



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: 3009052
Applicant Name: Neil Thompson
Address of Proposal: 2220 Fairview Avenue E

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to allow a 2-unit townhouse structure with parking for 2 vehicles located in attached garage in an environmentally critical area. Existing single family residence to be removed.

The following approvals are required:

Shoreline Substantial Development Permit - for the construction of a 2-unit townhouse in the Urban Stable (US) Shoreline Environment. (Section 23.60.546 SMC)

SEPA – Environmental Determination – (Chapter 25.05, Seattle Municipal Code)

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

BACKGROUND DATA

The proposal site is located on the east side of Fairview Avenue E in the middle of the block between East Boston and East Lynn Streets. It is located in the long strip of L1/RC zoning that prevails along the west side of Fairview. Across the street to the west is SF5000 zoning, which is developed with houseboat moorages. To the east, on the west side of Minor Avenue E (no alley intervening), properties are zoned L1 without the RC overlay. Continuing east, zoning increases to L3. The adjacent property to the north is developed with a single family residence. Behind, to the east, are two small multifamily structures. According to the King County Assessor's Office, to the south is to be a 1987 multi-unit townhouse development.

The subject property is within the Lake Union shoreline district, specifically an Urban Stable (US) shoreline environment. It is also located within the Eastlake residential urban village. The westerly portion of the property is within a Shoreline Habitat Buffer environmentally critical area. The property is also within the historic shoreline meander line.

Proposal Description

The applicant proposes to move the existing single-family structure and to construct a 3-story, 2-unit townhouse. Parking will be provided in ground level garages with access from Fairview.

Public Comment

None.

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;*

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 Shorelines 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. 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 is likely to have negligible impact to the public health, land and wildlife, and the waters of the state and their aquatic life. Therefore, the subject application is consistent with the procedures outlined in RCW 90.58.

B. The regulations of this Chapter; and

Chapter 23.60 of the Seattle Municipal Code is known as the “Seattle Shoreline Master Program”. In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064).

The proposal is in the L1 zone, one of which criteria is 23.45.017.A: “Exterior lighting shall be shielded and directed away from adjacent properties.” This is particularly important in the shoreline district, where nighttime views would likely be affected. Accordingly, the project is conditioned to document on plans, prior to issuance of the MUP, that there will be no spillover light onto adjacent properties. This shall include showing location of all external light fixtures, and providing specifications for all proposed light fixtures. In response, the applicant has specified that Clairelitter (UD-0805CU) fixtures will be used. These fixtures satisfy the criterion.

In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SMC 23.60.004, and meets: the criteria and development standards for the shoreline environment in which the site is located; any applicable special approval criteria; general development standards; and the development standards for specific uses.

The subject property is classified as an upland lot (SMC 23.60.924) and is located within an Urban Stable (US) environment, as designated by the Seattle Shoreline Master Program. The proposal is subject to the Shoreline Policies of SMC 23.60.004 since the subject property is located within a shoreline environment.

A Shoreline Substantial Development Permit is required because the cost of completing the project exceed \$2,500. The proposed residential uses are permitted in the Urban Stable (US) environment (SSMP 23.60.600).

The applicant's proposal, in addition to meeting the development standards for the underlying zone, must meet the criteria for substantial development permits (SSMP 23.60.030), the development standards for the US Environment (SSMP 23.60.630), and the general development standards for all shoreline environments (SSMP 23.60.152). The Director may attach to the permit or authorization any conditions necessary to carry out the spirit and purpose of, and ensure compliance with, Seattle's Shoreline Master Program (SSMP 23.60.064).

Development Standards for US Environment (SSMP 23.60.630)

The proposal conforms to the development standards in the US shoreline environments, as well as the underlying L1/RC zone.

The proposed use would not interfere with the normal public use of the public shoreline, as it is located upland from an improved public right-of-way. In addition, impacts on traffic on this street are not expected to be significant.

Section 23.60.636, SMC, View Corridors in the Urban Stable environment, requires that view corridors be provided on waterfront lots. N/A

Section 23.60.638, SMC, Regulated Public Access in the Urban Stable environment, requires public access on waterfront lots. N/A

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environments. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses must: 1) minimize and control any increases in surface water runoff so that receiving water quality and shore properties are not adversely affected; 2) be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety.

Section 23.60.152 SSMC sets forth the general development standards with which all uses must comply, including best management practices. The proposed construction will be consistent with these development standards.

C. The provisions of Chapter 173-14 WAC

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

Conclusion

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

The project as proposed meets the specific standards for development in the US environment. It also conforms to the general development standards, as well as the requirements of the underlying zone.

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

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

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

CONDITIONS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Following SEPA analysis.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Further limitations are imposed at SMC Section 25.05.908.B.1, which limits the scope of review to whether the proposal is consistent with SMC Chapter 25.09, Regulations for Environmentally Critical Areas.

Short-term Impacts

The proposal is required to comply with the Stormwater, Grading, and Drainage Control Code, which will adequately mitigate all impacts likely to affect the Shoreline Habitat ECA.

Air

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 green house 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.

Long Term Impacts

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

Greenhouse Gas Emissions and other Impacts

Emissions from the generation of greenhouse gases due to the increased energy and transportation demands may be adverse but are not expected to be significant due to the relatively minor contribution of emissions from this specific project. The other impacts such as but not limited to, increased ambient noise, and increased demand on public services and utilities are mitigated by codes and are not sufficiently adverse to warrant further mitigation by condition.

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.

- Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact 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 SUBSTANTIAL DEVELOPMENT PERMIT

Prior to finaling of any permit to construct, and for the life of the project:

1. External lighting shall be limited to Clairelitter UD-0805CU fixtures as proposed per plan. Lighting may be modified provided that any new lighting is contained on site.

CONDITIONS - SEPA

None.

Signature: _____ (signature on file) Date: November 27, 2008

Paul Janos, Land Use Planner
Department of Planning and Development

PJl:lc