



City of Seattle

Michael McGinn, Mayor

Department of Planning and Development

D. M. Sugimura, Director

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

Application Number: 3010258
Applicant Name: Colin Brandt for Mark Bloome
Address of Proposal: 4751 West Ruffner Street

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow 35 ft. steel long, approximately 2'6" tall retaining wall in the adjacent city right-of-way on the south side of West Ruffner Street (immediately north of 4751 W. Ruffner St).

The following approval is required:

Shoreline Substantial Development Permit –To allow grading and construction of a retaining wall in an Urban Residential shoreline environment. - (SMC 23.60.020)

SEPA – Environmental Determination – (Chapter 25.05 SMC)

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

BACKGROUND DATA

Site & Area Description

The subject site is located in the W. Ruffner St public right-of-way north of 4751 W. Ruffner St, at the west edge of the Magnolia neighborhood. Puget Sound and City of Seattle Parks land (Discovery Park) is located to the west. All other nearby properties are single family residential.

The area is located in and surrounded by Single Family zoning (SF 7200). All dry land nearby is designated Urban Residential (UR) shoreline environment. All land waterward of the Ordinary High Water Mark at the shoreline is designated Conservancy Preservation (CP) shoreline environment.

Environmentally critical areas are located on site, including a steep slope, steep slope buffer, and a potential slide area, wildlife, and shoreline habitat buffer.

Proposal

The applicant proposes to construct a 35 ft. long steel retaining wall in the adjacent city right-of-way on the south side of West Ruffner Street. The proposed wall would extend approximately 2'6" above grade.

The area of work is located approximately 110 feet upland of the Ordinary High Water Mark and approximately 10 feet north of the property line at 4751 W. Ruffner St. The area of disturbance during construction will be replanted with western Washington native plants (1-gallon Salal at

24" on center, and 3-gallon Mother Fern at 1 plant per 50 square feet) in the area of disturbance.



For illustrative purposes only

The applicant has explained that this retaining wall is proposed to prevent slides in the public right-of-way that might affect structures built on private property at 4751 W. Ruffner St.

Public Comments

Public notice of the proposal was issued on October 29, 2009. DPD received no public comments.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Substantial Development Permit Required

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*
- 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) are 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 protection and enhancement of natural areas on waterfront lots. Land Use element policy LUG48 requires, "Preserve, protect and restore areas such as those necessary for the support of wild and aquatic life or those identified as having geological or biological significance. The site is located within several environmentally critical areas of biological significance, as described above.

The site is also located within an Urban Residential shoreline environment. This designation is listed in the Seattle Municipal Code and the area is referenced in the Comprehensive Plan. The designation is intended to protect residential areas (SMC 23.60.220.B.6). 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 applicant proposes to build a 35' long steel retaining wall in the public right-of-way, and plant western Washington native plants (1-gallon Salal 24" on center, and 3-gallon Mother Fern 1 plant per 50 square feet) in the area of disturbance. The applicant proposes to control erosion during construction with silt fences downhill of construction, ditches or interceptor drains uphill of the construction, temporary runoff storage ponds on site, and revegetation. The proposed erosion control is described in "Geotechnical Investigations and Recommendations, Slope Stabilization, Mark Bloome Residence, 4751 West Ruffner Street, Seattle, Washington, L&A Job No. 7A098" dated March 31, 2009.

The proposed work is within the public right-of-way and not located on a 'lot.' The proposed action is therefore subject to:

1. *General development standards for all shoreline environments (SSMP 23.60.152);*
2. *Development standards for uses in the UR environment (SSMP 23.60.570-23.60.578);*
3. *Development standards for Single Family 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 that apply to all development and uses in all 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. These measures are required to prevent degradation of land and water. These general development standards state, in part, that all shoreline development and uses must: A) protect the quality and quantity of surface and ground water adjacent to the site, D) not release oil, chemicals or other hazardous materials onto or into the water; E) minimize and control any increase in surface water

runoff so that receiving water quality and shoreline properties are not adversely affected; H) All 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, 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; 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; J) 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; and L) be located, constructed, and operated so as not to be a hazard to public health and safety.

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. Additionally, an inherent risk that exists when humans live over the water is the potential for debris and other deleterious material to enter the aquatic environment. Therefore to ensure conformance with these general development standards, if treated wood is used in structural elements of the proposed retaining wall, 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 to prevent debris and other deleterious material from entering the water, as conditioned below.

As a condition of approval, the project shall include Best Management Practices:

1. All deleterious material entering the water during the proposed work this material 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.
2. An emergency containment plan is required for all toxic material kept on site, including on-site containment equipment and trained personnel.
3. If treated wood is proposed, the 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.
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 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. This 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.
6. 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.

The proposed construction of the retaining wall is consistent with the general standards for development within the shoreline area. 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 applicant will be required to notify contractors and subcontractors of the required Best Management Practices listed, as a condition of approval. The applicant will also be required to follow the erosion control methods described in the geotechnical report listed above.

The applicant and owner shall be required to notify contractors and subcontractors of these requirements, as a condition of approval.

2. Development Standards for Urban Residential Environments (SSMP 23.60.570 – 23.60.578)

The proposed retaining wall in the public right-of-way would be approximately 35' long by one foot wide and extend approximately 2'6" above existing grade. The proposed retaining wall would include soldier piles and tieback anchors drilled into the slope. The structure would be located in the public right-of-way, which is not defined as a "lot" in SMC Title 23.

	Code Provision	Required	Existing	Proposed
Height	23.60.572	Maximum height shall be 30' unless otherwise modified by code section.	No structures	Proposed retaining wall will extend 2'6" above existing grade.
Lot coverage	23.60.574	Structures including floats and piers limited to 35% of lot area.	Site is not a "lot" therefore this does not apply.	n/a (proposed wall will result in approximately 35 square feet of new impervious surface).
View Corridors	23.60.576	View corridor 35% of lot width required.	Site is not a "lot" therefore this does not apply.	n/a
Public Access	23.60.578	Public access required on public property.	No regulated public access located at this site, due to steep slopes (SMC 23.60.162).	No change.

The proposed project is consistent with the development standards for structures in the UR shoreline environment.

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

Single Family Residential zone uses are listed in SMC 23.44.004.006. There is no proposed use at the subject site in the public right-of-way. The only proposed work is a retaining wall structure which is not a use, or accessory to a use. Therefore, the proposed work is not subject to the use provisions of SMC 23.44.

The development standards required under SMC 23.44 are listed below:

	Code Provision	Required	Existing	Proposed
Lot Area	23.44.010.A	Minimum lot area of 7200 square feet required in this zone.	Site is not a "lot" therefore this does not apply.	n/a
Lot coverage	23.44.010.B	35% of lot area.	Site is not a "lot" therefore this does not apply.	Approximately 35 square feet of new impervious surface. Site is not a "lot" and therefore lot coverage

				calculation doesn't apply.
Height limit	23.44.012	Maximum structure height of 30 feet, with exceptions.	No structures.	Retaining wall will extend 2'6" above existing grade.
Yards	23.44.014	A. Front yard 20' minimum. B. Rear yard 20% of lot depth. C. Side yard 5' minimum.	Yards are required for lots. Site is not a "lot" therefore this does not apply.	n/a
Parking location and access	23.44.016	Varied requirements.	No parking is proposed.	n/a

C. THE PROVISIONS OF CHAPTER 173-27 WAC

Chapter 173-27 of the 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 regarding Best Management Practices for construction and restrictions on treated wood products, as listed below. The proposed work at this 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), 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 annotated environmental checklist (dated August 12, 2009), and supplemental information in the project file submitted by the applicant's agent. The information in the checklist, the supplemental information, and the experience of the lead agency with the 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.

Short-term Impacts

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. The ECA ordinance and DR 33-2006 and 3-2007 regulate development and construction techniques in designated ECA's. The Street Use Ordinance requires watering streets to suppress dust, on-site washing of truck tires, removal of debris, and regulates obstruction of the pedestrian right-of-way. Puget Sound Air Pollution Control Agency regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures in general. 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 will reduce or eliminate most short-term impacts to the environment.

Construction Impacts

Construction activities include construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials. These activities 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 due to the relatively minor contribution of greenhouse gas emissions from this project and do not warrant mitigation under SEPA.

Earth

The applicant has submitted a geotechnical report addressing soil stability, including potential impacts during excavation and construction and details of the proposed retaining wall construction ("Geotechnical Investigations and Recommendations, Slope Stabilization, Mark Bloome Residence, 4751 West Ruffner Street, Seattle, Washington, L&A Job No. 7A098" dated March 31, 2009).

Because the proposed work is in the public right-of-way, this report and any other slope stabilization information will be reviewed by Seattle Department of Transportation at the Right-of-way permit process stage.

The construction plans, including shoring of excavations as needed and erosion control techniques will receive additional and separate review by Seattle Department of Transportation.

Any additional information showing conformance with applicable ordinances and codes (ECA ordinance, The City of Seattle Right-of-Way Improvements Manual) will be required prior to issuance of right-of-way improvement permits. Applicable codes and ordinances provide extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are utilized. Given the existing codes and ordinances, no additional conditioning is warranted for these items pursuant to SEPA policies.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: soil stability, water quality in Puget Sound, and habitat for plants and animals.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Stormwater, Grading and Drainage Control Code which requires on site collection of stormwater with provisions for controlled tight line release to an approved outlet and may require additional design elements to prevent isolated flooding; the City of Seattle Right-of-Way Improvements Manual. Compliance with these applicable codes and manuals is adequate to achieve sufficient mitigation of most long term impacts and no further conditioning is warranted by SEPA policies.

Earth

The applicant has submitted a geotechnical report addressing soil stability and retaining wall construction, as described above in response to “Short-term impacts.” Because the proposed work is in the public right-of-way, this report and any other slope stabilization or retaining wall design details will be reviewed by Seattle Department of Transportation, subject to the Seattle Right-of-Way Improvements Manual. Given the existing codes and ordinances, no additional conditioning is warranted for these items pursuant to SEPA policies.

Plants and Animals

Environmentally critical areas are located on site, including a wildlife, and shoreline habitat buffer. The applicant has proposed to revegetate the area of disturbance with western Washington native plants (1-gallon Salal at 24” on center, and 3-gallon Mother Fern at 1 plant per 50 square feet) in the area of disturbance.

The proposed work would be unlikely to result in loss of wildlife habitat and vegetation which have substantial aesthetic, educational, ecological, and/or economic value. Therefore, no additional conditioning is warranted for these items pursuant to SEPA policies.

Summary

The Department of Planning and Development has reviewed the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the file; and any comments which may have been received regarding this proposed action have been considered.

The applicant will be required to obtain all required Street Improvement Permits from the Seattle Department of Transportation. The MUP decision for application 3010258 and any issuance of that MUP do not constitute approvals for any additional permits required by Seattle's Department of Planning and Development, other Seattle Departments, or other governmental entities.

As indicated in the checklist and this analysis, this action will result in probable adverse impacts to the environment. However, due to their temporary nature and limited effects as conditioned below, the impacts are not expected to be significant.

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 43.21C), including the requirement to inform the public 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 2C.
- [] 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 2C.

CONDITIONS – SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

During Construction

1. All involved parties shall follow Best Management Practices (BMP), and Erosion Control detailed in the March 31, 2009 Liu & Associates Geotechnical Investigation and Recommendations.
2. Any treated wood shall be treated using BMP (creosote or pentachlorophenol prohibited).

For the Life of the Project

3. BMP shall be followed.
4. Revegetation plants shall be maintained to ensure 80% survival.
5. No pesticides, insecticides, fertilizers or other chemicals shall be used in maintaining the vegetation at this site.

CONDITIONS - SEPA

During Construction

6. All construction activities are subject to the limitations of the Noise Ordinance. Construction activities (including but not limited to demolition, grading, deliveries, framing, roofing, and painting) shall be limited to non-holiday weekdays from 7 am to 6 pm. Non-noise generating activities, such as site security, monitoring, weather protection shall not be limited by this condition.

Construction activities outside the above-stated restrictions may be authorized by the Land Use Planner (Shelley Bolser 206-733-9067 or shelley.bolser@seattle.gov) 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.

Signature: (signature on file)
Shelley Bolser AICP, LEED AP, Land Use Planner
Department of Planning and Development

Date: January 14, 2010