



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:** 3011297  
**Applicant Name:** Barry Burgess for Doug Hunt & Derek Stanley  
**Address of Proposal:** 2331 Fairview Avenue East

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Permit to allow removal of an existing one-story 1,200 square foot floating home and float and replace with a two-story 1,975 square foot floating home and float (#L – KCA #160) - No change in float size. Construction of the new floating home will take place off-site.<sup>1</sup>

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.

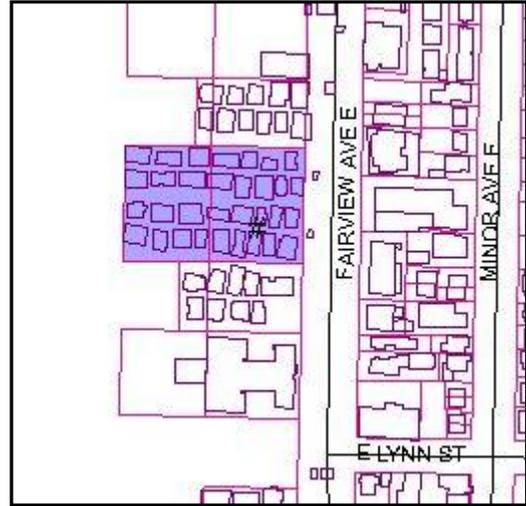
**BACKGROUND DATA**

Site and Vicinity Description

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<sup>1</sup> Original published as: Land Use application to allow removal of an existing one-story 1,200 square foot floating home and float and replace with a two-story 1,975 square foot floating home and float (#L – KCA 160). Construction of the new floating home will take place off-site.

The property is located in a Single Family 5000 (SF 5000) zone in an Urban Residential (UR) shoreline environment. The moorage site (Tenas Chuck Moorage) includes submerged lands, occupying an area of approximately 64,271 square feet located along the east shoreline of Lake Union. The subject floating home is located within a 32-slip non-conforming floating home moorage in the south cluster of floating homes in slip "L." The subject site, slip L (King County Assessor's number 160) is approximately 1,443.7 square feet, inclusive of houseboat with float and deck. The existing floating home is a one-story structure with shed roof, rising approximately 16 feet in height above the water's surface, and occupies an area of 863.9 square feet on the float. A wooden walkway serving the subject floating home extends west from the shoreline. Access to the home is obtained by walking over a ramp between the walkway and float. Surrounding the development site (L), to the west, north, and east, are moorage slips (M, E & K) occupied by one-story floating home structures.



A total of 17 moorage slips are accessed through the shared walkway. The subject slip has direct access to dry land where accessory parking is located. It appears that all floating homes are sited within the privately owned moorage, outside leased DNR territory (shown as on plans). 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. This area represents a dense concentration of boat moorage spaces located along this stretch of Fairview Avenue East. With the exception of a large multifamily structure (Union Harbor Condominiums) constructed overwater to the south in a Multifamily Lowrise Three (L-3) zone, the remaining overwater development are zoned for single family use on the west side of Fairview Avenue in the immediate area. To the east across Fairview Avenue on upland lots, the immediate area features single family, townhomes, and multifamily structures, with a few commercial uses nearby. Within this area are found more intensive residential zone designations, Multifamily Lowrise, Two and One Residential-Commercial zones (L-2 & L-1 RC). The neighborhood consists of residences, primarily multiple story structures, with a number of commercial uses to the north and south of the subject site.

### Proposal Description

The proposed improvements to moorage slip L will include the replacement of an existing one-story floating home structure and float with a new two-story floating home with roof deck and float (not exceeding the size and shape of the existing float). The existing float and floating home would be hauled to ship building facility to be demolished in a controlled environment.

Construction of the new floating home and float will occur in a similar controlled off-site location and towed into slip L. The existing footprint of the floating home structure is approximately 863.9 square feet, representing 59% coverage of the float. The remodeled floating home's footprint will be increased to 1147.2 square feet, representing 79% coverage of the float. The total gross floor area for the new structure will be approximately 1,975.7 square feet. The new second floor will occupy an area of approximately 828.5 square feet and is designed to minimize bulk impacts on surrounding slips. Majority of the remaining area on the second floor will feature roof decks, with direct access to the structure's interior. An open railing system is proposed at this level to accommodate residential use of the roof deck. The total height of the structure will be 18 feet from the water line to the top of the flat roof. No change in parking is proposed.

Public Comment

Date of Notice of Application:	June 7, 2010
Date End of Comment Period:	July 6, 2010
# Letters	0
Issues:	No comment letters were received.

Other Agency Comments

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*
- 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 L will include the replacement of an existing one-story floating home structure and float with a new two-story floating home with roof deck and float (not exceeding the size and shape of the existing float). The existing float and floating home would be hauled to another controlled location to be demolished. Construction of the new home and float would occur at the controlled off-site location and towed into slip L, 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 replacement of the existing floating home (at moorage slip L), consists of adding a second story to increase the structure's gross floor area to accommodate spacious living quarters for a growing family. The floating home's footprint will increase by 51 square feet, representing 85% coverage of the float area. The new floatation system will have modern features to support the weight of the new structure and minimize underwater absorption and off-gassing to protect the aquatic environment, 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 1,443.7 square foot float; the access ramp to the walkway will feature a pre-fabricated metal landing. Construction of the new floating home and float will occur off-site in a shipbuilding facility. The floating home's gross floor area will increase by approximately 107 percent, from approximately 951.1 square feet (footprint 863.9 square feet) to a gross floor area of 1,975.7 square feet (footprint 1,147.2 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 Single Family 5000 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 Single Family 5000 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 float will be replaced with new flotation devices to accommodate additional weight and protect the underwater environment; no other changes are proposed.

Due in part to the location of the subject moorage slip (L) set between two one-story structures (adjacent slips “K” and “M”) on the south side of the walkway the view corridor from the end of the walkway will be unaffected (SSMP 23.60.196.A.3). The second story addition will marginally affect views of moorage tenants to the north across the walkway in a finite area within the footprint of the proposed floating home structure. However, views will be preserved outside building envelope of the second story. Existing one-story floating home structures at surrounding slips (E, K & M) situated to the north, east and west (respectively) of the subject slip will be marginally impacted with the increased footprint, however views to the water beyond the subject site will be preserved. A dense cluster of mature trees within the right-of-way obscures views from Fairview Avenue East to the moorage slips. Set between the roadway and floating homes is an accessory parking lot that sits below street elevation; the second story addition will have varying degrees of visual impacts. As viewed directly in front of the subject site on the Fairview Avenue East; public views of Lake Union will not be lost, views will remain unaffected.

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 on private property. 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 “L” and the area immediately surrounding the moorage float’s perimeter (approximately 6 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 April 20, 2010. 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 following the general development requirements set forth by SSMP 23.60.152.

### 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 a Construction Permit**

1. 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.

Prior to Commencement of Construction

2. 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.
3. 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

4. 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.

5. 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.
6. 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

7. 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.
8. 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) Date: September 9, 2010

Bradley Wilburn, Land Use Planner  
Department of Planning and Development

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