



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: 3009457
Applicant Name: Dennis Kinkead for Ed and Peg Strickland
Address of Approval: 10 E. Roanoke Street (Houseboat #4)

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow a 668 sq. ft. roof deck addition and interior alterations to an existing floating home. (Already built.) Houseboat #4.

The following Master Use Permit components are required:

Shoreline Substantial Development Permit – for construction of a roof deck addition and interior alterations to an existing floating home in an Urban Residential (UR) Shoreline Environment – (SMC 23.60.540).

SEPA - Environmental Determination - (SMC 25.05).

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

BACKGROUND DATA

Existing Conditions

The subject site is located near the west edge of the Eastlake neighborhood, on the east shore of Lake Union, in an Urban Residential (UR) shoreline environment. The float area for the existing floating home is 24-feet wide by 45-feet long for a total of approximately 1,080 sq. ft. The site is a total of approximately 2,351 sq. ft. The roof height of the existing floating home is 21-feet from the surface of the water. The existing floating home has a living area of 2,047 sq. ft. with the first level having a total floor area of 1,023 sq. ft. and the second level having a total floor area of 1,024 sq. ft. The roof deck addition is a total of 668 sq. ft. and the new bathroom expansion is a total of 41 sq. ft. The zoning designation of the site is Single Family 5000 (SF 5000). The subject floating home moorage is non-conforming to the General Standards set forth for conforming floating home moorages.

Area Development

The proposal site is part of an existing group of twenty floating home moorages. The subject floating home is the fourth floating home from the land and is moored in the fourth slip of the group closest to the north property line Houseboat #4. The subject floating home is located on the north side of the dock. It is bounded to the north and south sides by other floating homes, to the west by Lake Union and to the east by Mallard Cove Houseboat Moorage. Over water development surrounding the subject site in Lake Union consists of floating home moorages. The subject site and the surrounding area are zoned single-family with a minimum lot size of 5,000 sq. ft. (SF5000) in an urban residential shoreline environment. Other development in this area consists of water-related residential uses.

Proposal

The applicant proposes to construct a new second story roof deck, and an interior alteration of a new bathroom addition to an existing floating home. (These proposals were already constructed without a permit prior to the applicant submitting to DPD for their permit on October 7th, 2008.) The float area for the existing floating home is approximately 1,080 square feet. The existing float measures approximately 24-feet x 45-feet. The floating home is a total of approximately 2,047 sq. ft. of living area with the main floor having a total of 1,023 square feet of floor area and the second floor area having a total of 1,024 square feet. The existing floating home has a roof height of 21-feet from the surface of the water. Surface parking for one vehicle is provided on site.

Public Comment

Several comment letters were received during the comment period that ended November 14th, 2008, including a comment letter from the Roanoke Reef Homeowners Association, and twenty (20) individual written comments from the residents of Roanoke Reef. Here are a few concerns that were mentioned in the comment letters:

- The letters included concerns about the work done without a permit.
- View encroachment to one or two houseboats.
- Many residents mentioned a height issue.
- The owners associations brought up the issue of any change in the roof profile.
- Several residents had concerns about new appliances being added without City Inspectors being notified.
- One comment mentioned that “the original roof design had a fatal flaw in that it created what builders call “interior valleys” which are almost impossible to keep from leaking. A professional pre-purchase inspection of the house uncovered serious long-term roof leaks along the entire length of the main interior valley. The remodel not only corrects this serious flaw but does it without raising the final roof line any higher than the original peaks.”

Metro generally recommends for floating homes, that to protect the water quality of Lake Union, materials, and construction methods should be used, which prevent toxic materials, petrochemicals, and other pollutants from entering surface water during and after construction. The least toxic wood preservatives that are appropriate for fresh water should be used. Any construction debris floating in the water shall be promptly removed.

Summary

In conclusion, no additional adverse impacts to the lake bed or water quality are expected, and the “already built” second story roof deck addition along with the first floor interior alterations, which include the addition of the new bathroom, at this moorage site, 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).

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Substantial Development Permit Required

The proposal is located within an Urban Residential Shoreline Environmental as designated by the Seattle Shoreline Master Program (SSMP). This program, Section 23.60.020 and 23.60.030 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 effects to public health, the land use and its vegetation and wild life, and the waters of the state and their aquatic life, while protecting public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize, insofar as possible, 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 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. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

B. THE REGULATIONS OF CHAPTER 23.60

The regulations of SMC, Section 23.60.064 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.

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 locational 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 policies support and encourage the establishment of water dependent uses. Floating homes, because of their historic role in Seattle, are designated as a water dependent use, but the increase of floating home moorages or the increase in use of the shoreline or water area by floating homes, however, is not necessarily encouraged. The intent is to recognize the existing floating home community in Lake Union and Portage Bay, while protecting natural areas, preserving public access to the shoreline, and preventing the displacement of water dependent commercial and manufacturing uses by floating homes. Areas with substantial concentrations of existing floating homes shall be given a designation that preserves residential uses.

The proposal site is located in an area designated as Urban Residential, the purpose of which is to protect residential areas in a manner consistent with the Single family and Multi-family Residential Area Policies, particularly in areas where the underlying zoning is Single-family or Multi-family residential; areas where the predominant development is Single-family or Multi-family residential; areas where steep slopes, shallow water, poor wave protection, poor vehicular access or limited water access make water-dependent uses impractical; and areas with sufficient dry land lot area to allow for residential development totally on dry land.

Therefore, the proposed project would conform to the policies of the comprehensive plan and would be consistent with the purpose of the UR designation.

Development Standards

The proposal to construct a 668 square foot roof deck addition and interior alteration, new 41 square foot bathroom addition, to an existing floating home is permitted outright in SMC 23.60.540 governing the UR shoreline environment. The proposed (already built) action is therefore subject to:

1. *the general development standards for all shoreline environments (SSMP 23.60.152);*
2. *the development standards for uses in the UR environment (SSMP 23.60.540);*
3. *the development standards for nonconforming floating homes (SSMP 23.60.196); as well as the development standards for Single Family zones (SMC 23.44).*

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. All shoreline development and uses must: 1) minimize and control any increase in surface water runoff so that receiving water quality and shoreline properties are not adversely affected; 2) 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; 3) 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; 4) be located, designed, constructed, and managed in a manner that minimizes adverse impact to surrounding land and water uses and is compatible with the affected area; 5) be located, constructed, and operated so as not to be a hazard to public health and safety; and 6) dispose of all debris, overburden and other waste materials from construction in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.

Additionally, general development standards (SSMP 23.60.152) state that Best Management Practices shall be followed for any development in the shoreline environment. These measures are required to prevent degradation of land or water. The Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality. To ensure conformance with the standards in SMC 23.60.157, the proponent will be required to notify contractors and subcontractors of these requirements.

2. Development Standards for UR Shoreline Environments (SSMP 23.60.570)

All development must conform to the development standards in the UR shoreline environment, as well as the underlying Residential zone. Standards such as height, lot coverage, public access and view corridors have been met or are not affected by this proposal. Regulated public access is not required for a floating home (SSMP 23.60.638B).

The development standards set forth in the Urban Residential Shoreline Environment relate to height, lot coverage, view corridors and public access. The project, either, conforms with or does not affect these standards. Therefore, the subject site is also subject to the development standards set forth in the specific floating home standards for conforming structures as described below:

3. Development Standards for Non-Conforming Floating Home Moorages (SSMP 23.60.196C)

The development must conform to the general standards for floating homes (SSMP 23.60.196). The view encroachment of the existing floating home with the new second story roof deck is limited. Minimal view of the water, as regulated by Section 23.60.196A3 is blocked, therefore the view has been preserved. As built, the existing floating home meets the general standards for floating homes.

The development must also conform to the general standards for non-conforming moorage in SSMP [23.60.196.C](#). Section [23.60.196.C.1](#) allows the remodeling, replacement, or rebuilding of a floating home at a moorage existing as of March 1, 1977, when the moorage does not satisfy the lot coverage, open water, site area, setback, view corridor or location provisions for conforming floating home moorage. The proposal meets the requirements of Section [/23.60.196.C.1](#) in that the total float area will not be increased; the minimum distance between adjacent floating home walls will not be decreased to less than six feet, the minimum distance between any wall and any floating home site line will not be decreased to less than three feet, no part of the floating home will be extended over water beyond the edge of the float; and the remodel will not increase the nonconformity of the floating home moorage with respect to view corridors to the water.

Seattle Comprehensive Plan - Shoreline Policies

All discretionary decisions in the shoreline district require consideration of the Shoreline Goals and Policies, which are part of the Seattle Comprehensive Plan's [Land Use Element](#), and consideration of the purpose and location criteria for each shoreline environment designation contained in SMC [23.60.220](#). The policies recognize the existing floating home community in Lake Union and Portage Bay, while protecting natural areas, preserving public access to the shoreline, and areas with substantial concentrations of existing floating homes shall be given a designation that preserves residential uses. An area objective for this portion of Union Bay is to preserve the existing floating home community while at the same time to restore and enhance the Lake's natural environment. (Please refer to Area Objectives for Shorelines of Statewide Significance, Policy [L354 2](#)). The purpose of the Urban Residential (UR) environment as set forth in Section [23.60.220 C6](#) is to protect residential areas, such as existing floating home moorages. This floating home moorage site is considered pre-existing for the purposes of the Seattle Shoreline Master Program because it has an assigned King County Assessor's number. The KCA established it as a pre-existing use at the established moorage in Lake Union as of the effective date of Chapter (SMC 23.60.196.A4). A moorage plan was submitted with this application and is on file with the Department of Planning and Development (SMC 23.60.196 A6).

The proposed improvements would facilitate the continued and enhanced operation of an existing floating home, a use supported by both the purpose of the UR shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environments. The standards 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. SSMP [23.60.152](#) sets forth the general development standards with which all uses must comply, including best management practices. The floating home will be consistent with these development standards for the following reasons: A condition is imposed on this permit to ensure that construction will comply with Metro's recommendations on similar proposals, which are to protect the water quality of Lake Union during construction, to prevent wastes or untreated effluents from entering the water; and that all construction should occur on the float to minimize adverse impacts and protect the fish and wildlife habitat conservation areas.

4. General Development Standards for Single Family Zone Uses (SMC 23.44)

SMC 23.44.008.C states that floating homes shall be subject to the provisions of Chapter 23.60, Shoreline Master Program, except they shall be subject to the parking provisions of this chapter. The moorage is conforming with respect to parking and no changes are proposed.

C. The Provisions of Chapter 173-27 WAC

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

Conclusion

SMC Section [23.60.064E](#) 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).

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

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED** subject to the conditions listed at the end of this report.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated October 7th, 2008. 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 (SSMC 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. Under such limitations/circumstances (SSMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected: temporary increase in noise levels, increase in water turbidity levels, increased levels of fugitive dust and fumes from the construction equipment, disturbance of shorelines and displacement of some fish wildlife species due to increased water turbidity levels and increased noise from the construction activities. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC 25.05.794).

Several adopted codes and/or ordinances provide mitigation for the identified construction impacts. Specifically these are: the Seattle Noise Ordinance (construction noise); State Air Quality Codes administered by the Puget Sound Clean Air Agency (air quality); and the Seattle Shoreline Master Program. Compliance with these codes and/or ordinances will lessen the environmental impacts of the proposed project.

No SEPA conditioning of potential short-term impacts is warranted because impacts from the short term construction impacts will be mitigated through other codes, ordinances and regulations.

Construction Impacts

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant.

Greenhouse Gas Emissions

Operational activities, primarily vehicular trips associated with the project and the project's energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant.

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.*

Bulk and Scale

The proposed total height of the existing two-story floating home is twenty-one (21) feet from the surface of the water, which is the maximum height allowed from the water surface. There is adequate separation between the floating home and any other floating home in the area, so solar access to those sites will not be obstructed. The appearance of bulk of the existing floating home will be minimal as the proposal was a second story roof deck addition with interior alterations. There are a number of existing homes in the vicinity of a similar size and scale as the proposal.

For these reasons, the proposed floating home #4 will not be out of scale with other floating homes in the vicinity, and no adverse impacts are expected related to bulk and scale.

Underwater Habitat

No disturbance of the lake bed sediments is expected since all work will be done above water and there will be no increase in over-water coverage. There is no potential for debris to enter the water during construction at this point, as the roof deck addition and interior alterations have already been done without a permit, although conditions that ensure that debris or toxic material does not enter the water will be part of the decision. In conjunction with the authority authorized in SMC 25.05.675 B Construction Impacts, the general recommendations from Metro shall also be followed as conditioned below.

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 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).

SEPA AND SHORELINE CONDITIONS

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. 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.

Prior to Issuance of a Construction Permit

1. A best managements plans (BMPs) document shall be developed and approved by a land use planner. The BMP document shall include:
 - a) A written description of the BMPS that will be used during the proposed work.
 - b) An emergency containment procedure for all toxic material that will be kept on site.
 - c) The requirement that all necessary equipment for containment and clean-up of this toxic material shall be stocked on the site and

- d) The requirement that personnel working at the site shall be trained in the proper implementation of this plan.
 - e) Equipment for the transportation, storage, handling and application of oil, chemicals, or other hazardous materials shall be maintained in a safe and leak-proof condition to prevent release of this material into the water. The conditions of this equipment shall be checked regularly for leaks and repaired as needed.
2. The final plan set shall include the note “light fixtures shall be shielded to avoid light spillage beyond the perimeter of the float and low wattage light bulbs to be used for any exterior lighting.”

During Construction

3. In order to further mitigate the noise impacts during demolition and construction, the owner(s) and/or responsible party(s) shall limit the hours of demolition and construction to non-holiday weekdays between 7:00 a.m. and 6:00 p.m. This condition may be modified by the Department to permit work of an emergency nature or to allow low noise interior work after the shells of the structure are enclosed. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.
4. The owner(s), builder(s), or responsible party(s) shall follow the BMPs developed to prevent debris and other deleterious material from entering the water during demolition and construction.
 - a. If floating debris enters the water during the proposed work this debris shall be removed immediately and stored until it can be disposed of at an appropriate upland facility.
 - b. If heavy (sinking) debris enters the water during the proposed work the location of the debris shall be documented in a log that is kept on site for the duration of the construction work. When construction is complete a diver shall retrieve all debris that has entered the water and sunk during the proposed work.
5. Equipment using oil, gasoline, or diesel used on site shall be checked daily for evidence of leakage, if evidence of leakage is found, further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
6. No treated wood shall be used in any decking material.
7. No treated wood shall be used in the decking material.

If treated wood is proposed for other structures, this wood shall be professionally treated and completely cured using the best management practices developed by the Western Wood Preservers Institute (<http://www.wwpinstitute.org/>) before this wood is used for this project.

