



City of Seattle

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: 3003980
Applicant Name: Amber Murray
Address of Proposal: 14356 Riviera Place NE

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to allow a new 2,071 sq. ft. three-story, single family residence with attached garage. Proposal includes removal of a 61 sq. ft. portion of an existing dock.

The following approvals are required:

Variance: to allow a single family residence to extend into the required front yard. (Section 23.44.014.A Seattle Municipal Code)

Variance: to allow a parking space of less than the required dimensions. (Section 23.54.030 Seattle Municipal Code)

Shoreline Substantial Development Permit: to allow the construction of a new single family residence in an Urban Residential/Conservancy Recreation (UR/CR) Shoreline Environment. (Section 23.60.020A Seattle Municipal Code)

Shoreline Conditional Use: to allow a single family residence in the Conservancy Recreation (CR) Shoreline Environment and to allow the residence to exceed 15 feet in height in the CR Environment. Sections 23.60.365 and 23.60.394 Seattle Municipal Code)

Environmentally Critical Area Exception: to allow residential development within 25 feet of Ordinary High Water. (Sections 25.09.300 and 25.09.200.B Seattle Municipal Code)

SEPA - Environmental Determination - Chapter 25.05 SMC

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 Description

The subject site is located on Riviera Place Northeast between NE 145th to the north and 42nd Place NE to the south. NE 145th St also constitutes the northern boundary of the City of Seattle in this area, which is located northeast of the Lake City neighborhood. Riviera Pl NE is on the western shore of Lake Washington.

The zoning along Riviera Pl NE is Single Family 5000 (SF 5000). The dry land portion of the subject property is located in the Urban Residential (UR)

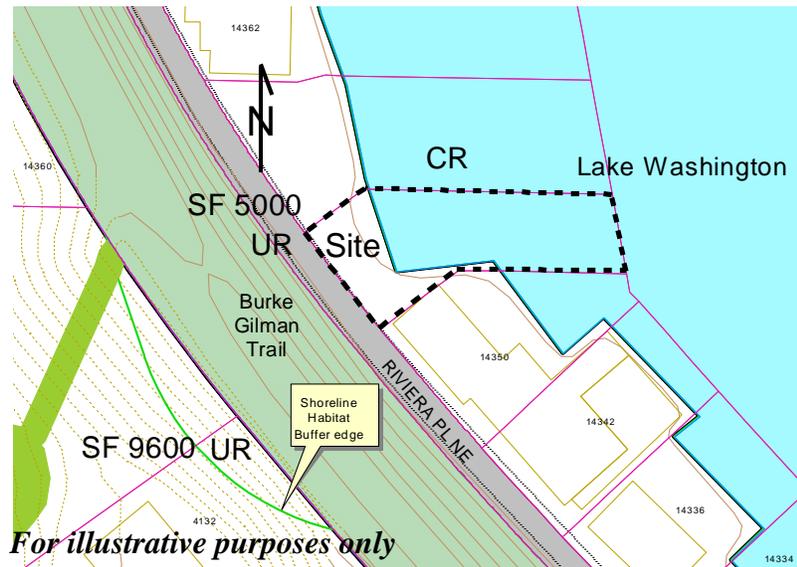
shoreline environment and measures 876 sq. ft. in area. The submerged portion of this site is located in the Conservancy Recreation (CR) shoreline environment and measures 3,289 sq. ft.

Single Family 9600 (SF 9600) zoning in an Urban Residential (UR) shoreline environment is located to the southwest across the Burke Gilman Trail.

The site is essentially flat, with topography changes located to the southwest between Riviera Place NE and the Burke Gilman Trail. Additional sloped areas continue up to the southwest. There is limited vegetation on the subject property. The upland portions of the site are covered with gravel and used as surface parking. The waterward side includes a pier belonging to the neighboring property owner. Part of this pier will be removed, leaving about 214 sq. ft. of the neighbor's pier intact on the subject property.

In addition to the existing pier belonging to the neighbor to the south and accompanying easements, a ten-foot side yard easement has been granted to the southerly neighbor. The property also benefits from a ten-foot side yard easement from the property to the north. The purpose of this easement is to enable the grantee (owner of the subject property) to build a single-family structure into the required 5'-side yard of the lot to the north and create a permanent 10' separation between the principal structure on the subject property and the principal structure on the lot to the north. There is a side yard easement agreement with the residence to the south with the 10' easement located on the south side of the subject property.

The site is located within the designated "Shoreline Habitat" environmentally critical area. The property is also mapped as a Potential Slide area, however, a limited ECA exemption was granted by this Department's geotechnical staff under DPD Project No. 2407814. Based on information which included a geotechnical report provided by the applicant, it was determined that the site should be regulated as having "Liquefaction Potential" rather than "Slide Potential."



Description of Proposal

The applicant proposes to demolish a portion (61 sq. ft.) of the existing pier, belonging to the neighbor and build a new single family residence.

The proposed residence is designed to have three levels, with 2,071 sq. ft. of 'heated floor area,' 278 sq. ft. in decks, and a 212 sq. ft. garage, per the plans. The structure would be constructed both on the dry land portion of the site and partially overwater. Proposed dry land lot coverage is 725 sq. ft., which is about 83 percent of the available 876 sq. ft. of dry land. Proposed over-water coverage is 481 sq. ft. (including 214 square feet of neighbor's pier to remain, and 267 square feet of new over water structure). This is approximately 14 percent of the submerged portion of the lot. Dock space will be shared with 14350 Riviera Place NE.

The plans also indicate that the new over-water lot coverage of 267 sq. ft. would consist of 186 sq. ft. of 'heated area' and 81 sq. ft. would be a deck.

According to the plans, the ground floor consists of 432 sq. ft. of living area and a 212 sq. ft. garage (first floor total footprint = 644 sq. ft). All of the ground floor area is on dry land and none of the ground floor is proposed for over water coverage.

The second level has 919 sq. ft. of floor area and deck of 81 sq. ft. (2nd floor total footprint = 1,000 sq. ft.). Of this, approximately 165 square feet of interior living area is proposed over water (774 square feet of living area on dry land).

The third level has 720 sq. ft. of floor area and a deck of 197 sq. ft. (3rd floor total footprint = 917 sq. ft.). Of this, approximately 21 square feet of interior living area and 137 square feet of deck is proposed over water (699 square feet living area on dry land). The proposed over water living area and deck would be located in the footprint of the over water structure below, and therefore would not add to the proposed over water coverage.

The total living area on dry land is approximately 1,905 square feet. The proposed living area over water is approximately 186 interior square feet with an additional 221 square feet of deck area. The total height of the residence will be 29'11".

The following measures are also part of the proposal, providing mitigation for potential adverse impacts to the shoreline nearshore habitat and shoreline habitat buffer.

- Cantilever design for the house structure such that only a portion of living space and only the second and third floors (186 sq. ft. of interior space and 81 sq. ft. of grated decking) will be a minimum of 9 feet above Ordinary High Water with no structural support waterward of the bulkhead, allowing for increased light penetration to the water (including full, direct sunlight for a portion of the morning in the summer months) than if first floor of structure extended overwater.
- The finger pier as it extends onto Lot B will be cut back to the middle point of the extension, removing 39 square feet of pier decking as well as two creosote pilings that are at the end of the existing finger pier. Old piling holes will be replaced with clean gravel and washed sand.
- In order to reduce predator habitat for juvenile salmon, all trash and debris shall be removed from the lake bottom waterward of the bulkhead.
- Decking at the far NE of the deck will be removed (43 square feet), and the remaining decking that extends onto Lot B will be re-decked with a 47% light permeable decking material. 186 square feet of that decking is overwater and 83 square feet is over land.

- At least 24 red stem dogwood shoots will be planted along entire bulkhead length and monitoring will ensure at least 80% survival after 5 years with a contingency plan if plant survival not feasible.
- In order to minimize negative impacts of artificial lighting on the nearshore habitat and migrating salmon, low-voltage lighting will be used on the 2nd and 3rd floor decks, but no lighting will be used under the deck or outside the 1st floor. No deck lighting will be directed at the water. Light fixtures shall be fully shielded where light source is visible from the submerged areas.
- All structural reinforcements to the existing bulkhead will be performed on the landward side of the bulkhead.
- The project will channel stormwater runoff from the roof and the adjacent street to a trench drain and release the water to a pervious pavement section in order to filter and cool the water prior to entering the lake. Water from the main low-slope roof will be directed via a scupper through the wall to a single downspout on the west elevation. The downspout will be tight-lined to the trench drain.
- To help mitigate for impervious surface impacts in the shoreline buffer, water from the street immediately adjacent to the proposed residence will run into a new trench drain. The trench drain would drain to the north into the 10' side-yard easement on Lot A benefiting Lot B, and with a type 600 catch basin. The discharge from the catch basin would be a 6" perforated pipe extending the length of the pervious paving area.
- On the South dryland portions of the site, there will be approximately 144 square feet that will be covered with pervious pavers (TurfStone made by Mutual Materials) that allow low-lying native grasses such as slough sedge to grow. With the southern 10' easement on Lot B benefiting Lot C, there is decking that extends over a portion of dryland (approximately 83 square feet) that is current standard wood decking that will be replaced with light and water permeable (ThruFlow) decking.

The proposal requires a Shoreline Substantial Development and a Shoreline Conditional Use permit because it is located partially over water and exceeds the height limit in the CR environment.

The applicant has also requested two variances from the SF 5000 zoning requirements. One variance is to extend 4'1" into the 4'8" required front yard (proposed front yard is 7"). The second variance is to allow a parking space of less than the required minimum dimensions (proposed 12' deep parking space, when garage door is closed).

The proposed development also requires an Environmentally Critical Areas Exception ("ECA Exception"), since the proposed single family residence is located within 25' of the Ordinary High Water Line.

The proposed site extends over water thus the proposed construction requires SEPA analysis per SMC 25.05.800 A2.

Wetlands (SMC 25.09.160)

The subject property is located across Riviera Place NE from a wetland shown on the City of Seattle GIS mapping system. The potential wetland is located to the west of the property and the wetland buffer crosses the Burke-Gilman Trail and Riviera Place NE. The wetland buffer located on the east side of the Burke-Gilman Trail and Riviera Place NE opposite the wetland is not supporting or protecting the wetland functions. Because of this no wetland delineation report is required.

Public Comment

Notice of the proposal was issued on December 22, 2005 and notice of a revised application was issued on June 29, 2006. Two comment letters were received, and one request to be added to the list of parties of record.

One of the letters was from the Muckleshoot Tribe (January 25, 2006). The Tribe expressed concern that, “This project has the potential to impact treaty protected fishery resources important to the Muckleshoot Indian Tribe.” In particular, the Tribe expressed concerns regarding increased over-water coverage and shading in the near shore environment and the resulting adverse impacts to juvenile salmonids. According to the Tribe, these impacts include the potential for increased habitat for salmonid predators and a decrease of those organisms which are prey for the salmonids. Concern was also expressed regarding additional hard bank materials which may be needed to provide adequate foundation support for the new residence (but are not shown on the plans) as well as increased light in the shoreline environment that may facilitate nocturnal predation on juvenile chinook and coho salmon. Another concern was the potential addition of future dock area for the proposed residence. The letter also questioned the adequacy of proposed mitigation.

The email comments from the neighbor expressed concern that the project may not meet applicable development standards, including those imposed under the authority of the Shorelines Management Act.

I. ANALYSIS – VARIANCES FROM SMC SECTIONS 23.44 AND 23.54

The applicant has requested two variances from the zoning development standards of SMC 23.44, SF 5000 zoning:

1. To extend 4’1” into the required 4’8”-front yard setback (SMC 23.44.014.A)
2. Reduction in parking space dimension from required minimum of 8’ x 16’ (SMC 23.54.030.A.3)

The analysis below includes responses to the requested variances, labeled as applicable.

SMC 23.44.014 and 23.40.020. Variances.

A. Variances from the provisions or requirements of this Land Use Code shall be authorized when all the facts and conditions listed below are found to exist:

- 1. Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity; and***

The subject property is 4,165 square feet in size, 876 square feet of which is located on dry land. The dry land portion has a 10’ wide easement encumbering the southern portion of the lot to the benefit of the neighbor to the south, and has the benefit of a similar 10’ wide easement over the property to the north. The dimensions of the dry land area outside of the easements measures 38’9” wide. The lot depth between street and submerged areas varies from 15 feet to 25 feet wide.

This small area of dry land and the odd wedge-shaped lot leaves a smaller area available for development than that enjoyed by all but one of the surrounding properties within 800 feet. The footprint of the proposed structure located on dryland is 725 square feet.

Front yard variance request:

The proposed development would be located within the required front yard. Development in the immediate vicinity is characterized by residences constructed very close to or at the property lines due to the limited distance between Riviera Place NE and the Ordinary High Water Mark, and do not meet front yard requirements. Therefore, the strict application of the Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity.

Parking stall dimension variance request:

Riviera Place NE is very narrow (12' public right of way, with 10-12' of paved width) and offers no opportunity for on-street parking. The existing conditions make on-site parking necessary.

Analysis of existing residences within 800' of the property, on the shoreline, and in the City of Seattle limits indicates that many nearby properties may include off-street parking but do not include garages (King County records indicate that only 6 of the 15 properties analyzed include garages).

While the lot depth is quite narrow in this area, the proposed parking would be placed in a location where there is approximately 20' of lot depth. The applicant has proposed to enclose this parking space with an angled garage door, which would reduce the proposed parking space from approximately 19' to 12'.

The minimum dimensions for a single family residential parking stall are 8' wide x 16' deep. With an unenclosed parking space, the applicant has room for a stall that measures approximately 10'2" wide x 19' deep. It would be possible for the applicant to have off-street unenclosed parking that met Land Use Code requirements, similar to many nearby residences.

Therefore, the strict application of the Land Use Code would not deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity.

2. *The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located; and*

Front yard variance request:

Narrow lots characterize Riviera Pl. NE with limited permissible building depths due to the location of existing bulkheads, shoreline setback lines, and the Riviera Place NE public right of way. Similar variances from yard requirements have been granted in the vicinity for residences located at 12036 Riviera Place NE (MUP #9805328) and 11940 Riviera Place NE (MUP #2008543). These projects allowed for building new residences that did not meet side and/or front yard development standards, and allowed for front and side yard dimensions comparable to those proposed under the current application. It is not unusual for lots along Riviera Pl. NE to be constructed within one or more of the required yards.

The required front yard is 4'8", since it is the average of the adjacent front yards. The proposed structure would be located within the required west front yard. Such an encroachment would not be unusual along a street edge where many of the structures are built within a foot or less of the property line. Therefore, the requested front yard variance would not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations of other properties in the vicinity and zone.

Parking stall dimension variance request:

Of the 15 nearby properties analyzed, 6 included garages. The existing garage size averages 441 square feet. The proposed garage is 212 square feet. The proposed garage size is only slightly larger than the size of a required parking stall (112.5 square feet) and would be shallower than the required 15', due to the lot configuration described previously.

Analysis of existing vehicles indicates that only one model of vehicle would fit within the proposed garage depth (Mini Cooper). All other highway rated passenger vehicles that were researched would be too long for the proposed garage depth of 12'.

While modification to parking stall dimensions is warranted, an enclosed garage is not required by the Land Use Code and would represent unusable dimensions for virtually all vehicles. The angle of the proposed garage door and back wall makes it impossible to have an enclosed garage with more than 12' depth. If the parking area were unenclosed, a parking depth of at least 19' would be possible.

Therefore, the applicant has not demonstrated that the proposed parking variance is the minimum necessary to afford relief, and would constitute a special privilege inconsistent with the limitations of other properties in the vicinity and zone in which the property is located.

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located; and*

Front yard variance request:

No detriment to the public welfare or injury to the property or improvements in the zone or vicinity is likely to occur by granting of the requested front yard or side yard variances, as conditioned below. Riviera Place NE is characterized by many homes that are built very close to the property lines. When buildings are constructed closer than 3'0" to a property line, the Seattle Building Code prescribes the wall be of one-hour construction and permits no openings (e.g. windows or doors) on that façade, for the purposes of fire safety.

Parking stall dimension variance request:

The proposed parking stall depth could result in an unusable parking stall size, which would result in exacerbating the nearby on-street parking problems in this area. If future residents of the proposed structure owned a vehicle other than a Mini Cooper or similar/smaller size vehicle, the on-site parking space would become unusable and could negatively affect parking in the zone and vicinity. The nearest transit opportunities are located at least ½ mile away up a very steep hill to the west. The presence of at least one usable off-street parking space per lot is necessary in this area.

Therefore, the applicant has not demonstrated that the proposed parking variance would not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties;*

Front yard variance request:

Homes along Riviera Pl. NE enjoy waterfront open space due to the adjacency of the lots to Lake Washington. Existing structures are placed closer to the street and side lot lines rather than centered on the lot with front or side yard open space. The additional encroachment into the required front yard is consistent with the streetscape character along Riviera Pl. NE.

Parking stall dimension variance request:

The literal interpretation and strict application of the applicable provisions and requirements of the Land Use Code would still allow the applicant an unenclosed parking space of minimum dimensions on this lot. An enclosed parking space is not required by code, and is not found in the majority of residences in the immediate vicinity. Therefore, the applicant has not demonstrated that strict application of the applicable provisions of the Land Use Code would cause undue hardship or practical difficulties.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

Front yard variance request:

The purpose of the Land Use Code is to protect and promote public health, safety and the general welfare through a set of regulations and procedures for the use of land which conforms to the City's land use policies. It is the responsibility of the City to preserve and protect areas that are currently in predominantly single-family residential use. The proposed construction of the residence is in character with the surrounding development and preserves the existing neighborhood character, subject to the conditions listed below. No adverse effects on adjacent properties in the area are anticipated and the public interest will not suffer as a result of the proposed yard variance.

Homes along Riviera Pl. NE enjoy waterfront open space due to the adjacency of the lots to Lake Washington. Existing structures are placed closer to the front and side yards. The additional encroachment into the required front yard is consistent with the streetscape character along Riviera Pl. NE.

Parking stall dimension variance request:

The literal interpretation and strict application of the applicable provisions and requirements of the Land Use Code would still allow the applicant an unenclosed parking space of minimum dimensions on this lot. An enclosed parking space is not required by code, and is not found in the majority of residences in the immediate vicinity. Therefore, the applicant has not demonstrated that strict application of the applicable provisions of the Land Use Code would be consistent with the spirit and purpose of the Land Use Code regulations for the area.

DECISION - VARIANCES

The variance for reduced the front yard is **CONDITIONALLY GRANTED**. Conditions are listed at the end of this report.

The variance for reduced parking stall dimensions is **DENIED**.

II. ANALYSIS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The applicant has requested a Shoreline Substantial Development approval for a single family residence that is located partially over-water. Therefore, the project does not qualify for an exemption from the requirements for a Shoreline Substantial Development Permit and a SSDP is required, per SMC 23.60.020.C.6.

SMC 23.60.030. Criteria for Substantial Development Permits.

A. A substantial development permit shall be issued only when the development proposed is consistent with:

1. *The policies and procedures of Chapter 90.58 RCW;*
2. *The regulations of this Chapter; and*
3. *The provisions of Chapter 173-27WAC.*

1. POLICIES AND PROVISIONS 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 of Washington to provide for the management of all 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 acts 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, as well as other local jurisdictions, adopted a local shoreline master program, which for the City, is 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.

Per SMC 23.60.020.C.6, the Shoreline Master Program exempts: "Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence, including those structures and developments within a contiguous ownership which are a normal appurtenance, for his or her own use or for the use of his or her family, which residence does not exceed a height of thirty-five (35) feet above average grade level and which meets all requirements of the City other than requirements imposed pursuant to this chapter. . ."

Per SMC 23.60.936, "Shorelands" or "shoreland areas" means those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the Ordinary High Water Mark; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters which are subject to the provisions of this title; the same to be designated as to location by the Department of Ecology."

Because the proposed single family residence is not located entirely on shorelands but includes development over water, the project is not exempt and a shoreline substantial development permit is required. Single-family dwelling units constructed partially over water also require administrative conditional use approval in the CR environment. As modified and conditioned through the analysis of these components, as well as the SEPA environmental review and review under the Environmentally Critical Areas Ordinance, below, the project would provide a residential opportunity for the home owners and would not interfere with the public's use of the water.

2. THE REGULATIONS OF THIS CHAPTER, SMC 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. The proposal shall meet the criteria for development standards in the applicable shoreline overlay zone(s) and any additional requests (Shoreline CUP, variance, etc.).

The proposal is also required to be consistent with the shoreline policies established in the Land Use Element of Seattle's Comprehensive Plan (SMC 23.60.004), and the purpose and location criteria for the applicable shoreline environments (SMC 23.60.220). Further, Section 23.60.014 C of the Seattle Shoreline Master Program states that "standards applicable to environmentally critical areas as provided in Seattle Municipal Code Chapter 25.09, Regulations for Environmentally Critical Areas, shall apply in the Shoreline District. If there are any conflicts between the Seattle Shoreline Master Program and Seattle Municipal Code Chapter 25.09, the most restrictive requirements shall apply."

Shoreline Policies (SMC 23.60.004):

The Shoreline Goals and Policies are part of the Land Use Element of Seattle's Comprehensive Plan. The Shoreline Goals and Policies and the purpose and location criteria for each shoreline environment designation contained in SMC Section 23.60.220 shall be considered in making all discretionary decisions in the Shoreline District and in making discretionary decisions on lands adjacent to the shoreline where the intent of the Land Use Code is a criterion and the proposal may have an adverse impact on the Shoreline District. They shall also be considered by the Director in the promulgation of rules and interpretation decisions. The Shoreline Goals and Policies do not constitute regulations and shall not be the basis for enforcement actions.

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.

Purpose and Location Criteria (SMC 23.60.220):

The subject property is located in a Conservancy Recreation (CR) shoreline environment over water and an Urban Residential (UR) environment on dry land. A single family residence is proposed to be placed both on dry land and over water.

The purpose of the UR shoreline environment is to protect residential areas. The purpose of the CR shoreline environment is to:

"... protect areas for environmentally related purposes, such as public and private parks, aquaculture areas, residential piers, underwater recreational sites, fishing grounds, and migratory fish routes. While the natural environment is not maintained in a pure state, the activities to be carried on provided minimal adverse impact."

The intent of the CR environment is to use the natural ecological system for production of food, for recreation, and to provide access by the public for recreational use of the shorelines. 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."

Development standards applicable to all shoreline environments, and applicable to single family residences (SMC 23.60.150 – 23.60.162 and 23.60.198):

SMC 23.60.150. All uses and developments in the Shoreline District shall be subject to the general development standards applicable to all environments, to the development standards for the specific environment in which the use or development is located, and to any development standards associated with the particular use or development.

SMC 23.60.152. The proposed shoreline development and use shall be subject to the following general development standards:

(note: only applicable development standards are listed below)

- 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 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.***
- B. Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.***
- 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 leakproof 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.***

R. Within all Shoreline Districts, submerged lands shall not be counted in calculating lot area for purposes of minimum lot area requirements of Single-family zones or density standards of other zones.

ANALYSIS: SMC 23.60.152 A through E & 23.60.152.G & 23.60.152.J through L & N

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 6-2000 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).

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. Erosion would not result from the development. No hazard to public safety or health is posed by this development. Navigation channels would not be affected. No submerged public right-of-way or view corridors would be significantly affected.

This project is proposed to occur in the "littoral" (shallow water) area and adjacent to the shorelines of Lake Washington. The littoral area is part of the migration corridor of chinook salmon and serves as rearing and migratory habitat for chinook salmon from the Cedar River and potentially other water bodies in Water Resource Inventory Area 8. A single family residence occupying nearly all the upland area of the lot would increase stormwater runoff, siltation, and decrease natural filtration of this runoff before it enters Lake Washington. Shading of the water from proposed over water structures and structures adjacent to the water reduces amount of light available to phytoplankton and aquatic macrophytes and increases the risk of predation on juvenile salmonids.

Section 23.60.152 H requires avoidance of impacts first and if impacts cannot be avoided then mitigation measures to protect habitat functions. As discussed in the sections below, the City's 2004 Best Available Science and other documentation show that development over water and within 100 feet landward of the Ordinary High Water Mark (OHWM) has adverse impacts on the shoreline habitat. Development at this location over water and within 100' of the Ordinary OHWM would have adverse impacts, if unmitigated, to the fish and wildlife habitat conservation areas (SMC 23.60.152.H and 23.60.152.I).

The applicant has also requested a Shoreline Conditional Use approval to allow for single family residential development over the water, per SMC 23.60.365. The analysis of that code section is provided on page 18 below.

Over water coverage

Clearly identified long-term impacts on juvenile Chinook salmon and the aquatic environment include an increase in over-water coverage in the form of a house over the habitat of a threatened species. As stated in the Biological Evaluation provided by the applicant (Biological Evaluation by AMEC Earth &

Environmental dated September 27, 2005) and per the City's Best Available Science report, over-water coverage reduces the amount and quality of natural habitat of juvenile Chinook salmon and provides habitat for introduced predator species of juvenile Chinook. The impacts of over-water structures on juvenile Chinook habitat include shading the nearshore lake environment causing some of the Chinook salmon to alter their migration pattern by following the outside of the overwater structure into deeper water. While in deeper water the juvenile Chinook are more susceptible to predation by larger fish because they have no refuge.

Shading may also provide cover for predator species of juvenile Chinook including smallmouth bass, an introduced species, which prey on juvenile Chinook salmon. Over-water structures contribute to the simplification of the shoreline environment. The simplification of the nearshore lake environment eliminates the amount of habitat available for juvenile Chinook to find refuge from predators including smallmouth bass. Ideal refuge for juvenile Chinook is shallow water that allows the juveniles to escape from predation by larger fish. Complexity in the shallow water habitat in the form of overhanging vegetation, a sinuous shoreline, and woody debris in the very shallow areas provides refuge in the form of undercut banks and interstitial spaces for the juvenile salmon to escape the predators. Artificial light in the nearshore environment associated with overwater structures can also impact can also have an effect on predation of juvenile salmonids through the alteration of their migratory behavior.

Development upland of the Ordinary High Water Mark

Terrestrial vegetation at the shoreline edge provides detritus and terrestrial insects that provide prey items for migrating salmon both indirectly through feeding the food web and directly through terrestrial insects that drop into the water. The bulk of the lot consists of unvegetated gravel surface. The small amount of existing vegetation at the site includes invasive plants including English Ivy (*Hedera helix*) and morning glory (*Convolvulus arvensis*) as well as sword fern and some grasses. The lack of native vegetation and gravel surface at this site provide marginal benefit to the food web for salmon as opposed to site with a healthy buffer of native vegetation.

A best available science report used by DPD in shoreline and ECA reviews demonstrates that pervious surfaces near the OHWM also function as filters to reduce nutrients and silt that can damage the shoreline habitat areas (Environmentally Critical Areas – Best Available Science Report, Seattle DPD, 2005, available at:

http://www.seattle.gov/DPD/Planning/Environmentally_Critical_Areas_Update/ProposedECAUpdate/default.asp)

Covering a large portion of the lot within 25' of the OHWM would reduce opportunity for filtration of storm water runoff and increase potential for siltation of the nearshore environment, reducing water quality for salmon utilizing the nearshore environment at this location.

Measures to avoid, minimize and mitigate adverse impacts of overwater coverage and development upland of the OHWM

The existing lot depth of the subject property makes it necessary to place development within 25 feet of the OHWM. An analysis of parcels within 800' and located within the City of Seattle on the shoreline indicates that the median dry land lot size for nearby residences is more than three times (3060 sq. ft.) that of the dry land lot size of the subject property (876 sq. ft.). When looking at residential waterfront parcels for the entire northern section of Lake Washington south to Webster Point and the University of Washington campus, the mean lot size is 13,940 sq. ft. Due to the subject property's small, narrow size and odd, wedge shape, the proposed development occupies 83% of the dryland portion of the lot and extends partially over water only on the second and third floors in order to compensate for the

unusual lot shape and build a residence comparable in size to adjacent residences (average square footage is 1927 sq. ft. for these neighboring parcels within 800' and much larger if the analysis is extended further south along Lake Washington where the houses and lots are substantially larger).

DPD has reviewed the comments in the Muckleshoot Tribe letter, the policies of the SMP, and the requirements of the Land Use Code. The following measures have been agreed upon by the applicant to minimize and mitigate for the project's impacts to fish and wildlife habitat conservation areas and natural shoreline processes (SMC 23.60.152.H and 23.60.152.I):

- 1) Cantilever design for the house structure such that only a portion of living space and only the second and third floors (186 sq. ft. of interior space and 81 sq. ft. of grated decking) will be a minimum of 9 feet above Ordinary High Water with no structural support waterward of the bulkhead, allowing for increased light penetration to the water (including full, direct sunlight for a portion of the morning in the summer months) than if first floor of structure extended overwater.
- 2) The finger pier as it extends onto Lot B will be cut back to the middle point of the extension, removing 39 square feet of pier decking as well as two creosote pilings that are at the end of the existing finger pier. Old piling holes will be replaced with clean gravel and washed sand.
- 3) In order to reduce predator habitat for juvenile salmon, all trash and debris shall be removed from the lake bottom waterward of the bulkhead.
- 4) Decking at the far NE of the deck will be removed (43 square feet), and the remaining decking that extends onto Lot B will be re-decked with a 47% light permeable decking material. 186 square feet of that decking is overwater and 83 square feet is over land.
- 5) At least 24 red stem dogwood shoots will be planted along entire bulkhead length and monitoring will ensure at least 80% survival after 5 years with a contingency plan if plant survival not feasible at this location.
- 6) In order to minimize negative impacts of artificial lighting on the nearshore habitat and migrating salmon, low-voltage lighting will be used on the 2nd and 3rd floor decks, but no lighting will be used under the deck or outside the 1st floor. No deck lighting will be directed at the water. Light fixtures shall be fully shielded from the submerged areas.
- 7) All structural reinforcements to the existing bulkhead will be performed on the landward side of the bulkhead.
- 8) The project will channel stormwater runoff from the roof and the adjacent street to a trench drain and release the water to a pervious pavement section in order to filter and cool the water prior to entering the lake. Water from the main low-slope roof will be directed via a scupper through the wall to a single downspout on the west elevation. The downspout will be tight-lined to the trench drain.
- 9) To help mitigate for impervious surface impacts in the shoreline buffer, water from the street immediately adjacent to the proposed residence will run into a new trench drain. The trench drain would drain to the north into the 10' side-yard easement on Lot A benefiting Lot B, and with a type 600 catch basin. The discharge from the catch basin would be a 6" perforated pipe extending the length of the pervious paving area.
- 10) On the South dryland portions of the site, there will be approximately 144 square feet that will be covered with pervious pavers (TurfStone made by Mutual Materials) that allow low-lying native grasses such as slough sedge (*Carex obnupta*) to grow. With the southern 10' easement on Lot B benefiting Lot C, there is decking that extends over a portion of dryland (approximately 83 square feet) that is current standard wood decking that will be replaced with light and water permeable (ThruFlow) decking.

These measures and further conditions imposed by DPD and noted at the end of this report ensure that the project conforms to the goals and regulations of the Seattle Shoreline Master Program. The proposal, as modified and conditioned below, would meet the SMP general development standards (SMC 23.60.152).

Standards for Residences other than floating homes (SMC 23.60.198)

- A. Residences shall not be constructed over water unless specifically permitted in the regulations for applicable shoreline environment.***
- C. Residences constructed partially or wholly over water shall not be located further waterward than adjacent over-water residences.***
- D. Single-family residences on both waterfront and upland lots shall meet the yard requirements of the underlying zoning.***

The proposed residence would be located partially over the water. The applicant has requested a Shoreline Conditional Use approval to allow for single family residential development over the water, per SMC 23.60.365. The analysis of the Shoreline Conditional Use criteria is provided below. The proposed over-water aspect of the structure has also been reviewed and mitigating measures are described above in the analysis for compliance with SMC 23.60.152.H and 23.60.152.I.

The proposal has been reviewed for compliance with applicable development standards and was found that the proposed residence would not be further waterward than the existing nearest residences. The residence immediately to the south of the subject property extends 10' over water at its greatest point. The proposed residence would not meet the front yard requirements of the underlying zoning and was therefore subject to the variance request analyzed above.

Conservancy Recreation (CR) Shoreline environment criteria (SMC 23.60.360 – 400):

The proposed single family use over water (23.60.365), and height of more than 15' over water (23.60.394) require a Shoreline Conditional Use approval (review under "Shoreline Conditional Use" section below). The proposal is subject to all other development standards of the CR, as follows:

23.60.392. Natural Area Protection in the CR Environment.

- A. 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.***
- B. Development in critical natural areas shall be minimized. Critical areas include: Salt or fresh water marshes, swamps, bogs, eel grass areas, kelp beds, streams, fish spawning areas and other habitats.***

Salmonid rearing areas are areas of biological significance. Fish rearing and migratory routes are located in nearshore areas adjacent to the OHWM. The applicant proposes to develop a single family residence partially over water in the nearshore area. The applicant proposes a series of measures described above in the section addressing SMC 23.60.152 to minimize adverse impacts to natural areas in the CR environment. In addition, DPD is requiring further conditions described at the end of this document to protect fish habitat during construction and for the life of the project.

SMC 23.60.396 Lot coverage in the CR Environment.

- A. Lot Coverage Regulations. Structures, including floats and piers, shall not occupy more than thirty-five (35) percent of a waterfront lot located in the CR Environment except as modified by subsection B.***

B. Lot Coverage Exceptions. On single-family zoned lots, the maximum lot coverage permitted for principal and accessory structures shall not exceed thirty-five (35) percent of the lot area or one thousand seven hundred fifty (1,750) square feet, whichever is greater.

The existing lot is 4,165 square feet in size, 876 square feet of which is located on dry land.

The proposed development includes 214 remaining square feet of the neighboring property's dock area (following partial removal of dock area). Additional over water coverage of 267 square feet of deck and building area is proposed with the development, for a total of 481 square feet of over water coverage.

The proposed dry land area lot coverage would be 725 square feet. Combined with the 481 square feet of over water coverage, total lot coverage would be 1,206 square feet, or 28.96% (1206 s.f. / 4165 s.f.). The proposed lot coverage would be less than 35% and less than 1,750 square feet, which meets this criterion.

SMC 23.60.398. View Corridors.

SMC 23.60.400 Regulated public access in the CR Environment.

The proposed development is one single family residence. These criteria do not apply.

Urban Residential (UR) Shoreline environment criteria (SMC 23.60.540 – 23.60.578):

Single family residences are permitted outright on waterfront lots in the UR environment. The proposal has been reviewed for compliance with the development standards in this environment.

SMC 23.60.572. Maximum Height. The maximum height in the UR Environment shall be thirty (30) feet except as modified by subsections B through E of this section.

The proposed height has been reviewed and found to comply with the UR development standards.

SMC 23.60.574. Lot coverage in the UR Environment.

A. Structures including floats and piers shall not occupy more than thirty-five (35) percent of a waterfront lot or an upland lot except as modified in subsection B.

B. Lot Coverage Exceptions. 2. On single-family zoned lots the maximum lot coverage permitted for principal and accessory structures shall not exceed thirty-five (35) percent of the lot area or one thousand seven hundred fifty (1,750) square feet, whichever is greater.

The proposed lot coverage is less than 1,750 square feet on a single family zoned lot and therefore meets this criterion.

SMC 23.60.576. View Corridors.

SMC 23.60.578 Regulated public access.

The proposed development is one single family residence. These criteria do not apply.

3. THE PROVISIONS OF CHAPTER 173-27 WAC

Chapter 173-27 of the WAC, sets forth permit requirements for development in shoreline environments and gives the authority for administering the permit system to local governments. The State acts in a review capacity. The Seattle Municipal Code Section 23.60 (Shoreline Development) and the RCW 90.58 incorporates the policies of the WAC by reference. These policies have been addressed in the foregoing analysis and have fulfilled the intent of WAC 173-27.

CONCLUSION – Shoreline Substantial Development

In conclusion, no additional adverse impacts to the shoreline habitat buffer and shoreline habitat, including water quality are expected, subject to the conditions listed below. The proposed single family residence will be consistent with the provisions set forth by 90.58 RCW, 173-27 WAC, and Chapter 23.60 SMC also known as the Seattle Shoreline Master Program (SSMP), subject to the conditions listed at the end of this report.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development is **CONDITIONALLY GRANTED**. Conditions are listed at the end of this report.

III. ANALYSIS - SHORELINE ADMINISTRATIVE CONDITIONAL USE SMC 23.60.365

The applicant has requested a Shoreline Administrative Conditional Use approval for a single family residence constructed in the Conservancy Recreation (CR) shoreline environment (SMC 23.60.365.A), and to construct structures taller than 15' in the CR environment (SMC 23.60.394).

SMC 23.60.365 Administrative conditional uses in the CR Environment.

The following uses may be authorized by the Director, with the concurrence of the Department of Ecology, as principal or accessory use, if the criteria for administrative conditional uses in WAC 173-27-160 are satisfied:

A. Single-family dwelling units constructed partially or wholly over water and meeting the following conditions:

- 1. If located on a residentially zoned and privately owned lot established in the public records of the County or City prior to March 1, 1977 by deed, contract of sale, mortgage, platting, property tax segregation or building permit; and*

The proposed development is a single family dwelling unit to be constructed partially over water and is located on a residentially zoned and privately owned lot. King County records show the lot was platted in 1926.

- 2. If the lot has less than thirty (30) feet but at least fifteen (15) feet of dry land calculated as provided for in measurements Section 23.60.956; and*

The subject property has dry land area that varies between 15' and 25' of depth, as measured between the southwest property line and the OHWM. Using the measurement method in SMC 23.60.956, the lot has less than 30' but at least 15' of dry land. The proposal meets this criterion.

- 3. If the development is limited to the dry-land portion of the site, to the greatest extent possible, and particularly to the most level and stable portions of the dry-land area.*

The existing lot depth of the subject property makes it necessary to place development within 25' of the OHWM. An analysis of parcels within 800' and located within the City of Seattle on the shoreline indicates that the median dry land lot size for nearby residences is more than three times (3060 sq. ft.) that of the dry land lot size of the subject property (876 sq. ft.). For further comparison, when looking at residential waterfront parcels for the entire northern section of Lake Washington south to Webster Point and the University of Washington campus, the mean lot size is 13,940 sq. ft. Due to the subject

property's small, narrow size and odd, wedge shape, the proposed development occupies a large majority (83%) of the dryland portion of the lot and extends partially over water only on the second and third floors in order to compensate for the odd-shaped lot and build a residence comparable in size to adjacent residences (average square footage is 1927 sq. ft. for these neighboring parcels within 800'). The request for additional height to 29'11" beyond the 15' limit in the CR environment is justified to help limit the development to the dryland portion of the site as much as possible while building a residence of comparable size and living space as neighboring *properties*.

WAC 173-27-160 Review criteria for conditional use permits:

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 uses is consistent with the policies of RCW 90.58.020 and the master program;*
- b. That the proposed use will not interfere with the normal public use of public shorelines;*
- 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;*
- d. That the proposed uses will cause no significant adverse effects to the shoreline environment in which it is to be located; and*

The RCW 90.058.020 states that "alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences" ... and "permitted uses in the shorelines of the state 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." Given the existing conditions at this project location (little or no native vegetation and compacted gravel on the dryland portion of the lot) and the mitigating measures (detailed elsewhere in this decision) incorporated into the design of this project, the project will cause no significant adverse effects to the shoreline environment. The project is located primarily in an Urban Residential environment. The stated purpose of the UR environment in the City of Seattle's Shoreline Master Program is to protect residential development. The portion of the residence proposed over water would be in the Conservancy Recreation environment. The mitigating measures incorporated into the design of this project recognize and address the potential ecological impacts of this residence on the shoreline environment, as discussed more fully above in response to general development standards per SMC 23.60.152. The residence will be located on a privately owned lot in a fully developed residential area and will not interfere with the normal public use of public shorelines.

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

This criteria includes a requirement to consider "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." In short, this proposal meets this criteria because of the lack of similar circumstances to this property in the area. The shoreline of Lake Washington, aside from public land, is nearly completely developed with single family residences. In order for this and any future proposals to be considered for building overwater, they must meet criteria under SMC 23.60.365 (described above), including that "the lot has less than thirty (30) feet but at least fifteen (15) feet of dry land calculated as provided for in measurements Section 23.60.95." An analysis provided by the applicant of existing shoreline properties along Lake Washington within the City of Seattle found only four properties that appear to meet this criterion and each of these properties extend overwater. Furthermore, a GIS analysis using DPD records of private land adjacent to the entire section Lake Washington shoreline from the University of Washington east of Webster Point to the northern city limits showed that out of the very few vacant lots

remaining there appear to be no privately owned vacant lots with less dryland than the subject property and, in fact, only two lots for the entire area that have single-family residences built on lots with less dryland than the subject property.

Further GIS analysis of the shape and size of parcels in this area found few to none that were comparable to the subject property with respect to the overall small size, narrow depth of the lot (15 feet at one end) and odd, wedge shape. Therefore, there is very little risk of substantial detrimental effect from the granting of this conditional use with respect to additional requests for like actions because of the uniqueness of this subject property with respect to its size, shape and opportunity for new development.

B. Development standards of the underlying zone applicable to the single-family use in a CR environment may be waived or modified by the Director to minimize the amount of development over submerged lands.

The applicant has requested variances from the development standards of the underlying single family zone, as analyzed in the response to SMC 23.44 and 23.54, above.

CONCLUSION – SHORELINE ADMINISTRATIVE CONDITIONAL USE

As the analysis above demonstrates, the proposal to develop a single family residence partially over water and taller than 15’ in the CR environment meets criteria established in SMC 23.60.365 and WAC 173-27-160.

DECISION - SHORELINE ADMINISTRATIVE CONDITIONAL USE

The Shoreline Administrative Conditional Use for development over water and structures taller than 15’ in the Conservancy Recreation environment is **CONDITIONALLY GRANTED**.

IV. ANALYSIS – ENVIRONMENTALLY CRITICAL AREAS EXCEPTION 25.09.300

The applicant has requested an Environmentally Critical Areas Exception approval for a single family residence constructed within 25 feet of the OHWM (SMC 25.09.200.B.4.d.2.c.ii.3).

SMC 25.09.300. Environmentally Critical Area Exception.

A. An applicant for a City permit to develop real property that is located in an environmentally critical area or buffer may apply to the Director for an exception to modify environmentally critical area development standards, provided that an exception cannot be applied for to allow development or to obtain development credit under subsection 25.09.240E or to relocate lot lines under Section 23.28.030. Before an application for relief under this section will be accepted, the Director must determine that no other applicable administrative remedies in Chapter 25.09 or Title 23 will provide sufficient relief.

The applicant proposes to construct one single family residence with attached garage within 25’ of the OHWM. The proposal does not include a request for development or development credit to subdivide the lot under 25.09.240.E, or relocate lot lines. The area of proposed development is all located within 25’ of the OHWM. An Environmentally Critical Areas Exception approval is the only administrative remedy by which this land may be developed. There are no other administrative remedies in SMC 25.09 or Title 23 that may provide the relief requested by this proposal.

B.1. An applicant requesting modification shall provide the Director with the following information:

- a. Documentation showing that no other applicable administrative remedy in Title 25.09 or Title 23 will provide sufficient relief;***

The applicant has provided a survey showing that all dry land on the subject property is located within 25' of the OHWM (OHWM). As described in the response to subsection (A), there are no other applicable administrative remedies to allow development within 25' of the OHWM.

b. Technical studies and other data that describe the possible injurious effects of the proposed development on occupiers of the land, on other properties, on public resources, and on the environment. Possible injurious effects must be described even when the injurious effect will become significant only in combination with similar effects from other developments;

The applicant has provided the following studies:

- Geotechnical report by PacRim Geotechnical Inc., dated June 28, 2004
- Biological Evaluation by AMEC Earth & Environmental dated September 27, 2005
- Joint Aquatic Resource Permit Application (JARPA) dated December 5, 2005
- Environmental Checklist dated November 16, 2005

These reports describe the possible effects of the development on the applicants who will reside at the property, on public resources, and on the environment. The reports have been reviewed by DPD.

While these studies provide some information regarding possible injurious effects of the proposal, additional Best Available Science documents were used by DPD to review the proposal. These documents include:

- Environmentally Critical Areas – Best Available Science Report, Seattle DPD, 2005, available at http://www.seattle.gov/DPD/Planning/Environmentally_Critical_Areas_Update/ProposedECAUpdate/default.asp
- Kahler, T., M. Grassley, and D. Beauchamp. 2000. A summary of the effects of bulkheads, piers, and other artificial structures and shorezone development on ESA-listed salmonids in lakes. Report to the City of Bellevue, Bellevue, Washington.
- Carrasquero, Jose (Herrera Environmental Consultants). 2001. White Paper: Over-Water Structures, Fresh Water Issues. Submitted to Washington Departments of Fish and Wildlife, Ecology, and Transportation.
- “Endangered Species Act Guidance for New and Replacement Piers and Bulkheads in Lake Washington, Lake Sammamish, and the Ship Canal, Including Lake Union” (US Army Corps of Engineers, US Fish and Wildlife, and National Oceanic and Atmospheric Administration, 2001)

c. Technical studies and other data by qualified persons showing that the proposed development will protect the occupiers of the land, other properties, public resources, and the environment to the same extent as the development standards that are proposed to be modified and explaining how this will occur;

The standards proposed to be modified include allowing a single family residential structure over water, placement of a single family residence within the 100' shoreline habitat buffer, placement of a single family residence within the 25' setback from the OHWM required for single family residences, and repair of the existing bulkhead.

Geotechnical report:

The Geotechnical report was reviewed by DPD's geotechnical engineers in conjunction with an application for an ECA Exemption. Reviewers had the following comments:

“2407814; 14356 Riviera Place Northeast; ECA Review Required. Based on the submitted documentation, DPD concurred that the designation for this site as a ‘Potential Slide Area

due to Geological Condition' appeared to be a mapping error. However, based on the report by PacRim Geotechnical Inc. dated June 28, 2004, the subject site 'appears to be susceptible to liquefaction under a design seismic event'. In this respect, this site is designated as a 'Liquefaction Potential' site. All ECA Submittal, General, and applicable development standards will still apply for future development on this property. Further, proposed development at this site should be routed to DPD's Shoreline Reviewer during future permit applications."

DPD geotechnical reviewers have determined that any injurious effects from a geotechnical perspective can be addressed in further detail at the building permit stage of review. The project will pose no geotechnical threat to other properties or to the residents if modified as conditioned below.

Shoreline Environmental Reports

The environmental documents listed in the response to SMC 25.09.B.1.b above were reviewed by DPD. Based on review of these documents, the proposed development with mitigation measures as described above and at the end of this document meet this criterion. In summary, the combination of these mitigation measures designed to improve stormwater filtration, runoff, water quality and reduce aquatic habitat impacts at the site address the potential adverse impacts development in the shoreline.

d. Plans showing what can be developed in compliance with all environmentally critical area development standards and standards in Title 23, including the yard and setback standards for front and rear yards;

As described in the response to SMC 25.09.300.B.1.a, the applicant has provided a survey indicating that all dry land on the subject property is located within 25' of the OHWM. No development is possible, if developed in compliance with all environmentally critical area development standards and standards in Title 23.

e. An explanation with supporting evidence of how and why compliance with all environmentally critical areas development standards as shown on the plans required in subsection (d) would not permit any reasonable use of the property, including, but not limited to, submission of the following evidence:

1) The date the applicant purchased the property or obtained the right to develop or use it;

The applicant has provided information indicating that Jewel Box Development LLC accepted transfer of the property on October 21, 2005 (recorded on December 16, 2005). The information indicates that there was no price paid for the property, but it was instead the result of a settlement agreement between property owners.

2) The price the applicant paid for the rights described in subsection (1); and

The property ownership was modified as the result of a settlement. It is unknown whether any past prices paid for the property reflected any property development restrictions.

3) Restrictions or conditions on use or development in existence when the applicant acquired the rights described in subsection (1).

The Environmentally Critical Areas Ordinance was recently updated in May of 2006, and includes the new restriction of limiting development to be placed at least 25' from the OHWM. At the time of property transfer, the Environmentally Critical Areas requirements allowed some development within 25' of the OHWM.

2. *The Director may require the applicant to provide additional information prepared by qualified persons on the topics described in subsection B1.*
3. *All technical studies and data shall be accompanied by sufficiently detailed information to allow the Director to evaluate it under the standards for scientific information set out in Washington Administrative Code (WAC) 365-195-905.*

The applicant has provided sufficiently detailed information for review. Where information was insufficiently detailed for DPD review, the applicant was asked to provide additional information. The information provided has been reviewed as described above.

C. The Director may modify or waive an environmentally critical areas development standard and/or the yard and setback standard for front or rear yards when an applicant demonstrates by clear and convincing evidence that strict application of the development standards would not permit any reasonable use of the property and that development undertaken pursuant to the modified or waived standards would not cause significant injury to occupiers of the land, to other properties, and to public resources, or to the environment.

Yard development standards

The front yard has been reduced to the maximum possible through the front yard variance discussed previously in this document.

Environmentally Critical Area Development Standards

As described in the response to 25.09.300.B.1.a, the entire property is located within 25' of the OHWM. Development standards allow single family residences within the 100' shoreline habitat buffer, but these structures are required to be set back at least 25' from the OHWM. The applicant has demonstrated by clear and convincing evidence that strict application of the requirement to keep 25' from the OHWM free of any development would not permit any reasonable use of the property.

The applicant has also demonstrated that development undertaken to develop a single family residence on dry land within 25' of the OHW would not cause significant injury to occupiers of the land, to other properties, to public resources, or to the environment, as proposed with mitigating measures described above and further conditioned below.

D. The relief granted by reduction, waiver, or other modification of an environmentally critical areas development standard and of the yard and setback standards for front or rear yards shall be the minimum to allow reasonable use of the property. Preference shall be given to modifying or waiving the yard and setback standards for front or rear yards. In modifying a regulation, the Director may impose reasonable conditions that prevent or mitigate the same harm that the modified or waived regulation was intended to prevent or mitigate. In granting an exception to the development standards in Section 25.09.160, Wetlands, the Director shall apply the avoidance and mitigation standards in subsection 25.09.160 E when imposing any conditions.

The front yard has been reduced to the maximum possible through the front yard variance discussed in Section I of this document. The dryland lot area is very small (876 sq. ft) with a narrow lot depth ranging from 15' to 25'. As described in the response to 25.09.300.B.1.a, the entire property is located within 25' of the OHWM. The applicant has demonstrated by clear and convincing evidence that strict application of the requirement to keep 25' from the OHWM free of any development would not permit any reasonable use of the property. Furthermore, the proposed residence within the 25' buffer maximizes the dryland portion of the lot (83%), constructing a ground floor consisting of 432 sq. ft. of living area and a 212 sq. ft. garage, such that the first floor total footprint is only 644 sq. ft. all of which is on the dryland portion of the site. The responses above to the general development standards per SMC 23.60.152 and the conditional use analysis describe the measures included in this proposal to construct a reasonable sized single family residence compared to neighboring properties while avoiding, minimizing and mitigating the environmental impacts of the proposed structure in the shoreline habitat buffer.

There are no wetlands or wetland buffers on site, as described in the "Description of Proposal" section above.

E. The Director's decision must be consistent with the scientific approach used by the City in developing the environmentally critical area development standard at issue.

The City established a 25' setback based on the Best Available Science set out in the City's 2006 amendments to the Environmentally Critical Areas (ECA) regulations, SMC Chapter 25.09. The conditions imposed in this decision, including setbacks and mitigation, apply the same scientific approach because they are based on the same Best Available Science used to develop the ECA amendments. The Director's decision is consistent with the scientific approach set out in the City's 2006 Best Available Science document attached to Ordinance 122050 adopting the development standards for shoreline critical areas.

CONCLUSION – ENVIRONMENTALLY CRITICAL AREAS EXCEPTION

As the analysis above demonstrates, the applicant's proposal for an Environmentally Critical Area Exception in order to develop a single family residence within 25 feet of the OHWM meets criteria established in established in SMC 25.09.300.

DECISION – ENVIRONMENTALLY CRITICAL AREAS EXCEPTION

The Environmentally Critical Areas Exception is **CONDITIONALLY GRANTED**. Conditions are listed at the end of this report.

V. ANALYSIS – SEPA

The proposed site extends over water thus the proposed construction requires SEPA analysis per SMC 25.05.800 A2. Disclosure of the potential impacts from this project was made in the following documents: the Environmental Checklist dated November 16, 2005, the Joint Aquatic Resource Permit application (JARPA) dated December 5, 2005, the Biological Evaluation by AMEC Earth & Environmental dated September 27, 2005, a geotechnical report by PacRim Geotechnical Inc., dated June 28, 2004, and the plans and supplemental information in the project file. The information in the SEPA checklist, the supplemental information described above, 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, 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 an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation” subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

Short-term Impacts

The following temporary or construction-related impacts are expected from proposed construction: temporary increase in noise levels, temporary soil erosion, increased levels of fugitive dust and fumes from the construction equipment. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC 25.05.794). Although not significant, these impacts are adverse and further discussion is warranted below

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Stormwater, Grading and Drainage Control Code that requires that soil erosion control techniques, the Seattle Noise Ordinance (construction noise), the Building Code that provides for construction measures and life safety issues, and State Air Quality Codes administered by the Puget Sound Air Pollution Control Agency (air quality). In addition Federal and State regulations and permitting authority (Section 10 Permit, 404 Permit from the Army Corps and HPA permit from Washington Department of Fish and Wildlife) are effective to control short-term impacts on water quality. Compliance with these codes and/or ordinances will lessen the environmental impacts of the proposed project.

Air Quality

Construction and transport will create dust, leading to an increase in the level of suspended particulates in the air, which could be carried by winds out of the construction area. The Street Use Ordinance (SMC 15.22) requires watering the site, as necessary, to reduce dust. In addition, the Puget Sound Clean Air Agency (PSCAA regulation 9.15) requires that reasonable precautions be taken to avoid dust emissions. In addition to spraying water or chemical suppressants, this may require activities which produce air-borne materials or other pollutant elements to be contained within a temporary enclosure. Demolition could require the use of heavy trucks and smaller equipment such as generators and compressors. These engines would emit air pollutants that would contribute slightly to the degradation of local air quality. Since the demolition activity would be of short duration, the associated impact is anticipated to be minor, and does not warrant mitigation under SEPA.

Greenhouse gas emissions associated with development come from multiple sources; the extraction, processing, transportation, construction and disposal of materials and landscape disturbance (Embodied Emissions); energy demands created by the development after it is completed (Energy Emissions); and transportation demands created by the development after it is completed (Transportation Emissions). Short term impacts generated from the embodied emissions results in increases in carbon dioxide and other greenhouse gases thereby impacting air quality and contributing to climate change and global warming. While these impacts are adverse they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this specific project. The other types of emissions are considered under the use-related impacts discussed later in this document. No SEPA conditioning is necessary to mitigate air quality impacts pursuant to SEPA policy SMC 25.05.675A.

Construction

The proposed construction work will take place adjacent to the waters of Lake Washington.

For construction on dry land, the Stormwater Grading and Drainage Control Code, the Geotechnical Soils report dated June 28, 2004, the comments of the DPD geotechnical reviewer, and implementation of Best Management Practices will mitigate soil erosion impacts.

Construction material and equipment pose some potential danger of water and near shore contamination and shoreline erosion. The contamination from spills could lead to both water quality and aquatic habitat damage. In order to be prepared to provide a fast and effective response to spills or other actions which cause new contaminants to be introduced into the shoreline environment, emergency containment procedures shall be developed and all necessary equipment stocked on site prior to commencing construction.

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. A boom should be deployed around the construction area during bulkhead repair to contain any debris that enters the water during construction. At a minimum the floating debris that enters the water during construction should be collected once per day. This material should be contained on site and then disposed of at the appropriate upland facility. Additional conditions will apply, as imposed by other agencies with jurisdiction.

Long-term Impacts

Long-term or use related impacts are also anticipated from the proposal, including parking and traffic impacts, increased drainage runoff, grading for the proposed residence, an increase in height, bulk, and scale on the street, an increased demand for public services, and increased traffic trips. Existing codes such as address impacts from drainage, impacts to public services, and grading. The impacts listed above are associated with one single family residence and are not expected to be significantly adverse. No further SEPA conditioning is warranted for these items.

The site is located in the Meander Line Buffer, which follows the original shorelines of this area. The original shorelines hold the potential for historic/archaeological resources. Therefore, a more detailed discussion of the potential impacts is warranted.

Historic and Cultural Preservation

The City mapping system indicates that the subject property is located within the Meander Line Buffer, which follows the original shorelines of Seattle. Given that the site is close to the original and existing shoreline, there is a possibility that unknown resources could be discovered during excavation. Therefore, consistent with DPD Director's Rule 2-98 on SEPA Environmental Review and Archaeological Resources, and in order to ensure no adverse impact would occur to an inadvertently discovered archaeological significant resource, conditions will be imposed upon the project in accordance with the Director's Rule.

Plants and Animals

Chinook salmon, a species listed as threatened under the Endangered Species Act (ESA) in March 1999, are known to inhabit Lake Washington including the proposed project area. Under the City of Seattle's Environmental Policies and Procedures 25.05.675 N (2) it states in part: *A high priority shall also be given to meeting the needs of state and federal threatened, endangered, and sensitive species of both plants and animals.*

As provided by SMC 25.05.660, and 25.05.675 N 2 c, the lead agency may specify mitigation. The applicant has included mitigation measures in the project to offset the impacts of the proposed work (as described in the Environmental Checklist, the Biological Evaluation and the JARPA), and DPD has imposed conditions on this project as described in the Shoreline Substantial Development, Shoreline Administrative Conditional Use, and ECA Exception sections above. These mitigation measures and conditions include:

- 1) Cantilever design for the house structure such that living space will be a minimum of 9 feet above Ordinary High Water with no structural support waterward of the bulkhead, allowing for increased light penetration to the water (including direct sunlight for a portion of the morning) than if any structure were overwater on the first floor level.
- 2) The finger pier as it extends onto Lot B will be cut back to the middle point of the extension, removing 39 square feet of pier decking as well as two creosote pilings that are at the end of the existing finger pier. Old piling holes will be replaced with clean gravel and washed sand.
- 3) In order to reduce predator habitat for juvenile salmon, all trash and debris shall be removed from the lake bottom waterward of the bulkhead.
- 4) Decking at the far NE of the deck will be removed (43 square feet), and the remaining decking that extends onto Lot B will be re-decked with a 47% light permeable decking material. 186 square feet of that decking is overwater and 83 square feet is over land.
- 5) At least 24 red stem dogwood shoots will be planted along entire bulkhead length and monitoring will ensure at least 80% survival after 5 years and a contingency plan for further planting on-site or off-site if survival proves infeasible after 5 years.
- 6) In order to minimize negative impacts of artificial lighting on the nearshore habitat and migrating salmon, low-voltage lighting will be used on the 2nd and 3rd floor decks, but no lighting will be used under the deck or outside the 1st floor. No deck lighting will be directed at the water. Light fixtures shall be fully shielded where light source is visible from the submerged areas.
- 7) All structural reinforcements to the existing bulkhead will be performed on the landward side of the bulkhead.
- 8) The project will channel stormwater runoff from the roof and the adjacent street to a trench drain and release the water to a pervious pavement section in order to filter and cool the water prior to entering the lake. Water from the main low-slope roof will be directed via a scupper through the wall to a single downspout on the west elevation. The downspout will be tight-lined to the trench drain.
- 9) Water from the street immediately adjacent to the proposed residence will run into a new trench drain. The trench drain would drain to the north into the 10' side-yard easement on Lot A benefiting Lot B, and with a type 600 catch basin. The discharge from the catch basin would be a 6" perforated pipe extending the length of the pervious paving area.
- 10) On the South dryland portions of the site, there will be approximately 144 square feet that will be covered with pervious pavers (TurfStone made by Mutual Materials) that allow low-lying native grasses such as slough sedge (*Carex obnupta*) to grow. With the southern 10' easement on Lot B benefiting Lot C, there is decking that extends over a portion of dryland (approximately 83 square feet) that is current standard wood decking that will be replaced with light and water permeable (ThruFlow) decking.

Each of these mitigation measures will minimize impacts on juvenile salmon habitat or mitigate the impacts of the project on the aquatic habitat at the site. The measures will also result in removal of debris from the nearshore lake environment, reducing nesting habitat of small mouth bass and allowing the juvenile fish to remain in the shallow water during their migration and rearing, reducing the juvenile Chinooks' vulnerability to predation in the nearshore environment. Additionally, the riparian vegetation planted along the shoreline will increase the allochthonous input of insects and detritus to Lake Washington providing food for juvenile salmonids and nutrients for other aquatic organisms. The stormwater filtration and drainage improvements at the site will provide filtering of storm water runoff, reducing the nutrient load and silt levels in the near shore areas.

CONCLUSION – SEPA

The Department of Planning and Development has reviewed the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the file; and any comments which may have been received regarding this proposed action have been considered.

As indicated in the checklist and this analysis, this action will result in probable adverse impacts to the environment. However, the mitigation measures described above and conditions placed on the proposal as a result of the Shoreline Substantial Development, Shoreline Administrative Conditional Use, ECA Exception and SEPA analyses will provide adequate mitigation and therefore the impacts are not expected to be significant.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have significant adverse impacts upon the environment. An EIS is not required under RCW 43.21C.030.(2)(C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS – VARIANCES

Prior to Issuance of a Master Use Permit

1. The final plan set shall be revised to show the on-site parking space meets Land Use Code requirements.

CONDITIONS – SHORELINE SUBSTANTIAL DEVELOPMENT, SHORELINE ADMINISTRATIVE CONDITIONAL USE, ECA EXCEPTION, AND SEPA

Prior to Issuance of a Master Use Permit

2. Plans shall indicate all proposed mitigation measures listed here:
 - Cantilever design for the house structure such that living space will be a minimum of 9 feet above Ordinary High Water with no structural support waterward of the bulkhead, allowing for increased light penetration to the water (including direct sunlight for a portion of the morning) than if any structure were overwater on the first floor level.
 - The finger pier as it extends onto Lot B will be cut back to the middle point of the extension, removing 39 square feet of pier decking as well as two creosote pilings that are at the end of the existing finger pier. Old piling holes will be replaced with clean gravel and washed sand.
 - In order to reduce predator habitat for juvenile salmon, all trash and debris shall be removed from the lake bottom waterward of the bulkhead.
 - Decking at the far NE of the deck will be removed (43 square feet), and the remaining decking that extends onto Lot B will be re-decked with a 47% light permeable decking material. 186 square feet of that decking is overwater and 83 square feet is over land.

- At least 24 red stem dogwood shoots will be planted along entire bulkhead length and monitoring will ensure at least 80% survival after 5 years and a contingency plan for further planting on-site or off-site if survival proves infeasible after 5 years.
- In order to minimize negative impacts of artificial lighting on the nearshore habitat and migrating salmon, low-voltage lighting will be used on the 2nd and 3rd floor decks, but no lighting will be used under the deck or outside the 1st floor. No deck lighting will be directed at the water. Light fixtures shall be fully shielded where light source is visible from the submerged areas.
- All structural reinforcements to the existing bulkhead will be performed on the landward side of the bulkhead.
- The project will channel stormwater runoff from the roof and the adjacent street to a trench drain and release the water to a pervious pavement section in order to filter and cool the water prior to entering the lake. Water from the main low-slope roof will be directed via a scupper through the wall to a single downspout on the west elevation. The downspout will be tight-lined to the trench drain.
- Water from the street immediately adjacent to the proposed residence will run into a new trench drain. The trench drain would drain to the north into the 10' side-yard easement on Lot A benefiting Lot B, and with a type 600 catch basin. The discharge from the catch basin would be a 6" perforated pipe extending the length of the pervious paving area.
- The owner and/or responsible parties shall provide DPD with a statement that the contract documents for their general, excavation, and other subcontractors will include reference to regulations regarding archaeological resources (Chapters 27.34, 26.53, 27.44, 79.01, and 79.90 RCW, and Chapter 25.48 WAC as applicable) and that construction crews will be required to comply with those regulations.

Prior to Issuance of the Construction Permit

3. Revise official plan sets to reflect the following:
 - a. Best Management Practices shall be employed during the proposed construction work as necessary to keep debris and deleterious material out of the water, including use of silt fences and straw bales at top of the bulkhead and wooden framing shall be in place to prevent erosion during pile driving and foundation work.
 - b. Prior to commencing construction a spill prevention and emergency containment plan shall be developed and all necessary equipment 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.
 - c. A five-year vegetation monitoring plan shall be provided that insures eighty (80) percent or greater survival of the vegetation planted in the shoreline area through maintenance replacement of plants that do not survive. A contingency plan should be included in this plan that provides for developing an alternative shoreline planting plan acceptable to DPD if plant survival proves infeasible at this location after five years.
 - d. 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.

During Construction

4. 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. If more than one street abuts the site, conditions shall be posted at

each street. 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.

5. Appropriate best management practices (BMPs) shall be employed to prevent debris and deleterious material from entering Lake Washington during the proposed work and future repairs to the bulkhead. BMPs shall include the deployment of a boom surrounding the construction area. The boom shall remain in place for the duration of the proposed work.
 - a. The boom shall serve to collect any floating debris, which may enter the water during the construction activities. This floating debris shall be removed from the water daily, stored on-site, and then disposed of in the appropriate upland facility.
 - b. If heavy (sinking) debris enters the water during the repair work, the location of the debris shall be documented in a log to be kept through the duration of the project. When construction is complete a diver shall retrieve all debris that has entered the water and sunk during construction.
6. BMPs shall be in place to prevent any toxic materials, petrochemicals and other pollutants from entering enter the surface water during the proposed repair work. The Spill prevention and response procedures developed for this project shall be followed and the appropriate material shall be kept at the site for quick response to any toxic spills, such as fuel, at the site.
7. Personnel shall be trained in the plans and procedures for the prevention, containment and clean-up of toxic material.
8. If resources of potential archaeological significance are encountered during construction or excavation, the owner and/or responsible parties shall:
 - c. Stop work immediately and notify DPD () and the Washington State Archaeologist at the State Office of Archaeology and Historic Preservation (OAHP). The procedures outlined in Appendix A of Director's Rule 2-98 for assessment and/or protection of potentially significant archeological resources shall be followed.
 - d. Abide by all regulations pertaining to discovery and excavation of archaeological resources, including but not limited to Chapters 27.34, 27.53, 27.44, 79.01 and 79.90 RCW and Chapter 25.48 WAC, as applicable, or their successors.

For the Life of the Project

9. No pesticides, herbicides, or chemical fertilizers shall be used along the shoreline.
10. Maintain the shallow water and nearshore area clear of debris and structures for the life of the project.

Signature: _____ (signature on file) Date: February 11, 2010
Ben Perkowski, Land Use Planner
Department of Planning and Development

BP:lc

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