



City of Seattle

Gregory J. Nickels, Mayor

**Department of Design, Construction and Land Use**

Diane M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

**Application Number:** 3004608  
**Applicant Name:** Jeff Layton for Salmon Bay Marine  
**Address of Proposal:** 2280 West Commodore Way (Salmon Bay Marine)

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Permit to allow 15 new piers and 14 slips in an environmentally critical area. Piers range in size from 608 square feet to 1,264 square feet (totaling 17,947 square feet). Eight existing piers, totaling 9,444 square feet to be demolished. This project is related to Project #3005267, a Shoreline Substantial Development Permit to allow the relocation of two floating dry docks (14,800 square feet and 5,200 square feet) from Salmon Bay Marine to Foss Shipyards.

Seattle Municipal Code (SMC) requires the following approvals:

**Shoreline Substantial Development Permit** - To allow site improvements accessory to marine retail sales and services in the Urban Maritime Environment pursuant to SMC 23.60.020 and 23.60.720.

**SEPA** – Environmental Determination pursuant to SMC 25.05.

**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 Description**

Salmon Bay Marine is located on the Salmon Bay Waterway of the Lake Washington Ship Canal east of the Hiram Chittendon Locks and west of the Ballard Bridge. The site is approximately 7 acres in size. Of the total area, approximately 5.4 acres are upland, providing for marine-related offices, marine equipment repair areas and storage, and vehicle parking; the remaining approximately 1.6 acres provides moorage for vessels in the Salmon Bay Waterway. West Commodore Way serves as vehicle and pedestrian access to the site.

### **Site Zoning**

The property is within an Urban Maritime (UM) shoreline environment and is zoned General Industrial I with a 45-foot height limit (IG-1/U45).



### **Project Description**

The project consists of permanently removing two existing dry docks (approximately 20,054 square feet) from Salmon Bay Marine Center and relocating them to Foss Shipyards on the Lake Washington Ship Canal. Proposal also includes demolishing approximately 9,444 square feet of existing overwater pier structures including the removal of 141 creosote timber piles and 13 steel piles and installing 17,947 square feet of new floating pontoon piers with 75 new steel guide piles and five gangways. The net reduction in overwater coverage at the Salmon Bay Marine Center will be approximately 11,551 square feet.

### **Public Comment**

The public comment period closed November 17, 2006 and no comments were received.

## **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.*

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 seeks to protect 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 proposed improvements to Salmon Bay Marine would not adversely impact the state-wide interest of protecting the resources and ecology of the shoreline, and the improvements would provide for the continued operation of a facility that is dependent upon its location in a shoreline of the state. The subject application is consistent with the procedures outlined in RCW 90.58.

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 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 locational criteria for each shoreline environment must be considered. A proposal must be consistent with the general development standards of section 23.60.152, the specific standards of the shoreline environment and underlying zoning designation, any applicable special approval criteria, and the development standards for specific uses.

The proposed development actions occur on land classified as a waterfront lot (SMC 23.60.924) and is located within an Urban Maritime (UM) shoreline environment. The proposed improvements are associated with a marine retail sales and service use and as such are a permitted use in the UM shoreline environment and the underlying IG-1 zone.

### **Shoreline Policies**

All discretionary decisions in the shoreline district require consideration of the Shoreline Goals and Policies, which are part of the Seattle Comprehensive Plan's Land Use Element, and consideration of the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220. The policies support the retention and expansion of existing water-dependent businesses such as the Salmon Bay Landing development (please refer to Land Use Policy L339). An area objective for Salmon Bay Waterway is to meet the long-term and transient needs of all Seattle's ships and boats—including fishing, transport, recreation and military, while at the same time to protect and enhance migratory fish routes and feeding areas (please refer to Area Objectives for Shorelines of Statewide Significance, Policy L354 1d). The purpose of the Urban Maritime (UM) environment as set forth in Section 23.60.220 C11 is to preserve areas for water-dependent and water-related uses while still providing some views for the water from adjacent streets and upland residential streets, such as the proposed administrative office and marine warehouse use.

The proposed improvements to Salmon Bay Marine would facilitate the continued and enhanced operations of the existing marine retail sales and service uses, as supported by both the purpose of the UM shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan. *Demolishing the existing overwater pier structures and removing 141 creosote timber piles will end the leaching of creosote in this area of the Ship Canal. The net reduction in overwater coverage at the Salmon Bay Marine Center of approximately 11,551 square feet will aid in habitat regeneration.*

### **SMC 23.60.152 - Development Standards for all Environments**

These general standards apply to all uses in the shoreline environments. 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 are subject to the following:

- A. The location, design, construction and management of all shoreline developments and uses shall protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as ... fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- B. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.
- C. Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage, vessel repair facilities, marine service stations and any use regularly servicing vessels....
- D. The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
- E. All shoreline developments and uses shall minimize any increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catchbasins or settling ponds, interceptor drains and planted buffers.
- F. All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.
- G. All shoreline developments and uses shall control erosion during project construction and operation.
- H. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.

- I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.
- J. All shoreline developments and uses shall 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.
- K. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.
- L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.
- M. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.
- N. All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.
- O. Navigation channels shall be kept free of hazardous or obstructing development or uses.
- P. No pier shall extend beyond the outer harbor or pierhead line except in Lake Union where piers shall not extend beyond the Construction Limit Line as shown in the Official Land Use Map, Chapter 23.32, or except where authorized by this chapter and by the State Department of Natural Resources and the U.S. Army Corps of Engineers.

Long-term or use related impacts are also anticipated from the proposal and include: Chinook salmon, a species listed as threatened under the Endangered Species Act (ESA) in March 1999, are known to inhabit the Lake Washington Ship Canal including the proposed project area.

This project is proposed to occur in the nearshore environment in the Lake Washington Ship Canal, which is habitat of chinook salmon and other aquatic species. The project site serves as a migration corridor for juvenile chinook salmon from the Cedar River and other water bodies in Water Resource Inventory Area 8. Additionally, predators of juvenile chinook are known to inhabit areas under pier structures and may use these areas as cover while preying on juvenile chinook. Small mouth bass, an introduced predator of juvenile chinook, also use the base of pilings under pier structures as nesting sites.

Moorage and marine repair facilities have debris on the substrate caused by users accidentally and sometimes intentionally dropping debris and other deleterious material into the water. This debris degrades aquatic habitat. To meet SMC 23.60.152 H, I, J and L, all debris, including, but not limited to, boards and branches; rope, wire, nuts, bolts and pipe; tires and hoses; other small to medium sized metal; and any other material not normally found on the natural substrate, shall be removed. A Clean-up Documentation Plan that describes the procedures that will be used to ensure that all debris will be removed from the substrate at the site will be provided. Additionally, video imagery shall be submitted to the Department to document removal of all debris.

As proposed and as conditioned below, the project complies with the above shoreline development standards. As conditioned, the short term construction related activities should have minimal effects on migratory fish routes and do not warrant further conditioning.

The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. In conjunction with this effort DPD developed a Director's Rule, 2000-16, to apply best management practices (BMPs) to prevent erosion and sedimentation from leaving construction sites or where construction will impact receiving waters. Due to the extent of the proposed work, the potential exists for impacts to the Salmon Bay Waterway during construction. Therefore, approval of the substantial development permit will be conditioned to require application of construction best management practices (BMPs). Completion of the attachment to the Director's Rule and adherence to the measures outlined in the attachment shall constitute compliance with BMP measures.

### **SMC 23.60.750 – Development standards for the UM Environment**

The proposal conforms to all of the development standards for the UM environment.

### **Conclusion**

SMC Section 23.60.064 E provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter 23.60, and with RCW 90.58.020 (State policy and legislative findings).

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 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 is also consistency with WAC 173-27 and RCW 90.58.

Thus, as conditioned below, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

### **DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT**

The Shoreline Substantial Development permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

### **ANALYSIS - SEPA**

The applicant submitted an environmental checklist dated June 6, 2002. The information in the checklist, construction plans, information submitted by the applicant and the experience of the Department with the review of similar projects form the basis for this analysis and decision.

Construction activities could result in the following adverse impacts: emissions from construction machinery and vehicles; increased dust levels associated with grading and demolition activities; increased noise levels; occasional disruption of adjacent vehicular traffic, and small increase in traffic and parking impacts due to construction workers' vehicles. All of these impacts are minor in scope and of short duration. Several construction-related impacts are mitigated by existing City codes and

ordinances (such as the Stormwater, Grading and Drainage Control code and Street Use ordinance, and mitigating measures described above pursuant to the Shoreline Master Program) applicable to the project. Since the proposal site is located in an industrial area, noise impacts would be sufficiently mitigated by the Noise Ordinance and no other measures or conditions are warranted.

The construction plans will be reviewed for stability and soils considerations by DPD's Geotechnical Engineer and the Building Plans Examiner, who will also require any additional soils-related information, recommendations, declarations, covenants, and bonds as necessary in accordance with Director's Rule 3-94 prior to issuance of the Master Use Permit. Assuming successful implementation of stabilization measures approved by the DPD geotechnical review, the project will not significantly increase the risk of land instability and no mitigation is warranted.

### **CONDITIONS - SHORELINE**

#### *Prior to Issuance of a Construction Permit*

1. Develop and submit a Clean-up Documentation Plan that describes how the debris on the site will be cleaned up. Provide video or photo documentation for removal of debris (rope, cable, tires, bottles, cans and other miscellaneous foreign debris) from the substrate as part of the Clean-up Documentation Plan.
2. Submit a completed drainage control plan that complies with SMC 22.802.020 B2d and Director's Rule 2000-16, (Category 2) BMPs for Construction Erosion and Sedimentation Control Plans. Adherence to the measures outlined in the attachment shall mitigate erosion and sedimentation impacts to Salmon Bay Waterway.
3. The requirements of the US Army Corps of Engineers and the Washington State Department of Fisheries permits will be conditions of this permit. These requirements shall be included on the building plan set submitted for this project.
4. The applicant shall provide DPD evidence of recorded easements necessary for pier structures and pier access across property and parcel boundaries.
5. All pier decks more than six (6) feet in width shall include a grating component for ambient light transmission.

#### *During Construction*

6. Prior to commencing construction, an emergency containment plan and procedures shall be developed for all toxic material that will be kept on site. All necessary equipment for containment and clean-up of this toxic material should be stocked on the site. A sufficient number of personnel, both during construction and during on-going operations, shall be trained in the proper implementation of this plan.
7. Equipment for the transportation, storage, handling and application of oil, chemicals, or other hazardous materials shall be maintained in a safe and leak-proof condition to prevent release of this material into the water. If there is any evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
8. A Section 10 Permit from the Army Corps of Engineers and a Hydraulic Project Approval Permit from Washington Department of Fish and Wildlife shall be successfully obtained and the terms and conditions of each permit shall be followed.

