



City of Seattle

Department of Planning and Development
D. Sugimura, Director

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

Application Number: 3013007
Applicant Name: Linda Krippner
Address of Proposal: 2017 Fairview Ave E

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Application to allow a two-story (1,414 square foot*) floating home and float (#H – KCA #49). Existing 1,457 sq. ft. floating home to be removed.

(*During project review the footprint of the floating home was reduced to 1,391 square feet).

The following approvals are required:

Shoreline Substantial Development Permit – (SMC Chapter 23.60) to allow a floating home in a UR (Urban Residential) shoreline environment.

SEPA - Environmental Determination - (SMC 25.05)

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

BACKGROUND DATA

Subject Site and Vicinity

The subject property is zoned Single Family-5000 (SF-5000). The parcel is located on the eastern side of Lake Union and entirely submerged. The parcel is owned by the State of Washington and leased to multiple floating home owners who moor their homes to cooperatively maintained and managed piers. The shoreline environment designation for the lot is Urban Residential (UR). However, approximately 242 square feet of the existing floating home structure extends off the subject lot onto abutting Conservancy Navigation (CN) shoreline environment. Currently, 23

floating homes are situated wholly or partly on this parcel. The floating home proposed for replacement is secured in slip "H" of a shared mooring dock that connects to Fairview Ave E right-of way. Additional SF 5000 zoned parcels also containing floating homes abut the subject property to the north and east. Open water of Lake Union is to the south and west.

Proposal Description

The project proposal is for the replacement of an existing Lake Union floating home that was damaged by fire several years ago. The replacement will have three levels: the first floor, a partial second floor with an outdoor deck, and a basement. The basement depth of 8 feet is similar to the depth of logs, barrels, and foam that float the existing floating home. These materials will not be needed for the replacement floating home, as the basement will provide the needed buoyancy. The use of a basement to float the replacement floating home will reduce the submerged volume of the float by 3,775 cubic feet from that of the current float structure.

The overwater coverage of the houseboat and its surrounding decking (the float) will be slightly smaller (1,391 square feet) than the existing houseboat float (1,457 square feet). The existing decking surrounding the present fire-damaged floating house is composed of solid wood decking. A replacement deck will be grated to allow light to reach the surface of Lake Union and native wetland vegetation that is proposed for installation using vegetated floating islands below a portion of the deck surrounding the house structure.

A Shoreline Substantial Development Permit (SSDP) is required for all non-exempt development in the Shoreline Environment. While SMC SMC 23.60.020.C.6 exempts single family residences on shorelands from the requirement to obtain a SSDP, floating homes are not eligible for this exemption.

Public Comment

No written comments were received during the comment period, which ended on February 10th, 2012.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposal is located within the Urban Residential (UR) Shoreline Environment as designated by the Seattle Shoreline Master Program (SSMP). The Shoreline Master Program, Chapter 23.60 of the Seattle Municipal Code, regulates use and development in the City's shoreline districts to implement the policy and provisions of the Shoreline Management Act of 1971 and the Shoreline Goals and Policies.

The SSMP requires that a shoreline permit be obtained prior to the undertaking of any substantial development within a shoreline environment. SMC Section 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 the 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 Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The City of Seattle Shoreline policies incorporate these goals by reference and include area objectives pursuant to these goals. These policies contemplate protecting 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 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.

As discussed below. This proposal is consistent with the policies and procedures of the RCW Chapter 90.58.

B. THE REGULATIONS OF CHAPTER 23.60

The regulations of SSMP Section 23.60.064 require that the proposed use: 1) conform to all applicable development standards of both the shoreline environment and underlying zoning; 2) be permitted in the shoreline environment and the underlying zoning district; 3) satisfy the criteria of shoreline variance, conditional use, and/or special use permits as may be required; and 4) SMC 23.60.014 C. for standards applicable to environmentally critical areas as provided in Seattle Municipal Code Chapter 25.09, Regulations for Environmentally Critical Areas, as applicable in the Shoreline District. If there are any conflicts between the Seattle Shoreline Master Program and Seattle Municipal Code Chapter 25.09, the most restrictive requirements shall apply.

Most of the proposal site is located in an area designated as Urban Residential (UR), the purpose of which is to protect residential areas in a manner consistent with the Single family and Multi-family Residential Area Policies. Floating homes are an allowed use in the UR Environment. A portion of the existing and proposed floating homes extends out of the Urban Residential Environment into abutting Conservancy Navigation (CN) Environment, the purpose of which is to preserve open water for navigation. This portion of the floating home is also beyond the Lake Union Construction limit line. While residential uses are prohibited in the CN Shoreline Environment, Subchapter III, Part 2 of SMC 23.60 (Nonconforming Uses and Structures) and DPD Director's Rule 16-99 (Nonconforming Floating Homes beyond the Lake Union Construction Limit Line) provide allowances in which the current floating home can be maintained or replaced. The proposed replacement floating home design has been found to be in compliance with these allowances for non-conforming uses and structures.

Development Standards

The proposal to install a replacement floating home in the UR Environment is permitted outright in SMC 23.60.540. The proposed action is therefore subject to following development standards:

1. *The general development standards for all shoreline environments (SSMP 23.60.152);*
2. *The general development standards for non-conforming structures (SSMP 23.60.124);*
3. *The development standards for floating homes (SSMP 23.60.196);and*
4. *The development standards for uses in the UR environment (SSMP 23.60.570);*

General Development Standards for all Shoreline Environments (SMP 23.60.152)

The general standards listed in SMC 23.60.152 apply to all uses in the shoreline environment. They 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. These general standards of the SMP state, in part, that all shoreline development 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.
- not release oil, chemicals or other hazardous materials onto or into the water
- 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;

- 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;
- 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; and
- be located, constructed, and operated so as not to be a hazard to public health and safety.

The proposal involves towing away an existing floating house and securing a replacement constructed at an offsite location in its former place, resulting in a net decrease in over-water coverage of 66 square feet. No in-water or over-water construction or structural alterations are necessary to perform this action. All offsite movement of the floats will occur in designated travel lanes within the Lake Washington Ship Canal and Lake Union. This implementation of the floating home swap and future use of the floating home is not expected to adversely affect water quality, water quantity, or habitat on or adjacent to the site on a short or long-term basis. The applicant has provided a suite of customized Best Management Practices (BMPs) on plan sheet A1.00 and A1.01, which provide further assurance that that act of moving and exchanging the floats, and future use of the floats, will be consistent with the general standards in SMC 23.60.152.

Development Standards for Floating Homes (SMC 23.60.196)

This section sets forth standards for floating home moorages and the floating home structures within these moorages. The replacement floating home was reviewed under the standards for nonconforming floating home moorages (SMC 23.196.C) and conforms to these development standards.

Development Standards for UR Environment (SMC 23.60.570-578)

The development standards set forth in the Urban Residential Shoreline Environment regulate height, lot coverage, view corridors and public access. The project proposal has been reviewed and meets the development standards for the UR Environment.

Development Standards for CN Shoreline Environments (SMC 23.60.270)

The development standards set forth in the Conservancy Navigation Shoreline Environment require developments in this designation to be designed to avoid inference with navigation. The replacement floating home will be within the footprint of a floating home that has existed in its current location since the 1960s and is not expected to affect navigation in Lake Union. The proposal complies with SMC 23.60.122.B, which regulates structures containing non-conforming uses. As mentioned previously, the proposal also complies with DPD Director's Rule 16-99, which regulates remodeling, including removal and replacement, of nonconforming floating homes beyond the Lake Union Construction Limit Line.

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.

Thus the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

Summary

Minimal additional adverse impacts to the shoreline environment are expected, and the proposed floating home replacement 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 (SMP).

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The Shoreline Substantial Development Permit is **CONDITIONALLY GRANTED** subject to the conditions above and listed at the end of this report.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated January, 2nd, 2012. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SSMC 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 (SSMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The proposal involves towing away an existing floating home and securing a replacement floating home in its former place, resulting in a net decrease in over-water coverage of 66 square feet. The replacement floating home will be constructed in an upland site outside of the City of Seattle. No in-water or over-water construction or structural alterations are necessary to perform this action.

The following temporary or construction-related impacts are expected: temporary increase in noise levels, increase in exhaust from the towing vessel(s), minor disturbance of shorelines and displacement of some fish wildlife species due to increased noise and wake from the movement of floats and towing vessels. 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 Clean Air 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 will take place in and adjacent to the waters of Lake Union. As such, there exists the potential for debris and other deleterious material to enter the water during this proposed work. Best management practices (BMPs) will be required to decrease the probability of debris or other deleterious material from entering the water during the proposed work. Any accidental discharge of such material must be immediately contained on site and then disposed of at the appropriate upland facility. In-water construction activity will be restricted to appropriate work windows for fish protection set by Washington Department of Fish and Wildlife and the US Army Corps of Engineers.

Use of towing vessels poses some potential danger to water and near shore contamination. 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 may cause contaminants to be introduced into the shoreline environment, spill prevention and response procedures have been incorporated into Best Management Practices to comply the general development standards of the City's Shoreline Master Program (SMC 23.60). No further mitigation under SEPA is deemed necessary.

Construction activities include construction worker commutes and towing vessel trips. 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 minor in scope and short in duration, and do not warrant mitigation under SEPA

Long-Term Impacts

Adverse long-term or use related impacts are not anticipated from the proposal. As mentioned above, after the new float is installed, there will be slight decrease in over-water coverage from the existing condition. Installation of grated decking and the vegetated floating islands may provide some aquatic habitat benefits over existing conditions. Use activities will remain single family residential. No further physical alteration to the surrounding structures or the shoreline environment itself is anticipated from this use. Since no long-term adverse impacts are expected, no additional mitigation under SEPA is required.

CONDITIONS -- SHORELINE

Prior to Issuance of the Master Use Permit # 3013007

1. Provide DPD with revised plans that reduce the total areal coverage of the biohaven floating islands to no more than 10 percent of the total coverage of the total proposed float structure (i.e., the floating islands shall not exceed 10 % of 1,391 square feet).
2. Provide DPD with a plan for monitoring the biohaven floating islands for adverse ecological impacts. The monitoring plan shall include a monitoring schedule and timeline for providing monitoring reports to DPD.

During Construction

3. Work waterward of ordinary high water shall be restricted to work windows established by Washington Department of Fish and Wildlife and US Army Corps of Engineers.

For the Life of the Project

4. All Best Management Practices provided on plan sheets A1.00 and A1.01 shall be employed for the life of the project.

Signature: (signature on file)
Seth Amrhein, Senior Environmental Analyst
Department of Planning and Development

Date: July 19, 2012