



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:** 3004695

**Applicant Name:** Gregory Wharton for GRE Golden Tides LLC

**Address of Proposal:** 6017 Seaview Ave NW

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Permit to allow a 10,898 sq ft marine retail sales and service in an existing building. Project includes a caretaker's quarters and reconfiguring of the existing parking area for 32 parking spaces and two within the structure. The existing recreational marina is to remain.

The following approvals are required:

- **Shoreline Substantial Development Permit - Urban Stable (US) Shoreline Environment.** (SMC Chapter 23.60.600).
- **SEPA - Environmental Determination** (SMC Chapter 25.05).
- **Shoreline Conditional Use Permit -** (SMC Chapter 23.60.604-B & WAC 173-27-160).

**SEPA DETERMINATION:**  Exempt  DNS  EIS

DNS with conditions

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

## **BACKGROUND DATA**

### Site and Vicinity

The subject waterfront parcel is located in the central western area of Seattle near the Discovery Park Tidelands, northwest of the Ballard Locks and south of Golden Gardens Park. The property is approximately 40,556 square feet. Zoning on this site is Commercial One with a forty foot height limit (C1-40) and an Urban Stable Shoreline designation (US). Development surrounding the site consists of smaller structures that contain restaurants, commercial uses and residences. There are some larger residential structures in the area.

### Proposal

The applicant proposes to renovate the existing 10,898 sq ft building and parking structure on site. Currently, the site is developed with a two story structure (formerly the Azteca restaurant) over water supported by pilings, a series of docks & piers and a parking lot over water supported by pilings. All of which are to be renovated and remain. The existing parking layout is to be reconfigured. The proposed marine retail sales and service use is permitted outright in the C1-40 zone pursuant to SMCs 23.47.010. The Marine Retail Sales and Service use (Sale or Rental of Large Boats) is only permitted as a Shoreline Conditional Use in the US shoreline environment pursuant to 23.60.664. Three (3) existing structures, the building (renovation proposed), the pier and dock (no change) and parking structure (renovation proposed) are all to remain. Pursuant to SEPA authority (SMC 25.05.800-B), additions or modifications to or replacement of any building is exempt except when undertaken wholly or partly on lands covered by water, as is the case with the proposal. The proposed parking structure and building modification is located over pilings and as a result the development is over water and SEPA review is required.

The applicant proposes to continue the marina use that currently exists on the site. The building is proposed to be renovated to include support facilities for the recreational marina, a caretaker's quarters and a commercial boat sales business. The support facilities are proposed on the first floor renovation and include a laundry area, harbor master, locker storage, restrooms, exercise area, lounge and kitchen. Proposed second floor renovation includes the boat sales use and a caretaker's quarters.

### Public Comment

No public comments were received during the initial public comment period, which ended on June 9<sup>th</sup>, 2006. The application was re-noticed\* and no comments were received during this comment period which ended on October 27<sup>th</sup>, 2006.

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\* During review it was determined that a Shoreline Conditional Use was required for the boat sales (Sale or Rental of Large Boats) and as a result re-notice of the project was required and executed.

## **ANALYSIS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

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.*

### **A. RCW Chapter 90.58**

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 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 that was codified in the Seattle Municipal Code 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.

The proposed buildings have 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 the design of the building 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. Therefore, the subject application is consistent with the policies and procedures outlined in RCW 90.58.

### **B. SSMP 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 SSMP 23.60.030.

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).

The proposal is subject to the Shoreline Policies of the Seattle Shoreline Management Program (SSMP 23.60.004), because the site is located within the shoreline district and cannot be exempted under SMC 23.60.020-C. Additionally, the applicant must show that the proposal meets the criteria and development standards for the shoreline environment in which the site is located (SSMP Section 23.60.090-A); any applicable special approval criteria; general development standards; and the development standards for specific uses.

The purpose of the US shoreline environment is to:

- (1) Provide opportunities for substantial numbers of people to enjoy the shorelines by encouraging water-dependent recreational uses and by permitting non-water dependent commercial uses if they provide substantial public access and other public benefits,
- (2) Preserve and enhance views of the water from adjacent streets and upland residential areas,
- (3) Support water-dependent uses by providing services such as marine-related retail and moorage.

The proposed project includes the establishment of new commercial uses inside an existing structure which is to be renovated. Also, the existing parking and pier structure on site is to be renovated and reconfigured.

The proposal must meet the development standards for the US Environment (SSMP 23.60.630-642), as well as the general development standards for all shoreline environments (SSMP 23.60.090 - 210). Additionally, the proposed project must also meet the development standards of the underlying C1-40 zone (SSMP 23.47). 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).

#### SMC 23.60.152 - General Development Standards

These general standards apply to all uses in the shoreline environments. The standards 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 (SMC 23.60.152-A through Q). All shoreline development 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. All development and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas.

The project as proposed and conditioned by DPD will be consistent with these development standards for the following reasons: The Stormwater, Grading and Drainage Control Code regulates new development and land-disturbing activities and requires best management practices be used to accomplish the control of erosion and the transport of sediment from the site by mulching, matting and/or the use of silt fences; permanent stabilization of exposed soils that are not being actively worked by the installation of permanent vegetative cover and/or installation of slope protective materials; and, the control of the introduction of contaminants and pollutants, and reduction and treatment of contaminants in City systems by the regular cleaning of catch basins, gravel truck loading and heavy equipment areas, sweeping, and maintaining erosion control protective features.

The existing building is proposed to reduce its actual over water coverage by removing attachments to the building. There will be some new areas of coverage but overall the building will reduce the over water coverage by approximately 604 sq. ft.

During review, bilge water was determined to be a possible impact of the large boats on the shoreline environment. A condition to require a best management practices document (BMPs) to cover issues such as discharge of waste and appropriate actions in the shoreline is warranted in order to preserve the shoreline environment to the greatest extent practicable. An example of an appropriate BMP was given to the applicant as a model. Each boat slip owner or responsible user must have read and signed this agreement.

In relation to minimizing runoff of dirty water into the shoreline, a drainage control plan, prepared by a licensed civil was provided with the Master Use Permit plans and will be conditioned to be part of the building permit application. This parking area drainage plan includes six catch basins that are connected to an oil water separator prior to discharge.

The resurfacing dock and pier system uses graded material that allows light to penetrate through the pier/dock system, where the pier is currently solid material allowing no light to penetrate. The light penetration is more conducive to salmon and provides less chance of predators to prey upon salmon.

### **SMC 23.60.600 – Development standards for the US Environment**

The proposal is subject to the development standards for the US environment. DPD has determined that the proposal comports with these standards.

The existing recreational marina is permitted on waterfront lots in the US environment. The accessory support facility (laundry area, harbor master, locker storage, restrooms, exercise area, lounge and kitchen) proposed on the first floor of the existing building is intrinsically related to the recreational marina as users will use the facilities during times of moorage. The second floor caretaker's quarter is a permitted accessory use for the recreational marina not to exceed 800 sq. ft. (23.60.092-B).

The proposed “sale or rental of large boats” use on the second floor was determined to not be water-related and thus a Shoreline Conditional Use is required for this use and portion of the structure.

The applicant has proposed a triangular public access viewpoint located at the southeast corner of the site. It is accessed directly from Seaview Ave NW and includes stamped concrete and a bench. The public access point is located adjacent to an existing city park directly south of the site. This proposal meets the standards for public access, conditioning is warranted to ensure that proper signage and recording of the public access easement with King County.

Chapter 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, the criteria and procedures of SMC Chapter 23.60 are consistency with WAC 173-27 and RCW 90.58.

### **C. WAC Chapter 173-27**

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.

### **Conclusion**

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms with the policies and procedures of the WAC, RCW and with the regulations of Chapter 23.60, Seattle Shoreline Master Program. Further analysis pursuant to SMC 23.60.604-B, “conditional uses on waterfront lots in the US environment,” is provided below following SSDP section.

Pursuant to the Director’s authority under Seattle’s Shoreline Master Program to ensure that development proposals are consistent with the policies and procedures, and conform with specific development standards of the underlying zone, DPD has determined that the proposed use and development are consistent with the Seattle Shoreline Program; the SSDP proposal is hereby approved.

### **DECISION – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

The proposed action is **CONDITIONALLY GRANTED.**

## **ANALYSIS - SHORELINE CONDITIONAL USE**

In the Urban Stable shoreline environment, a marine retail sales and services use is only allowed to have non-water-dependent facilities over water when the dry land portion of the lot is less than 50 feet in depth. As the dry land portion of Marina Mart site has less than this depth, the proposal requires a shoreline conditional use permit.

Pursuant to SMC 23.60.604, the Director, may authorize a non-water-dependent marine retail sales and services use on waterfront lots in the US Environment with the concurrence of the Department of Ecology, as either principal or accessory uses if the criteria for conditional uses in WAC 173-27-160 are satisfied. The overall purpose of a conditional use permit is to provide for flexibility in the application of use regulations consistent with the policies of the Shoreline Management Act (RCW 90.58.020).

### **SMC 23.60.034 Criteria for Shoreline Conditional Use Approvals.**

Uses or developments which are identified in this chapter as requiring shoreline conditional use approval, and other uses which, although not expressly mentioned in lists of permitted uses, are permitted in the underlying zones and are not prohibited in the Shoreline District, may be approved, approved with conditions or denied by the Director in specific cases based on the criteria in WAC 173-27-160, as now constituted or hereafter amended, and any additional criteria given in this chapter. Upon transmittal of the Director's approval to the Department of Ecology (DOE), the permit may be approved, approved with conditions or denied by DOE. (Ord. [118793](#) Section 6, 1997; Ord. 113466 Section 2(part), 1987).

### **WAC 173-27-160 Review Criteria for Conditional Use Permits**

The purpose of a conditional use permit is to provide a system within the master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW [90.58.020](#). In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program.

*(1) Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:*

- (a) That the proposed use is consistent with the policies of RCW [90.58.020](#) and the master program;*

The expansion and reconstruction is consistent with the policies of RCW 90.58.020 and the Seattle Shoreline Master Program. Those policies favor enhancement of the shoreline environment, allowing alterations of the natural or man-made environment in limited instances when commercial developments are dependent on their location and provide an opportunity for people to enjoy the shoreline. With respect to this shoreline area of the Sound, the City's Shoreline Policies favor water-dependent recreational uses, and non-water-dependent commercial uses when providing access to the water, protecting views, and not usurping land usable for future water-dependent recreational uses<sup>1</sup>.

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<sup>1</sup> Water-dependent and water-related uses are not required to provide public access on private lot pursuant to SMC 23.60.638.

The proposal does not change the existing shoreline environment for fish and would facilitate shoreline related commercial use in the overall context of a water-related commercial use. Views of the water would not be affected.

*(b) That the proposed use will not interfere with the normal public use of public shorelines;*

The expansion and reconstruction will have little interference with the normal public use of the shorelines. In fact, the new structure should facilitate additional public use of the shorelines through commercial interactions at the site.

*(c) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;*

The project is compatible with other authorized uses within the area and with uses envisioned for the area under the comprehensive plan and shoreline master program. The renovated structure will enhance the continued use of the site as a moorage facility and sale of boat, which will complement the adjacent activities.

*(d) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and*

The project will not cause significant adverse effects to the shoreline environment. Based on the plans submitted, there should be an improvement to the shoreline environment resulting from the reconstruction. The reduced building mass and grading of the pier surface (reduced shadowing) seems likely to have only a positive impact, if any, on fish and juvenile salmonids.

*(e) That the public interest suffers no substantial detrimental effect.*

The public interest will not suffer substantial detrimental effects from the project.

*(2) In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW [90.58.020](#) and shall not produce substantial adverse effects to the shoreline environment.*

In reviewing the proposal and visiting the site to examine development in the area, it does not appear that granting the shoreline conditional use would produce a substantial adverse effect on the shoreline environment. Numerous water-dependent development/uses over water north and south of the site have secondary water-related uses along this segment of the shoreline. There is no evidence that a cumulative impact from these water-related uses exists or would be created by the addition of this water-related use.

*(3) Other uses which are not classified or set forth in the applicable master program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.*

SMC 23.60.944 of the master program classifies the existing “Marine retail sales and service” as a “water-related use.” The proposal as noted above and illustrated in the MUP plans—appears to demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program. The proposed use is classified in Seattle Master Program; therefore, this criterion does not apply.

*(4) Uses which are specifically prohibited by the master program may not be authorized pursuant to either subsection (1) or (2) of this section.*

The master program does not prohibit water-related marine retail sales and service as a commercial use prohibited on waterfront lots in the US Environment. Refer to SMC 23.60.606B Commercial Uses, 23.60.926 “Marine retail sales and service” and 23.60.944 “Water-related use”.

### 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).

Thus, the proposal is consistent with the criteria for a shoreline substantial development permit and should be approved.

### **DECISION – SHORELINE CONDITIONAL USE**

The Shoreline Conditional Use application is **APPROVED**.

### **ANALYSIS-SEPA**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant’s agent and annotated by the Land Use Planner. The information in the checklist, the supplemental information submitted by the applicant and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

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, 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 an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation” subject to some limitations. Under such limitations/circumstances (SMC 25.05.665) mitigation can be considered.

### Short-Term Impacts

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 Management Program) applicable to the project. The character of the area is residential in nature to the south and as a result the construction-related noise will have an impact on the surrounding residents. The times allowed for construction per the Noise Ordinance (SMC 25.08) are found to be inadequate to mitigate the noise impacts on the residents in the neighborhood. Thus proper conditioning is warranted for allowable construction work hours.

### Long-Term Impacts

Long-term or use-related impacts are also anticipated from the proposal: increased demand on public services and utilities and increased energy consumption. These long-term impacts are not considered significant because the impacts are minor in scope.

### Summary

In conclusion, no significant adverse effects on the environment are anticipated as a result of the proposal. No conditions are imposed as mitigation to specific impacts identified in the foregoing analysis, or to control impacts not regulated by codes or ordinances, per adopted City policies.

## **DECISION – SEPA**

The SEPA application is **CONDITIONALLY APPROVED** per the MUP plans.

## **SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT CONDITIONS**

### *Prior to Issuance of the Master Use Permit*

1. Record with King County Records and Elections the public access easement as shown on the MUP plans.
2. Submit the Best Management Practices document modified as necessary to fit business needs to the Land Use Planner and for microfilming with the MUP plans.

To be included in the Building Permit

3. Add permanent signage plan with text that communicates the existence of the public access viewpoint. The sign must be seen from the adjacent sidewalk.
4. Submit the Best Management Practices document to the assigned zoning reviewer to be microfilmed with the plans.
5. Include the drainage plan.

Prior to Certificate of Occupancy of the Building Permit

6. Demonstrate to the inspector that the Best Management Practices document for the marina users is on site.
7. Demonstrate to the inspector that there is a method for the disposal of bilge water from the boats in an environmentally sound manner in keeping with the Best Management Practices Document.
8. Install the public access sign in the approved location.

**SHORELINE CONDITIONAL USE CONDITIONS**

None.

**SEPA CONDITION**

During Construction

9. The following conditions to be enforced during construction shall be posted at each street abutting 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 shall 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.

All construction activities are subject to the limitations of the Noise Ordinance. Construction activities (including but not limited to demolition, grading, deliveries, framing, roofing, and painting) shall be limited to non-holiday weekdays from 7am to 6pm. Interior work that involves mechanical equipment, including compressors and generators, may be allowed on Saturdays between 9am and 6pm once the shell of the structure is completely enclosed, provided windows and doors remain closed. Non-noisy activities, such as site security, monitoring, weather protection shall not be limited by this condition.

Construction activities outside the above-stated restrictions may be authorized upon approval of a Construction Noise Management Plan to address mitigation of noise impacts resulting from all construction activities. The Plan shall include a discussion on management of construction related noise, efforts to mitigate noise impacts and community outreach efforts to allow people within the immediate area of the project to have opportunities to contact the site to express concern about noise. Elements of noise mitigation may be incorporated into any Construction Management Plans required to mitigate any short-term transportation impacts that result from the project.

Signature: (signature on file)  
Lucas DeHerrera, Land Use Planner  
Department of Planning and Development

Date: January 25, 2007