



City of Seattle
Gregory J. Nickels, Mayor

Department of Planning and Development
D. M. Sugimura, Director

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

Application Number: 3009014
Applicant Name: Scott Douglas
Address of Proposal: 3201 Fairview Ave E

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to allow installation of mechanical equipment on the roof of an existing building. Project includes a change of use from an existing 16,071 sq. ft. marine sales and service (vessel repair) building to a marine retail sales and services (sale and/or rental of large boats).

The following approval is required:

Shoreline Substantial Development Permit – To allow installation of mechanical equipment on the roof of an existing building within a designated shoreline habitat buffer.

ACU – Shoreline Administrative Conditional Use Permit – To allow for a change of use from an existing marine sales and service building to a marine retail sales and service building.

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 & Area Description

The subject site is located in a recreation marina, south west of Fuhrman Ave E and Fairview Ave E. The site is partly over water. The property is currently developed with a building, three fully enclosed boat houses, a crane, a pier, a 130-foot uncovered slip, a smaller boat slip, and a marine

railway. The site is located in a C2-40 zone and is located within a designated shoreline area, classified by SMC as the Urban Stable Environment.

Proposal

The development site proposal is to establish marine sales and service as a principal use of the Property and locate an approximately 9' tall mechanical unit on roof of existing building.

The project includes the installation of mechanical equipment on the roof of an existing building and the change of use from the existing marine sales and service repair building to a marine retail sales and service building. The proposed development includes:

- Change of use of an existing 16,071 sq. ft. marine sales and service building to marine retail sales and service.
- Installation of mechanical equipment on the roof of an existing building.

Public Comment:

Date of Notice of Application:	May 9, 2008
Date End of Comment Period:	May 5, 2008
# Letters	2
Issues:	Opposed to the increase in height limit of existing shoreline structure.

ANAYLSIS – REVIEW CRITERIA FOR CONDITIONAL USE PERMITS

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

Conditional Uses on Waterfront Lots in the US Environment (WAC 173-27-160)

Pursuant to WAC 17327-160, no conditional use shall be approved unless all of the following facts and conditions are found to exist:

1. Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:
 - a) *That the proposed use is consistent with the policies of RCW 90.58.020 and the master program.*
 - b) *The proposed use will not interfere with the normal public use of public shorelines.*
 - c) *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) *The proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located.*

e) The public interest will suffer no substantial detrimental effect.

Summary - Conditional Use

Based on information provided by the applicant, referral comments from DPD and review by the Land Use Planner, the above cited criteria have been met subject to the conditions imposed at the end of this decision. The proposed conditional use will meet all minimum standards or applicable exceptions of the set forth in the Land Use Code, are consistent with applicable development standards and will not interfere with the normal public use of public shorelines. The public use and interest are served by the proposal and will not cause significant adverse effects to the shoreline environment in which it is located. The public will suffer no substantial detrimental effect.

Conclusion

Based on the above analysis and review, the determination is that the proposed action satisfies all the relevant requirements of WAC 173-27-160 governing administrative conditional uses permits in the shoreline district. It is the Director's determination that the proposal, as conditioned, would not be materially detrimental to the public welfare nor injurious to property in the zone or vicinity in which the retail and service center will be located, and should be granted.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Substantial Development Permit Required

The proposal is located within a Commercial 2 (C2) zone and a Shoreline Urban Stable Environment as designated by the Seattle Shoreline Master Program (SSMP). This program, Section 23.60 of the Seattle Municipal Code, regulates use and development in the City's shoreline districts, to implement the policy and provisions of the Shoreline Management Act of 1971, and the shoreline Goals and Policies.

The SSMP requires that a shoreline permit be obtained prior to the undertaking of any substantial development within a shoreline environment. SMC Section 23.60.030 includes criteria for evaluating a shoreline permit. A substantial development permit shall be issued only when the development proposed is consistent with:

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

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

A. THE POLICIES AND PROCEDURES OF CHAPTER 90.58.RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting public rights of navigation and corollary incidental rights. Permitted uses in

the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60 that also incorporates the provisions of Chapter 173.27 WAC. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The proposal to install 6,600 barrel for an above ground storage tank as described above is consistent with the policies and procedures of Chapter 90.58 RCW and the provisions of Chapter 173-27 WAC.

B. THE REGULATIONS - CHAPTER 23.60

The regulations of Section 23.60.064 SSMP require that the proposed use(s): 1) conform to all applicable development standards of both the shoreline environment and underlying zoning; 2) be permitted in the shoreline environment and the underlying zoning district; and 3) satisfy the criteria of shoreline variance, conditional use, and/or special use permits as may be required.

SSMP 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.

Goals for Shoreline use in the Seattle Comprehensive Plan include encouraging uses that result in long-term over short-term benefits, and the integration and location of compatible uses within segments of the shoreline. The goals for economic development include encouraging economic activity of water-dependent uses. The proposed facility would allow Duwamish Waterways to maintain its operations, and support tenants interested in retaining economic development of the Urban Industrial Environment.

Development Standards

The proposal is to change the use of an existing marine sales and service building that is approximately 16,071 sq. ft. to a marine retail sales and service (sale and/or rental of large boats).

The proposal to allow the use of a marine retail and sales services is permitted when authorized by the Director, with the concurrence of the Department of Ecology, as either principal or accessory

uses if the criteria for conditional uses in WAC 173-27-160 are satisfied. The proposed action is therefore subject to:

1. The conditional use criteria for uses on waterfront lots in the US Environment (SSMP 23.60.604)
2. The development standards for uses in the US environment (SSMP 23.60.630)
3. The development standards for uses in the C2-40 zone. (SMC 23.47A)

1. General Development Standards for all Shoreline Environments (SSMP 23.60.152)

These general standards apply to all uses in the shoreline environments. They require that all shoreline activity be designed, constructed, and operated in an environmentally sound manner consistent with the Shoreline Master Program and with best management practices for the specific use or activity, in order to have minimal impact on the shoreline.

General development standards (SSMP 23.60.152) state that Best Management Practices (BMP's) shall be followed for any development in the shoreline environment. These measures are required to prevent contamination of land or water. The Storm-water, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. Therefore, approval of the substantial development permit will be conditioned to require application of construction BMP's.

The proposed project's design is consistent with the requirements of this section. To ensure that these standards are conformed to, the proponent will be required to notify contractors and sub-contractors of these requirements.

2. Development Standards for US Shoreline Environment (SSMP 23.60.630)

The subject lot is considered a waterfront lot as defined in SMC 23.60.630. Development standards for waterfront lots in the Urban Stable environment address height limits, lot coverage, view corridors, public access with certain exceptions, and location. The proposal does not alter the physical development on the site and retains compliance with the development standards.

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

3. Development Standards for Urban Stable Environment (SSMP 23.60.630)

The development standards in SMC 23.49.870 - 23.49.882 relate to general provisions and parking in the Urban Stable zone. Each of these provisions has either been met or is not affected by the proposal.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

Chapter 173-27 WAC sets forth permit requirements for development in shoreline environments and give 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.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposed action is **GRANTED.**

DECISION-SHORELINE CONDITIONAL USE

The proposed action is **CONDITIONALLY GRANTED**

Prior to Issuance of a Construction Permit

The owner(s) and/or responsible party(s) shall:

Prior to Issuance of a Construction Permit

1. Notify in writing all contractors and sub-contractors of the general requirements of the Shoreline Master Program (SSMP 23.60.152), including the requirements set forth by Condition #2 below.

Conditions of Approval During Construction

2. The following condition 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.
3. Care shall be taken by the owner(s), builder(s), or responsible party(s) to prevent debris from entering the water during demolition and construction and to remove debris promptly if it does enter the water. Materials and construction methods shall be used which prevent toxic materials, petrochemicals and other pollutants from entering surface water during and after construction. The least toxic wood preservations that are appropriate shall be used.

Signature: _____ (signature on file) Date: July 31, 2008

Laura Kim, Land Use Planner
Department of Planning and Development

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