



City of Seattle
Edward B. Murray, Mayor

Department of Planning and Development
Diane M. Sugimura, Director

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

Application Number: 3012950
Applicant Name: Lee Michaelis
Address of Proposal: 2100 W Commodore Way

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to construct two marine sales and service structures totaling 22,560 sq. ft. (with one caretaker unit in each) and one 70,200 sq. ft. mini warehouse structure, in an environmentally critical area. Project includes: replacing three piers with two piers (one 150 lineal feet and one 170 lineal feet), surface parking for 126 vehicles and 22,000 cu. yds. of grading for uplands and submerged portions. Existing warehouse structure to be demolished.

The following Master Use Permit components area required:

Shoreline Substantial Development Permit: to allow development in the Urban Maritime (UM) Shoreline Environment.

Shoreline Conditional Use: to allow non-water dependent commercial use in the Urban Maritime (UM) Shoreline Environment.

SEPA Environmental Review – Seattle Municipal Code Section 25.05

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

Proposed Project

The proposed project is at the existing Salmon Bay Marina at 2100 West Commodore Way, which is located on the south side of the Lake Washington Ship Canal just west of Fisherman's Terminal. The project is located in Urban Maritime Shoreline Environment and the underlying zoning is Industrial General (IG1/45).

The applicant proposes to construct two buildings totaling 22,560 sq. ft. (with one caretaker unit in each) for marine sales and service uses and one 70,200 sq. ft. building, which is partially within the Shoreline District and partially outside (see Sheet C 1.0 for overall site plan). The first floor of this building will be used with a mix of dry boat storage and mini-warehouse storage. The second floor will be used for dry boat storage and the third and fourth floors will be used as mini-warehouse storage, largely for users of the recreational marina. The project also includes replacing three existing piers with two piers (one 150 lineal feet and one 170 lineal feet), and surface parking for 126 vehicles. The existing office and storage buildings for Salmon Bay Marina will remain, except a warehouse building that will be demolished (see Sheets C1.0 and C3.0).

Two existing floating piers (Docks D and E) that comprise approximately 3,612 sq. ft. of overwater coverage (with 10 creosote treated timber piles and 6 12-inch diameter steel piles) will be removed and replaced with two concrete floating piers (3,840 sq. ft. of overwater coverage) and a 320-sq.ft. grated metal gangway. The new floats will both be 12-feet wide and secured by a total of 19 steel piles. An existing service dock (10-feet-wide by 60-feet long) will be removed from the site and demolished. Electrical conduit will be brought to the docks for future pump-out service. An existing float and boathouse will be relocated further offshore to accommodate the larger vessels, which will entail replacing one creosote-treated pile with one steel pile and installation of one new mooring pile (see Sheets C 1.0, C1.1 and C 1.2). No change of the existing recreational marina use is proposed for Docks A, B and C (covered moorage area). Upgrades to existing utilities (water and sewer) will occur in this area due to age of the existing utilities and addition of sewage pump-out facility. Transparent panels will be installed in the covered moorage roofs to allow natural light penetration to the water below as part of the overall mitigation plan for the project.

The project includes dredging of approximately 11,900 cubic yards of sediment. Sediment will be dredged using a barge-mounted clamshell and/or hydraulic dredge based on U.S. Army Corps of Engineers permitting requirements. The area to be dredged is approximately 43,703 square feet to design depth of -18 feet. The current depth in this area is between 5 and 15 feet. The dredging is proposed to increase berthing depths to accommodate larger vessels than can be currently accommodated at this facility. Sediment determined suitable for open-water disposal would be disposed of at the designated Elliott Bay Puget Sound Dredged Disposal Site. Unsuitable material, based on Army Corps of Engineers standards, will be disposed of at an appropriate upland facility. Shot-rock armoring will be installed to ensure stability of a portion the dredge slope and topped with mixture of sand and gravel for habitat enhancement. A nearshore habitat bench will be installed and topped with a fish-friendly gravel mix as part of the mitigation plan and the existing bulkhead will be replaced with a new bulkhead landward of the existing structure (see Sheet C.12 in plan sets for more details of in-water work as well as Mitigation Plan submitted by applicants dated October 2014).

Outdoor storage and existing parking within 50 feet of the shoreline at this location were established as uses at the site in a separate permit (DPD # 6372658).

Public Comment: The initial public comment period began on August 29, 2013 and ended on September 27, 2013. Due to a revision in the project, a second comment period began on September 19, 2013 and ended on October 18, 2013. No comments were received.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

The majority of the proposed project area is within the Shoreline District and the Urban Maritime (UM) Shoreline Environment. A portion of the proposed min-warehouse building is outside the Shoreline District. The Shoreline Master Program (SMP), Chapter 23.60 of the Seattle Municipal Code, regulates use and development in the City's Shoreline District in order to implement the policy and provisions of the Shoreline Management Act of 1971 and the Shoreline Goals and Policies.

The SMP requires that a shoreline permit be obtained prior to the undertaking of any substantial development within a Shoreline Environment. SMC 23.60.030 includes criteria for evaluating a shoreline permit. 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 Shoreline Management Act.

A. THE POLICIES AND PROCEDURES OF CHAPTER 90.58.RCW

The State of Washington Shoreline policies (RCW Chapter 90.58) provide for the control of pollution and prevention of damage to the natural environment, and for the protection of the resources and ecology of the shoreline over the long term. 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. The Shoreline Management Act of 1971 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 that also incorporates the provisions of Chapter 173.27 WAC. 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 policies of the Act regarding preferences for uses in the Shoreline District are articulated in RCW 90.58.020. These use preferences include the preference for development that "increase(s) recreational opportunities for the public in the shoreline."

The recreational marina and marine sales and service uses along the shoreline of the Ship Canal, along with the proposed enhancements to these existing uses that will occur as part of this project, will increase recreational opportunities for the public to enjoy boating activities in the public waters of the Ship Canal and beyond. This proposal is consistent with the policies of the RCW Chapter 90.58.

B. THE REGULATIONS OF CHAPTER 23.60

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master

Program.” In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030. Development standards of the shoreline environment and underlying zone must be considered as well as any conditioning that may be necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SMC 23.60.004, and meet development standards for all shoreline environments established in SMC 23.60.152 as well as the criteria and development standards for the shoreline environment in which the site is located.

Each of these elements is evaluated below in the order they are listed in the Shoreline Master Program. The shoreline designation for the area of this project within the Shoreline District is the Urban Maritime (UM) Shoreline Environment.

SMC 23.60.004 - Shoreline Policies

The purpose of the UM Shoreline Environment as described in SMC 23.60.220.C.9 is to preserve areas for water-dependent and water-related uses while still providing some views of the water from adjacent streets and upland residential streets. Public access shall be second in priority to water-dependent uses unless provided on street ends, parks or other public lands.

The proposed uses are consistent with these goals.

In the City of Seattle’s Comprehensive Plan, Goal LUG 44 promotes development that provides for “the optimum amount of public access – both physical and visual – to the shorelines of Seattle.” LU258 promotes development that results in an “increase opportunity for the public to enjoy water-dependent recreation including boating, fishing, swimming, diving and enjoyment of views.” Land Use Goal 254 promotes the concentration of “industrial and commercial shoreline uses by supporting the retention and expansion of existing water-dependent businesses, and planning for the creation of new developments in areas now dedicated to such use.” LU260 promotes development that provides for “recreational boating facilities including terminals, moorage and service facilities on publicly owned land and encourage(s) the provision of such facilities on private property, if the environmental impact is acceptable.” LU269 describes area objectives for different shoreline locations throughout Seattle, including the Shilshole Area (the location of this proposal), where the goals promote retention of “the strong, water--dependent recreational character of the area. Water-dependent recreational uses and their supporting services are the preferred uses for this area.” The Comprehensive Plan also promotes permitting of “non-water-dependent commercial uses when providing access to the water, protecting views and not usurping land usable for future water-dependent recreational uses” for the Shilshole Area.

The proposed marine sales and service uses and the building and structures accessory to this use and the established marina will allow opportunities for the public to access and enjoy the shoreline environment of the Ship Canal and waters beyond, which is consistent with the goals and policies mentioned above. The proposed design of the project will allow visual access and views to the Canal as well as provide shoreline habitat conditions along the shoreline that will benefit migrating salmonids and the overall nearshore water quality and habitat conditions.

SMC 23.60.064 - Procedures for Obtaining Shoreline Substantial Development Permit

This application has followed the procedural requirements for a Master Use Permit as specified in subsection A of SMC 23.60.064. This section also 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.

SMC 23.60.064.C. In evaluating whether a development that requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that:

1. The proposed use is not prohibited in the shoreline environment(s) and underlying zone(s) in which it would be located.

The proposed project is not a prohibited use in the Urban Maritime Shoreline Environment. The proposed uses for this project are the same as the current use (recreational marina) as well as marine sales and service and non-water dependent commercial use and are described in more detail above. The project uses are consistent with the established recreational marina use and the marine sales and service use that is permitted outright pursuant to SMC 23.60.720A.1. The proposed non-water-dependent commercial use requires a conditional use approval pursuant to SMC 23.60.724.B, which is analyzed below. The proposed project is also not prohibited in the underlying zone.

2. The development meets all applicable development standards of both the shoreline environment and underlying zone.

The conformance of the project with the general development standards and development standards in the shoreline environment in which the project is located is discussed below.

3. If the development or use requires a conditional use, variance, or special use approval, the project meets the criteria for the same established in Section 23.60.034, 23.60.036 or 23.60.032, respectively.

The proposal does require a shoreline conditional use and special use approval, which is analyzed below.

Shoreline Development Standards

The project is located in the Urban Maritime Shoreline Environment. Pursuant to the Seattle Shoreline Master Plan, the proposed action is subject to the:

1. general development standards (SMC 23.60.152);
2. development standards for uses in the UM Shoreline Environment (SMC 23.60.720).

1.SMC 23.60.152 - General Development Standards for all Shoreline Environments

General standards for all uses and development in all shoreline environments are established in SMC Section 23.60.152. Generally, these standards 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, in order to have minimal impact on the shoreline environment. The following general development standards are relevant to the proposed project:

- *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 applicable water quality management programs and regulatory agencies. Best management practices such as paving and berming of drum storage areas, fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.*
- *Solid and liquid wastes and untreated effluents shall not enter any bodies of water or be discharged onto the land.*
- *The release of oil, chemicals or other hazardous materials onto or into the water shall be prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leakproof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.*
- *All shoreline developments and uses shall minimize any increases in surface runoff, and control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catch basins or settling ponds, interceptor drains and planted buffers.*
- *All shoreline developments and uses shall utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.*
- *All shoreline developments and uses shall control erosion during project construction and operation.*
- *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.*
- *All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.*
- *All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.*
- *All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.*
- *All debris, overburden and other waste materials from construction shall be disposed of in such a way as to prevent their entry by erosion from drainage, high water, or other means into any water body.*

This project is proposed to occur in the aquatic and shoreline environment of Lake Washington Ship Canal that provides habitat for Chinook salmon. The project site serves as a migration corridor as well as potentially rearing area for juvenile Chinook salmon from the Cedar River and other water bodies in Water Resource Inventory Area 8. Additionally,

predators of juvenile Chinook are known to inhabit areas under overwater structures and may use these areas as cover while preying on juvenile Chinook. Overwater coverage reduces the amount and quality of natural habitat of juvenile Chinook salmon and provides habitat for predator species of juvenile Chinook. The project will result in a net increase in overwater coverage. The dredging and fill actions in submerged lands could decrease or alter benthic and epibenthic communities in the affected area, potentially reducing bottom-dwelling organisms that contribute to the prey base for salmonids and other aquatic life.

The project proponent has agreed to a mitigation plan that includes installation of shallow-water habitat bench, removal of existing overwater coverage, in-water structures, and man-made submerged debris along the subject site and installation of transparent panels in the roofs of existing covered moorage areas to allow natural light penetration to the water below. Details of the proposed impacts and mitigation are contained in the Mitigation Plan (dated Oct. 24, 2014) submitted by the applicant as well as a Biological Evaluation. Submerged debris in the nearshore environment is known to provide habitat for predators of migrating salmon in this area. The removal of this debris and in-water structures (e.g., creosote piles) along with the installation of transparent panels, habitat bench topped with 6-inch layer of sand and gravel, and removal of contaminated sediments, reduction in milfoil habitat due to increased water depths along the shoreline will improve habitat conditions for migrating salmonids and adequately mitigate for the project's impacts.

As proposed and as conditioned below, the project complies with the above shoreline development standards.

SMC 23.60.720 - Development Standards in the UM Environment

The development standards set forth in the Urban Maritime Shoreline Environment relate to height, maximum size limits, lot coverage, view corridors, regulated public access, and location of uses (SMC 23.60.720). The proposed development has been reviewed and is consistent with these development standards, where applicable (See Sheets 1, 2, 3 and 4 in submitted plan sets for further details on consistency with these development standards).

The existing and proposed uses for this project in the UM Environment are described in more detail above and are consistent with marine sales and services uses and recreational marina. The non-water-dependent commercial min-warehouse use proposed for the new building requires a shoreline conditional use approval pursuant to SMC 23.60.724.B, as analyzed below. The proposed dredging and fill in submerged lands requires special use approval pursuant to SMC 23.60.722, as analyzed below.

SMC 23.60.092.B -- Caretaker's Quarters

The project includes a proposal for two caretaker's quarters (one each at two of the proposed new buildings as shown on Sheets A 2.3 and A 5.3). These quarters can be allowed if they meet criteria in SMC 23.60.092.B. The applicant has explained in submitted materials (see Sheet 2 in submitted plans and zoning correction response dated April 10, 2015) that the two quarters are necessary for the operation of the use and are consistent with applicable standards. One of the quarters will be available to crews of the larger personal vessels that are moored at the Salmon Bay Marina and the other quarters is for 24-hour security at the facility. The application states that 'while moored at Salmon Bay Marina, these vessels may be subject to theft, vandalism and threats against crew members. To deter this type of activity it is necessary to provide accommodations for 24 hour

security as well as crew members for the larger vessels that will be moored at Salmon Bay Marina.” Based on the applicant’s rationale and on the condition (see Condition 9 below) that these caretaker’s quarters are limited strictly for the uses described in the application and summarized above, DPD has determined the two proposed quarters are consistent will applicable standards.

Analysis of Shoreline Conditional Use Criteria

The UM environment allows non-water-dependent commercial uses as a shoreline conditional use (SMC 23.60.724.B) subject to the criteria for conditional use approval that are described in WAC 173-27-160.

WAC 173-27-160 provides that uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:

- A. That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;*

RCW 90.58.020 states in part, that in the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. Uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state.

The existing recreational marina use and proposed marine sales and service uses, including waste pump out station, is part of the preference of uses such as marinas, piers and services that allow the public to enjoy the shorelines and its amenities. The conditional use for the mini-warehouse storage use will provide amenities for people using the marina facilities. Additionally, a nearshore habitat bench and transparent panels in the moorage roofs will be installed to enhance habitat conditions for migrating salmonids as well as other measures described in the submitted mitigation plan (Oct. 2014) to lessen the impacts to the shoreline environment and mitigate for unavoidable impacts.

- B. That the proposed use will not interfere with the normal public use of public shorelines;*

The proposed mini-warehouse use will primarily service boaters using the recreational marina and will not interfere with existing public use and enjoyment of the shorelines of the area.

- C. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;*

The proposal is compatible with the existing and proposed recreational marina and marine sales and service at the site and the other water-dependent and water-related uses in the vicinity of this location, as well as other allowed uses in the UM Shoreline Environment. The conditional use required for the non-water-dependent commercial use is analyzed here. The discussion above addresses the proposed uses with respect to the City's Comprehensive Plan and the goals for the UM Shoreline Environment.

D. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

The non-water-dependent uses proposed will be within the new building on dry land and will cause no significant adverse effects to the shoreline environment and does not trigger any habitat mitigation requirements, which are triggered by other aspects of the overall project discussed elsewhere in this report. Best Management Practices to be implemented during construction will address potential temporary impacts to the shoreline environment caused by work near the shoreline.

E. That the public interest suffers no substantial detrimental effect.

The proposed non-water-dependent commercial uses are compatible with existing uses at this site and will provide a service to recreational boaters using the shoreline environment. These uses will have no substantial detrimental effect to the public interest.

In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area.

The proposed conditional use portion of the project for non-water-dependent commercial uses is consistent the development standard in SMC 23.60.724.B.2 that states that the non-water-dependent uses are permitted on dry land when:

- a. The non-water-dependent commercial uses occupy no more than ten (10) percent of the dry land area of the lot, except that when the lot provides more than 9,000 lineal feet of moorage for commercial vessels, the non-water dependent commercial uses may occupy up to twenty percent of the dry-land area of the lot -- Calculations provided by the applicant show that the proposed non-water-dependent uses will occupy 9.98 percent of the dry-land area of the lot (See Sheet 4 in submitted plan set for calculations).
- b. The total of all non-water-dependent commercial and manufacturing uses occupy no more than twenty (20) percent of the dry land area of the lot -- The proposed project includes no manufacturing uses. The proposed non-water-dependent commercial use will occupy 9.98 percent of the dry land area of the lot. (See Sheet 4 in submitted plan set for calculations).
- c. The uses are located on site to accommodate water-dependent or water-related uses on site

The uses in the proposed building within the Shoreline District will serve users of the recreational marina, which are clearly water related or water dependent uses.

Given the project's consistency with these standards that function to limit the extent and impact of non-water-dependent commercial uses in the UM Environment, the fact that the proposed building is on dry land that has previously been developed, as well as the analysis provided by the applicant (memo dated April 10, 2015) regarding the potential limited utilization of similar properties along the Ship Canal zoned Urban Maritime for a storage building to be used in the manner proposed in this project for water-related uses at an established recreational marina, if similar additional permits were granted in the Shoreline District there would not be a substantial adverse effect to the shoreline environment.

Uses that are specifically prohibited by the master program may not be authorized pursuant to either subsection (1) or (2) of this section.

The proposed conditional use portion of this project is not prohibited and is subject to conditional use approval pursuant to SMC 23.60.724.B.

Decision – Shoreline Conditional Use Approval

The proposed shoreline conditional use approval to allow non-water-dependent commercial use in the UM Shoreline Environment is **CONDITIONALLY GRANTED.**

Analysis – Shoreline Special Use

As described above, the following uses associated with this project proposal are subject to the special use criteria of Section 23.60.032:

- Dredging when necessary for water-dependent and water-related uses are allowed as a special use in the UM Environment (SMC 23.60.722).
- Landfill on submerged land which does not create dry land, where necessary for a water-dependent or water-related use. (SMC 23.60.722)

SMC 23.60.032 provides the following:

Uses which are identified as requiring special use approval in a particular environment may be approved, approved with conditions or denied by the Director. The Director may approve or conditionally approve a special use only if the applicant can demonstrate all of the following:

- A. *That the proposed use will be consistent with the policies of RCW 90.58.020 and the Shoreline Policies;*

The Shoreline Policies are part of the Land Use Element of Seattle's Comprehensive Plan. LU 249 from the Comprehensive Plan states that "dredging and disposal of dredge materials shall be conducted in a manner that minimizes short and long-term environmental damage." The proposed project will remove approximately 11,900 cubic yards of material through in-water dredging. Sediment determined suitable for open-water disposal would be disposed of at the designated Elliott Bay Puget Sound Dredged Disposal site. Unsuitable material based on federal regulations will be transported for disposal at a licensed Subtitle D landfill. Best Management Practices will be implemented by the applicant during all dredging activities in order to ensure protection of the aquatic environment, including conducting in-water work consistent with in-water construction windows for protection of fish life specified by U.S. Army Corps and Washington Department of Fish and Wildlife. Best Management Practices for dredging are detailed in the application material and are included in the U.S. Army Corps of Engineers permitting for this project.

Shotrock armor will be installed in a portion of the dredge area (see Sheets C1.1 and C 1.2 in submitted plans) and application materials for details) to ensure long-term stability of the dredged slope. This shotrock armor is considered fill in submerged lands for purposes of this analysis. The applicant has provided geotechnical analysis to document the need for this fill in this situation as well as measures to reduce the extent and impacts of the shotrock. The project includes a Mitigation Plan (Oct. 2014) that addresses the potential impacts of this material and the proposed minimization and mitigation measures.

RCW 90.58.020 states that permitted uses in the shorelines of the state “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 interferences with the public’s use of the water.”

The applicant is proposing implementation of Best Management Practices (summarized above and detailed in the application material) to protect the environment during the dredging and fill activities that require a special use approval pursuant to SMC 23.60.722. The dredging and fill actions are temporary and will not prevent the public’s use of the shoreline in this area of the Ship Canal.

B. That the proposed use will not interfere with the normal public use of public shorelines;

The dredging and fill actions are temporary actions and are not located on publicly owned submerged lands. These actions will not prevent the public’s use of the shoreline at the site or any public shorelines nearby.

C. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area;

The dredging and fill actions are compatible and meant to enhance the established and proposed recreational marina uses at the project location, as well as the adjacent water-dependent and water-related commercial and industrial uses in the area.

D. That the proposed use will cause no unreasonably adverse effects to the shoreline environment in which it is to be located; and

With respect to the dredging and fill actions that triggered this special use analysis, these actions are temporary in nature and will be conducted using Best Management Practices for protection of the adjacent environment (see discussion above, including submitted application materials) as well under the authority of applicable permits from Washington Department of Ecology, Washington Department of Fish and Wildlife and the U.S. Army Corps of Engineers, which provides further assurance that these actions will be accomplished in a manner that will cause no unreasonably adverse effects to the shoreline environment. The proposed Mitigation Plan (Oct. 2014) addresses minimization and mitigation measures proposed for the potential impacts of the dredging and fill actions. The applicant has provided analysis of the project’s consistency with applicable dredging standards in the shoreline code as well as state and federal permitting requirements.

E. That the public interest suffers no substantial detrimental effect.

With respect to the dredging and fill actions that triggered this special use analysis, these actions are temporary in nature and will be conducted using Best Management Practices for protection of the adjacent environment (see discussion above, including submitted application materials) as well under the authority of applicable permits from Washington Department of Ecology, Washington Department of Fish and Wildlife and the U.S. Army Corps of Engineers, which provides further assurance that these actions will be accomplished in a manner that will cause no unreasonably adverse effects to the shoreline environment. The dredging and fill actions will not affect, except temporarily during construction, the general public’s ability to access and use the site both from the water and land. The proposed Mitigation Plan (Oct. 2014) addresses minimization and mitigation measures proposed for the potential impacts of the dredging and

fill actions. The applicant has provided analysis of the project's consistency with applicable dredging standards in the shoreline code as well as state and federal permitting requirements.

DECISION – SHORELINE SPECIAL USE

The Director has determined that the proposed landfill and dredging uses meet the Special Use Criteria of SMC 23.60.032 and are **CONDITIONALLY GRANTED**

C. THE PROVISIONS OF CHAPTER 173-27 WAC

Chapter 173-27 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) 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.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposed shoreline substantial development permit is **CONDITIONALLY GRANTED.**

SEPA ANALYSIS

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

The disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant (dated June 27, 2012). The Department of Planning and Development has analyzed the environmental checklists submitted by the project applicant; reviewed the project plans, any additional information in the file and comments that have been received regarding this proposed action. This action may result in adverse impacts to the environment. However, due to their temporary nature or limited effects, the impacts are not expected to be significant.

The SEPA Overview Policy (SMC 25.05.554D) 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.

Codes and development regulations applicable to this proposed project will provide sufficient mitigation for short and/or long term impacts. Applicable codes may include the Stormwater Code (SMC 22.800-808), the Grading Code (SMC 22.170), the Street Use Ordinance (SMC Title 15, the Seattle Building Code, and the Noise Control Ordinance (SMC 25.08). Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality.

Short Term Impacts

The following temporary or construction-related impacts are expected: temporary increase in noise levels, increase in water turbidity levels, increased levels of fugitive dust and fumes from the construction equipment, disturbance of shorelines and displacement of some fish wildlife species due to increased water turbidity levels and increased noise from the construction activities. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC 25.05.794). Although not significant, these impacts are adverse and, in some cases, mitigation may be warranted.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Seattle Noise Ordinance (construction noise); and State Air Quality Codes administered by the Puget Sound Air Pollution Control Agency (air quality). In addition Federal and State regulations and permitting authority (Section 10 Permit, 404 Permit from the Army Corps and HPA permit from Washington Department of Fish and Wildlife) are effective to control short-term impacts on water quality. Compliance with these codes and/or ordinances will lessen the environmental impacts of the proposed project.

The proposed construction work includes removal and installation of in-water structures. With the proposed work taking place in and adjacent to the Ship Canal, there is potential for debris and other deleterious material to enter the water during this proposed work. Best management practices (BMPs) will be employed to decrease the probability of debris or other deleterious material from entering the water during the proposed work. In-water construction activity will be restricted to in- water work windows established by the Washington Department of Fish and Wildlife and documented in the Hydraulic Project Approval for this project.

Construction material and equipment pose some potential danger of water and near shore contamination and shoreline erosion. The contamination from spills could lead to both water quality and aquatic habitat damage. In order to be prepared to provide a fast and effective response to spills or other actions which cause new contaminants to be introduced into the shoreline environment, it is necessary to condition the project to require that prior to commencing construction a spill prevention and containment plan and procedures be developed and all necessary equipment be stocked on the site. It is also warranted to require the use of BMPs to minimize erosion along the shoreline caused by storage and staging construction material in this area.

The following temporary or construction-related impacts are expected from these activities: decreased air quality due to suspended particulate from building activities and hydrocarbon emissions from construction vehicles and equipment; increased dust caused by construction activities; potential soil erosion and potential disturbance to subsurface soils and sediments

during grading, excavation, dredging and general site work; increased traffic and demand for parking from construction equipment and personnel; conflict with normal pedestrian movement adjacent to the site; increased noise; increases in sedimentation and turbidity, and displacement of some aquatic and wildlife species due to in-water construction and noise; and consumption of renewable and non-renewable resources. The applicant's application material, including the Biological Evaluation and Mitigation Plan (Oct. 2014) specifically discusses potential water quality and shoreline habitat impacts due to construction and dredging activities.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: Stormwater Code (SMC 22.800-808), Grading Code (SMC 22.170); Street Use Ordinance (SMC Title 15); the Building Code (construction measures in general); and the Noise Ordinance (construction noise). In addition Federal and State regulations

and permitting authority are effective to control short-term impacts on water quality. Compliance with these applicable codes and ordinances will reduce or eliminate most of the short-term impacts to the environment.

The applicant is proposing numerous Best Management Practices to address potential impacts during construction, particularly to water and soil quality. These BMPs are discussed in detail in the submitted application material (including responses to corrections), submitted plan sets (Sheet 3 in particular), the Biological Evaluation, and the Mitigation Plan (dated Oct. 2014). Additionally, to minimize construction impacts, the requirements of the US Army Corps of Engineers and Washington Department of Fish and Wildlife permits will be a condition of this permit. These permits will include restrictions on the timing of construction activities in order to meet requirements of the Endangered Species Act. These requirements shall be included on the building plan set submitted for this project.

No further SEPA conditioning of potential temporary construction impacts was found to be warranted.

Greenhouse Gas

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery; and the movement of vehicles — 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 increased contribution of greenhouse gas emissions from this project.

Archaeological Resources

The site is located within the US Government Meander line and its 200 foot buffer. The Meander line provides an indication of where the shoreline existed prior to previous fill or alteration. It is likely that one would find most potential archeologically significant resources, such as Native American and early European settlements, within 200 feet of the meander line. Pursuant to SMC 25.05.675H2(a), it is the City's policy to maintain and preserve significant historic sites and structures and to provide the opportunity for analysis of archeological sites. Thus, in order to ensure that no adverse impact occurs to an inadvertently discovered archeologically significant resource, the proposal will be conditioned to provide mitigation in that event. No further SEPA conditioning of potential short-term impacts appears to be warranted.

Long Term Impacts

Long-term or use related impacts are also anticipated from the proposal and include an increase in overwater coverage. These long-term impacts are potentially significant without mitigation; therefore, merit a detailed discussion of the impacts and the required mitigation.

Plants and Animals

Chinook salmon, a species listed as threatened under the Endangered Species Act (ESA) in March 1999, are known to inhabit the Ship Canal including the proposed project area. Under the City of Seattle's Environmental Policies and Procedures 25.05.675 N (2) it states in part: *A high priority shall also be given to meeting the needs of state and federal threatened, endangered, and sensitive*

species of both plants and animals. This project is proposed to take place in Lake Union which is part of the migration corridor of Chinook salmon from the Cedar River and the other water bodies in Water Resource Inventory Area 8.

Clearly identified long-term impacts on juvenile Chinook salmon and the aquatic environment include the increase in over-water coverage for this project. Overwater coverage creates shading that provides hiding places for predators and forces juvenile salmon away from the near shore, where they are more susceptible to predation by larger fish; therefore, this decreases their survivability. The proposed dredging and fill actions could decrease and alter benthic and epibenthic communities in the affected areas. As provided by SMC 25.05.350 A, when making a threshold determination the lead agency may consider mitigation measures that the agency or applicant will implement. These mitigation measures can be in the form of clarification of the proposal, changes to the proposal, or the project may be conditioned to include the mitigation measures. The applicant has included mitigation measures (see Mitigation Plan dated October 2014) in the project to offset the impacts of the proposed work. These measures are also summarized on Sheet C 4.0.

Each of the proposed mitigation measures are believed to minimize impacts on juvenile salmon habitat at the site and improve the aquatic habitat for juvenile Chinook salmon and other species. Collectively these measures will reduce dark areas under the docks and eliminate large substrate in the shallow water habitat, which should reduce the juvenile Chinooks' vulnerability to predation in the Ship Canal environment. Additionally, the proposed habitat bench will provide shallow water habitat for salmonids that utilize this area and the increased depths at this site should reduce the occurrence and negative impacts of milfoil, which is known to grow in dense patches in this area at the current depths and conditions. The complete implementation of these measures and the proposed maintenance and monitoring measures are a condition of this permit.

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. 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.

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.

SEPA AND SHORELINE CONDITIONS

Prior to Master Use Permit Issuance

- 1) Revise MUP plans per Zoning Correction Notice dated May 21, 2015.

- 2) The applicant is required to create an Inadvertent Discovery Plan to be prepared and kept onsite during ground disturbing for the project. The owner and/or responsible parties shall provide DPD with a statement that the contract documents for their general, excavation, and other subcontractors will include reference to regulations regarding archaeological resources (Chapters 27.34, 26.53, 27.44, 79.01, and 79.90 RCW, and Chapter 25.48 WAC as applicable) and that construction crews will be required to comply with those regulations and the Inadvertent Discovery Plan.

Prior to Building Permit Issuance

- 3) The Best Management Practices and conditions of the US Army Corps of Engineers and the Washington State Department of Fisheries permits for this project shall be included on the building permit plans.
- 4) The mitigation measures and monitoring plan in the Mitigation Plan (dated October 24, 2014) shall be placed on the building permit plans, including installation of transparent panels in the covered moorage roofs consistent with issued MUP plans. Monitoring plan should include specific milestones for submittal of monitoring updates and inspection reports to DPD during 5-year monitoring period, as approved by DPD. Plans must include specific provisions for coordination with DPD for additional mitigation measures in the event milfoil reduction objectives are not successful during monitoring period.

Prior to Building Permit Final

- 5) Complete implementation of approved Mitigation Plan (Oct. 2014) measures and provide before and after photo documentation to DPD for removal of submerged and nearshore debris, installation of habitat bench, and installation of in-water gravel and sand per approved plans and Mitigation Plan (Oct. 2014).

During Construction

- 6) Best Management Practices for removal and construction activities in-water and dredging actions shall be implemented as shown on building permit plans and as approved by Washington Department of Fish and Wildlife and US Army Corps of Engineers.
- 7) If resources of potential archaeological significance are encountered during construction or excavation, the owner and/or responsible parties shall Stop Work immediately and notify DPD (Ben Perkowski via email to Ben.Perkowski@Seattle.gov or at telephone # 206-684-0347) and the Washington State Archaeologist at the Washington State Department of Archaeology and Historic Preservation (DAHP). The procedures outlined in Appendix A of Director's Rule 2-98 (or its successor) for assessment and/or protection of potentially significant archeological resources shall be followed in addition to those of the Inadvertent Discovery Plan. Furthermore, work on the site must abide by all regulations pertaining to discovery and excavation of archaeological resources, including but not limited to Chapters 27.34, 27.53, 27.44, 79.01 and 79.90 RCW and Chapter 25.48 WAC, as applicable, or their successors.

Life of the Project

- 8) Moorage tenants shall be required to follow Best Management Practices to ensure that no petroleum products, other toxic substances, miscellaneous debris and other deleterious materials or fluids do enter or leach into Ship Canal.
- 9) All vessel repair activities at boathouse and at this facility must be conducted consistent with Washington Department of Ecology regulations and Best Management Practices for in-water and overwater vessel repair activities. Any debris or deleterious material that enters water during vessel repair activities shall be removed immediately. Any spills of potentially toxic material in Lake Union shall be reported immediately to Department of Ecology.
- 10) Mitigation monitoring plan shall be implemented as described in Mitigation Plan (Oct. 2014) and inspection reports filed to DPD consistent with milestones approved under building permit.
- 11) The two caretaker's quarters at this facility shall be used strictly for the use of the crews of vessels temporarily moored at the facility and for individual(s) employed for 24-hour security of this facility. No other residential use of these quarters is allowed without prior approval by DPD.

Signature: Denise R. Minnerly for Date: May 28, 2015
Ben Perkowski, Land Use Planner III
Department of Planning and Development

BP:drm

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IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT

Master Use Permit Expiration and Issuance

The appealable land use decision on your Master Use Permit (MUP) application has now been published. At the conclusion of the appeal period, your permit will be considered "approved for issuance". (If your decision is appealed, your permit will be considered "approved for issuance" on the fourth day following the City Hearing Examiner's decision.) Projects requiring a Council land use action shall be considered "approved for issuance" following the Council's decision.

The "approved for issuance" date marks the beginning of the **three year life** of the MUP approval, whether or not there are outstanding corrections to be made or pre-issuance conditions to be met. The permit must be issued by DPD within that three years or it will expire and be cancelled. (SMC 23-76-028) (Projects with a shoreline component have a **two year life**. Additional information regarding the effective date of shoreline permits may be found at 23.60.074.)

All outstanding corrections must be made, any pre-issuance conditions met and all outstanding fees paid before the permit is issued. You will be notified when your permit has issued.

Questions regarding the issuance and expiration of your permit may be addressed to the Public Resource Center at prc@seattle.gov or to our message line at 206-684-8467.