



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: 3009489
Applicant Name: Evan Wehr for Jack Middlebrooks
Address of Proposal: 13014 Riviera PL NE

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow reconfiguration of an existing residential pier. Project includes replacing a 71 square foot portion [*of the existing pier*] with a 92 square foot finger pier extension and installation of a boat lift.

The following Master Use Permit components are required:

Shoreline Substantial Development Permit – To allow the reconfiguration of [*and addition to*] an existing pier and installation of a boat lift on a portion of a residentially zoned lot in a Conservancy Recreation (CR) Shoreline Environment.
- (SMC 23.60.600.A)

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

The subject site, at 13014 Riviera Place NE, is located on west shore of Lake Washington in an Urban Residential / Conservancy Recreation (UR/CR) shoreline environment in a Single Family (SF5000) zone near the north end of the lake. The existing pier, accessory to a single family home, is a 6 foot by 60 foot rectangular shape and an approximately 8 foot by 9 foot “ell” with a total area of approximately 433 square feet.

Proposal

The applicant proposes rebuilding an existing 433 sq. ft. pier in a new configuration and adding 21 square foot of new pier area. Rebuilding the pier will include replacing existing wood piles as needed, removing two wood piles and adding six new 10 inch steel piles (for a net increase of four new piles). The existing pier decking will be replaced with grated decking and all new pier area will have grated decking. An uncovered boat lift will be added. The total overwater coverage of the pier will be 454 square feet and total lot coverage (of dry and submerged land) including the single family residence, would be 2,694 square feet or 23% of the 11,490 square foot lot.

Other work associated with the project includes replacing rocks on top of an existing bulkhead, removal of a 150 square foot concrete pad west of the bulkhead (near the north property line), adding native vegetation in a 150 square foot area west of the bulkhead between an existing concrete walk way that leads to the dock and the south property line and adding 25 cubic yards of spawning gravel waterward of the bulkhead.

Public Comment

Notice of the proposal was issued on October 9, 2008. No comment was received during the comment period which ended November 7, 2008.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

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 the Seattle Shoreline Master Plan Chapter 23.60; 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 anticipates protecting public health, vegetation and wild life, as well as the waters of the state and their aquatic life, while protecting the public right to navigation and corollary incidental rights. Permitted uses in the shoreline shall be designed and conducted in a manner to minimize 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 gives primary responsibility for administering the regulatory program of the Act to local governments. As a result of this Act, the City of Seattle adopted a local Shoreline Master Program (SMP), codified in the Seattle Municipal Code (SMC) at Chapter 23.60. Development on the shorelines of the state is to be consistent with the policies and provisions of the Act and with the local master program.

B. THE REGULATIONS OF SSMP CHAPTER 23.60

The regulations of SMP 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) are permitted in the shoreline environment and the underlying zoning district and 3) satisfy the criteria of a shoreline variance, conditional use, and/or special use permits if 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 must be considered in making decisions in the shoreline district. The policies in the SSMP support and encourage the establishment of water dependent uses.

The proposal site is located in an area designated as Conservancy Recreation (CR). This designation is intended to protect areas for environmentally related purposes ...[and] while the natural environment is not maintained in a pure state the activities proposed provide minimal adverse impact. Piers are allowed as an accessory residential use meeting certain conditions. The proposal to repair, reconfigure and expand an existing pier would conform to the policies of the comprehensive plan and would be consistent with the purpose of the CR designation.

Development Standards

The applicant proposes to repair and rebuild the existing pier, remove and reconfigure the existing "ell" and add a boat lift. This activity is permitted outright in SMC 23.60.362 governing the CR shoreline environment. The proposed action is therefore subject to:

1. *General development standards for all shoreline environments (SSMP 23.60.152);*
2. *Development standards for piers accessory to residential development (SSMP 23.60.204);*
3. *Development standards for uses in the CR environment (SSMP 23.60.360-400);*
4. *Development standards for Residential zones (SMC 23.44).*

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

There are 18 (23.60.152 A – R) general development standards in the Shoreline Master Program (SMP) that apply to all development and uses in all shoreline environments. All shoreline activity must 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. These measures are required to prevent degradation of land and water.

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 contamination 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 BMP requirements. Per SMP 23.60.152.E, all shoreline development and uses shall control treat and release surface water runoff so that receiving water quality and shore properties are not adversely affected. Planting of native vegetation within the fish habitat buffer, landward of the ordinary high water mark (OHWM) will be required as a condition of this permit approval.

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, residential and recreational shellfish areas, kelp and eel grass beds, and migratory routes, per SMP 23.60.152.H. Where avoidance of adverse impacts is not practical, 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. All decking for the proposed pier will be grated decking in order to allow more light to the water and discourage adverse impacts upon juvenile Chinook from bass predation.

Per SMP 23.60.152.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; and per SMP 23.60.152.J, all shoreline developments and uses shall 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. Gravel in the nearshore environment is proposed to enhance spawning areas for threatened and endangered fish species and additional light to the water surface will be provided through the use of grated decking on the pier. In addition, no fascia shall be installed because it blocks natural light from reaching under the pier.

In addition, all shoreline developments and uses shall be located, constructed, and operated so as not to be a hazard to public health and safety Per SMP 23.60.152.L. An inherent risk that exists with overwater use is the potential for debris to enter the aquatic environment. Construction material such as wood used in the aquatic environment poses a risk of introducing toxins into the environment through the leaching of chemicals used to preserve the material. Common chemicals used to preserve wood are copper, zinc, and arsenic. In high levels copper can negatively impact aquatic organisms. The applicant proposes replacing treated wood piling with steel pilings as needed and only using steel pilings for new work. Best Management Practices should include measures to prevent spills of toxic materials. To ensure conformance with these general development standards, no treated wood shall be allowed in decking material, if treated wood is used for other structural elements of the pier it shall meet or exceed the Western Wood Preservers Standards for use of treated wood in the aquatic environment and best management practices shall be required. The applicant proposes grated decking for both the existing and new pier.

As conditioned, as part of this Master Use Permit approval, the proposed demolition, repair and construction of the proposed pier will be consistent with the general standards for development within the shoreline area.

2. Development Standards for Piers (SSMP 23.60.204)

The construction, replacement, or addition to a conforming pier accessory to a residential use is permitted subject to the provisions set forth in SMC 23.60.204. If the pier width is a maximum 6 feet, the pier is setback from the side property lines a minimum 15 feet, and the maximum length is a line between piers on either side. The pier shall extend no more than 100 foot over water, shall be no higher than five feet above OHWM and one overwater spur, extension, float or platform not to exceed 100 square feet in area may be included. An accessory uncovered boat lift is allowed. The proposed project is consistent with the development standards for piers in the CR shoreline environment (SMP23.60.204 A - G).

3. Development Standards for CR Shoreline Environments (SSMP 23.60.390)

Of the development standards set forth for the Conservancy Recreation Shoreline Environment for natural protection, height, maximum size, lot coverage, view corridors and public access only natural protection and lot coverage apply to the proposed project.

SSMP 23.60.392 states that all developments in the CR environment shall be located and designed to minimize adverse impacts to natural areas and lot coverage is for all structures on the site (including overwater structures) is limited to 35%. As noted above proposed planting of native vegetation, providing spawning gravel and use of grated decking to allow light to the surface of the water will provide mitigations specific to the site and the proposed project.

C. THE PROVISIONS OF CHAPTER 173-27 WAC

Chapter 173-27 of the Washington Administrative Code (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.

Summary

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

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 September 23, 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 (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. Under such limitations/circumstances (SMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Construction Impacts

The project involves replacement of existing wood piles and installation of six (6) new steel piles. Pile installation is proposed to be done with a vibratory hammer as much as possible. Best Management Practices and noise abatement measures such as cushions and bubble curtains will be required as a condition of this Decision, in the event an impact hammer use is required.

Water Quality Impacts

Disturbance of the lakebed sediments is expected since work will involve setting new piles. There is the potential for debris to enter the water during repair and construction of the pier, therefore the project will be conditioned to include best management practices (BMPs) for the prevention of debris entering the water and for the retrieval of any material if it does enter the water, that are to be employed during the demolition, repair and construction work.

Conclusion

Subject to the conditions listed below, the proposed repair, reconfiguration and addition to the accessory residential pier will be consistent with the provisions of Chapter 23.60 SMC, also known as the Seattle Shoreline Master Program and the City’s adopted SEPA Policies.

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 affixed to placards and posted at the site in a location on or near the property line at the adjoining street right-of-way that is visible and accessible to the public and also to construction personnel. The placards will be prepared by DPD and 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 until all construction activity is complete.

Prior to Issuance of a Master Use Permit

1. The final Master Use plan set shall include the planting plan, including a monitoring and maintenance plan for the required mitigation plantings.

Prior to Issuance of a Construction Permit

2. Add the planting plan to the Construction Plan Set, including a monitoring and maintenance plan to maintain the required mitigation planting of native vegetation.
3. All of the following Conditions shall be added to the Construction Plan Set and followed during construction:

During Demolition and Construction

4. The applicant shall notify in writing all contractors and sub-contractors that the proposal is subject to the Best Management Practices identified on the approved plans and to the following conditions:

- 4.1 All deleterious material entering the water during the proposed work shall be removed immediately and disposed of appropriately. Any sinking debris entering the water shall be entered in a log and retrieved by a diver after construction.
- 4.2 BMPs shall include the deployment of a turbidity curtain and debris boom surrounding the project area during in-water and over-water work to contain any debris, suspended sediments, or spills caused by construction activities. Materials to be disposed of shall be contained on site and then be discarded at an appropriate upland facility.
- 4.3 An emergency containment plan is required for all construction related equipment/toxic material on site, including on-site containment equipment and trained personnel.
- 4.4 All decking shall be grated. No treated wood shall be used in any decking material.
- 4.5 If treated wood is proposed for structures other than decking, 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 the wood is used for this project.
- 4.6 Any treatment of the steel or aluminum material on this pier shall be non-leaching and non-toxic to the estuarine and marine environment.
- 4.7 Construction equipment, oil, chemicals, or other hazardous materials shall be maintained in a safe and leak-proof condition to prevent release of contaminants into the water. Equipment shall be checked daily for evidence of leaks, if evidence of a leak is found, the leak shall be contained and further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
- 4.8 Work waterward of ordinary high water shall be restricted to work windows established by Washington Department of Fish and Wildlife and US Army Corps of Engineers.
- 4.9 The use of vibratory hammer for pile installation shall occur as much as possible. Best Management Practices and noise abatement measures such as cushions and bubble curtains shall be utilized in the event impact hammer use is required.
- 4.10 No fascia shall be installed on the pier in order to allow more natural light under the pier.
- 4.11 Add 25 cubic yards of spawning gravel waterward of the OHWM to enhance fish habitat.

