



City of Seattle

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**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:** 3010722  
**Applicant Name:** Eric Hogeboom for Richard Meyer  
**Address of Proposal:** 1213 East Shelby Street

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Permit to demolish an existing floating home and construct a new 893 square foot, two story floating home on an existing 1,042 sq. ft. float.

The following approvals are required:

**Shoreline Substantial Development Permit** to build a floating home in an Urban Residential (UR) Shoreline Environment. - (SMC 23.60.540)

**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**

Existing Conditions

The subject site is located on Portage Bay in an Urban Residential (UR) shoreline environment on East Shelby Street just south of Fuhrman Avenue East. The zoning designation of the site is Single Family 5000 (SF 5000). The proposed work would occur on the existing float, which is moored in Portage Bay.

Area Development

The float is one of 19 moorages at this location. There are floating homes to the north and south of the site. There is open water to the east in Portage Bay.

Proposal

The applicant proposes to demolish an existing 948 square foot floating home and construct a new 893 square foot two story floating home. The new dwelling will be constructed on the existing 1,024 square foot log float. The float location will remain as it exists. The height of the proposed dwelling meets the land use height requirements.

Public Comment

The comment period for the proposed project ended February 2, 2010 and no comment letters were received.

**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 act primarily in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle adopted a local shoreline master program,

codified in the Seattle Municipal Code at Chapter 23.60. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

**B. THE REGULATIONS OF CHAPTER 23.60**

The regulations of SMC, Section 23.60.064 require that the proposed use(s): 1) conform to all applicable development standards of both the shoreline environment and underlying zoning; 2) be permitted in the shoreline environment and the underlying zoning district and 3) satisfy the criteria of shoreline variance, conditional use, and/or special use permits as may be required.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district.

The policies support and encourage the establishment of water dependent uses. Floating homes, because of their historic role in Seattle, are designated as a water dependent use, but the increase of floating home moorages or the increase in use of the shoreline or water area by floating homes, however, is not necessarily encouraged. The intent is to recognize the existing floating home community in Lake Union and Portage Bay, while protecting natural areas, preserving public access to the shoreline, and preventing the displacement of water dependent commercial and manufacturing uses by floating homes. Areas with substantial concentrations of existing floating homes shall be given a designation that preserves residential uses. The proposal site is located in an area designated as Urban Residential, the purpose of which is to protect residential areas in a manner consistent with the Single-family and Multi-family Residential Area Policies. Therefore, the proposed project would conform to the policies of the comprehensive plan and would be consistent with the purpose of the UR designation.

Development Standards

The proposal to construct an 893 square foot dwelling on an existing float. Floating homes are permitted outright in SMC 23.60.540 governing the UR shoreline environment. The proposed action is therefore subject to:

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

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

These general standards apply to all uses in the shoreline environments. They require that all shoreline activity be designed, constructed, and operated in an environmentally sound manner

consistent with the Shoreline Master Program and with best management practices for the specific use or activity. All shoreline development and uses must: 1) minimize and control any increase in surface water runoff so that receiving water quality and shoreline properties are not adversely affected; 2) be located, designed, constructed, and managed in a manner that minimizes adverse impact to surrounding land and water uses and is compatible with the affected area; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety. The proposed construction 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 proponent will be required to notify contractors and subcontractors of these requirements.

2. Development Standards for UR Shoreline Environments (SSMP 23.60.540)

The development standards set forth in the Urban Residential Shoreline Environment relate to height, lot coverage, view corridors and public access. The subject site, however, is nonconforming and therefore subject to the development standards set forth in the specific floating home standards for nonconforming floating home moorages. Please refer below to the following section.

3. Development Standards for Nonconforming Floating Home Moorages (SSMP 23.60.196)

There are two sets of development standards for floating homes; conforming and nonconforming moorages. The subject moorage is non-conforming. The remodeling, replacement, or rebuilding of a nonconforming floating home moorage is permitted subject to the provisions set forth in SMC 23.60.196C. The floating home moorage is located on privately owned premises (SMC 23.60.196 A2). The existing views of the water from other moorage tenants will not be blocked (SMC 23.60.196.A3). This floating home moorage site is considered pre-existing for the purposes of the Seattle Shoreline Master Program because the float has an assigned King County Assessor's (KCA) No. (KCA #437). The KCA established it as a pre-existing use at the established moorage in Portage Bay as of the effective date of this Chapter (SMC 23.60.196.A4). A moorage plan was submitted with this application and is on file with the Department of Planning and Development (SMC 23.60.196 A6).

The proposed house will be constructed on the existing float and will not increase the area of the floating moorage, thereby not increasing the overall coverage for the moorage dock. No additional over water coverage is proposed for this floating home and no part of the floating home will be extended further over water beyond the size of the existing float. The total height of the floating home will continue to be no greater than the maximum 18 feet allowed from the water's surface. All of the proposed setbacks from the adjacent walls and floats satisfy the standards for the nonconforming floating home structures.

The proposed project is consistent with the development standards for nonconforming structures in the UR shoreline environment and does not increase the extent of nonconformity. Therefore, the proposed project is consistent with the standards for the UR shoreline environment.

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

SMC 23.44.008.C states that floating homes shall be subject to the provisions of SMC Chapter 23.60 except they shall be subject to the parking provisions of this chapter. The existing floating homes at this moorage do not have designated required off-street parking spaces because they pre-date code-required parking. Therefore, no off-street parking will be required for this project.

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, and the proposed addition and interior alterations at this moorage site will be consistent with the provisions set forth by 90.58 RCW, 173-27 WAC, and Chapter 23.60 SMC also known as the Seattle Shoreline Master Program (SSMP).

**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 December 8, 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 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 Noise Impacts

The SEPA Construction Impacts Policy (Section 25.05.675B SMC) lists mitigation measures for construction noise impacts. It is DPD's conclusion that limiting hours of construction beyond the requirements of the Noise Ordinance is necessary to mitigate impacts that would result from the proposal on surrounding properties, because existing City ordinances do not adequately mitigate such impacts. This is due to the density of residential units in the area and the close proximity of these structures to the proposal site. The proposal is, therefore, conditioned to limit demolition and construction activity to non-holiday weekday hours between 7:00 a.m. and 6:00 p.m. After the structure is enclosed, interior construction may be done at other times with the prior written approval of the Land Use Planner.

### Construction Greenhouse Gas Emissions impacts

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

### Long term impacts

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

### Height, Bulk, and Scale

The total height of the proposed floating home at eighteen feet would be 18 feet, the maximum allowed from the water surface. The appearance of bulk of the floating home will be reduced by design elements incorporated into the structure. There are a number of existing floating homes in the vicinity of a similar size and scale as the proposal. For these reasons, the proposed floating home at KCA #437 will not be out of scale with other floating homes in the vicinity, and no adverse impacts are expected related to bulk and scale.

### Water Quality Impacts

No disturbance of the lakebed sediments is expected since all work will be done above water. There is the potential for debris to enter the water during demolition and construction, so care will have to be taken to prevent this from occurring. In addition to the requirements set forth by 23.60.152 SMC, Metro's recommendations to protect the water quality for Lake Union shall also be followed as conditioned below.

### Conclusion

In conclusion, the proposed new addition to the floating home on the existing float will be consistent with the provisions of Chapter 23.60 SMC, also known as the Seattle Shoreline Master Program.

### **DECISION – SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 (2) (C).
- [ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 (2) (C).

### **SEPA AND SHORELINE CONDITIONS**

The following conditions to be enforced during construction shall be posted at the site in a location on or near the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

#### *Prior to Issuance of a Construction Permit*

1. The owner(s) and/or responsible party(ies) shall notify in writing all contractors and sub-contractors of the general requirements of the Shoreline permit conditions.
2. 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.
3. Provide on plan sets 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 should be stocked on the site. A sufficient number of personnel during construction shall be trained in the proper implementation of this plan.

During Construction

4. 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, including the following:
  - A containment boom shall be deployed during the work to contain any debris that drops in the water during construction.
  - The boom shall be placed along the perimeter of the floating home before the proposed work begins. The boom shall be removed at the end of each day and then reinstalled before work begins the following day.
  - If any deleterious material enters the water during the proposed work this material should be removed immediately, stored on site and then disposed of in the appropriate upland facility.
  - If heavy (sinking) debris enters the water during the demolition work the location of the debris should be documented in a log to be kept through the duration of the project. When construction is complete a diver should retrieve all debris that has entered the water and sunk during the demolition work.
5. In order to further mitigate the noise impacts during demolition and construction, the owner(s) and/or responsible party(s) shall limit the hours of demolition and construction to non-holiday weekdays between 7:00 a.m. and 6:00 p.m. This condition may be modified by the Department to permit work of an emergency nature or to allow low noise interior work after the shells of the structure are enclosed.
6. 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 and to remove debris promptly if it does enter the water. Equipment using oil, gasoline, diesel or other hazardous materials shall be maintained in a safe and leak-proof condition to prevent release of this material into the water. If there is any evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

Signature: \_\_\_\_\_ (signature on file) Date: March 4, 2010  
Bruce P. Rips, Sr. Land Use Planner

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