



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: 3010976
Applicant Name: David Douglas
Address of Proposal: 13534 Riviera Place NE

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow a new 292 sq. ft. pier and install a new boat lift accessory to a single family residence. Existing 186 sq. ft. pier to be demolished.

The following approval is required:

Shoreline Substantial Development Permit –To allow development in Urban Residential/Conservancy Recreation shoreline environments. - (SMC 23.60)

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 on Riviera Place NE toward the far north of the City's Lake Washington waterfront. The area is located in and surrounded by Single Family zoning (SF5000). All other nearby properties are zoned and developed as single family residential. Uphill from the Burke-Gilman trail, the zoning drops to SF9600. Again, development is consistent with the zoning. There is a King County Metro sewer line in the water well beyond the end of the proposed pier.

This property and the dry land areas of adjacent properties bordering Lake Washington are designated Urban Residential shoreline environment. All land waterward of the Ordinary High Water Mark at the shoreline is designated Conservancy Recreation (CR) shoreline environment.

Environmentally critical areas are located on site, including a large potential slide area and shoreline habitat buffer. The site is designated as within 100 feet of a wetland, which is located at the base of the hill to the west, by the Burke-Gilman trail.

Proposal

Per description above. Details can be viewed on plans.

Public Comments

One comment letter was received, expressing potential interest in commenting after obtaining further information. King County Metro reviewed the proposal, but has no comments.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Substantial Development Permit Required

Section 23.60.030 of the Seattle Municipal Code states, *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 an environmentally critical area 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, as conditioned, would conform to the policies of the comprehensive plan and would be consistent with the purpose of the UR designation.

Development Standards

The applicant proposed pier and boat lift development is permitted outright in SMC 23.60.540 governing the UR shoreline environment. The proposed action is therefore subject to:

1. *General development standards for all shoreline environments (SMC 23.60.152);*
2. *Development standards for piers and docks accessory to residential use (SMC 23.60.204);*
3. *Development standards for uses in the UR environment (SMC 23.60.540);*
4. *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.

Disturbance of the lakebed sediments is expected because piles will be driven and removed. There is also the potential for construction debris to enter the water during construction, so care will have to be taken to prevent this from occurring. However, due to the small scale of the work, the SSDP general requirements will be satisfied by observation of best management practices, which are required as a matter of course under the required building permit(s). No additional conditioning to ensure adequate environmental protection during construction is required.

The proposal entails permanent placement in the lake waters of substantial structure mass. Although the structures are sensitively-designed for such placement, they do necessarily impact the marine habitat. The DPD shorelines biologist has determined that plantings at the water's edge will adequately mitigate such impact. Accordingly, project approval is conditioned to secure these plantings, as enunciated in the conditions at the end of the report.

Given the above, the proposed work has been determined to be consistent with the general standards for development within the shoreline area.

2. *Development Standards for piers and docks accessory to residential use (SMC 23.60.204)*

These standards regulate the size and location of piers for residential uses. Piers should be located generally parallel to side lot lines and perpendicular to the shoreline and the proposed pier would be consistent with this code requirement. The proposed pier and boat lift comports with applicable standards.

3. *Development Standards for UR Shoreline Environments (SMC 23.60.570- 23.60.578)*

The development standards set forth in the Urban Residential Shoreline Environment relate to uses, height, lot coverage, view corridors and public access. The proposed pier meets the requirements of these sections.

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

Development standards for single family residential zones include lot coverage, height limits, yards, and parking standards. The proposed pier meets the requirements of these sections.

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 required planting of native plants and 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, 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.

Noise

Noise associated with construction of the new pier and driving of piles into the lake bed could adversely affect the surrounding residential uses. Due to the proximity of neighboring residential uses, the limitations of the Noise Ordinance are found to be inadequate to mitigate the potential noise impacts. Pursuant to the SEPA Overview Policy (SMC.25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675 B), mitigation is warranted. The hours of construction activity shall be limited to non-holiday weekdays from 7am to 6pm, as conditioned below.

Water Quality Impacts

Disturbance of the lakebed sediments is expected because mooring piles will be driven and removed. There is also the potential for construction debris to enter the water during construction, so care will have to be taken to prevent this from occurring. There is the potential for debris to enter the water during removal and installation of the floating home. However, mitigation for these impacts is secured through conditions under the SSDP. No additional conditioning pursuant to SEPA is warranted.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including water quality in Lake Washington, and habitat for plants and animals. Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts, including the Land Use Code and the Shoreline Master Program. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of most long term impacts and no further conditioning is warranted by SEPA policies, except as noted below.

Plants and Animals

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. Landscaping at the water's edge has been required pursuant to Chapter 23.60 authority. Therefore, no additional conditioning is warranted for these items pursuant to SEPA policies.

Greenhouse gases

The applicant completed DPD's greenhouse gas calculation worksheet, documenting that the proposal is anticipated to generate lifetime emissions of 460 metric tons equivalent of CO². These emissions are not presently regulated. The disclosure requirement has been satisfied.

Summary

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, and mitigation secured through the SSDP, 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

Prior to Issuance of any Construction Permit

1. Landscaping shall be shown on the construction set of plans exactly as shown on the approved MUP plans.
2. Standard Best Management Practices (BMPs) for shoreline pier developments shall be shown on the construction set of plans.

Prior to finaling of any construction permit

3. Installation of mitigation to be verified by DPD Fish Biologist Ben Perkowski (206) 684-0347.

For the Life of the Project

4. The development shall be maintained per plan.

CONDITIONS – SEPA

During Construction

5. 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. Construction activities outside the above-stated restrictions may be authorized at the sole discretion of the Land Use Planner (Paul Janos 206-733-7195 or paul.janos@seattle.gov), if for example warranted by unforeseen urgent 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) Date: June 3, 2010
Paul Janos, Land Use Planner
Department of Planning and Development

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