and is located within an Urban Residential (UR) shoreline environment. The proposed single family structures are permitted use in the UR shoreline environment. The proposed structure would comply with the development standards as described below. No work is proposed to occur in the Conservation Recreation (CR) shoreline environment located on the subject site.

B. THE REGULATIONS OF THIS CHAPTER

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 ensuring 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 that also incorporates the provisions of Chapter 173-27, WAC. Title 23 of the Municipal Code is also referred to as the Land Use and Zoning Code. 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 which have also been set forth in the Land Use Code.

In evaluating requests for substantial development permits, the Director must determine that a proposed use and subsequent development meets the relevant criteria set forth in the Land Use Code. The Shoreline Goals and Policies, part of the Seattle Comprehensive Plan, and the purpose and location criteria for each shoreline environment must be considered. A proposal must be consistent with the general development standards of SMC 23.60.152, the specific standards of the shoreline environment (SMC 23.60. 840) and underlying zoning designation, any applicable special approval criteria, and the development standards for specific uses.

The proposal is subject to the Shoreline Policies of Seattle Shoreline Management Program (SSMP) 23.60.004, because the site is located within the shoreline district and the cost of the project exceeds \$2,500. Single family homes are a permitted use within the Urban Residential (UR) shoreline environment. No change is proposed within the Conservation Recreation (CR) shoreline environment. The proposed construction has been designed and mitigated to ensure minimum impact to the public health, land, and the waters of the state, and their aquatic life. The location and design of the two residences will not interfere with the public rights of navigation and corollary rights, thus providing for the management of the shorelines by planning for and fostering all reasonable and appropriate uses.

The proposed project for two single family structures is consistent with the above noted shoreline policies. The structures would be located in an area zoned for single and multifamily development on a shoreline lot. The proposal would provide residential views of Puget Sound for two new residential units.

Chapter 23.60 of the Seattle Municipal Code is known as the “Seattle Shoreline Master Program”. In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SSMP 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SSMP 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SSMP 23.60.004, and meets the criteria and development standards for the shoreline environment in which the site is located; any applicable special approval criteria; general development standards; and the development standards for specific uses.

The subject property is classified as a waterfront lot (SSMP 23.60.924) and is located within both the Urban Residential (UR) and Conservation Recreation (CR) environment, as designated by the Seattle Shoreline Master Program. The principal use on this waterfront lot is residential.

The proposed project must meet the standards of the underlying Residential zone, the development standards for the UR and CR shoreline environments (SSMP 23.60.570 and 23.60.390) and the general development standards for all shoreline environments (SSMP 23.60.152). The Director may attach to the permit or authorize any conditions necessary to carry out the spirit and purpose of, and ensure the compliance with, the Seattle Shoreline Master Program (SSMP 23.60.064).

General development standards for all environments (SSMP 23.60.152) and for the UR (SSMP 23.60.540) and CR (SSMP 23.60.360) environments

The existing and proposed use is by definition two single family uses which are allowed outright on waterfront lots in the UR environment. The proposal must conform to the general standards for all environments (SSMP 23.60.152) and the physical development standards for uses in the UR environment (SSMP 23.60.540). The submerged portion of the lot lies within the CR environment (SSMP 23.60.360) and no development is proposed over this area. Therefore, no development standards for the CR environment apply to the proposed development.

General development standards (Section 23.60.152 SSMP) state that Best Management Practices shall be followed for any development in the shoreline environment. These measures are required to prevent contamination of land or water. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses must: 1) minimize adverse impacts and protect fish and wildlife habitat conservation areas; 2) minimize and control any increases in surface water runoff so that receiving water quality and shore properties are not adversely affected; 3) be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area; and 4) be located, constructed, and operated so as not to be a hazard to public health and safety. Because of the extent of the proposed earthwork associated with pier construction, the potential exists for impacts to Puget Sound during construction. City regulations require application of construction best management practices (BMPs) outlined in Director's Rule 6-93, which will provide adequate protection of the shoreline.

The proposal, as conditioned, would not adversely affect the quality and quantity of surface and ground water on and adjacent to the site on a long-term basis; no planned discharge of solid wastes would occur (debris waste will be trucked away); spillage of petroleum products must be avoided and contained should it occur; no intentional release of oil, chemicals, or other hazardous materials shall occur; surface runoff would not be adversely affected; permeable surfaces would not be affected; erosion would not result from the development; fish and wildlife resources would not be altered; natural shoreline processes would not be adversely affected; no long-term adverse impacts to surrounding land and water uses would occur; no hazard to public safety or health is posed by this development. Navigation channels would be kept free of hazardous or obstructing development or uses; and no submerged public right-of-way or view corridors would be significantly affected. All debris and other waste shall be disposed of in such a way as to prevent entry into Puget Sound. In order to minimize adverse noise and parking impacts during construction, the applicant will be required to limit the hours of construction and provide construction parking on-site as soon as possible.

These existing conditions ensure that the project conforms to the goals and regulations of the Seattle Shoreline Master Program. The public interest suffers no substantial detrimental effect from the proposal. The long-term environmental effect of the project is expected to be beneficial. (The proposal is subject to the standards established in the Stormwater, Grading, and Drainage Control Code which include provisions for erosion and sedimentation control both during construction and after occupancy of the building, thereby minimizing any adverse impact to water quality.)

Development Standards for the UR environment - Section 23.60.540 - 23.60.578 SSMP

Development Standards for the UR environment are discussed below and all shoreline development standards are met.

SSMP 23.60.540 Uses Permitted Outright on Waterfront Lots in the UR Environment

Single family structures such as the proposed two single family structures are permitted outright in the UR environment.

SSMP 23.60.572 Height

The maximum height in the UR environment is thirty feet (30'). The height permitted in both the Lowrise 2 (L-2) and Single Family zones is 25 feet to the roof plate. The proposed structures would not exceed the height limit.

SSMP 23.60.574A4 Lot Coverage

Lot coverage of 45 percent is allowed and 36 percent lot coverage is provided.

SSMP 23.60.576 View Corridors in the UR Environment

View corridors are not required for single family development such as that being proposed.

SSMP 23.60.578 Regulated Public Access in the UR Environment

Sections 23.60.160 and 23.60.200E SSMP describes the general development standards for public access. However, public access is not required because the project site is fewer than five residential units.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. The policies support and encourage the establishment of single family structures in the UR and CR shoreline environment.

C. THE PROVISIONS OF CHAPTER 173-14 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 constitutes consistency with WAC 173-27 and RCW 90.58.

Conclusion

In conclusion, the proposed single family structures will be consistent with Chapter 23.60 SMC, also known as the Seattle Shoreline Master Program and conforms to the specific standards for development in the UR and CR shoreline environments. Conditions to minimize the project impacts pursuant to the Director's authority to impose conditions (SSMP 23.60.064E) under Seattle's Shoreline Management Program are not required. Because it has been established that the proposed use and development conforms to the policies and procedures of the WAC and RCW and with the regulations of Chapter 23.60 of the Seattle Municipal Code, the permit should be approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposed shoreline substantial development permit for the two single family structures is **CONDITIONALLY GRANTED.**

ANALYSIS - SEPA

The proposal site is located in a shoreline environmentally critical area, thus the application is not exempt from SEPA review. However, SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City's Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) Evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations. This review includes identifying additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and other applicable environmental laws.

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated May 4, 2006. The information in the checklist, pertinent public comment, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The revised plans submitted on April 13, 2007 show mitigation for protecting fish habitat and the natural shoreline process. The mitigation plan includes a five foot wide riparian buffer along the entire sea wall that is planted with native vegetation.

The Department of Planning and Development has analyzed the environmental checklist submitted by the project applicant; and reviewed the project plans and any additional information in the file. As indicated in this analysis, this action will result in adverse impacts to the environment. However, due to their temporary nature and limited effects, the impacts are not expected to be significant.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced, may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, "*Where City regulations have been adopted to address and environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*" subject to some limitations. Short-term adverse impacts are anticipated from the proposal. No adverse long-term impacts on the environmentally critical area are anticipated.

Short-term Impacts

Several adopted codes and/or ordinances provide mitigation for temporary soil erosion. The Environmentally Critical Areas regulations provides rules to protect the public health, safety and welfare, promote safe development through the use of the best possible planning and engineering techniques, and prevents harm to the environment. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion

