



City of Seattle

Gregory J. Nickels, Mayor

**Department of Planning and Development**

Diane M. Sugimura, Director

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

**Application Number:** 3009630

**Applicant Name:** James Moran, LZL Construction

**Address of Proposal:** 198 Nickerson Street

**SUMMARY OF PROPOSED ACTION**

Land Use Application to construct a 271 sq. ft. rooftop feature to an existing light manufacturing building for the purpose of an elevator penthouse.

The following approvals are required:

**Shoreline Substantial Development Permit:** to allow the construction of an elevator penthouse in an Urban Stable (US) Shoreline environment (SMC 23.60.020).

**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 Location and Description

The site is an upland lot located on the south bank of the Lake Washington Ship Canal, between 3<sup>rd</sup> Ave N and Warren Ave N in Seattle's north Queen Anne neighborhood.

Approximately 50 percent of the site is developed with a 12,528 sq. ft. concrete and wood frame warehouse building, constructed in 1977. The remainder of the parcel consists of surface parking for 21 vehicles. The total lot area is 25,185 sq. ft. The existing use is a wine making and storage facility with accessory office area.

The northeast tip of the building is approximately 50 feet from the edge of the Lake Washington Ship Canal. The canal is approximately 280 feet wide at this point, from the south rockery retaining wall to the north bank. The development site is separated from the canal by a narrow alley abutting the site to the north, and an abandoned railroad right-of-way since converted to an asphalt public trail that extends along the canal. There is also a small public access pocket park situated between the parcel and the canal. Direct access to the site is from Etruria Street (65 foot wide access street) and Nickerson Street (80 foot wide principal arterial).

A combination of zoning exists in the vicinity of the subject site, including the commercial zone within which the subject site is located; commercial 2 with a height limit of forty feet (C2-40).

Other zones include commercial zoning north of the site, C1-40, and a mixture of lowrise zoning across Nickerson Street, L-1 to L-3. Most notably, the site is within the Shoreline District, specifically the Urban Stable Environment (US), which extends in an east-west direction along the waterway approximately 4,000 feet from the north portion of Westlake Ave N east to 3<sup>rd</sup> Ave W.

### Proposal Description

The development application is for the construction of a 271 sq. ft. elevator penthouse on the roof of an existing 12,528 sq. ft. warehouse building. The purpose of the elevator penthouse is to accommodate the installation of a passenger elevator, elevator mechanical equipment, and stairway rooftop access.



Figure 1 Aerial View of the Subject Site, 2005

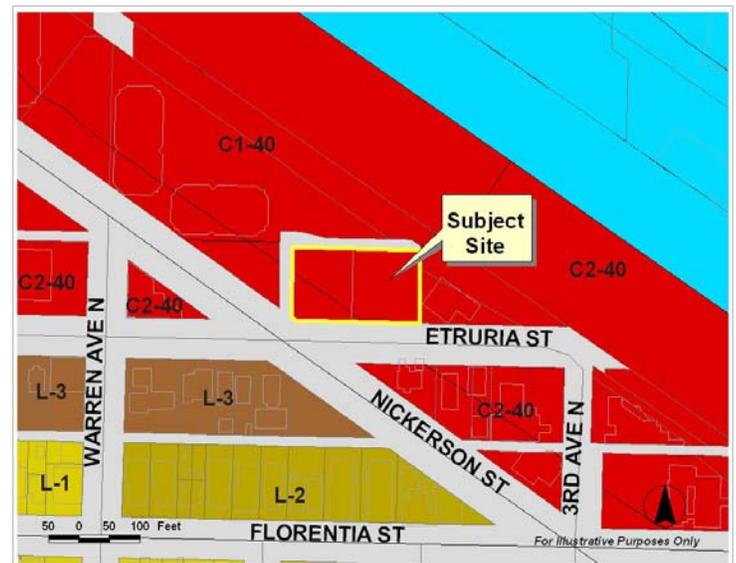


Figure 2 Area Zoning

The penthouse addition will occupy an area of the roof closest to the northwest corner of the building, approximately 14 feet from the north façade and approximately 8 feet from the west façade. No increase in the lot coverage area or impervious surface area is proposed with the development application. The subject site is classified as an upland lot (SMC 23.60.924), and the existing wine making facility is a permitted light manufacturing use (A/P 6166817). The applicant applied for and received a Shoreline Substantial Development Permit exemption to conduct interior improvements associated with wine-making operations (Project No. 6196145).

#### Public Comment

No public comments related to this land use application were offered during the comment period, which ended December 26, 2008.

### **ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT**

Section 23.60.020, Seattle Municipal Code (SMC), requires that a substantial development permit be obtained prior to the undertaking of any substantial development within a shoreline environment. “No development...shall be undertaken in the Shoreline District without first obtaining a substantial development permit from the Director. “Substantial development” means any development of which the total cost or fair market value exceeds Two Thousand Five Hundred Dollars (\$2,500) or any development which materially interferes with the normal public use of the water or shorelines of the City.” Section 23.60.030, SMC, includes criteria for evaluating a shoreline permit. The development must be consistent with:

- A. *The policies and procedures of [Chapter 90.58 RCW](#) ;*
- B. *The regulations of this chapter, [Chapter 23.60 SMC](#), 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 of the Revised Code of Washington (RCW) is known as the Shoreline Management Act of 1971 (SMA). 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. The 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 SMA to local governments. The Department of Ecology is to primarily operate in a supportive and review capacity, with emphasis on insuring compliance with the policy and provisions of the SMA. As a result of this Act, the City of Seattle adopted the Seattle Shoreline Master Program, codified in the Seattle Municipal Code, 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 SMA, and with the local shoreline master program. The SMA sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

Per SMC 23.60.936, “Shorelands” or “shoreland areas” means those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters which are subject to the provisions of this title; the same to be designated as to location by the Department of Ecology.

The proposal to construct a 271 sq. ft. elevator penthouse addition to an existing warehouse building would be consistent with the policies and procedures of Chapter 90.58 RCW. Further, the proposed rooftop addition would not result in damage to the ecology and environment of the Lake Washington Ship Canal waterway, nor impair or interfere with the public’s use of the water. The addition can be accomplished in a manner that is consistent with Chapter 90.58 RCW and City of Seattle shoreline policies. Consistency with Seattle shoreline regulations is discussed in more detail below.

**B. The Regulations of SMC Chapter 23.60**

Chapter 23.60 of the Seattle Municipal Code is known as the Seattle Shoreline Master Program (SSMP). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements, such as 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).

In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the following code provisions:

- Shoreline goals and policies established in SMC 23.60.004;
- The development standards established in the shoreline district for the Urban Stable Environment, SMC 23.60.152;
- The criteria and development standards of the underlying zone, Commercial 2 (C2-40), SMC 23.47A.004.

**SMC 23.60.004 - Shoreline District Goals and Policies**

The Shoreline District Goals and Policies are part of the Seattle Comprehensive Plan Land Use Element ([Seattle Comprehensive Plan](#): C-4, Shorelines). The purpose and location criteria for each shoreline environment designation contained in SMC 23.60.220, such as the Urban Stable (US) Environment, must be considered in making all discretionary decisions in the shoreline district.

Area Objectives for Seattle’s Shorelines Polices:

- **LU268** - It is the intent of the Area Objectives to indicate which of the Shoreline Areas Goals and Policies are to be met on each specific section of shoreline. The Management System for Appropriate Uses as required by the SMA shall consist of the Area Objectives for the diverse areas of Seattle’s shoreline, the purposes of the shoreline environments, the shoreline environment designations, and the use of regulations and development standards of the Land Use Code.

- **LU269** The area objectives for Seattle Shorelines are as follows:

**2. Area Objectives for Other Shoreline Areas**

- a. The Ship Canal - An area that includes the Lake Washington Ship Canal from the Chittenden Locks to the Fremont Bridge.
  - Retain and encourage the important role that the Ship Canal plays in state, regional and local fisheries by reserving the Ship Canal for primarily water-dependent and water-related uses. Non-water-dependent uses shall be restricted, prohibited, or allowed only on a limited basis by the selection of shoreline environments that favor water-dependent uses.
  - Encourage the development of non-water-dependent commercial, institutional and manufacturing uses on those areas of the Fremont Cut that do not have water access.

The shoreline goals and policies support this land development application as an activity that will benefit and improve the existing use which supports the provision of a commercial service to the immediate and broader Seattle community. The addition of the elevator penthouse will not impact travel along the watercourse, will maintain existing views of the canal, and will support and compliment adjacent uses in the vicinity.

SMC 23.60.152 - Applicable Development Standards

The applicant proposes to construct a 271 sq. ft. addition to the roof of an existing light manufacturing building. The addition will facilitate the use of a passenger elevator, elevator mechanical equipment, and stairway roof top access. The following general standards are applicable to this land development application. 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. 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 shall be required;
2. Locate, design, construct, and manage the development and use in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area; and
3. Locate, construct, and operate shoreline development so as not to be a hazard to public health and safety.

The proposed work has been determined to be consistent with the general standards for development within the shoreline area. General development standards state that Best Management Practices shall be followed for any development in the shoreline environment (SMC 23.60.152). These measures are required to prevent contamination of land or water. To ensure conformance with the standards in SMC 23.60.152, as a condition of this development proposal the applicant and owner shall notify contractors and subcontractors of the following shoreline district development standards:

- The location, design, construction and management of all shoreline developments 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 program 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.

- Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.
- The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
- 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.
- All shoreline developments and uses shall 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.
- All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.
- All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures, and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.
- All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water or other means into any water body.

#### SMC 23.60.630 - Development Standards for the US Environment

The development standards set forth in the Urban Stable (US) Environment relate to height, maximum size limits, lot coverage, view corridors, regulated public access, and location of uses (SMC 23.60.630). Of the standards set forth in the US Environment, only one is pertinent to this land use development application.

*SMC 23.60.632 Height in the US Environment – the maximum height shall be 30 feet; rooftop features may extend 15 feet above the maximum height limit for stair and elevator penthouses, provided the combined total coverage of all features listed does not exceed 20 percent of the roof area.*

The total height proposed for the addition is 33.6 feet, and will occupy a total area of 2.5 percent roof top coverage. The proposal meets the development standards set forth in the US Environment.

#### SMC 23.47A – General Development Standards for Commercial Zones

Commercial development standards pertinent to this development application include the following:

*SMC 23.47A.012.D.4 Structure height - rooftop features may extend 15 feet above the maximum height limit for stair and elevator penthouses, provided the combined total coverage of all features listed does not exceed 25 percent of the roof area if the total includes stair or elevator penthouses.*

*SMC 23.47A.022 Light and Glare – exterior lighting must be shielded and directed away from adjacent uses.*

The total height proposed for the addition is 33.6 feet, and will occupy a total area of 2.5 percent roof top coverage, and as such are within the development standards of the underlying commercial zone (C2-40). This shoreline development application shall be conditioned to ensure that all lighting established for the purposes of elevator penthouse operations will minimize glare, prevent light trespass, reduce energy waste and avoid excess lighting.

**C. The Provisions of Chapter 173-27 WAC**

Chapter 173-27 of the Washington Administrative Code (WAC) 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, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistent with Chapter 90.58 WAC and Chapter 173-27 WAC.

Conclusion

The proposal to construct a 271 sq. ft. elevator penthouse unit on the existing warehouse structure, located at 198 Nickerson Street, conforms to the general and specific development standards for development in the US Shoreline Environment, and with the policies and procedures of Chapter 90.58 RCW and Chapter 173-27 WAC. Because it has been established that the proposed use and development conforms to the regulations of Chapter 23.60, Seattle Municipal Code, the permit shall be approved.

**DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT**

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

Prior to Issuance of Master Use Permit

1. The applicant and property owner shall ensure that all lighting established on the elevator penthouse will minimize glare, prevent light trespass, reduce energy waste and avoid excess lighting. External lighting shall be directed in a downward orientation; the lights shall be properly aimed and shielded away from adjacent uses; and the specifications of the lighting shall be of high quality energy efficient fixtures and bulbs.

During Construction

2. The applicant shall notify all contractors and subcontractors of the best management practices for this development application. A list of the following best management practices shall be 1) posted at the development site in plain view (and protected from inclement weather, such as sheathed in clear plastic) for the duration of construction of the penthouse addition, and 2) distributed to construction team project managers:
  - The location, design, construction and management of all shoreline developments 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 program and regulatory agencies. Best management practices such as

