



City of Seattle

Gregory J. Nickels, Mayor

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**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:** 3008626

**Applicant Name:** Mari Noelle Galicia, ARC Architects

**Address of Proposal:** 3155 W. Laurelhurst Dr NE

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Permit to allow a 3,798 sq. ft, 3 story single family residence with an 840 sq. ft. detached garage. Project includes 400 cu yards of grading. Existing single family residence to be removed.

The following approvals are required:

**Shoreline Substantial Development Permit:** to allow 400 cubic yards of grading and placement of the excavated soil elsewhere on the lot in the Urban Residential (UR) shoreline environment pursuant to Seattle Municipal Code 23.60.600.

**SEPA - Environmental Determination:** To allow construction of a single family house with more than 9,000 sq. ft. of development coverage in environmentally critical areas, pursuant to Chapter 25.05 SMC.

**SEPA DETERMINATION:**  Exempt  DNS  MDNS  EIS

DNS with conditions

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

## **BACKGROUND DATA**

### **Site Location and Description**

The proposal site is a wedge shaped waterfront parcel between W. Laurelhurst Drive NE and the Lake Washington shoreline.

### **Zoning**

The site has Single Family zoning with a 9,600 sq. ft. minimum lot size (SF 9600). It is also mostly within the Urban Residential (UR) shoreline environment.

### **Area Development**

This is an area developed exclusively with single family houses.

### **Proposal Description**

The proposal involves demolition of the existing house, excavation of approximately 400 cubic yards of soil, construction of a new single family house and placement of most of the excavated soil in the landscape areas. The site contains two environmentally critical area (ECA) designations: shoreline habitat buffer and landslide-prone areas. An existing pier will remain.

### **Public Comment**

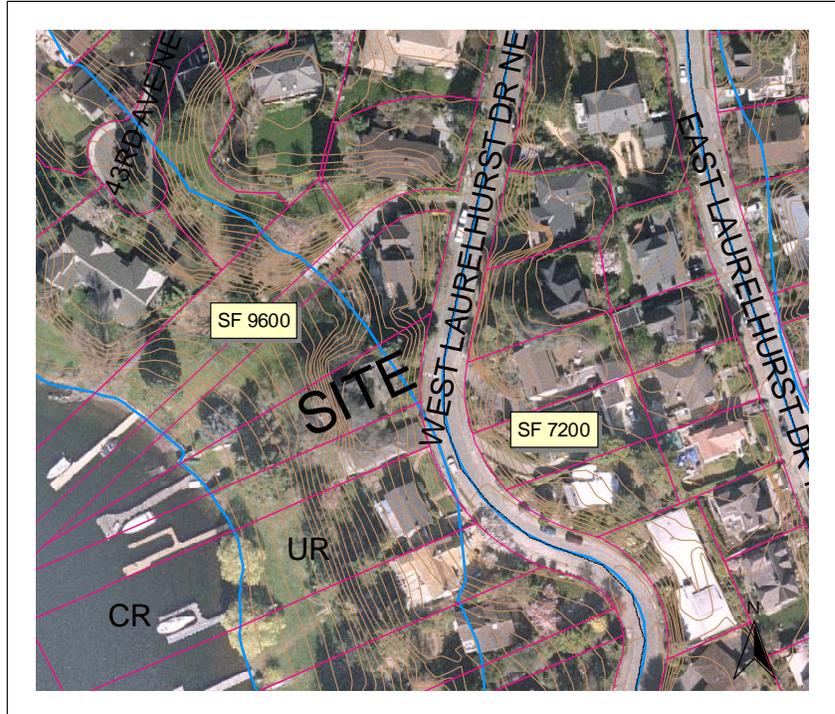
One comment was received during the comment period, which ended on May 9, 2008. A representative of the Muckleshoot Indian Tribe Fisheries Division requested information about the scope of the project and noted that endangered Chinook salmon are found in Lake Washington in the vicinity of the site. Staff clarified that there would be no over water work under the permit and that the existing bulkhead and deck would not be modified.

## **ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT**

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads:

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

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC*



*Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and Shoreline Management Act.*

**A. The Policies and Procedures of Chapter 90.58 RCW**

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

**B. The Regulation of Chapter 23.60**

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program." In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SSMP 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SSMP 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SSMP 23.60.004, and meet development standards for all shoreline environments established in SMC 23.60.152 as well as the criteria and development standards for the shoreline environment in which the site is located, any applicable special approval criteria and the development standards for specific uses.

The site is classified as a waterfront lot (SMC 23.60.924). The shoreline designations for the site are Urban Residential/Conservancy Residential (UR/CR) (SMC 23.60.540 and 360). Single-family residences are a permitted use in these shoreline environments. No action is proposed within the CR environment.

**SMC 23.60.004 - Shoreline Policies**

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and location criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. The purpose of the UR and CR environments are stated in SMC 23.60.220.C.6 and C 3, respectively. The applicable sections of these regulations to the current proposal are: in the Conservancy Recreation Environment maximum effort to preserve, enhance or restore the existing natural ecological, biological, or hydrological conditions shall be made in designing, developing, operating and maintaining recreational facilities and in the Urban Residential Environment residential areas shall be protected in a manner consistent with the Single Family Residential Area Policies.

**SMC 23.60.064 - Procedures for Obtaining Shoreline Substantial Development Permits**

This application has followed the procedural requirements for a Master Use Permit as specified in subsection A. SMC 23.60.064 also provides authority for conditioning of shoreline substantial development permits as necessary to carry out the spirit and purpose of and assure compliance with the Seattle Shoreline Code, Chapter 23.60, and with RCW 90.58.020 (State policy and legislative findings).

The proposed project is a permitted use in the UR/CR environment (SMC 23.60.540 and 360) and the underlying Single Family Residential 9600 (SF 9600) zoning district (SMC 23.44). As designed the proposal conforms to the general development standards and the requirements of the underlying residential zone and of the UR/CR overlay zones.

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

These general standards apply to all uses in the shoreline environment. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. These general standards of the SMP state, in part, that all shoreline development and uses shall:

- protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as paving and berming of drum storage areas, fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- not release oil, chemicals or other hazardous materials onto or into the water
- minimize the amount of impervious surface in the shoreline environment;
- utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.
- be located, designed, constructed, and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas, including but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not

practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes;

- be located, designed, constructed and managed to minimize interference with, or adverse impacts to, beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion;
- be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area; and
- be located, constructed, and operated so as not to be a hazard to public health and safety.

The replacement of the existing structure with a new house is not anticipated to result in increased long term negative impacts on the shoreline. Native vegetation is proposed to be planted between the proposed house and the shoreline to meet the natural processes general development standard. This new vegetation shall consist of 12 native trees along with shrubs and groundcover in the quantities shown on the planting plan (Sheet L1). Douglas Spiraea shrubs proposed to be planted directly adjacent to the shoreline will add stability to the area and overhang the water to provide terrestrial insect drop and detritus that contributes to the natural shoreline processes.

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, 16-2000, was developed to apply best management practices (BMPs) to prevent erosion and sedimentation from leaving construction sites or where construction will impact receiving waters. Negative construction impacts from the house and the associated grading and landscaping could occur if Best Management Practices are not implemented. The applicant's plan shows that the proposed construction work will take place adjacent to the waters of Lake Washington. With the proposed work taking place uphill from the Lake there exists the potential for debris and other deleterious material to enter the water during this proposed work. Best management practices (BMPs) should be employed to decrease the probability of debris or other deleterious material from entering the water during the proposed work and to decrease the water quality impacts of the work.

Therefore, approval of the substantial development permit will be conditioned to require application of construction best management practices (BMPs). Completion of the attachment to the Director's Rule and adherence to the measures outlined in the attachment shall constitute compliance with BMP measures. SMC 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.

The proposed construction as designed and conditioned is consistent with these general standards for development within the shoreline area, thereby minimizing any adverse impact to the shoreline area, to water and habitat quality and will not be a hazard to the public health and safety. Therefore the project would carry out the spirit and purpose of and comply with the Seattle Shoreline Code, Chapter 23.60 and with RCW 90.58.020.

*SMC 23.60.198 – Residences other than Floating Homes*

New homes may be located no closer to the OHWM than adjacent residences or 75 feet, whichever is less. The proposed house is approximately 100 feet back from the water. The yard requirements of the underlying zone apply and will be met.

*SMC 23.60.204 – Piers and Floats Accessory to Residential Development*

No change is proposed to the existing 95 foot long pier.

*SMC 23.60.570 - Development Standards for the UR Environment*

The site is classified as a waterfront lot (SMC 23.60.924). The shoreline designations for the site under the Seattle Shoreline Master Program are Urban Residential/Conservancy Residential (UR/CR) (SMC 23.60.540 and 360). Single-family residences are a permitted use in these shoreline environments.

Generally construction of a single family house by a property owner for the use of his or her family is exempt from the requirement to obtain a Shoreline Development Permit under SMC 23.60.020 C 4. However this project involves grading of over 250 cubic yards and placement of fill across the site for landscaping purposes which is not considered within the scope of the exemption.

The maximum height permitted in both the UR Environment and the underlying SF 9600 zone is 30 feet with an additional 5 feet allowed for a pitched roof, SMC 23.60.572. The ridgeline of the proposed house will be slightly under that limit.

Structures including piers may not occupy more than 35% of the lot or 1,750 sq. ft., whichever is larger, SMC 23.60.574. This lot is 14,016 sq. ft. so the allowed coverage is 4,905 sq. ft. The proposed structure coverage is 3,111 sq. ft. and adding the approximately 1,056 sq. ft. of the pier brings the total to 4,167 sq. ft. for 29.7% coverage.



View corridors are not required for single family dwelling units, SMC 23.60.576 B. Public access is not required for single family dwelling units, SMC 23.60.578 B.

C. The Provisions of Chapter 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). Since DOE has approved the Seattle Shoreline Master Program, any project consistent with the criteria and procedures of SMC Chapter 23.60 is also consistent with WAC 173-14 and RCW 90.58.

**CONCLUSIONS**

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC, RCW and with the regulations of Chapter 23.60, Seattle Shoreline Master Program.

The specific standards for development in the UR environment will be met by the proposed development.

Pursuant to the Director's authority under Seattle's Shoreline Master Program to ensure that development proposals are consistent with the policies and procedures, and conform to specific development standards of the underlying zone, and having established that the proposed use and development are consistent with the Seattle Shoreline Program, the proposal is approved.

**DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT**

The Shoreline Substantial Development permit is **CONDITIONALLY GRANTED**.

**ANALYSIS - SEPA**

Although the proposal site received a Limited Exemption from the Steep-slope development standards of the Environmentally Critical Areas Ordinance, it is still subject to other Landslide-Hazard and other applicable ECA submittal and development standards. Thus, the application is not exempt from SEPA review. However, SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to:

- 1) documenting whether the proposal is consistent with the City's Environmentally Critical areas (ECA) regulations in SMC 25.09; and
- 2) evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations.

This review included identifying additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and other applicable environmental laws.

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

Disclosure of the potential impacts from this project was made in the following documents: the Environmental Checklist dated August 27, 2007 and the Phase 2 Geotechnical Baseline

Memorandum. 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 on the identified critical area may occur:

- 1) temporary soil erosion;
- 2) increased vibration from installation of pile foundations and
- 3) potential for damage to adjacent slopes if shoring during excavation is not properly installed and maintained.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. The ECA ordinance and DR 33-2006 regulate development and construction techniques in designated ECA areas with identified geologic hazards. The Building code provides for construction measures and life safety issues. Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment.

Due to the fact that extensive grading will be undertaken during construction, additional analysis of earth and grading impacts is warranted.

### Earth/Soils

The ECA Ordinance and Directors Rule (DR) 33-2006 require submission of a soils report to evaluate the site conditions and provide recommendations for safe construction in areas with landslide potential and/or a history of unstable soil conditions. A Geotechnical Engineering Study for the proposed single-family house at 3155 W. Laurelhurst Dr. NE stamped by Robert Ward, PE, and dated June 15, 2007, was submitted with this application and is undergoing separate geotechnical review by DPD. The construction plans, including shoring of excavations as needed and erosion control techniques are receiving separate review by DPD. Any additional information showing conformance with applicable ordinances and codes (ECA ordinance, The Stormwater, Grading and Drainage Control Code, and DR 33-2006) will be required prior to issuance of building permits. Applicable codes and ordinances provide extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are utilized; therefore, no additional conditioning is warranted pursuant to SEPA policies.

These short-term impacts are not considered significant because they are temporary and can be avoided by following best management practices and the recommendations in the geotechnical study (SMC 25.05.794).

### Long Term Impacts

Long-term or use related impacts associated with the project are not anticipated provided that the recommendations in the Geotechnical Study are carried out, drainage is properly installed per the approved plans and no additional impervious surfaces are added to the site without adequate drainage provisions.

### 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 – SHORELINE

#### *Prior to Building Permit Issuance:*

- 1) A Spill Prevention, Control and Countermeasures (SPCC) Plan should be prepared and include the following information:
  - a) Construction planning-elements.
  - b) Identification of potential spill sources at the site.
  - c) Description of responsive actions, including notification and reporting procedures, in the event of a spill or release of hazardous material.
  - d) Description of the measures that will be taken to prevent the release or spread of hazardous materials, either found on site and encountered during construction but not identified in contract documents, or any hazardous materials that the contractor stores, uses or generates on the construction site during construction activities. These items should include but are not limited to gasoline, oils, and chemicals. Hazardous materials are defined in RCW 70.150.010 under “hazardous substance”.

During Construction:

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

- 2) The appropriate Best Management Practices (BMPs) should be employed to prevent erosion and sediment from entering Lake Washington. Any debris that enters the water during construction shall be collected and disposed of in an appropriate upland facility.
- 3) Prevent uncured concrete (or any other paving materials) from entering the water.
- 4) If any heavy material enters the water and sinks during demolition and construction the location of where this material sank should be documented in a log kept on site and all this material should be retrieved at the end of construction.
- 5) The appropriate equipment and material for hazardous material clean up should be kept at the site.
- 6) Appropriate best management practices (BMPs) shall be employed to minimize the amount of erosion at the shoreline caused by the proposed construction, including construction material storage and staging.
- 7) Appropriate best management practices (BMPs) shall be employed to prevent toxic materials, petrochemicals and other pollutants from entering surface water during the proposed construction work.

For the Life of the Project:

- 8) No herbicides, pesticides or chemical fertilizers shall be used in the shoreline habitat area for the life of the project.

Signature: \_\_\_\_\_ (signature on file) Date: May 26, 2008

Nora Gierloff, Land Use Planner  
Department of Planning and Development

NG:lc