



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

Diane M. Sugimura, Director

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

Application Number: 3004615
Applicant Name: Suzanne Findlay for Debra Prince
Address of Proposal: 3744 West Commodore Way

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow an addition to an existing single family residence to include 459 cubic yards of grading. Project includes 100 sq. ft. basement addition, new deck and swimming pool.

Seattle Municipal Code (SMC) requires the following approval:

Shoreline Substantial Development Permit - To allow [grading to exceed 250 cubic yards in the UR 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 Location and Zoning Designation

The project site is located in the Magnolia neighborhood, on the north side of West Commodore Way with about 56 feet of waterfront on Salmon Bay. The site is located within Urban Residential (UR) and Conservancy Recreation (CR) shoreline environments and an underlying Single Family 5000 (SF5000) zone. Areas to the east, west and south are also zoned single family. The property is located within two designated environmentally critical areas: potential slide and shoreline habitat area.

Project Description

The proposed development is an addition to an existing single family residence to include an expansion and remodel of the basement, a new deck, modification of walkways, planting areas and retaining walls, and a new swimming pool. Project includes approximately 459 cubic yards of grading. Due to the quantity of grading in an Urban Residential Shoreline Environment, a Shoreline Substantial Development permit is required.

Public Comments

Public notice of the project application was published on May 11, 2006. The required public comment period ended on June 9, 2006. DPD received no comments on this proposal.

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 Chapter 23.60; 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 aims 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 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 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 and other jurisdictions with shorelines adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60, which 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. 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

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 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 show that the proposal is consistent with the shoreline policies established in SMC 23.60.004, meets the development standards for all shoreline environments established in SMC 23.60.152 as well as the criteria and development standards for the shoreline environment in which the site is located, any applicable special approval criteria and the development standards for specific uses.

The site is classified as a waterfront lot (SMC 23.60.924). The shoreline designations for the site are Urban Residential (UR) for the dry land portion of the site and Conservancy Residential (CR) for the submerged portion of the site (SMC 23.60.540 and 360). All work is to occur on the dry land portion of the site. Single family residences and accessory structures are permitted uses in the UR shoreline environment.

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 purpose of the UR and CR environments are stated in SMC 23.60.220.C.6 and C3, respectively. The applicable sections of these regulations to the current proposal are: in the Conservancy Recreation Environment maximum effort to preserve, enhance or restore the existing natural ecological, biological, or hydrological conditions shall be made in designing, developing, operating and maintaining recreational facilities and in the Urban Residential Environment residential areas shall be protected in a manner consistent with the Single Family Residential Area Policies.

SMC 23.60.064.- Procedures for Obtaining Shoreline Substantial Development Permits

The proposed project is a permitted use in the UR environment (SMC 23.60.540) and the underlying Single Family Residential 5000 (SF 5000) zoning district (SMC 23.44). All proposed work is located in the UR portion of the lot. As designed, the proposal conforms to the general development standards and the requirements of the underlying residential zone and of the UR overlay zones.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environment. 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. These general standards of the SMP state, in part, that all shoreline development 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 paving and berming of drum storage areas, fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- not release oil, chemicals or other hazardous materials onto or into the water...
- minimize the amount of impervious surface in the shoreline environment;
- utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.
- 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;
- 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;
- 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
- be located, constructed, and operated so as not to be a hazard to public health and safety.

To meet the above general development standards the project includes a reduction in impervious surface as compared with the existing condition. Native vegetation is proposed to be planted along the shoreline and within one hundred feet of the shoreline to meet the natural processes general development standard. This native vegetation shall consist of trees, shrubs and groundcover, and must include species that overhang the water to provide terrestrial insect drop and detritus that contributes to the natural shoreline processes. The planting plan submitted as Sheet L1.3 and dated November 1, 2006, shows “dune grass” proposed along the shoreline. To meet the natural processes general development standard, at least five native shrubs will be required to be planted in this area, as a condition of approval. These five shrubs may include retention of existing native vegetation. In addition as a condition of project approval to further meet the natural processes general development standard, no herbicides, pesticides or chemical fertilizers shall be used in the riparian shoreline, which is the area within 25-ft of the shoreline.

Construction impacts could also occur if Best Management Practices are not implemented. The applicant’s plan shows that the proposed construction work will take adjacent to the waters of Salmon Bay. With the proposed work taking place adjacent to and uphill from the water, there exists the potential for debris, soil and other deleterious material to enter the water during this proposed work. Best management practices (BMPs) should be employed to decrease the probability of debris or other deleterious material from entering the water during the proposed work and to decrease the water quality impacts of the work. A silt fence shall be deployed around the construction area to contain any soil and debris that enters the water during the construction. At a minimum any floating debris that enters the water during construction shall be collected once per day. This material shall be contained on site, secured, and then disposed of at

the appropriate upland facility. If heavy debris or deleterious material enters the water and sinks, the location of the material shall be recorded in a log that is kept through the duration of the project. When construction is completed, this material/debris shall be removed and disposed of at the appropriate upland facility.

Therefore, the single family remodel and addition with associated grading and site work, as proposed and conditioned, is consistent with these general standards for development within the shoreline area, thereby minimizing any adverse impact to the shoreline area, to water and habitat quality and will not be a hazard to the public health and safety.

SMC 23.60.570 and SMC 23.60.390 - Development Standards for the UR and CR Environments

The development is proposed for the dry land portion of the lot, which is located within the UR shoreline environment. The development standards for the UR environment regulate height, lot coverage, view corridors and public access, all of which standards are met for this proposal.

The grading and site work will occur on the UR portion of the site, which is adjacent to and uphill from the submerged portion of the site located in the CR environment. Given the extent of the site work which includes about 460 cubic yards of grading, and the proximity of the work to the CR environment, the potential for impacts to the CR environment warrants further discussion. The CR environment development standards include requirements for natural area protection. Per SMC 23.60.392: "All developments in the CR Environment shall be located and designed to minimize adverse impacts to natural areas of biological or geological significance and to enhance the enjoyment by the public of those natural areas."

As proposed and conditioned this project minimizes overall impacts to the natural critical area through the decrease of impervious surface, planting of native vegetation, use of construction best management practices and restrictions on the use of herbicides, pesticides or chemical fertilizers within the riparian shoreline.

C. The Provisions of Chapter 173-27 WAC

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). Since the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistent with WAC 173-14 and RCW 90.58. As discussed in the foregoing analysis, 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**. Conditions are listed below.

CONDITIONS

Prior to Issuance of Building Permit

1. The planting plan shall be revised to include at least five native shrubs to be planted in the area near the shoreline (currently shown as "dune grass" on the November 1, 2006, planting plan). These five shrubs may include retention of existing native vegetation.

During Construction

The following condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

2. Prior to commencement of work the owner(s) and/or responsible party(ies) shall notify in writing all contractors and sub-contractors of the general requirements of the Seattle Shoreline Master Program (SSMP 23.60.152), including the requirements set forth in conditions of the MUP.
3. Best Management Practices shall be employed during the construction to meet applicable State of Washington water quality standards.
4. A silt fence shall be deployed near the water's edge to prevent soil and any debris from entering the water. The silt fence should remain in place until for the duration of the proposed work.
5. Any floating debris that enters the water during construction shall be collected once per day, contained on site, secured, and then disposed of at the appropriate upland facility.
6. If heavy debris or deleterious material enters the water and sinks, the location of the material shall be recorded in a log that is kept through the duration of construction. When construction is completed, this material/debris shall be removed and disposed of at the appropriate upland facility.

Life of the Project

7. Vegetation monitoring is required by the applicant to ensure eighty (80) percent or greater survival of the vegetation planted at this project site after five (5) years from the time of planting.
8. No herbicides, pesticides or chemical fertilizers shall be used in the riparian shoreline, which is the area within 25-ft of the shoreline.

Signature: (signature on file)
Molly Hurley, Senior Land Use Planner
Department of Planning and Development

Date: November 30, 2006