

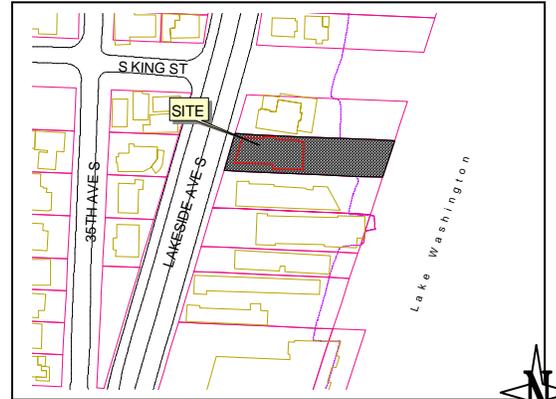


City of Seattle  
 Gregory J. Nickels, Mayor

**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:** 3004924  
**Applicant Name:** Gene Morris  
**Address of Proposal:** 508 Lakeside Avenue  
 South



**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Application to allow two, three-unit apartment buildings (totaling six units) with parking for nine vehicles located within the structures. The existing nine unit apartment building will be removed.

The following approval is required:

**Shoreline Substantial Development Permit** - to allow construction of an apartment building in an Urban Residential (UR) Shoreline Environment.  
 - Seattle Municipal Code (SMC) 23.60.020.

**SEPA - Environmental Determination** - (Chapter 25.05, Seattle Municipal Code).

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

**BACKGROUND DATA**

Proposal & Site Description

The subject site is a parallelogram shaped lot with an approximate lot area of 11,250 square feet. The site slopes down from west to east and is located in a Lowrise 3 zone (L-3) and an Urban Residential (UR) shoreline environment. The site abuts the shorelines of Lake Washington to the east and Lakeside Avenue South abuts to the west. The applicant proposes to construct two separate three-unit apartment buildings (totaling six units) with parking for nine vehicles located within the structures. A patio is proposed towards the easterly portion of the property. The existing nine unit apartment building will be removed.

Surrounding Area Description

The surrounding properties bound by Lake Washington to the east, Lakeside Avenue to the west, South Main Street to the north and South Dearborn south are zoned L-3 within a UR environment and primarily developed with a variety of multi-family structures. The areas outside the aforementioned bound area to the south, north and west are zoned Single-Family 5000 (SF5000) and developed primarily with single-family structures.

Public Comments

The application was deemed to be complete on May 18, 2006 and a revised notice of application was sent on October 19, 2006. The public comment period ended on November 17, 2006. No public comments were received through the public notice process.

**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 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 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.

The six unit apartment building will further the public interests of protecting the shorelines, and will not interfere with the public's use of the water. The subject application is consistent with the procedures outlined in RCW 90.58.

**B. The regulations of this Chapter; and**

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 which are found in the Seattle Comprehensive Plan, 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.

Shoreline Environment: Development Standards

The subject property is classified as a waterfront lot (SMC 23.60.924) and is located within an UR environment, as designated by the Seattle Shoreline Master Program. The proposal is subject to the Shoreline Policies of SMC 23.60.004 since the subject property is located within a shoreline environment. The proposed apartment buildings require a Shoreline Substantial Development Permit, pursuant to SSMP 23.60.020. The proposed six unit apartment building is permitted in the UR shoreline environment SMC 23.60.840, and must meet the standards for the UR environment SMC 23.60.870.

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 location 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 goals for shoreline use include long-term over short-term benefits, the integration and location of compatible uses within segments of the shoreline, and the location of all non-water dependent uses upland to optimize shoreline use and access. The goals also include providing for the optimum amount of public access – both physical and visual – to the shorelines of Seattle and the preservation and enhancement of views of the shoreline and water from upland areas where appropriate.

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 must: 1) minimize and control any increases in surface water runoff so that receiving water quality and shore properties are not adversely affected; 2) 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 3) be located, constructed, and operated so as not to be a hazard to public health and safety.

The City's Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. In conjunction with this effort a Director's Rule, 6-94, was developed 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 location of the proposed work, the potential exists for negative impacts to Lake Washington during construction. To avoid this, the applicant should take measures to prevent contamination of land or water and use materials and construction methods which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction, and prevent any construction debris from entering the water. 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).

The proposal, as conditioned below, 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. Spillage of petroleum or diesel products must be avoided and contained should it occur. No intentional release of oil, chemicals, or other hazardous materials shall occur. Permeable surfaces would not be affected. Erosion would not result from the development. No impacts to fish and wildlife would occur. Natural shoreline processes would not be adversely affected. No long-term adverse impacts to surrounding land and water uses would occur. No vegetation will be cleared with this proposal. No hazard to public safety or health is posed by this development. Navigation channels would not be affected. The proposal would not affect existing shoreline stabilization and no submerged public right-of-way or view corridors would be significantly affected.

These conditions, which are based on the criteria of SSMP 23.60.152, 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.

SMC 23.60.162 - View corridors.

The foundation and exterior walls for the two, three-unit residential structures are located outside the code required view area. However, due to the structures' overhangs projecting into the view corridor area, an analysis must be conducted of 23.60.162.C.

C. The Director may waive or modify the view corridor requirements if it is determined that the intent to preserve views cannot be met by a strict application of the requirements or one of the following conditions applies:

1. There is no available clear view of the water from the street;
2. Existing development or topography effectively blocks any possible views from the street; or
3. The shape of the lot or topography is unusual or irregular.

D. In making the determination of whether to modify the requirement, the Director shall consider the following factors:

1. The direction of predominant views of the water;

The view of the water from the public right-of-way is towards the east.

2. The extent of existing public view corridors, such as parks or street ends in the immediate vicinity;

South King Street 70-foot right-of-way is located approximately 60 feet to the north.

3. The availability of actual views of the water and the potential of the lot for providing those views from the street;

The foundation and exterior walls for the two 3 unit residential structures are located outside the code required view area. However, the structures' overhangs project into the view corridor area. Based upon the view analysis information submitted, the proposed roof overhangs are located more than 25 feet above grade and will impact no views of the water from the public ROW. The total view corridor provided is 18 feet 2 inches with 10 feet side setbacks provided from the southerly property line and 8 feet 2 inches provided on the northerly side setback. The views are being preserved.

4. The percent of the lot which would be devoted to view corridor if the requirements were strictly applied;

The view corridor requirement is 35% of the width of the lot.

5. Extreme irregularity in the shape of the lot or the shoreline topography which precludes effective application of the requirements; and

There are no extreme irregularities in the shape of the lot or the shoreline topography.

6. The purpose of the shoreline environment in which the development is located, to determine whether the primary objective of the environment is water-dependent uses or public access views.

Residential uses are allowed as a principal use in the UR environment and the public access views are being preserved. Due to the structures overhangs having no substantial impacts to the code required view corridor and the intent of the view corridor being met, the roof overhangs are allowed to encroach into the view corridor area.

#### SMC 23.60.220 – Shoreline Environments

The purpose of the Urban Residential (UR) environment as set forth in SMC 23.60.220C6 is to protect residential areas. This residential area would be protected in terms of allowing six new residential units within this UR environment.

SMC 23.60.540 – Uses Permitted Outright in the UR Environment

The Urban Residential environment permits multifamily residences as a principal use. The proposed six unit structure is a principal use and meets requirements as described in the UR environment.

SMC 23.60.570 – Development Standards for the Urban Residential Environment

The proposed six unit structure would meet the development standards for multifamily structures in the UR environment in terms of height, lot coverage, and regulated public access.

In summary, as designed, the proposal is supported by both the purpose of the UR shoreline environment and the policies set forth in the Comprehensive Plan. The principal use would remain consistent with the underlying zoning and in character with surrounding development, and conforms to the general development standards and the requirements of the underlying Lowrise 3 zone.

**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). 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.

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).

**ANALYSIS – SEPA**

The proposal site is located in a Shoreline Habitat, 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 area 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 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 and dated October 17, 2006. The information in that checklist, public comment, and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

The Department of Planning and Development has analyzed and annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the file; and any public comments received through the public notice process. As indicated in the checklist, 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.

Codes and development regulations applicable to this proposed project will provide sufficient mitigation and no further conditioning or mitigation is warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The SEPA Overview Policy (SMC 23.05.665) 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.D. 1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

### Animal

The proposal includes grading, removal of existing vegetation and adding impervious area within the 100-foot Shoreline Habitat Buffer. The vegetation to be removed within the 100-foot buffer consists of various shrubs and bushes. The applicant proposes a mitigation plan along the shoreline consisting of a planting area of 688 square feet with a variety of native trees, shrubs and bushes, thereby enhancing the ecological function of this area. The 688 square foot planting area serves as a mitigating factor found consistent with SMC 25.09.200.B Development Standards for Shoreline Habitat to allow the proposed work. Due to the proposed 688 square foot mitigation plan along the shoreline, no substantial impacts are expected to the shoreline fish and wildlife habitat.

### Short -Term Impacts

The following temporary construction-related impacts are expected: 1) temporary soils erosion; and 2) increased vibration from construction operations and equipment. These impacts are not considered significant because they are temporary and/or minor in scope (SMC 25.05794).

