



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: 3009842
Applicant Name: Lynn Hall
Address of Proposal: 2731 Fairview Avenue East

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to allow a second story 958 square feet addition, (800 square feet interior floor area and 158 square feet 1st floor roof deck) to an existing floating home. Project also includes interior and exterior remodeling to first floor.

The following approvals are required:

Shoreline Substantial Development Permit - to allow an addition to an existing floating home in an Urban Residential (UR) shoreline environment (Section 23.60.196, Seattle Municipal Code).

SEPA - Environmental Determination
(Chapter 25.05, Seattle Municipal Code).

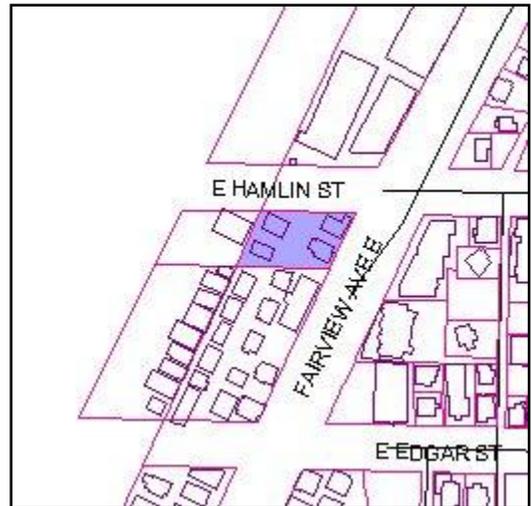
SEPA DETERMINATION: Exempt DNS MDNS EIS
 DNS with conditions
 DNS involving non-exempt grading, or demolition,
 or involving another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity Description

The property is located in a Multifamily Lowrise Two (L-2) zone in an Urban Residential (UR) shoreline environment. The site is also located within the Eastlake Residential Urban Village. The moorage site (North Hamlin Pier) includes submerged lands, occupying an area of approximately 13,680 square feet located along the east shoreline of Lake Union. The subject floating home is located within a 4-slip non-conforming floating home moorage and is located at slip number 1. The subject site, slip #1 (King County Assessor's number 81) is approximately

6,128 square feet. This area includes a second floating structure further to the west (slip number 4). The existing moorage slip occupies approximately 1,502 square feet, inclusive of houseboat with float and dock. A wooden walkway serving only the subject floating home extends west from the shoreline along the south edge of moorage. The development area, floating home at moorage slip number 1 is one-story, rising approximately 9 feet 8 inches in height above the water's surface. A small portion of the existing moorage float encroaches into the East Hamlin Street right-of-way will remain unchanged by the proposed redevelopment action. On the south side of the development site (#1), is a moorage slip (#2) occupied by one-story floating home structure. The East Hamlin right-of way is located north of the subject site.



The other moorage slips are accessed through other walkways. The subject slip is one of two slips that have direct access to dry land due in part to their proximity to the shoreline. Further west, over water, there is a boat moorage dock set between the last row of two floating homes. Just outside the privately owned 4-slip moorage is one additional floating home which resides in leased DNR territory (shown as slip #5 on plans). Vehicle access is obtained from East Hamlin Street. Additionally, the site contains a mapped Environmentally Critical Areas (ECA) Shoreline Habitat Buffer.

Area Development

Overwater development along the shoreline consists of one and two-story residential structures. A concentration of boat moorage spaces is located south of the subject lot. To the east on upland lots in the immediate area there are single family residences, three-story multifamily structures, and three and four-story mixed use structures. To the north, a more intensive commercial use can be found in the Commercial Two zone with its height limit of 40 feet (C2-40). The immediate vicinity features a number of zoning districts from C2-40, Neighborhood Commercial Three and Two with 40 foot height limits (NC3-40, NC2-40), and residential Multifamily Lowrise Three, Two, and One zones (L-3, L-2, & L-1). The neighborhood consists of residences, primarily multiple story structures, with commercial uses confined to the north and east.

Proposal Description

The applicant proposes to construct a second story addition to an existing one-story single family residence, floating home, on a float encompassing an area of 1,502 square feet. The existing footprint of the floating home structure is approximately 977 square feet, representing 65% coverage of the float. The remodeled floating home's footprint will be reduced to approximately 960 square feet. The combined total gross floor area for the remodeled structure will be approximately 1,761 square feet. Construction of the second-story addition will require

remodeling the interior and exterior of the existing structure. An open railing system is proposed on the roof to accommodate residential use of a new roof deck. The total height of the structure will be 18 feet from the water line to the top of the flat roof. The open railing will extend an additional 36 inches. No change in parking is proposed.

Public Comment¹

Date of Notice of Application:	May 10, 2010
Date End of Comment Period:	June 8, 2010
# Letters	1

Issues: One comment letter was received and expressed concerns including additional weight of the second story stressing anchorage, impacts associated with view protection, compromised views from private property and public spaces, expansion of coverage area and concerns about nonconformity.

Other Agency Comments

The Seattle Department of Transportation (SDOT) has provided comment on the subject proposal and will require a permit to allow the overwater encroachment into the East Hamlin Street right-of-way. SDOT requires the protection of the water quality during construction and mitigation work. Best Management Practices must be followed which prevent toxic materials, petrochemicals and other pollutants from entering surface water or stormwater systems; and prompt removal of any floating construction debris in the water.

The State Department of Natural Resources (DNR) has reviewed the proposal and determined that the intended project does not occur on State owned aquatic land, and therefore DNR has no jurisdiction.

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;*
- B. *The regulations of this Chapter; and*

¹ The decision was previously published and rescinded on 5/10/2010. During the previous comment period (6/25/09 – 7/24/09) eleven comments letters were received. The previous comments were taken into consideration in during the analysis phase of this revised proposal. The following represents comments received: One comment letter from the property owner voiced their objections to the proposal that did not notify them of the houseboat owner’s intention to add a second story. One of the concerns expressed was the additional weight of the second story stressing anchorage. The remaining comment letters addressed impacts associated with views corridor protection, compromised views from private property and public spaces, and concerns about height above water’s surface.

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 seeks to protect 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 proposed improvements to moorage slip number one with the addition of a second story addition to an existing one story residential use would not adversely impact the state-wide interest of protecting the resources and ecology of the shoreline. The subject application is consistent with the procedures outlined in RCW [90.58](#).

B. The Regulations of this Chapter

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 ensuring 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](#) that also incorporates the provisions of Chapter [173-27](#), WAC. [Title 23](#) of the Municipal Code is also referred to as the Land Use and Zoning Code. 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 which have also been set forth in the Land Use Code.

In evaluating requests for substantial development permits, the Director must determine that a proposed use and subsequent development meets the relevant criteria set forth in the Land Use Code. The Shoreline Goals and Policies, part of the Seattle [Comprehensive Plan](#), and the purpose and location criteria for each shoreline environment must be considered. A proposal must be consistent with the general development standards of SMC [23.60.152](#), the specific standards of the shoreline environment (SMC 23.60.540) and underlying zoning designation, any applicable special approval criteria, and the development standards for specific uses. Standards for floating homes are found at Seattle Shoreline Management Program (SSMP) 23.60.196.

Seattle Comprehensive Plan - Shoreline Policies

The proposal is subject to the Shoreline Policies of (SSMP) [23.60.004](#), because the site is located within the shoreline district and requires a Shoreline Substantial Development Permit because the cost of the project exceeds \$5,000. Floating home moorages, 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 is not necessarily encouraged

- Seattle Comprehensive Plan, Land Use goal 231 (LU231). An area objective for this portion of Lake Union 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 Other Shorelines Areas, Policy [LU269.2.b](#)). The purpose of the Urban Residential (UR) environment as set forth in Section [23.60.220.C.6](#) is to protect residential areas, such as existing floating home moorages.

The proposed improvements to the floating home (moorage slip #1), which consists of reducing the structure's footprint, remodeling an existing residential structure to add a second story addition and replacement of underwater floats is supported by both the purpose of the UR shoreline environment and the policies set forth in the Land Use Element of the Comprehensive Plan. The proposed floating home will result in a total of two floors of living space with exterior deck area all within the existing 1,502 square foot float; the access ramp to dry land would be maintained. The proposal for construction of a second story addition to an existing floating home on a refurbished float will increase the existing gross floor by 80% from approximately 977 square feet to a gross floor area of 1,761 square feet and is consistent with the shoreline policies that preserve residential uses in the City of Seattle (LU231).

The proposed project must meet the standards of the underlying Residential Multifamily Lowrise Two zone, the general development standards for all shoreline environments (SSMP 23.60.152) and the development standards for the UR shoreline environment (SSMP 23.60.540). The Director may attach to the permit or authorize any conditions necessary to carry out the spirit and purpose of, and ensure the compliance with, the Seattle Shoreline Master Program (SSMP 23.60.064).

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. 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 comply with Best Management Practices, protecting the water quality of Lake Union during construction, and that all construction should occur on the float to minimize adverse impacts and protect the fish and wildlife habitat conservation areas. The applicant will also be required to remove existing debris from the area under and near the float.

SSMP [23.60.540](#), [23.60.196](#) and [23.60.196.C](#) - Development Standards for UR Environments, Floating Homes and Nonconforming Floating Home Moorage

The proposal is located at an existing non-conforming floating home moorage. Pursuant to SSMP 23.60.540.A.1, floating home moorages are permitted outright on waterfront lots in the UR Environment in Lake Union or Portage Bay. The subject property is classified as a waterfront lot (SSMP 23.60.924) and is located within an Urban Residential (UR) environment, as designated by the Seattle Shoreline Master Program. All development must conform to the development standards in the UR shoreline environment, as well as the underlying Lowrise Two zone. Standards such as height, lot coverage, and public access have been met or are not affected

by this proposal. Regulated public access is not required for a floating home (SSMP 23.60.638.B). Views corridors are not required for floating homes which are a type of single family dwelling unit (SSMP 23.60.576). The existing moorage float straddles privately owned tidelands and city right-of-way (East Hamlin Street) and is in the process of securing associated permits to allow encroachment. The moorage will be refurbished with replacement flotation devices to accommodate additional weight; no change further encroachment into East Hamlin Street is proposed.

Due in part to the location of the subject moorage slip (#1) adjacent to dry lands, views of the water by moorage tenants will be preserved (Section 23.60.196.A.3). The second story addition will affect views in a finite area within the footprint of the existing floating home structure. Currently, a two-story floating home (moorage stall #5) obscures southwest views of the water behind the subject site. Along the length of Fairview Avenue East, south of East Hamlin Street the second story addition will have varying degrees of visual impacts. However, views to the water surrounding the building envelope will be preserved for the public. As viewed directly in front of the subject site on the Fairview Avenue East's upper level; views of Lake Union will be lost, but views on either side will remain unaffected. Views of the water from East Hamlin Street will be preserved between Fairview Avenue East and Eastlake Avenue East.

Section 23.60.196.A.2.b further specifically allows floating homes and floating homes moorages which are located in the public waters or any street or street end on January 1, 1974 or on property later dedicated to the City for street purposes, and which have continuously remained in such locations, comply with all other provisions of this chapter and are authorized by a use and occupancy permit approved by the Director of Seattle Department of Transportation. The applicant has a Street Use permit pending (#124652) to allow a floating home float over the submerged street (East Hamlin Street). No disturbance of the lake bed will occur, other than removal of all debris found at moorage slip number one, and the area immediately surrounding the moorage float perimeter (approximately 12 feet), and under the finger pier. As proposed, the proposed 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 expand; the height of the floating home will not exceed 18 feet from the water line, with the exception of the 36 inch roof top railing system (which is allowed); 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 completed structure will not increase the nonconformity of the floating home moorage.

The floating home is located at a moorage that is partially on private property and partially on a public right-of-way (East Hamlin Street). The proposed floating home has been designed and conditioned to ensure minimum impact to the public health, land, and the waters of the state, and

their aquatic life. During construction the owners will be responsible for removing underwater debris at moorage slip number one and the area immediately surrounding the moorage float's perimeter (approximately 12 feet), and under the finger pier if applicable.

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 [23.60.064.E](#) 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

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

ANALYSIS - SEPA

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated June 9, 2009. 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 Department of Planning and Development has analyzed and annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the file. As indicated in the annotated checklist, this action will result in adverse impacts to the environment. A discussion of likely adverse impacts and how they may be appropriately mitigated follows below.

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 25.05.665D.1) 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: decreased air quality due to suspended particulate from building activities and hydrocarbon emissions from construction vehicles and equipment; and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming; increased dust caused by drying mud tracked onto streets during construction activities; increased traffic and demand for parking from construction equipment and personnel; conflict with normal pedestrian movement adjacent to the site; increased noise; and consumption of renewable and non-renewable resources. While these impacts are adverse, they are not expected to be significant.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The ECA ordinance regulates development and construction techniques in designated ECA areas with identified shoreline habitat. The Street Use Ordinance requires debris to be removed from the street right-of-way, and regulates obstruction of the pedestrian right-of-way. Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures and life safety issues. Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the city. Compliance with these applicable codes and ordinances would mitigate several construction-related impacts. Following is an analysis of the underwater habitat and construction-related noise impacts as well as mitigation.

Construction Noise Impacts

The SEPA Noise Policy (SMC 25.05.675.B) lists mitigation measures for construction noise impacts. All construction activities are subject to the limitations of the Noise Ordinance. However, due to the proximity to residential uses, further conditioning under SEPA is warranted. Construction activities (including but not limited to demolition, deliveries, framing, and roofing) shall be limited to non-holiday weekdays from 7am to 6pm. Interior work that involves mechanical equipment, including compressors and generators, may be allowed on Saturdays between 9am and 6pm once the shell of the structure is completely enclosed, provided windows and doors remain closed. Non-noisy activities, such as site security, monitoring, weather protection shall not be limited by this condition.

Underwater Habitat

Minor disturbance of the lake bed sediments is expected since the owner will be required to remove debris under and around the moorage float. In addition, there is the potential for construction debris to enter the water during construction, so care will have to be taken to prevent this from occurring. In addition to the requirements set forth by SSMP 23.60.152, the general recommendations from SDOT shall also be followed as conditioned below. A portion of the float encroaches over street right-of-way will require a street use permit; removal of debris in the right-of-way will be subject to authorization by SDOT.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased carbon dioxide and other greenhouse gas emissions; increased demand for public services and utilities; increased height, bulk, and scale on the site, and increased project energy consumption. Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the City Energy Code which will require insulation for outside walls and energy efficient windows; and the Land Use Code which controls site coverage, setbacks, building height and use, parking requirements, shielding of light and glare reduction, and contains other development and use regulations to assure compatible development. These long-term impacts are not considered significant because the impacts are minor in scope.

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 requirement 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 with conditions. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(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.

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

Prior to Issuance of MUP:

1. Revise plans to document that upper and mid-level wood decks are to be made of non-treated materials. (see related comments under For Life of Project Section).

Prior to Issuance of a Construction Permit

2. Develop a Best Management Practices (BMP) Plan that indicates how construction will take place to ensure that no debris or deleterious material enters the water through the duration of the proposed work.

Standard best management practices (BMPs) (such as using secondary receptacle containers when handling toxic material so that any spilled material is contained in the second receptacle rather than entering the water and using toxic material so that none of this material enters the water) shall be used to ensure that no petroleum products, other toxic substances, including household chemicals, herbicides pesticides, chemical fertilizers, miscellaneous debris and/or other deleterious materials are allowed to enter or leach into the water.

3. Secure SDOT permit to allow encroachment into the East Hamlin Street right-of-way and submit verifying document to DPD.

Prior to Commencement of Construction

4. Notify in writing all contractors and sub-contractors of the following general requirements of the Shoreline Master Program (SSMP 23.60.152):
 - a) 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 water quality management programs and regulatory agencies.
 - b) Best Management Practices shall be employed during the proposed over-water work as necessary to keep debris and deleterious material out of the water. The contractor shall include on the plans a written description of the BMPS that will be used during the proposed work.
 - c) An emergency containment plan and procedures shall be developed for all toxic material that will be kept on site. All necessary equipment for containment and clean-up of this toxic material shall be stocked on the site. A sufficient number of personnel that will be on-site during construction shall be trained in the proper implementation of this plan.

- d) 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.
 - e) Best Management Practices shall be employed during the proposed under-water work as necessary to replace flotation devices and removal existing debris and deleterious material out of the water. The area of work shall include moorage stall number one and continuing south, west and north 12 feet from the moorage float perimeter. The applicant shall provide documentation of what was found underwater prior to commencement of construction and what was removed to the assigned land use planner.
5. Contact land use planner with information sufficient to verify existing lake bed conditions prior to construction related activities. Remove all debris and deleterious materials out of the water in the immediately surrounding the float perimeter and under the finger pier. Document materials removed with the assigned planner, Bradley Wilburn, if unavailable then contact a RIC land use supervisor.

During Construction

6. In order to further mitigate the noise impacts during construction, the owner(s) and/or responsible party(s) shall limit the hours of construction to non-holiday weekdays between 7:00 AM and 6:00 PM and Saturdays between 9:00 AM and 6:00 PM. Construction activities outside the above-stated restrictions may be authorized by the Land Use Planner when necessitated by unforeseen construction, safety, or street-use related situations. Requests for extended construction hours or weekend days must be submitted to the Land Use Planner at least three (3) days in advance of the requested dates in order to allow DPD to evaluate the request.
7. The owner(s), builder(s), or responsible party(s) shall follow the Best Management Practices and the Emergency Containment plans developed to prevent debris and other deleterious material from entering the water during 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.
8. 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.

For Life of Project

9. All exterior light fixtures shall be fully shielded to prevent light spillage beyond the perimeter of the float, and shall use low-wattage light bulbs.
10. 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.

Signature: (signature on file)
Bradley Wilburn, Land Use Planner
Department of Planning and Development

Date: June 14, 2010